OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Health, Social Care and Sport Committee

Tuesday 18 November 2025

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 18 November 2025

CONTENTS

HEALTH, SOCIAL CARE AND SPORT COMMITTEE
31st Meeting 2025, Session 6

CONVENER

*Clare Haughey (Rutherglen) (SNP)

DEPUTY CONVENER

*Paul Sweeney (Glasgow) (Lab)

COMMITTEE MEMBERS

*Joe FitzPatrick (Dundee City West) (SNP)
Sandesh Gulhane (Glasgow) (Con)
*Emma Harper (South Scotland) (SNP)
*Patrick Harvie (Glasgow) (Green)
*Carol Mochan (South Scotland) (Lab)
David Torrance (Kirkcaldy) (SNP)
*Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP)
*Brian Whittle (South Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jackie Baillie (Dumbarton) (Lab)
Jeremy Balfour (Lothian) (Ind)
Miles Briggs (Lothian) (Con)
Bob Doris (Glasgow Maryhill and Springburn) (SNP)
Pam Duncan-Glancy (Glasgow) (Lab)
Murdo Fraser (Mid Scotland and Fife) (Con)
Daniel Johnson (Edinburgh Southern) (Lab)
Liam McArthur (Orkney Islands) (LD)
Stuart McMillan (Greenock and Inverclyde) (SNP)
Marie McNair (Clydebank and Milngavie) (SNP)
Douglas Ross (Highlands and Islands) (Con)
Sue Webber (Lothian) (Con)

CLERK TO THE COMMITTEE

Alex Bruce

LOCATION

The Sir Alexander Fleming Room (CR3) and the Robert Burns Room (CR1)

Scottish Parliament

Health, Social Care and Sport Committee

Tuesday 18 November 2025

[The Convener opened the meeting at 09:00]

Assisted Dying for Terminally Ill Adults (Scotland) Bill

The Convener (Clare Haughey): Good morning, and welcome to the 31st meeting in 2025 of the Health, Social Care and Sport Committee. I have received apologies from Sandesh Gulhane.

Our first agenda item is to consider correspondence received by the committee from Jeremy Balfour, which raises certain points about the relationship between the Assisted Dying for Terminally Ill Adults (Scotland) Bill and the United Nations Convention on the Rights of Persons with Disabilities. I refer members and anyone watching to the note by the clerk in the public papers, which provides some useful background information.

I invite Mr Balfour to make a few opening remarks about his correspondence.

Jeremy Balfour (Lothian) (Ind): Good morning. Thank you for the opportunity to speak. I will keep my remarks brief, as I know that you have a long day ahead.

My letter suggests that, once stage 2 has been completed, the committee writes to the United Nations Committee on the Rights of Persons with Disabilities to ask whether it believes that the bill is in line with the convention and that persons with disabilities are not ill affected by it. The advantage of doing so is that, if that committee comes back and gives a clean bill of health, that will give reassurance to the Parliament. If that committee comments on the bill, that will give members the opportunity to lodge amendments for clarification at stage 3.

The reason for suggesting that is that none of us would want to get to a point where the bill is passed and then challenged in the courts on any grounds at all. It is a belt-and-braces approach to give the whole Parliament confidence that persons with disabilities are not going to be coerced as a result of the bill, and that, if they are at risk of that, amendments could be lodged.

Ultimately, it is for the Parliament and us, as MSPs, to make the final decision, but the UN committee is there to advise and help, and it is my suggestion that, once stage 2 has been completed, the convener writes, on behalf of the committee, to seek clarification, so that amendments can be lodged if required.

The Convener: I invite Liam McArthur, the member in charge of the bill, to comment on the contents of Mr Balfour's correspondence.

Liam McArthur (Orkney Islands) (LD): I thank Mr Balfour for setting out the rationale for his position. I also thank the committee for the extensive scrutiny that it has undertaken throughout stage 1 and stage 2.

The stage 1 scrutiny included evidence on the bill's protections for vulnerable groups in the context of the right to life under the European convention on human rights and the rights in the UN Convention on the Rights of People with Disabilities, including article 12.

At stage 2, close to 300 amendments have been lodged, aimed at further strengthening the carefully considered safeguards in the bill. In the interest of time, I will not reprise those.

Stage 2 amendments relating to age, capacity, detection of coercion and palliative care have all already been debated, and many are still to be considered. An amendment raising the age limit for requesting an assisted death from 16 to 18 has already been agreed to. So, too, was my amendment to include a for-the-avoidance-of-doubt provision that no one can be considered as meeting the terminally ill definition only because they have a disability or a mental disorder.

Turning to the question of coercion, I point the committee to the part of the policy memorandum relating to equalities and the human rights issue. Paragraph 99 states:

"There have been various cases brought before the European Court of Human Rights ... arguing that the prohibition or lack of availability of assisted dying is a breach of the ECHR. Whilst these cases have not been upheld, the"

Court

"has not stated that assisted dying is either compatible or incompatible with the ECHR. The approach of the"

Court

"to date has been to recognise that countries/jurisdictions are better placed than the Court to decide on nationally sensitive issues (this is known as the 'margin of appreciation')."

I also remind members that I completed an equalities impact assessment for the bill, which was sent to the committee and is available on the bill's web page.

Furthermore, extensive written and oral evidence was received at stage 1 on issues relating to people with a disability, which is reflected in the committee's stage 1 report. I have

also previously cited research by Dr Ben Colburn and others that concludes:

"1. People with disabilities are not generally opposed to assisted dying laws.

2. Assisted dying laws do not harm people with disabilities.

3. Assisted dying laws do not show disrespect for people with disabilities.

4. Assisted dying laws don't damage healthcare for people with disabilities."

On the issue of coercion that Mr Balfour raises, I refer members to my response to the chief executive of the Scottish Partnership for Palliative Care, which was copied to MSPs last week—again, that is a matter of record. It makes it clear that my intention and, indeed, understanding is that doctors will use the full extent of the General Medical Council guidance and relevant training and experience when making assessments. I therefore believe that the bill is consistent with other relevant legislation, and with professional practice. It ensures that safeguards remain robust, clear and enforceable, while allowing professional guidance to continue to support clinicians in identifying more subtle or indirect influences in practice.

Amendments to further refine the definition of "coercion" in the bill have been and will be debated and decided on by the committee. I believe, however, that the terms "coercion" and "pressure" are well understood. Indeed, I note that the Scottish Government commented that providing a definition of coercion that brings in broader internalised pressures could have the opposite effect and create uncertainty.

I endorse the role of the UN Committee on the Rights of Persons with Disabilities in monitoring the practical application of national legislation in the context of the convention. However, Mr Balfour's proposal that a final vote at stage 3 not take place until the UN committee has certified that the bill aligns with the convention would not only interfere with decisions taken by this committee at stage 2 but pre-empt the legitimate scrutiny process of this Parliament, the remainder of stage 2 and the amending part of stage 3, which is still to come. It would not be appropriate to seek to interfere with the legitimate processes of this Parliament, including the lengthy and thorough scrutiny process at stage 1, which resulted in the Parliament agreeing to the general principles of the bill. Mr Balfour would still be free to engage with the UN committee, but I believe that this committee, Parliament and the public can have confidence in the robust process of scrutiny being applied to the bill.

The Convener: Before I propose a course of action, does any member of the committee wish to comment on Mr Balfour's correspondence?

Joe FitzPatrick (Dundee City West) (SNP): I appreciate Jeremy Balfour's contribution to the committee. He has made sure that we are thinking about the issues carefully. I understand Mr Balfour's position on the bill: he does not support the bill, and I respect that. What Mr Balfour is proposing would be a new procedure for the Parliament. If we believe that we need a new procedure, the Standards, Procedures and Public Appointments Committee should consider that. However, it is not appropriate for us to bring in a new procedure to the Parliament and I do not think that it is required.

The topic that Mr Balfour is raising is one that this committee considered in great depth. We took lots of evidence at stage 1, and that is all there online for folk to look at and understand. I propose that we thank Mr Balfour for his suggestion but politely decline.

Patrick Harvie (Glasgow) (Green): I agree with Joe FitzPatrick. In addition, I make clear my strong support for the principle that the Parliament as a whole is compliant with human rights in the broadest sense. The existing means to ensure that is that the member in charge of a bill, as well as the Presiding Officer, have to satisfy themselves in relation to the human rights issues. Any legislation that we pass that is found not to be compliant with human rights is not law. That is the appropriate and strong safeguard against any impact on human rights in the broadest sense, and it is the appropriate way for us to proceed.

The Convener: I have a question for Mr Balfour. Obviously, Scotland would not be the first country to pass assisted dying legislation, and there is a similar process going on in the Westminster Parliament. Has the UN committee made any comment on existing legislation or on the legislation at Westminster?

Jeremy Balfour: Yes, it has, is the answer to your question. I understand Mr McArthur's point, but the only point that I was trying to make—and Mr FitzPatrick is correct to some extent—is that, if the bill goes through and we get to stage 3, I want to ensure that it is competent and that we do not, as Mr Harvie alluded to, have to face legal action afterwards. I think that this approach will give the UN committee an opportunity not to tell us what to do but simply to point out any areas that it thinks might require stage 3 amendments. After all, we could end up with the bill being passed by this Parliament and then the courts striking down the whole law on the basis of one or two amendments, which would put us back to stage 1.

My suggestion seeks to be helpful, in some respects, to Mr McArthur by making sure that the sign-off takes place and that any issues can be debated at stage 3 rather than in the courts post this whole process. That is my simple suggestion, but if, as I have said, the committee is not for it, I absolutely understand that.

The Convener: You said that other jurisdictions have sought an opinion. What opinion came back?

Jeremy Balfour: I do not have the detail on that, but each piece of legislation will be different, and what the UN committee comments on is whether it is in line with disability rights issues.

Brian Whittle (South Scotland) (Con): I have a follow-up to the convener's questions. There is assisted dying legislation in other jurisdictions. Do you feel that elements of the bill differ from other things and therefore require more scrutiny?

Jeremy Balfour: Can I bring in my colleague Pam Duncan-Glancy to answer that? She has more knowledge about this particular area than I do.

The Convener: Yes.

Jeremy Balfour: Thank you.

Pam Duncan-Glancy (Glasgow) (Lab): Good morning to the committee and others, and thank you, convener, for allowing me to comment on this issue.

The most recent concluding observation by the UN Committee on the Rights of Persons with Disabilities in relation to Canada, for example, said that track 2 MAID—or medical assistance in dying—is for people with disabilities whose deaths are not reasonably foreseeable. That is a similar situation, given that the bill currently going through the Scottish Parliament does not have a proximity-to-death definition. The CRPD committee says that that approach was based on

"negative, ableist perceptions of the quality and value of the life of persons with disabilities, including ... that 'suffering' is intrinsic to disability"

rather than the fact

"that inequality and discrimination cause and compound 'suffering' for persons with disabilities".

Disabled people's organisations in Canada said:

"The UN is clear that we must do better in upholding the rights and dignity of persons with disabilities",

and the UN committee itself recommended repealing track 2, implementing "a co-ordinated deinstitutionalization strategy" and withdrawing the interpretative declaration under, and reservation to, article 12 of the convention.

A number of different concluding observations were made in relation to this specific aspect of the bill going through the Scottish Parliament. The only way that the UN committee, which is a committee of experts of disabled people, can give any advice to the Scottish Parliament is if a body such as either the committee or the Government makes that request. That is why it is important that the committee seriously considers the request that has been put to it today.

Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP): I thank Pam Duncan-Glancy for putting that on the record. The difference, though, is that we do not have a track 2 proposed in the bill before us, and Liam McArthur's amendments ensure that there will be no consideration of somebody as being terminally ill by dint of their having a disability or a mental health condition. Therefore, I am pretty convinced that we are not going along the same lines as what exists in Canada, and I do not think that the UN committee would see that, either.

The Convener: The decision before the committee is whether or not to write to the UN committee. For clarity, I would point out that it meets relatively infrequently, so should this committee wish to proceed with writing to it, it might not be possible for it to respond before we get to stage 3. I am not proposing that a letter—or lack thereof—would interfere with the legislative process that the Scottish Parliament has timetabled.

I am looking for some indication from the committee as to whether it wishes to write or not.

Joe FitzPatrick: I propose that we do not write.

Brian Whittle: If it does not interfere with the legislative process, I do not see any reason at all why we would not write.

Patrick Harvie: I do not think that it is necessary.

The Convener: The committee is not agreed, so we will go to a vote.

The question is, that the committee write to the UN Committee on the Rights of Persons with Disabilities to ask it to express a view on whether the Assisted Dying for Terminally Ill Adults (Scotland) Bill is compatible with the UN Convention on the Rights of Persons with Disabilities. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harper, Emma (South Scotland) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harvie, Patrick (Glasgow) (Green)

Abstentions

Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 4, Against 2, Abstentions 2. Therefore, the committee will write to the UN committee.

Assisted Dying for Terminally Ill Adults (Scotland) Bill: Stage 2

09:15

The Convener: Agenda item 2 is day 3 of stage 2 proceedings on the Assisted Dying for Terminally Ill Adults (Scotland) Bill. I begin by formally welcoming to the committee Liam McArthur, who is the member in charge of the bill, and a number of other members who have lodged amendments to the bill. Depending on the progress that we make at this morning's meeting, the committee might continue stage 2 proceedings from 6 pm this evening.

As members will be aware, the debate on the group of amendments on assessments of the terminally ill adult was commenced but not concluded on day 2 of stage 2 proceedings. The debate on this group will continue where it left off, with Jeremy Balfour, Stuart McMillan and Paul Sweeney still to speak to the amendments in the group, and Pam Duncan-Glancy to wind up. I call Jeremy Balfour to speak to amendment 157 and other amendments in the group.

Jeremy Balfour: I am sure that the committee will be glad to hear that my amendments in this group are the last ones that I will be speaking to, so members will not hear my voice again.

Amendment 157 follows on from other amendments in the group that have been debated already. It seeks to strengthen the assessment process for anyone who is requesting assisted dying. Amendment 157 would mean that, before approval of that request, the person must be seen by a psychiatrist and a social worker. The doctor leading the process would then take into account what both of those professionals say before making a final decision.

The amendment is about making sure that the decision to die is made freely and with full understanding of what it means. Such situations are deeply complex and emotional, as we all acknowledge. People might be facing pain, fear, isolation or pressure, and those factors can affect how they think and feel. A psychiatrist can help to identify whether someone's judgment is being clouded by depression, anxiety or another treatable condition. A social worker can help to uncover whether a person is feeling lonely, unsupported or under pressure, and perhaps feeling that they are a burden to others.

Bringing in those perspectives does not delay or deny a choice; it protects the choice and makes it more safeguarded. The amendment gives the public reassurance that the process will be careful and humane. It ensures that every request is

looked at from all sides, so that any decision that is made truly reflects the individual's own free and informed will.

Amendment 159 addresses another issue that is essential when it comes to life and death. Doctors need to know exactly what the law expects of them. If wording in the legislation is unclear, it can lead to hesitation, mistakes or uneven interpretation, and ultimately that could lead to lots of legal cases happening in Scotland. Amendment 159 removes any doubt about the responsibility of medical practitioners and makes that responsibility clear and unambiguous. We owe it to the professionals and the lawmakers that no doctor should ever have to guess what Parliament meant or have to see whether they can interpret it themselves. A clear law is safe law for everyone involved.

Amendment 160 would remove the phrase "in either case" from section 7. On the face of it, that might sound like a very small change, but I believe that it is an important one. The current wording could be read to suggest that doctors have different responsibilities in different circumstances. I do not think that that is what Mr McArthur has intended. The duties of medical practitioners to check that someone has capacity, is acting voluntarily and meets eligibility criteria should apply equally in every case. By removing those words, we would make the law clear and more consistent, ensuring that there is no room for confusion or uneven treatment between different cases, whether that is due to geography or the type of condition. If amendment 160 were accepted, the bill would be stronger, simpler and faster. It would help doctors to follow the law with confidence and it would give reassurance to the public that the same high standards would apply to every person in every case, whoever they are, wherever they live and whatever their condition.

The Convener: I call Bob Doris to speak to Stuart McMillan's amendment 232 and other amendments in the group.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): I will restrict myself to speaking to Stuart McMillan's amendments—he cannot be here this morning and sends his apologies.

I begin with amendment 117A, which amends one of my amendments in the group. The bill will require a registered medical practitioner to confirm that a person meets the criteria of terminal illness. That provision is essential, but it is not enough. Trust, transparency and accountability are fundamental in healthcare. We cannot legislate for assisted dying without protecting those principles. Mr McMillan is concerned that, without safeguards, a patient who is dissatisfied with one practitioner's refusal could simply seek another who is willing to provide the statement. Not only would that scenario undermine the integrity of the assisted dying process; it could erode public trust in the health service itself.

A system that would allow repeated solicitation for an irreversible act of life-ending intervention would be unsound. Amendment 117A would introduce a practical safeguard, which is that any refusal by a registered medical practitioner to provide a statement under section 8 would need to be

"recorded in the patient's medical records"

along with the reasons for that refusal. Furthermore, the amendment would prevent further assessment for the same request for a period of six months.

Stuart McMillan acknowledged Mr McArthur's comments last week in relation to this issue, which suggested that a six-month time period would be "arbitrary". However, that could be suggested about any timescale and age that is available throughout the bill. Mr McMillan's point is that, wherever you draw the line, it will be an arbitrary decision. Mr McMillan thinks that the six months is a reasonable timescale because it would reduce the risk of repeated requests and doctor shopping while preserving existing provisions for referral to a specialist where there is doubt about the patient's terminal illness or capacity.

Amendment 117A is not about limiting patient choice; it is about ensuring that choice is exercised responsibly, ethically and with integrity. It would ensure that the medical profession can act confidently, knowing that professional judgment is respected and that the process cannot be manipulated.

In the same group, Mr McMillan also lodged amendment 232. Mr McMillan comments that the bill, as currently drafted, would not require a person who seeks assisted death to consult a specialist in their condition to determine whether they truly meet the criteria of terminal illness. That is a significant gap. Prognosis is not an exact science; it varies by individual, treatment and circumstance. Without specialist input, there is a risk that someone with many years of life ahead could be permitted to proceed down an irreversible path. That is why it is essential that every assessment be informed by the most accurate expert knowledge that is available.

Amendment 232 addresses that risk. It would require that, in all assessments under section 6, the medical practitioner must consult a specialist in the person's terminal condition and take their opinion into account. Mr McMillan notes Liam McArthur's comments last week indicating that he thought that the amendment mirrored section 7(2). However, Stuart McMillan contests that comment.

That is because the important word is “may”, which is not a guarantee that a registered medical professional and the relevant specialist would be involved. Amendment 232 would put that beyond doubt and ensure that decisions are based on the expertise of those who understand the specific trajectory and prognosis of the illness in question.

With that remark, I conclude Mr McMillan’s comments on his two amendments in the group.

Paul Sweeney (Glasgow) (Lab): I will speak to amendments 239, 240 and 241. If passed, those amendments would ensure that the bill works in practice. That means ensuring that doctors feel that they can participate safely and confidently without undue risk of criticism. At present, the bill places a heavy burden on doctors to make all the key judgments about eligibility. The concern of the Medical and Dental Defence Union of Scotland is that that could create a significant legal risk that would deter clinicians from participating at all.

My amendments would create a multidisciplinary panel to act as the final assessor of a patient once the statements from both the co-ordinating and independent doctors have been submitted. That panel would review all evidence, confirm that the person met the criteria, and issue a certificate of eligibility if satisfied that that was appropriate. The intention of my amendments is not to obstruct the bill but to ensure that decisions are consistent and transparent. In effect, the panel would offer a final level of assurance for both patients and clinicians, confirming that all the necessary conditions have been met before assisted dying can proceed.

The Convener: I call Pam Duncan-Glancy to wind up and press or withdraw amendment 229.

Pam Duncan-Glancy: I will press amendment 229. We have had much debate on the group, including from last week, so I will be brief in my remarks, but I will remind us of some of the discussion that we had last week, which is important.

Checks and balances in legislation, particularly in matters of life and death, are crucial. Members have asked whether the referrals in my amendments, which come at the end point, are too late, perhaps suggesting that there is an issue with the drafting. However, the fact is that referrals do not readily happen. Referrals to social work or to disabled people’s organisations, to help disabled people or terminally ill people understand what it could be like to have to live a life in which they have a loss of function of some description, do not happen all that readily.

That is why it is important that, in this legislation if in no other—it should be in other legislation, too, but we have one piece of legislation before us today—referrals must be in place. I seek to add them to the bill because, as a last resort, surely, in considering life and death, the Parliament must contend that such provisions are crucial, even if we cannot provide them before that.

Many disabled people talk about how disabled people’s organisations changed their lives and helped them to see that life was indeed worth living. I note some of the comments that were made last week, particularly by my colleague Liam McArthur, saying that that is subjective. That is true, but so is the level of tolerance that people have for loss, and so is the desire to live or die. People who are seeking to end their lives must have access to that emancipatory support. Without it, life may appear, for some, to be intolerable.

Right now, the organisations that provide such support are on their knees and there have been questions about capacity, but there is no requirement to meet requirements on social care or housing—nor, indeed, to prevent poverty. Liam McArthur was right, last week, to raise questions about local authorities’ ability to meet the requirements of article 19 of the UNCRPD. Indeed, I am sure that they readily fall short, due to the lack of resources that they get. My amendments are an 11th-hour attempt to force action on the human rights of disabled people, which, surely, the Parliament must ensure that we put in place, to make it easier to live if—should the bill progress to stage 3 and pass—we legislate to help people to die.

Furthermore, I suggest that, in the absence of solid mitigation against such intolerable circumstances, fears that are proffered—for example, that people will not declare money concerns or the feeling of being a burden, so that they may be supported to die—would be better addressed by ensuring that the amendments are made, so that it is easier to live, rather than rejecting them, as has been the case so far.

These are reasoned amendments. They would protect the human rights of disabled people and people with terminal illnesses, and I encourage the committee to support them.

I press amendment 229.

The Convener: The question is, that amendment 229 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)

Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 229 disagreed to.

Amendment 87 moved—[Bob Doris].

The Convener: The question is, that amendment 87 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 87 disagreed to.

09:30

The Convener: Amendment 88, in the name of Bob Doris, has already been debated with amendment 229. I remind members that, if amendment 88 is agreed to, I cannot call amendments 50, 89 and 12 because of pre-emption.

Amendment 88 moved—[Bob Doris].

The Convener: The question is, that amendment 88 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

FitzPatrick, Joe (Dundee City West) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Against

Harper, Emma (South Scotland) (SNP)

Abstentions

Harvie, Patrick (Glasgow) (Green)

The Convener: The result of the division is: For 6, Against 1, Abstentions 1.

Amendment 88 agreed to.

Amendment 67 moved—[Liam McArthur]—and agreed to.

Amendment 230 moved—[Paul Sweeney]—and agreed to.

Amendment 68 moved—[Jackie Baillie].

The Convener: The question is, that amendment 68 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 3, Against 5, Abstentions 0.

Amendment 68 disagreed to.

Amendments 154 and 155 not moved.

Section 6, as amended, agreed to.

Section 7—Assessment under section 6: further provision

Amendment 69 moved—[Liam McArthur]—and agreed to.

Amendment 90 moved—[Bob Doris]—and agreed to.

Amendment 231 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 231 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 231 disagreed to.

Amendment 91 moved—[Bob Doris].

The Convener: The question is, that amendment 91 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 3, Against 5, Abstentions 0.

Amendment 91 disagreed to.

Amendment 29 moved—[Liam McArthur]—and agreed to.

Amendment 156 moved—[Brian Whittle].

The Convener: The question is, that amendment 156 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 156 disagreed to.

Amendment 157 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 157 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

The Convener: The result of the division is: For 0, Against 8, Abstentions 0.

Amendment 157 disagreed to.

Amendment 92 moved—[Bob Doris].

The Convener: The question is, that amendment 92 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Against

Haughey, Clare (Rutherglen) (SNP)

Abstentions

Harvie, Patrick (Glasgow) (Green)

The Convener: The result of the division is: For 6, Against 1, Abstentions 1.

Amendment 92 agreed to.

Amendment 93 moved—[Jackie Baillie]—and agreed to.

Amendment 158 moved—[Sue Webber].

The Convener: The question is, that amendment 158 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)

The Convener: The result of the division is: For 3, Against 4, Abstentions 1.

Amendment 158 disagreed to.

Amendment 94 moved—[Bob Doris].

The Convener: The question is, that amendment 94 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 94 disagreed to.

Amendment 232 moved—[Bob Doris].

The Convener: The question is, that amendment 232 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 232 disagreed to.

Amendment 233 not moved.

Amendments 95 and 96 moved—[Bob Doris]—and agreed to.

Amendment 97 not moved.

09:45

The Convener: Amendment 159 is in the name of Jeremy Balfour. I remind members that, if amendment 159 is agreed to, amendments 98 and 74 will be pre-empted.

Pam Duncan-Glancy: I have been instructed to move the amendment.

Amendment 159 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 159 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 159 disagreed to.

Amendment 98 moved—[Bob Doris]—and agreed to.

Amendment 74 moved—[Jackie Baillie].

The Convener: The question is, that amendment 74 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 2, Against 5, Abstentions 1.

Amendment 74 disagreed to.

Amendment 99 moved—[Bob Doris]—and agreed to.

The Convener: Amendment 160 is in the name of Jeremy Balfour.

Pam Duncan-Glancy: Again, I have been asked to move the amendment.

Amendment 160 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 160 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)

Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

The Convener: The result of the division is: For 0, Against 8, Abstentions 0.

Amendment 160 disagreed to.

Amendment 13 not moved.

Amendment 51 moved—[Jackie Baillie].

The Convener: The question is, that amendment 51 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 51 disagreed to.

Amendment 100 moved—[Bob Doris].

The Convener: The question is, that amendment 100 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 100 disagreed to.

Amendment 101 moved—[Bob Doris].

The Convener: The question is, that amendment 101 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 101 disagreed to.

Amendments 102 and 103 not moved.

Amendment 234 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 234 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 3, Against 4, Abstentions 1.

Amendment 234 disagreed to.

Amendment 235 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 235 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 3, Against 4, Abstentions 1.

Amendment 235 disagreed to.

Section 7, as amended, agreed to.

After section 7

Amendment 75 moved—[Jackie Baillie].

The Convener: The question is, that amendment 75 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 3, Against 5, Abstentions 0.

Amendment 75 disagreed to.

Amendment 161 moved—[Brian Whittle].

The Convener: The question is, that amendment 161 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 3, Against 5, Abstentions 0.

Amendment 161 disagreed to.

Amendment 236 not moved.

Section 8—Medical practitioners' statements

Amendment 104 not moved.

Amendment 237 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 237 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 237 disagreed to.

Amendment 105 moved—[Bob Doris].

The Convener: The question is, that amendment 105 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 105 disagreed to.

10:00

Amendment 238 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 238 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 238 disagreed to.

Amendment 162 moved—[Brian Whittle].

The Convener: The question is, that amendment 162 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 3, Against 5, Abstentions 0.

Amendment 162 disagreed to.

Amendment 5 not moved.

Amendment 106 moved—[Bob Doris].

The Convener: The question is, that amendment 106 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 106 disagreed to.

Section 8 agreed to.

Schedule 2—Medical practitioners' assessments: form of statements

Amendments 107, 163, 108, 30, 6, 109 and 110 not moved.

Amendment 111 moved—[Bob Doris].

The Convener: The question is, that amendment 111 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harvie, Patrick (Glasgow) (Green)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 3, Against 5, Abstentions 0.

Amendment 111 disagreed to.

The Convener: Amendment 7, in the name of Daniel Johnson, is grouped with amendments 8 and 9.

Daniel Johnson (Edinburgh Southern) (Lab): Although I very much appreciate having a group entirely to myself, I think that, in some ways, these amendments should be considered with the amendments in the previous group.

To my mind, there are two hugely important elements to the bill. The first is the judgment that will be made by medical practitioners as to whether an individual meets the criteria set out in the bill: that they are terminally ill and unable to recover. In those circumstances, they would meet the criteria for assisted dying.

The other really important element is that individuals will have to fully consider all the options that are available to them. To that end, the 14-day period is doing an awful lot of work, and I am not sure whether it provides a sufficient safeguard. It is an arbitrary time period. It is neither short enough, if death is imminent, nor is it long enough to provide a genuine period of reflection if an individual's death is not imminent and they are planning ahead of time.

I will not move the amendments, which are probing. I wanted to draw to the committee's attention the fact that the 14-day period is doing an awful lot of work. There need to be more safeguards to ensure that the individual makes a clear decision. Facing the end of life is clearly going to be difficult and, as human beings, we often find it difficult to make fully rational judgments.

I note that the committee has rejected a large number of amendments that seek the provision of additional information. This is an area that needs to be considered at stage 3 to ensure that people have full information, can reflect and can make a careful and considered decision.

I will not move the amendments at this time.

The Convener: Mr Johnson, for us to have a debate on the group, you have to move the lead amendment.

Daniel Johnson: Forgive me, convener. I move amendment 7.

Liam McArthur: We cannot give you a grouping all to yourself if you are not going to play ball, Mr Johnson.

I thank Daniel Johnson for lodging the amendments and for speaking to them and explaining their rationale, which I entirely understand. I accept that there would be a degree of arbitrariness with any timeframe that we set for the period of reflection.

On Mr Johnson's point about people whose prognosis is that death might be more imminent, there is a provision in the bill that will allow anybody who is assessed as being likely to die within 14 days to have a reflection period of 48 hours, which is not much but should allow sufficient time for at least some reflection. That will also allow the process, with all the safeguards, to run its course.

I believe that the period of 14 days strikes the right balance between ensuring that a terminally ill adult has time to reflect on their decision at the end of life and ensuring that they are not subject to prolonged suffering, having taken that decision. In the stage 1 evidence that the committee received, including from the voluntary assisted dying review board in Victoria, Australia, it was noted that many who seek assisted death may not live for 14 days after having signed the declaration.

I note that amendments 7 and 8 are consequential on amendment 9. I understand the rationale for Daniel Johnson lodging the amendments. He is almost certainly correct that we will return to the issue at stage 3, but it will be difficult for the committee or Parliament to come up with a timeframe that is any less arbitrary. We can draw confidence from what we see in other jurisdictions, which is that, by and large, 14 days seems to be an appropriate timeframe to set.

I again thank Daniel Johnson for lodging the amendments. I will leave my remarks there.

The Convener: I call Daniel Johnson to wind up the debate.

Daniel Johnson: I have nothing further to add.

Amendment 7, by agreement, withdrawn.

Amendment 112 not moved.

The Convener: I remind members that, if amendment 113 is agreed to, I cannot call amendment 114.

Amendments 113 and 114 not moved.

Amendment 115 moved—[Bob Doris].

The Convener: The question is, that amendment 115 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 115 disagreed to.

Amendment 8 not moved.

Schedule 2 agreed to.

After section 8

Amendment 116 moved—[Bob Doris].

The Convener: The question is, that amendment 116 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 116 disagreed to.

10:15

Amendment 117 moved—[Bob Doris].

The Convener: I call amendment 117A, in the name of Bob Doris—sorry, the amendment is in the name of Stuart McMillan, but it will be moved by Bob Doris.

Bob Doris: I can confirm that I am not Stuart McMillan, but I will nevertheless move the amendment on his behalf.

Amendment 117A moved—[Bob Doris].

The Convener: The question is, that amendment 117A be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Whittle, Brian (South Scotland) (Con)

The Convener: The result of the division is: For 1, Against 6, Abstentions 1.

Amendment 117A disagreed to.

The Convener: Bob Doris, do you wish to press or withdraw amendment 117?

Bob Doris: I press amendment 117, convener.

The Convener: The question is, that amendment 117 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 117 disagreed to.

Amendment 239 moved—[Paul Sweeney].

The Convener: The question is, that amendment 239 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 239 disagreed to.

Amendment 240 moved—[Paul Sweeney].

The Convener: The question is, that amendment 240 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 240 disagreed to.

Section 9—Period for reflection

Amendment 9 not moved.

Section 9 agreed to.

Section 10—Request for assistance: second declaration

Amendment 241 moved—[Paul Sweeney].

The Convener: The question is, that amendment 241 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 241 disagreed to.

Amendment 164 moved—[Brian Whittle].

The Convener: The question is, that amendment 164 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 3, Against 5, Abstentions 0.

Amendment 164 disagreed to.

Amendments 165 to 167 not moved.

Section 10 agreed to.

Schedule 3—Form of second declaration

Amendment 118 not moved.

The Convener: I remind members that amendments 3 and 168 are direct alternatives. The text of whichever amendment is the last to be agreed to is what will appear in the bill.

Amendment 3 moved—[Brian Whittle].

The Convener: The question is, that amendment 3 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Abstentions

FitzPatrick, Joe (Dundee City West) (SNP)

The Convener: The result of the division is: For 7, Against 0, Abstentions 1.

Amendment 3 agreed to.

The Convener: I call amendment 168, in the name of Claire Baker. I have had no indication that anyone else will move her amendments. Are you moving her amendments, Ms Duncan-Glancy?

Pam Duncan-Glancy: Claire Baker has asked me to say, “Not moved”, if that is helpful.

The Convener: That is very helpful.

Amendments 168 and 119 not moved.

The Convener: Are you moving or not moving the amendments in the name of Rhoda Grant, Ms Duncan-Glancy?

Pam Duncan-Glancy: I have not been given instructions.

The Convener: Amendment 31 is in the name of Rhoda Grant. The clerks have informed me that Ms Grant has said that she does not intend to move that amendment.

Amendments 31 and 120 not moved.

Schedule 3, as amended, agreed to.

The Convener: At this point, I suspend the meeting for 10 minutes for a brief comfort break.

10:25

Meeting suspended.

10:39

On resuming—

Section 11—Cancellation of declarations

The Convener: Amendment 121, in the name of Bob Doris, has already been debated with amendment 229. I invite Bob Doris to move or not move amendment 121.

Bob Doris: I would not like to say that I was caught out there, convener. Could you please give me the number of that amendment again? If you give it to me slowly, I will read the correct bit of my notes.

The Convener: I called your amendment 121, Mr Doris. Do you wish to move it or not move it?

Bob Doris: As keen as I am, I will not move amendment 121.

Amendment 121 not moved.

Amendment 169 moved—[Brian Whittle].

The Convener: The question is, that amendment 169 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 169 disagreed to.

Section 11 agreed to.

Section 12—Signing by proxy

The Convener: Amendment 32, in the name of Liam McArthur, has already been debated with amendment 149. I remind members that, if amendment 32 is agreed to, I cannot call amendment 170.

Amendment 32 moved—[Liam McArthur]—and agreed to.

Section 12, as amended, agreed to.

Schedule 5 agreed to.

After section 12

Amendment 171 not moved.

Section 13—Recording of declarations and statements

Amendment 172 moved—[Brian Whittle].

The Convener: The question is, that amendment 172 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 172 disagreed to.

Amendments 122 and 123 not moved.

Section 13 agreed to.

Section 14 agreed to.

After section 14

The Convener: Amendment 242, in the name of Ross Greer, is grouped with amendments 243, 274, 279 and 283.

I call Patrick Harvie to move amendment 242 and to speak to all the amendments in the group on Ross Greer's behalf.

Patrick Harvie: I thank the convener for her flexibility in allowing me to speak on behalf of Ross Greer, who has lost his voice. It is very tempting to abuse the privilege. However, to be clear, I will simply read the statement that Ross has given me, so references in the first person should be taken as referring to him.

As I mentioned at stage 1, I have two primary concerns about the bill. The first is in regard to the proposal for a dispersed rather than a specialist service. My amendments on training, in a later group, are intended to address that concern.

This group of amendments is intended to address, in part, my other concern, which is about the risk of coercion of and undue influence on someone considering making the choice to end their own life.

To summarise my amendments in the group: amendment 242 would create a right to access independent advocacy for those who were considering making a request for assistance under the act; amendment 243 would require the provider of independent advocacy services to comply with minimum standards that would be set by ministers in regulations; amendment 274 sets out that those regulations should be subject to the affirmative procedure; amendment 279 sets out that provisions on the right to advocacy and advocacy service standards would commence on the day after royal assent; and amendment 283 sets out that substantive provisions on assisted dying services could not commence before the minimum advocacy standards were set.

10:45

The key amendment is 242, which would create for those who engage with the assisted dying system the right to high-quality, independent and rights-focused advocacy. A neutral third party would be able to support a person through what is a potentially complex system and put their interests first.

That right mirrors other statutory provisions for independent advocacy—for example, in the Social Security (Scotland) Act 2018. As is the case with the 2018 act, which I drew on for drafting purposes, advocacy would be optional and would be intended for those who would benefit from an advocate's support to ensure that they could make their choice with all the relevant information

available to them and with the safeguard of someone whose only role in the process would be to represent their interests and help them navigate the system.

I envisage that the advocate would not already be known to the person and that they would otherwise not be involved in the person's care. They would be able to advocate for a person from the point at which that person first contemplated assisted dying until the point of their death, should that be the choice that they ultimately make. Among other services, the advocate would support the person in navigating the system, ensure that the person's rights were respected, and act as a safeguard against coercion or other forms of undue influence.

The intention of amendment 242 is to embed a patient's rights throughout their interaction with the assisted dying process. In particular, in recognition of the potential increased risk to a patient's rights from a dispersed rather than a centralised service delivery model, the advocate is intended to protect against potential infringements of those rights and to identify and intervene in cases of potential coercion, pressure or undue influence.

I thank Dr Sandra Lucas and Dr Rhona Winnington from the school of health and life sciences at the University of the West of Scotland for their support with these amendments. Their briefing helped to shape my thinking ahead of the stage 1 debate, and the amendments stem from that briefing and my subsequent discussions with them. They both have invaluable experience of assisted dying systems in Australia and New Zealand.

My advocacy amendments reflect the voluntary assisted dying statewide care navigator service system that is operated in Victoria, Australia. Research, including the Ben White report in the *Medical Journal of Australia*, which was a qualitative study of the Victoria scheme, has called the advocate—the navigator—the "jewel in the crown" of that scheme, facilitating crucial discussions with compassion and giving people the confidence and knowledge to assert their rights. If the Parliament passes the bill, I want people in Scotland who will access or will consider accessing the system to have that same confidence and knowledge of their rights.

Other jurisdictions that have adopted assisted dying have included navigator or advocacy schemes, such as the Queensland voluntary assisted dying support service. The Victoria model is staffed by trained allied health professionals, but the Queensland scheme is open to social workers, psychologists and lawyers as well. I can see the advantage of the role's being fulfilled either by medical professionals or by those with a degree of separation from the health service entirely; my amendments therefore do not specify either way. It could reasonably be up to ministers to set that out via regulations, although I would be happy to look at revisions ahead of stage 3 to clarify some details about the advocacy scheme, if colleagues felt that further detail was required in the bill.

I am grateful to various stakeholders for supporting the amendments. The Equality and Human Rights Commission's briefing for stage 2 supports including a statutory right to access independent advocacy, and I am aware that the British Medical Association has welcomed debate on the issue of advocacy at stage 2.

I clarify that the intention is that everyone who was contemplating or undergoing assisted dying would be entitled to advocacy akin to the care navigator in other jurisdictions. Amendment 242's proposed subsection (3)(b) is intended to capture that anyone who would benefit from advocacy would be entitled to it.

The intention is not to replace the role of assessing doctors in spotting coercion. The advocates would complement that, providing an additional safeguard. That goes to the heart of my concern about putting on to the doctor, under a dispersed model, the burden of spotting something as complex and contestable as coercion. To me, that feels too much like risking a single point of failure in the system. Part of the training that I envisage for the mandatory service standards would be in identifying coercion and spotting warning signs of undue influence.

I am nearly finished, convener. On interaction between advocacy and a potential information service, my intention is for advocates to take on the role similar to that of the Victoria and Queensland navigators, who are more than just a source of information and signposting; they are a source of fuller support and safeguarding, particularly emotional support for patients and, importantly, their families.

I would be happy to work with the British Medical Association and other interested stakeholders and members ahead of stage 3 to add further details if they believe that that is necessary. I certainly do not oppose provisions for an information service as proposed by others, but I do not think that that would be enough. If we are providing independent advocacy for those accessing social security, for care-experienced young people and others, we should provide it for those who are considering making a decision as significant as this.

I move amendment 242.

Liam McArthur: I thank Patrick Harvie for setting out the rationale for the amendments and wish Ross Greer a speedy recovery—he is lined up to speak in a few debates this week.

It is fair to say that I fully support folk being available to help people to understand and navigate the process. That is why section 23 of the bill allows ministers to make guidance on matters relevant to the bill. It is also why I have lodged an amendment to strengthen that provision by requiring ministers to provide or ensure the provision of information about the process in an accessible and understandable format, for the benefit of terminally ill adults, certainly, and of medical, social care and social work professionals, as well as the wider public.

I am also aware that structures exist to ensure patient safety and supported decision-making. Health boards in Scotland must observe equal opportunity requirements. Although not strictly advocacy, the patient advice and support service provides support to patients, while the GMC provides guidance to doctors on supporting patients in their decision making.

Under my bill, proxy arrangements can be made to support a person in accessing assisted dying services and the Patient Safety Commissioner will also have a role to play. However, through my engagement with third sector organisations, I am aware that many stand ready to provide assistance, advice and support through a navigation service. That would be my hope. As Patrick Harvie rightly said, we have seen that in other jurisdictions that have assisted dying legislation in place. As with some other amendments, the Scottish Government might be best placed to comment on how the provision would fit with existing structures, policies and services.

Ross Greer's amendment 283 would provide for the Scottish ministers to commence the substantive parts of the bill by regulation. That reflects that ministers are responsible for ensuring that all aspects of the assisted dying service are workable and that they tie in with all other aspects of health and public service delivery in an integrated and safe way. The Scottish ministers will have the necessary oversight, and I expect them to commence the various substantive parts of the act only when all relevant health, social care, social work and other services are appropriately prepared and all necessary measures are in place to enable assistance to be requested and provided. Singling out in statute particular steps that must happen before the act can be commenced risks undermining the process and further delaying the availability of assistance to those who need it.

I note that the Scottish Government has highlighted that it is unclear from the amendments whether the conditions will have to be met by the individual advocate or the service provider, and how the service would be funded or monitored. That said, I am sympathetic to what Ross Greer is seeking to achieve through his amendments in this group. I will be happy to speak with him once his voice returns and, ahead of stage 3, to see what more the bill can provide to address the concerns that he rightly raises.

At this stage, however, I urge him, through Patrick Harvie, not to press the amendments, but I am pleased that the committee has at least had an opportunity to engage with the issue, which reflects what we see in other jurisdictions. There is a balance to be found as to whether we put the provisions in statute or allow the process to develop organically, as has been the experience in many of those jurisdictions.

Patrick Harvie: I thank Liam McArthur for his broadly constructive and positive comments. I am aware that Ross Greer is keen to press amendment 242, so I will do that. I note that, if the committee is not minded to support amendment 242, there is an intention to work constructively before stage 3. For the time being, I will press amendment 242.

Amendment 242 agreed to.

Amendment 243 moved—[Patrick Harvie]—and agreed to.

Section 15—Provision of assistance

The Convener: Amendment 173, in the name of Brian Whittle, is grouped with amendments 175, 76, 77, 176, 244, 78, 10, 79, 177 to 180, 33, 181 to 184, 245, 185, 125, 187, 126, 188, 127, 275, 136 and 137. I point out that, if amendment 180 is agreed to, I cannot call amendment 33 due to pre-emption.

Brian Whittle: Amendments 178 and 180 seek to deal with concerns, in the event that something does not go to plan, about the liability of medical professionals who are not in the room and are not immediately aware of any adverse reaction, should it occur. In essence, the amendments would ensure that the medical professional providing the substance must remain in the same room as the patient.

I turn to amendments 185, 177, 173 and 175. It has been my approach, as a committee member, to take a neutral stance on the ethical and moral issues surrounding assisted dying and to focus instead on ensuring that the legislation is as good as it can be. In line with that, I have evaluated the approaches that were put to me by organisations looking for someone to lodge amendments on their behalf in order to identify where I believe such amendments would improve the legislation.

There are clearly gaps for the pharmacy profession, which I hope we can address—if not at stage 2, then at stage 3. The concern is that the

bill is not clear on the role of pharmacists in the process of assisted dying with respect to their scope of practice. That could also risk devaluing the skills of the pharmacist. Amendment 185 seeks to make provision for registered pharmacists to undertake the role of the authorised health professional, clarifying the role of the pharmacist in the process and allowing them the clear option to use the conscientious objection clause.

Amendment 177 seeks to limit the role of the pharmacist within their scope of practice but does not expect them to make decisions on the competency of the individual.

Amendment 173 seeks to clarify that a pharmacist should supply the substance to the registered medical practitioner or authorised healthcare professional and would also allow the option to use the conscientious objection clause.

Amendment 175 seeks to limit the role of the pharmacist within their scope of practice when acting as an authorised health professional to providing a terminally ill adult with the approved substance and to removing it from the premises at which it was provided.

I move amendment 173.

Marie McNair (Clydebank and Milngavie) (SNP): I appreciate getting the opportunity to speak early on in the group, convener, which will enable me to get back to the Equalities, Human Rights and Civil Justice Committee.

My amendment 244 goes to the heart of the wider debate about assisted dying. Those who are in favour of the bill have consistently said that it is about allowing someone to end their own life and not about another person ending it for them. However, the bill as drafted does not clearly rule out that possibility. There is no clear prohibition on another person administering the life-ending substance on behalf of the patient, and that omission matters. If another person can administer the substance, we are not talking about assisted dying but about euthanasia. That is a very different act in moral and legal terms. If the Parliament allows that ambiguity to remain, we risk crossing a boundary that even many supporters of assisted dying do not wish to cross.

My amendment would bring clarity. It would strengthen section 15 to make it explicit that the substance must be self-administered by the terminally ill adult, and that no one else may do so on their behalf. It would preserve the distinction between assisted dying and euthanasia—a distinction that supporters of the bill believe is fundamental. It would ensure that assisted dying remains in law and in practice an act of personal agency, rather than the taking of life by another. Proponents of assisted dying say that they oppose euthanasia. If that is truly the case, they should have no hesitation in supporting the amendment.

11:00

Jackie Baillie (Dumbarton) (Lab): I have lodged amendments 76 to 79 on behalf of the Royal College of Nursing Scotland. As you know, RCN Scotland maintains a neutral stance on assisted dying, but it has serious concerns about section 15, specifically the expectation that registered nurses acting as authorised health professionals will carry out complex assessments of capacity and coercion, and the possibility of nurses providing assistance while working alone.

Amendment 77 proposes that final assessments of capacity and coercion be carried out by a doctor. Such clinical judgments are complex, especially when time has passed—there might have been earlier assessments, and factors such as pain or medication might affect cognition. It might have been months since the co-ordinating and independent doctors undertook the assessments to determine eligibility, and capacity can fluctuate in a person who is terminally ill. Similarly, identifying coercion is inherently difficult, particularly without a structured framework.

Although some nurses in advanced practice roles have the relevant expertise, the bill is structured in such a way that those specialists are unlikely to be asked to act as authorised health professionals. Instead, nurses in more general settings, such as community care, general practices or hospital wards, might be expected to take on the role infrequently. RCN Scotland believes that assessing capacity in this context requires a depth of knowledge and experience that goes beyond the scope of practice of most registered nurses, and the amendment seeks to ensure that the final assessments are undertaken by either the co-ordinating doctor or another authorised doctor. The RCN believes that that is a safer and more appropriate approach.

Amendments 76, 78 and 79 address RCN Scotland's serious concerns about lone working. The bill, as it currently stands, allows nurses to provide the approved substance alone, which RCN Scotland considers unsafe. The provision of assistance will take place in a highly sensitive and emotionally charged environment, where complex family dynamics might arise. Nurses might then face distressed families; individuals who are unable to self-administer and therefore cannot receive assistance; or unexpected reactions to the substance. Current practice for controlled drugs typically requires that two registered nurses prepare and administer them, and that safeguard should apply here, too.

These amendments would require a nurse acting as authorised health professional to be accompanied by another health professional. In practical terms, that would mean that a doctor would carry out the final assessments on capacity and coercion, and either they or a nurse accompanied by that doctor would then provide the substance. Where a nurse provides the substance, either the accompanying doctor remains present, or the doctor leaves and another health professional arrives to accompany the nurse while the person decides whether to use the substance, and if they have done so, has subsequently died.

Although the bill allows a nurse to be accompanied, it does not require it; instead, it leaves it up to individual nurses to advocate for themselves when they are asked to attend alone, and we do not regard that as acceptable. RCN Scotland believes that these amendments would introduce essential safeguards and must be incorporated into the bill.

Sue Webber (Lothian) (Con): I have lodged amendments 176 and 181 to 183 in this group, and I will start with amendment 176.

My remarks on this group might well sound similar to those that I made last week, because these amendments to section 15 seek to address the serious moral and medical flaws in the bill—by which I mean the presumption that the substances used in assisted suicide will always deliver a swift and painless death. Indeed, we have just heard from Jackie Baillie that the Royal College of Nursing acknowledges that there can be unexpected reactions to these substances, and we have to recognise that, too, because experience from other countries has shown that these substances can have severe side effects.

In places where assisted suicide is legal, there have been reports of vomiting, choking, fluid in the lungs, prolonged pain and even cases in which the person did not die as expected. That is not a swift and painless death, but the bill does not require that individuals be informed of those risks before making their decision. I believe that individuals must be fully informed and fully aware of what might or might not happen.

Section 15 deals with the end-of-life process and sets out how a person will be provided with assistance to lawfully end their own life. It is for that person to decide, after completing the second declaration, if, when and where they wish to be given an approved substance, and I believe that they need to be fully aware of every risk and every side effect that might occur. That omission undermines one of the core principles that this Parliament should uphold: informed consent.

Amendment 176 would correct that by requiring the practitioner to inform the adult of any potential side effects or complications, including the risk of pain, and to be satisfied that the adult has understood that information. That would ensure that people are given not simply a choice but an honest choice. It is not about endorsing assisted suicide but about recognising the reality that, if Parliament passes the bill, we have a duty to minimise harm and prevent unnecessary suffering. We cannot allow people to take those substances without their full consent and knowledge of what those substances can do to them.

Amendments 181 and 182 address what is perhaps the most chilling silence in the entire bill: what happens when the substances do not work. Nowhere does the bill explain what a doctor or nurse should do if the person remains alive after taking the lethal dose. That absence is not accidental; it flows from a dangerous presumption that the substance will always work, that death will always follow and that complications will never arise.

Brian Whittle: I am listening intently to what you are saying, and it brings me back to earlier amendments that I was trying to get the committee to agree to, but which were not agreed to, on advance care directives. Such directives would address the exact point that you are making about the patient's request, should something go wrong. I feel the same as you that there is this idea that nothing will ever go wrong. Consequently, I believe that we need advance care directives. Do you agree with that, and with my suggestion that amendments be lodged at stage 3 to include them in the bill?

Sue Webber: I do agree. Every possible safeguard should be included in the bill. I have sat in committee both today and last week, watching safeguard after safeguard get turned down, and I am gravely concerned with the direction that the bill is going in.

Experience overseas shows that it is not true that the substance will always work. In countries where assisted suicide has been legalised, there are documented cases where death has not occurred, where people have awoken hours later or where they have lingered in distress. When we legislate for death, we must also legislate for when death does not come, and not doing so is of great concern to me.

Amendment 181 sets out a clear and humane procedure for such cases. I hate talking about such things in such a pragmatic, emotionless way, but my amendment would require a medical professional to take all reasonable steps to preserve life, including, where possible, reversing the effects of the substance, unless the adult at that time and with capacity refuses such an

intervention. It would also require that the entire incident be recorded in writing, including details of the substance that is used and the sequence of events.

Amendment 182 would make it explicit that any person who administers further substances to bring about death after the initial attempt has failed will be subject to the existing criminal law on homicide. This is not a theoretical, but a moral, concern. When the state authorises the taking of a life, it must also face the consequences when that act fails. If we are to cross this line as a Parliament, we must at least ensure that, when death does not occur, life is protected, suffering is not compounded and the law does not turn its face away. Amendments 181 and 182 are, frankly, about confronting the reality and seeking to preserve what little humanity we can in a bill that risks abandoning it.

Finally, amendment 183, which I have already talked briefly about, would make it a requirement to record any complications that might arise after taking the substances. It speaks to the uncomfortable gap between how this bill imagines assisted suicide will work and how it has worked in practice elsewhere.

The bill proceeds on the assumption that the substance that is used to end life will do so cleanly, peacefully and without complication, but that assumption is false. The evidence from overseas tells a very different story. In countries where assisted suicide has been legalised, there have been cases of vomiting, choking, fluid filling people's lungs and, in some instances, of the substance simply failing to end the person's life. Despite those realities, the bill provides no mechanism to record or report when such complications occur. That is, frankly, an extraordinary omission.

If the Parliament is to sanction the deliberate ending of life, at the very least, it must ensure that the methods used are subject to proper scrutiny and improvement. Every other medical procedure undergoes that. My amendment would do precisely that, and it would require a medical professional to record any complications, adverse reactions or unintended effects arising from the administration of the approved substance in the adult's medical records, and that an anonymised report be submitted to Public Health Scotland. It is an attempt to limit the harm that the bill might cause.

If Parliament insists on creating a system for assisted suicide, it has a moral duty to ensure that the process is safe, transparent and as humane as possible. Turning a blind eye to complications is not compassion; it is indifference. I want to confront the reality, not idealise it.

Daniel Johnson: I support the amendments that have been lodged by Jackie Baillie, which have the support of the Royal College of Nursing. We must have clarity on roles. The final provision of the substance is particularly sensitive. It is also important that we have clarity about not only the role of the registered medical practitioner but those of other medical professionals and in what combination those roles take place. The role of nurses and the points about accompaniment and supervision are very important.

I voted for the bill at stage 1 on the basis of the principle that people should have bodily autonomy, and because the bill is very much about people whose death is imminent and enabling them to make the final decision and to carry out the final act.

That last point is very important to me, which is why I have lodged amendment 10. Although I note the intent of the legislation and what is set out in the policy memorandum, I am concerned that there is not sufficient clarity that the final act will be that of the individual. My amendment seeks to specify that, for similar reasons to those that Marie McNair pointed out.

Throughout the discussion, great care has been taken about the language—whether this is assisted dying or suicide—and the bill very much rejects any notion that this could be viewed as euthanasia. I understand that. Those are important distinctions. It is important that this is about enabling someone to act for themselves and do this to themselves. It cannot be about enabling an act in which one person is administering a substance to another.

There is a big difference between enabling someone to end their life and enabling others to end others' lives. One is about enabling one's own death. The other is, quite simply—as a matter of moral distinction—killing another person. I use that word advisedly because there is an important moral distinction. It is easy in these settings to highlight the complexity and say that, in practical terms, there are not necessarily those distinctions, but the moral differences are important.

I also think that, practically, it is essential that an individual has the ability to withdraw their consent to ending their own life up until the very final moment, which is why self-administration is so important. My amendment seeks to clarify that, because there are also sensitivities about a person's physical capacity to undertake that.

The amendment specifies that the act would be for the individual to carry out, and specifies that the co-ordinating registered medical practitioner may

"prepare that substance for use by the adult ... prepare a medical device which will enable the adult to use the substance"

and assist the adult for the final ingestion of the substance.

11:15

My amendment further clarifies that, those points notwithstanding, the final decision must be made by the individual themselves and, further, that the co-ordinating registered medical practitioner may not administer the approved substance to the individual directly.

Those are important clarifications that state clearly and specifically what the bill would authorise. As I have stated, I think that it is important that we have that moral clarity and that moral distinction, but, ultimately, it is vital that it is the individual's choice and that they can withdraw their consent right up until the final moment. That is the reason for my amendment 10.

The Convener: I call Douglas Ross to speak to amendment 179 and other amendments in the group, including Stephen Kerr's amendment 126.

Douglas Ross (Highlands and Islands) (Con): I have lodged amendment 179 to highlight and address one of the most disturbing assumptions that is at the heart of the bill, as articulated by other members who have lodged amendments in the group, which is the belief that every death will be swift, smooth and certain. That will not be the case; we know that from international experience in countries such as Canada and the Netherlands, as other members have said.

In countries where assisted dying is legal, there have been cases where substances have failed to bring about death as expected; people have regained consciousness and have suffered for hours, and have endured distressing complications such as choking, vomiting or prolonged pain. I do not believe that anyone who supports the bill wants that to happen, but it is the reality.

Under the bill as introduced, no medical professional will be required to remain in the room when a substance has been taken. If the death does not occur, the person will be left alone, frightened, vulnerable and in pain, with no qualified person to intervene. Amendment 179 seeks to address that. It would require a medical professional to remain present until death occurs or until it is clear that the substance has failed to take effect.

Even for those who support assisted dying, that is surely the minimum of decency. If the Parliament sanctions the deliberate ending of a life, it must take responsibility for what happens if the process fails. I do not support the bill—I oppose it in principle, as I believe that it will place unbearable moral and practical burdens on individuals, families and our health service. However, if it is to proceed, it cannot do so under the false comfort that every death will be peaceful, because we know that that will not be the case. My amendment 179 is about facing the truth, which is that death might not come and suffering might follow, and that the state has a duty not to look away. For those reasons, I encourage members to support it.

As the convener alluded to, I will speak to amendments 126 and 188, in the name of my colleague Stephen Kerr, who apologises for not being able to be here. I will read his words, so bear with me.

The amendments address a critical gap in the bill, which is the absence of any statutory requirement to record and report what happens when an assisted death takes place. At present, the bill assumes that every death will proceed as planned, swiftly and without complication. However, that assumption does not align with the evidence that we have seen from areas where assisted dying has been legal for some time—in particular Canada and the Netherlands, where there have been documented instances of complications during administration, delays before death occurred and unexpected physical reactions, as well as distress for those who are dying and the professionals who are present. If Scotland is to legislate in this profoundly serious area, we must do so with our eyes open, guided by evidence of what has happened elsewhere.

Therefore, amendment 126 seeks to ensure that the final statement required under schedule 4 to the bill records two specific pieces of information: first, the time that elapses between the administration of the approved substance and a person's death and, secondly, any complications that have occurred or have been observed during the procedure. That information should not sit in a drawer.

Amendment 188 complements amendment 126 by requiring that the information be included in the annual report prepared under section 26 of the bill. In other words, Parliament and the public should be able to see transparently, year by year, what has actually occurred under this legislation.

The Health, Social Care and Sport Committee's stage 1 report acknowledged the issues of information reporting and review and suggested that the provisions might require to be strengthened at stage 2 to ensure appropriate detail and transparency. The amendments from Stephen Kerr would directly meet that recommendation. They do not challenge the principle of the bill but insist that if Parliament

chooses to legislate for assisted dying, it must also commit to rigorous, honest monitoring of the real-world outcomes.

This is not a partisan matter; it is about integrity in law making. If the bill is to command public trust, it must be built on full disclosure and a willingness to learn from experience. Transparency is the foundation of public confidence. Recording what happens at the point of death is not morbid bureaucracy; it is an essential safeguard that would ensure that the law operates safely, humanely and truthfully.

If the bill is passed, it will touch on the most sensitive boundary of human life and medical ethics. It must therefore be governed by truth, not by assumption, and by evidence, not by expectation. For those reasons, I, and Stephen Kerr, urge members to support amendments 126 and 188, which are modest, reasonable and necessary proposals that would strengthen accountability, uphold honesty and protect the integrity of our law.

Liam McArthur: I start by expressing the hope that Stephen Kerr has not gone the same way as Ross Greer and lost his voice, too. I thank Brian Whittle and the other members who have had an opportunity to set out the rationale for their amendments in this group, and I look forward to hearing the comments from others who have lodged amendments, too.

I must apologise at the outset, convener, with regard to your plea to be brief. I have only one amendment in this group, but I am conscious that there are many amendments in it, lodged by many members, so my remarks will probably be lengthy. I will do my best to recoup some of that time in later groupings.

I will start with my amendment 33, although it is probably worth acknowledging at the outset that all the amendments in the group relate to section 15, on the provision and use of an approved substance. I again remind members that all the bill's provisions must be within the competence of the Parliament. I am aware that the Scottish Government is working with the UK Government to ensure the full operation of the bill, should it be passed. The Scottish Government will consider many of the amendments in the group in the context of those discussions, and we certainly urge the cabinet secretary to keep the committee and other members updated in that respect.

Amendment 33, in my name, requires the co-ordinating registered medical practitioner or authorised health professional who attends on the day that the person intends to take the authorised substance, and who will provide the substance to the person, to stay with the person in the same room until the substance has been used. As introduced, the bill states that the attending co-ordinating registered medical practitioner or authorised health professional must be on the premises but need not be in the same room as the person while they decide whether to be provided with, and use, the substance. Where the person has chosen to use the substance, the co-ordinating medical professional or authorised health professional must stay on the premises until the substance has been used and the person has died.

Amendment 33 responds to questions that were raised by Police Scotland, and which were echoed by Douglas Ross and, I think, Brian Whittle, by amending section 15(6) to the effect that the attending co-ordinating medical practitioner or authorised health professional must remain with the person in the same room until such time as the person has decided to take, and has taken, the substance. As before, it will then be at the discretion of the attending medical professional as to whether they remain in the room after that point or be elsewhere on the premises. That is intended to address any potential concerns as to whether the substance has been self-administered.

Amendments 178, 180 and 179 offer alternative approaches to the same issue, and I thank Brian Whittle and Douglas Ross for lodging them and for allowing this debate to take place. Brian Whittle's amendments 178 and 180 seek to ensure that the co-ordinating registered medical practitioner or authorised health professional remains in the same room as the terminally ill person throughout. In addition to what I said in speaking to amendment 33, I believe that it is important that, after the substance has been taken, the terminally ill adult and any attending loved ones be afforded some privacy, if they wish it, while having the attending health professional close at hand.

Section 15(5) sets out that

"The coordinating registered medical practitioner or ... authorised health professional must remain with the adult until the adult decides whether to use the substance ... and, if they decide to do so, until the adult has died."

Amendment 179 would add to that by requiring the co-ordinating registered medical practitioner or authorised health professional to remain with the person until they have died or the attending

"health professional determines that the substance has failed to take effect."

I understand what Mr Whittle and Mr Ross are seeking to achieve. They are motivated by a concern that I fully recognise, but I believe that amendment 33 deals with the issue more proportionately, allowing privacy for a terminally ill adult where necessary and appropriate.

Douglas Ross: I understand the desire for privacy, but does Liam McArthur accept that

international experience is that there have been instances in which people have not died as a result of the substance being used or have suffered significant complications? A person being in the same building does not mean that they are in the same room. A medical professional can provide privacy by standing well back while being present in the room and able to intervene if required.

Liam McArthur: I thank Douglas Ross for that intervention. The committee took evidence at stage 1 from witnesses in Australia that went some way to allaying many of the concerns around the efficacy of the substance, but I certainly appreciate that complications might arise in some instances. That is why it is important that the medical professional remain present on the premises. There would be a discussion ahead of the self-administration of the substance about what is expected to happen.

In other jurisdictions, there are instances where the medication is not provided in person by a medical professional and concerns do not appear to arise as a result. My bill has an additional safeguard that does not exist in other jurisdictions. The fact that the medical professional would be there and available allows us to balance, on one hand, the need to ensure that there is no coercion or undue influence being brought to bear and that self-administration takes place, with, on the other hand, respecting an individual and their family members' wish for additional privacy, while maintaining the robustness of the safeguard.

Brian Whittle: As an addendum to Douglas Ross's point, I am concerned that you have not considered the liability of the medical professional if he leaves the room. We talk about other jurisdictions, but our laws and legal processes are different. Has the protection of our medical professionals, and their liability if something goes wrong, been considered?

Liam McArthur: That is a very fair point to raise. It has not been raised with me either in the context of the bill as introduced or in relation to the additional safeguard that I seek to introduce through amendment 33. I am prepared to engage with other members and representatives of the medical profession to see whether any anxieties in relation to that point still need to be addressed. However, as I said, there is a safeguard in the bill. Notwithstanding Mr Whittle's—rightly made—point about our legal set-up in Scotland, I believe that the safeguard is appropriate. As I said, it balances the need to ensure self-administration and that there is no evidence of coercion with respect for the right of an individual to have the privacy that they wish to have at the end of life.

I turn to the amendments that Brian Whittle lodged on the role of the pharmacist in the provision of the substance under section 15. I remind members that section 15 details that the co-ordinating registered medical practitioner or an authorised health professional can provide the approved substance if specified conditions are met. Amendment 173 would provide that the approved substance could

"only be supplied to a coordinating registered medical practitioner or an authorised health professional"

for that purpose

"by a registered pharmacist, in accordance with the directions of the coordinating registered medical practitioner."

Amendment 173 is one that I can support on the understanding that it would not add to the competence issues that are being considered by the Scottish and UK Governments.

Amendment 177 would enable the co-ordinating registered medical practitioner or authorised health professional, where they are

"accompanied by any other health professional",

which, as per section 29, could be a registered medical practitioner, a registered nurse or a registered pharmacist, to

"delegate their functions under subsections (1) and (7)"

of section 15 to that person. Section 15(1) deals with the provision of the approved substance, and section 15(7) deals with the removal of the substance where the terminally ill adult decides against using it.

However, amendment 175, which I understand should be read with amendment 177, would require that the co-ordinating doctor or authorised health professional, as the case may be, has to be present for the provision of the substance.

11:30

I believe that Mr Whittle's intention is that it is the role of a pharmacist to provide the substance to the person. However, I believe that there is merit in retaining the provision that it is for the co-ordinating registered medical practitioner or authorised health professional to provide the substance. I envisage the role of any other health professional attending at the discretion of the co-ordinating registered medical practitioner or authorised health professional to be limited to providing assistance to the CRMP or AHP as they see fit. I am wary of allowing functions under section 15 to be delegated by the CRMP or AHP, who must be in attendance and who will have the relevant skills, training, experience and qualifications to fulfil the functions set out in subsections (1) and (7) regarding the provision or disposal of the substance.

Amendment 185 would add registered pharmacists to the definition of an authorised health professional in section 15. I note that the Government suggests that, in order to fulfil that role, pharmacists would likely need additional training over and above that required by the doctors and registered nurses who fulfil the role. I agree with that assessment, and I note that, if the amendment is agreed to, there would be no distinction between who can be an authorised health professional in section 15(8) and a health professional as defined in section 29, which could lead to confusion.

I turn to Jackie Baillie's amendments 76 to 79, which would require that, where the substance is to be provided by an authorised health professional who is a registered nurse, they must be accompanied by the co-ordinating registered medical practitioner or another AHP who is a registered medical practitioner. It would be for the CRMP or AHP who is a registered medical professional to make the determinations on a person's capacity and whether they were being coerced. The registered nurse would have to be accompanied by another health professional for the purposes of subsections (5) to (7) of section 15.

The bill provides for the role of an authorised health professional to ensure that there is no unreasonable delay or barrier to a person who is eligible being provided with assistance. Limiting the section 15 role for a registered nurse in the way suggested might lead to such delays and a loss of access for some terminally ill adults. The bill requires the authorised health professional to be a registered medical practitioner or a registered nurse, authorised by the co-ordinating RMP. The co-ordinating RMP therefore already has a key role in deciding whether to appoint an authorised health professional.

Having engaged with the RCN, I have lodged amendments requiring the Scottish ministers to be able to regulate for any training, qualifications and experience that a registered medical practitioner or registered nurse should have in order to carry out the role of AHP. I believe that, if agreed to, the amendments will help to ensure that the role will be suitably supported. I should note that the amendments that I have lodged to section 18 are also relevant here in that they would ensure that no person would have to participate if they did not want to for any reason. I therefore do not believe that amendments 76 to 79 are necessary or would strengthen the bill—in fact, they could limit the availability of relevant health professionals who are able to provide the substance and be with the person on the day of death. The Scottish Government also appears to have noted that, while observing that such an approach

> "may set a precedent of health and care professionals being accompanied when they have to attend people in their homes to deliver other services."

The resource implications of that could be significant.

Daniel Johnson: I note what Liam McArthur is saying, and in a sense, he is right, but would he also observe that those amendments were lodged following the RCN requesting them, so the profession itself is asking for those restrictions? Why does he think that those observations—and, indeed, requests—should be rejected?

Liam McArthur: It is a fair point. In my engagement with the RCN, it has made requests, which I have been happy and able to accede to. I think that the requirement for a second nurse to be present is disproportionate. There is nothing in the bill that would prevent that from happening, and I am sure that that would happen. We discussed at stage 1—and the committee will have heard—that, in other jurisdictions, over a period of time, one has seen an increase in the number of people who are able to access this, partly through increased public awareness but also through the growing familiarity of medical professionals with the process and procedures, and a willingness to engage with that process.

I would not be at all surprised if, in the early stages, nurses sought to have an additional nurse present but, as we have seen in other jurisdictions, that tends to cease to be the case over time. The current provision would allow for that to happen; my concern is that amendment 79 would mandate it in every instance. That is disproportionate and would certainly have an impact on access to this choice for some terminally ill adults.

The Convener: I am minded to support Jackie Baillie's amendment 79, and I do understand the rationale that Daniel Johnson has tried to narrate. Given that, under the current system, a controlled drug is administered by two registered nurses, I do not understand why Mr McArthur is so averse to the same thing being in statute as a protection for nurses who are carrying out their duties in participating in assisted dying.

Liam McArthur: As I have said, I understand the rationale behind the argument, particularly as we are dealing with the introduction of new legislation. I am just concerned about putting in place something that then prevails but which, in turn, reduces access to choice in what I believe is a disproportionate way.

The example that the convener and Jackie Baillie have cited is certainly the case. However, there are many instances in which that provision is not required, and yet additional nurses are still present to provide whatever support is felt to be necessary. Their doing so is not a statutory

provision. This is all about striking a balance by allowing this to happen, in the expectation that, in the early stages, it might well be the case more often than not, but without binding it in statute as a requirement that could have an impact on being able to access that choice.

The Convener: I just want to expand on that. The current practice is for two registered nurses to witness the administration of a controlled drug—that is, the drawing up of that drug, if they are drawing it up into a syringe, or the pouring of it into a medicine cup. There is protection for those nurses to ensure that the drug that they have administered is the correct one, that the dose is correct and that it has gone to the right person.

I do not understand why the staff who would participate in administering something as final as the medication used in assisted dying would not have the same protections. This is about protecting the nurses—and at this point, I must put on record that I am a bank nurse with NHS Greater Glasgow and Clyde, as I have not done that yet. I just do not understand the member's resistance to putting such a protection in place for nurses who might participate in this practice.

Liam McArthur: As I have said, I echo the concern that the Government has laid out in its commentary on the amendments that the application of that provision across the board could have significant resource implications.

Emma Harper: Will the member give way?

Liam McArthur: Yes.

Emma Harper: On the back of the convener's own declaration, I should declare that I am still a registered nurse.

My understanding is that nurses do go into a patient's home on their own to refill or recharge a syringe driver containing, for instance, morphine, fentanyl and anti-emetic drugs. I am concerned about nurses going in on their own in this instance, although I do take on board what you have said about their being able to choose to have somebody with them at the beginning. I am just seeking clarity on the point that nurses are already able to act independently in a patient's home and to manage such devices.

Jackie Baillie: Will Mr McArthur give way?

Liam McArthur: Let me respond to that intervention first, Ms Baillie, and then I will come back to you.

The member makes an entirely fair point. As the convener and Jackie Baillie have intimated, there are examples in which there is such a requirement at present, but it would be wrong to assume that, from those instances, one could draw parallels with the actions being undertaken by nurses acting independently in a person's home. I suspect that that is the point that the Scottish Government is making in its commentary on the amendments.

Jackie Baillie: We are not talking about an everyday occurrence; this is something very unusual and highly sensitive. Furthermore, as you have acknowledged, significant numbers of people will not be impacted by your bill. Consequently, issues of access being limited for some terminally ill adults are not valid in this instance.

It is very difficult for a nurse who is placed alone to advocate for themselves and say that they do not want to carry out that role on their own, thereby causing unnecessary delay. What I am seeking should be built in from the start—it must be the expectation. If we want effective implementation of your bill, we need to assure those who are likely to be significant participants in it—that is, nurses—that we have their interests at heart.

I urge you to accept the amendments, because they do add to the bill.

Liam McArthur: As I have said, I know from my direct engagement with the RCN how strongly it feels about the issue. I do have misgivings. Members of the committee will have heard expositions of both sides of the argument, and the points that Emma Harper was—fairly—making. The committee will have to take a view on the amendments accordingly.

Sue Webber's amendment 176 relates to amendment 158, which has been previously debated, and it would require the co-ordinating registered medical practitioners to inform the terminally ill adult of potential side effects and the risks of complications when providing the substance. I note that it is already a requirement under section 7 that the registered medical practitioners, in carrying out their assessments, explain the nature of the substance to be provided, including how it will take to bring about death.

Marie McNair's amendment 244 proposes an avoidance-of-doubt provision to confirm that a person cannot administer the substance to or on behalf of another person. I consider that the bill is already suitably safeguarded to prevent that, but I have no strong objections to Ms McNair's amendment, and I thank her for lodging it.

Daniel Johnson's amendment 10 adds details to the process of providing the substance. From the outset, I have wanted the end-of-life process to be set out in as much detail as possible, and I have been clear that the approved substance could be self-administered by the terminally ill adult in a range of ways. Given that the bill empowers Scottish ministers to approve the substance that is to be used, it was felt that the best approach was to leave further detail on how the substance was

to be prepared and used to regulations and guidance. In policy terms, I have always been clear that assistance must be via self-administration by the terminally ill adult. Ultimately, assistance can be anything that contributes to the person's own deliberate act but which does not tip over into administering the substance.

I also point members to the guidance provision in section 23(1), which allows Scottish ministers to "prepare and publish guidance" on the act. Section 23(2) lists particular areas on which ministers might wish to issue guidance, including

"the provision of assistance in accordance with section 15".

Such guidance would be consulted on in advance, allowing input from medical professionals and others, ensuring that any resulting guidance reflects those views.

Part of the amendment seeks to allow the co-ordinating registered medical practitioner to prepare a device to allow the person to take the substance if needed. That issue came up at stage 1, and, as I suggested to the committee at the time, I am sympathetic in policy terms to considering what might be done to enable a person to self-administer in different circumstances.

The Scottish Government states that it recognises that the detail that is set out in the amendment

"is likely to be welcomed by healthcare professionals, based on the evidence provided to the Committee at Stage 1."

It also noted that the amendment

"does not make any reference to the 'authorised health professional', who may also carry out functions under section 15."

Daniel Johnson might wish to reflect on those comments, but I am supportive of the amendment in principle.

I turn to Sue Webber's amendment 182, which seeks to insert a new provision into section 15 to the effect that the existing criminal law relating to homicide applies to any act by a person to provide additional substances, treatment and so on to the terminally ill adult after they have used the approved substance for the purpose of bringing about death. Section 1(2) of my bill details that

"Such assistance is lawfully provided if it is provided in accordance with the provisions of this Act."

By necessity, any assistance that was not in line with those provisions would clearly be unlawful.

The bill's explanatory notes make it clear that the exemption from criminal liability under section 19

"applies only where the substance of the case against the individual is (or would be) that they provided a person with assistance to end their life under the Bill. It does not apply to any incidental unlawful acts which an individual may have committed".

Therefore, amendment 182 is not necessary and might, by singling out one specific situation, create uncertainty.

11:45

There are, in this group, several amendments from various members that address the issue of recording and notifying instances of the substance not having its intended effect, including Sue Webber's amendments 181 and 183, Stuart McMillan's amendment 184, Paul Sweeney's amendments 245 and 275, and Stephen Kerr's amendments 126 and 188.

On amendments 181 and 183, the former seeks to cover situations in which the adult uses the substance that is provided but does not die or the substance does not produce its intended effect within a period to be specified by the co-ordinating registered medical practitioner or authorised health professional. It provides that, in such circumstances, the co-ordinating registered medical practitioner or authorised health professional

"must take all reasonable steps to preserve the life of the adult"

or reverse any effects of the substance. It also seeks to require that such incidents be recorded in writing and that details of what is required to be recorded be set out. The amendment also stipulates that no declaration or statements made by the adult under the bill's provisions can prevent steps to preserve their life, unless the adult refuses any such intervention at the time and has capacity to do so.

As was made clear in the evidence at stage 1, the number of cases in which a person takes an end-of-life substance and does not die or complications arise is incredibly small. Even so, given that the bill provides for the co-ordinating registered medical practitioner or authorised health professional to be present when the substance is used and until a person has died, should any complications arise, the attending health professional would respond in a manner consistent with their skills, training, qualifications and experience, and provide necessary care to the person.

I refer the committee to the detailed evidence that it received from Professor Dooley, which confirmed the Australian experience that, although most deaths occur very quickly, the exact timing can be based on factors such as a patient's condition, size, weight and overall health. Given that natural variability, Ms Webber's amendment risks placing unworkable requirements on

clinicians and potentially undermining the practical integrity of any medication protocol. I therefore support neither amendment 181 nor amendments 125 and 136, in the name of Bob Doris, which refer to dying within a "reasonable period".

Sue Webber's amendment 183 would require that the co-ordinating registered medical practitioner record in the adult's medical records any complications arising from the used substance and submit an anonymised report to Public Health Scotland. Broadly, Stuart McMillan's amendment 184 appears to duplicate amendment 183, as do Paul Sweeney's amendments 245 and 275, along with his amendment 269, in a later group. That amendment also addresses the reporting of any complications, as do Stephen Kerr's amendments 126 and 188.

I have considered the amendments carefully. Members will know that section 27 requires a five-year review of the operation of the act and is intended to deal specifically with how it is functioning in supporting terminally ill adults with being lawfully provided with assistance to end their own lives. The bill also provides that any concerns with the operation of the act that have been raised must also be covered in the report, as well as the Scottish Government's response to those concerns.

However, I acknowledge that there is nothing specific in the bill about the recording and reporting of issues such as complications and, on reflection, I agree that the bill might benefit from being strengthened in that regard.

Sue Webber: You mentioned how clinicians might have concerns about dosage and how that might be affected by a patient's physical state, which might include their being obese. Surely you agree that recording any complications and how death proceeds will help medical professionals learn and change their methods so that they can, in fact, address some of the issues that you have mentioned.

Liam McArthur: Sue Webber makes a reasonable point. However, my point about variability was more in relation to specifying a time that might be deemed "reasonable" or by which death is expected to occur.

As I was suggesting, I think that, on reflection, ways of strengthening the bill by recording considerations that have been outlined not just by you, Ms Webber—

Bob Doris: Will the member take an intervention?

Liam McArthur: Let me respond to Sue Webber, Mr Doris, and then I will let you in.

I am responding to the concerns that are reflected in a number of amendments, each of which is trying to do something similar but in a different way. This is an issue that I am happy to look at; I am not sure that I am necessarily supportive of any of the amendments that have been lodged, but I am happy to work with members and the Scottish Government ahead of stage 3 to see whether there are ways of better reflecting the issue in the bill.

I will take the amendment—I mean, the intervention—from Bob Doris.

Bob Doris: Unfortunately, Mr McArthur, you will be taking a lot of amendments from me during this stage 2 process.

My intervention is in relation to death happening "within a reasonable period" and the challenges in how we would arrive at that conclusion. Surely to goodness, if someone has ingested a substance and three hours have passed—and then four or five hours pass—there must be some guidance for the medical professional on when and how they should intervene and what powers they have to do it. I will say more about that when I get to my amendments, but there must, surely to goodness, be some kind of framework for medical professionals to operate within.

Liam McArthur: The disadvantage of speaking to my amendment, and the others, at this point is that I am doing so before I have had the opportunity to hear Mr Doris set out the rationale for his own amendment.

I have misgivings about the way in which Mr Doris's amendment 125 is phrased, but I do recognise the point that he makes—and, indeed, which has been made in the range of amendments lodged in this area. The bill would benefit from further clarification in relation to those points. I am not sure that that clarification has been captured in any of the amendments that have been lodged, albeit that they have led to this discussion. I hope that we can address those concerns ahead of stage 3.

On Stuart McMillan's amendment 187, the bill provides for Scottish ministers to regulate for the use of an approved substance and requires ministers to consult ahead of any regulations being laid. I fully expect such consultation to include the chief medical officer. The regulating power would also allow Scottish ministers, if appropriate, to regulate to remove a substance from the approved list. Therefore, I do not believe that amendment 187 is needed. I would also acknowledge the Government's view that it is normally for the Medicines and Healthcare products Regulatory Agency

"to advise on the suitability, safety, side effects, quality, efficacy, ... dose, full product life cycle, and post licensing review ... of drugs licensed for a purpose."

Finally, in relation to Patrick Harvie's amendments 127 and 137 on safe access zones, I am conscious that I have not heard him speak to his amendments, but I do understand his rationale for lodging them, not least in light of legislation that this Parliament has recently passed. The purpose of that legislation—that is, the Abortion Services (Safe Access Zones) (Scotland) Act 2024—is to designate zones to protect patients and staff from activities that cause distress and intimidation. Given the sensitivities surrounding the debate on assisted dying, I understand the need to ensure that those who seek assistance and those who provide it are not subject to harassment and intimidation.

The amendments would allow, but not require, ministers to regulate for

"safe access zones for premises in which assistance may be provided".

That is important, because the issue will need careful reflection and consideration, given that assistance might be provided in, for example, a person's home. That alone would make requiring such zones to be established problematic. The Scottish Government appears to agree with that point, further noting that

"There are existing laws in place which would provide some protection".

I do not believe that the provisions in amendments 127 and 137 are necessary, although I would observe that the proposed five-year review of the act would allow the issue to be revisited at a later date and with a clearer understanding of the experience in practice. It is worth acknowledging that such issues do not seem to be a feature in other jurisdictions where assisted dying laws are in place. However, as I have said, I am conscious that I am commenting on amendments that I have not heard the member speak to, and I will listen with interest to what he has to say.

The Convener: I call Bob Doris to speak to Stuart McMillan's amendments 184 and 187, to amendments 125 and 136 in his own name, and to other amendments in the group.

Bob Doris: To make sure that I do not conflate Mr McMillan's amendments with my own, let me start off with Mr McMillan's amendments 184 and 187. I make a point that is similar to Mr Harvie's when he spoke to Ross Greer's amendments earlier: the words that I am using are Mr McMillan's views rather than my own—some of them I agree with; others, perhaps not, but let us see how that goes.

The bill gives responsibility for approving substances to be used in assisted dying to the Scottish Government ministers. That sounds simple but, in practice, it creates two serious problems. First, if the ministers of the day are opposed to assisted dying, they could entirely frustrate the operation of the law by approving no substances at all.

The second and more concerning problem is that if substances are approved, the bill contains no mechanism to ensure that they are safe, effective or humane. International experience has shown us the dangers of that omission. It is contended that, in other jurisdictions, poorly monitored substances have led to choking, vomiting, pulmonary complications and tragically prolonged deaths, lasting many hours or even days. Parliament cannot, in good conscience, legislate for assisted dying while leaving the safety of such substances to ministerial discretion alone.

Amendment 187 establishes a framework for proper oversight and accountability. It requires that any substance approved for use under the act must receive parliamentary approval and renewal every three years. Before renewal, ministers would be required to lay a detailed report before Parliament on the safety, side effects and on-going suitability of those substances. In addition, amendment 184 would require co-ordinating registered medical practitioners to record and report any complications or deviations from the expected outcome.

Those amendments would ensure that the Parliament, and not ministers alone, retains responsibility for the integrity of the process. They would also ensure that, where substances have caused unnecessary suffering, action is taken quickly and transparently.

In the light of the reporting and better understanding of the safety of the drugs involved that would be ensured through amendment 184, amendment 187 would require Parliament to undertake a review after three years to ensure that the drugs are being used safely and effectively and that side effects are properly understood and monitored. That is vital to ensuring that deaths are not lingering, painful or distressing for the patient or their families.

From research in other countries, and as the committee heard at stage 1 and last week, the drugs used are potent and can have significant side effects. Monitoring their impact is the only responsible course of action for a Parliament that cares about how the legislation will work in practice. Allowing the Parliament to review after three years would give us the safeguards that we need to ensure that the legislation is working as intended.

Those are the comments from Mr McMillan in relation to amendments 184 and 187.

Do you wish me to move on to my comments, convener?

The Convener: Yes, please.

Bob Doris: My amendment 125, and the consequential amendment 136, address a gap in the bill regarding the duties placed on health and social care practitioners in the event that a person, following the planned ingestion of an approved substance provided to end their life, does not die within a reasonable timeframe.

Amendment 125 states:

"The Scottish Ministers must by regulations make provision about the management of cases where a terminally ill adult has used the substance provided to end their own life in accordance with this Act, but has not died within a reasonable period."

What constitutes a "reasonable period" must also be specified in the regulations.

I do not wish to speculate on how often that scenario might arise. I suspect that there will be various opinions. We heard some of those during exchanges on day 2 of the committee's deliberations at stage 2. There was an almost four-way discussion between Sue Webber, Emma Harper, Brian Whittle and, I think, Joe FitzPatrick about how often such things might happen.

However, that is to miss the wider point. Since the scenario will happen—if only occasionally—there is a need for guidance so that professionals and the public know what process should be followed in such circumstances. Such a scenario raises many complex and difficult questions of a legal, ethical and practical nature. Indeed, colleagues have been wrestling with all those questions with great thoughtfulness this morning.

For example, if the person is unconscious, should they be killed by the administration of further lethal or other substances, which, after all, would be euthanising that particular individual, against the policy intent of the legislation? Should or could such a step be taken without consent? What should the approach be if the person does not have capacity? What information should be given about such scenarios to people who request assisted dying?

Liam McArthur: Bob Doris is right that this is a very sensitive area. There is an understandable desire for as much clarity as possible. Does he accept that, at present, the guidance that is in place to medical professionals in relation to such situations is about making the patient as comfortable as possible? He is certainly right that the application of any additional substance is not what would be expected. However, the provisions in the guidance that exists at the moment would cover the situation adequately. There is a risk in putting that sort of detail in the bill—that has not been done in any other instance.

12:00

Bob Doris: I do not agree with Mr McArthur's intervention because, currently, we have not legislated for assisted dying, and the purpose of ingesting the drug in question would be to bring about death, not to make the individual comfortable while they are still living. Right now, the guidance is silent on that and it has to be developed. I will say more about it in a moment, but my amendment 125 does not propose to include the detail in the bill, but rather to include it in regulation by affirmative procedure. Like Mr McArthur, I accept that it is challenging to include all the information in the bill. A wider consultation would be needed, which an affirmative process would provide for.

I know that we have discussed many amendments over the past couple of committee sessions, but if members recall, one of my previous amendments sought to ensure that the co-ordinating medical practitioners should have a conversation with the person who is seeking the assisted death about various matters, including about the provision of the substance that would be used at the end of their life. Amendment 91, which the committee disposed of this morning, was not agreed to, but would have made that happen. Mr McArthur has suggested that those conversations would not be required, because they are already provided for in section 7(1) of the bill. However, I think that it is important to put on record that section 7(1) includes a whole variety of items for discussion, including the nature of the substance that would be used, as I have just cited, but that it is caveated and qualified by the phrase,

"in so far as the registered medical practitioner considers appropriate".

There is no requirement under section 7(1), which we would need clarity on. The clinician would be empowered, but not required, to have those conversations: those are two very different things, which it is important to put on record.

Liam McArthur: As in many other areas, there is a balance about the extent to which we leave matters to the discretion of individual medical practitioners and the bill laying out a requirement on them to act in a particular way. There will be different views on that. I suspect that the BMA and others may be distinctly uncomfortable with the bill going down the route of having requirements and cutting across the professional judgment of medical practitioners or, indeed, interfering with the doctor-patient relationship. I recognise that the procedure that we would be dealing with feels more significant than other areas of medicine, but the safeguards in the bill are more likely to operate effectively if they are consistent with the way in which medical practice operates more generally.

Sue Webber: Mr Doris—

Bob Doris: If possible, Ms Webber, I will respond to Mr McArthur first.

I would be very interested in the BMA's thoughts on that. I do not want to rehearse arguments that we have heard before, but in the bill as drafted, clinicians are empowered, but not required, to discuss diagnosis and prognosis; available treatments; palliative care and other available care; and the nature of the substance, including how a death may come about. The outcome could be that an individual clinician does not have to discuss any of those things whatsoever. I think that there should be a framework to support clinicians to have those conversations. Of course, if the person who is seeking an assisted death does not wish to have those conversations, that would be their right. In some respects, my view is that the bill is silent on that, by caveating everything with the phrase,

"in so far as the registered medical practitioner considers appropriate".

Sue Webber: Thank you, Mr Doris, for letting me come in. The member in charge of the bill has referred to the way in which medical practice operates more generally. However, from all the years that I have been working in healthcare, I am not familiar with any situation in which individual clinicians have been encouraged to do their own thing. Strict guidance and procedures apply to everything, and there are pathways for all sorts of treatments. Do you agree that not having something similar for procedures such as this would not represent medical practice as it operates more generally?

Bob Doris: Crikey, Ms Webber. I feel as though I am playing devil's advocate on both sides of the debate. I believe that a framework is required for clinicians and that there should be supporting guidance for them but, ultimately, that a degree of discretion and professional judgment has to be used in those circumstances.

However, that professional judgment cannot be exercised in a vacuum, and I feel that Mr McArthur's bill would lead to some of it being made in a vacuum. Similarly, although I agree with Sue Webber's point, I am not sure that the framework should be too stringent. I will therefore go back to my amendments and say that that is why the issue should be dealt with not in the bill but by regulation and consultation. That is important.

Joe FitzPatrick: This has been a really interesting discussion. Given that even Bob Doris found himself on two sides of an argument, it might be better if he does not press his amendments. I am very sympathetic to what he is trying to achieve. If he does not press his amendments and instead has that discussion, we can see whether there is a way forward and whether we can get wider support at stage 3.

Bob Doris: Thank you, Mr FitzPatrick. I am not really on both sides of the argument, because the bill does not contain provisions on this issue. The member in charge of the bill says that we should not put that sort of detail in the bill. I agree with him to a large extent. I want it to be in regulations, and my amendment says that it should be in regulations. I intend to move the amendment to see what the committee's views are. If it is not agreed to, I can always bring it back at stage 3, at which point I would be delighted to work with Mr McArthur to get the balance right in relation to that issue.

I return to my pre-prepared reflections. Complex questions such as this are best dealt with through detailed guidance—I have tried to make that point—rather than in the bill. However, the requirement for guidance must be in the bill, and that is what my amendment seeks. Those complex questions must be worked through, and the amendment places a duty on the Scottish ministers to consult on such matters before laying draft regulations under the affirmative process. For fairly obvious reasons, such regulations must be in place before applications for assisted dying are to be made, should the bill become law.

I am reminded of the exchange between Douglas Ross and Liam McArthur about whether the clinician should be inside or outside the room so that they can attend and take action as required. We are not sure what action would be permitted, so that has to be clarified before we have a debate about whether the clinician should be inside or outside the room. Amendment 125 and its consequential amendments would provide the certainty of a framework under which medical professionals should operate on such occasions. With that, I draw my remarks to a close.

Paul Sweeney: My amendments 245 and 275 aim to strengthen the practical framework for the administration of assisted dying safely and responsibly. They would require the Scottish ministers to provide proper training for doctors and to publish detailed guidance on what to do if complications arose, including what constitutes a "reasonable period" before death and how to respond to side effects or even failed medication, however rarely such issues might occur.

Without those provisions, clinicians could face serious medical legal risk if problems arose during the final stages of the assisted dying process. The amendments would also create a duty to report any such problems to Public Health Scotland, ensuring that issues of safety were captured and analysed to inform on-going review and improvement of the assisted dying service.

Together, I believe that those measures ensure safety and consistency during the most sensitive stage of the assisted dying process. I am also aware that the member in charge of the bill will be seeking engagement with UK Government ministers on safeguards. Such safeguards will certainly be being sought by ministers at UK Government level.

Patrick Harvie: I will speak to my amendments 127 and 137. As Liam McArthur anticipated when he commented on them, I lodged them largely as probing amendments for discussion. I was curious about how Liam McArthur and the committee would respond to the issue. As members will be aware, just last year, the Parliament, by an overwhelming majority, passed legislation to allow safe access zones for abortion services.

Abortion services can, of course, be a contentious and divisive issue within society, and they are, like the issues covered in this bill, generally regarded as a conscience matter by most political parties. In places around Scotland, we have seen a significant number of protests targeting the sites where abortion services are provided and impacting in a negative way on those accessing them, as well as on professionals working in those locations.

As Liam McArthur said, there have been protests in some jurisdictions where assisted dying takes place, but they have not necessarily been targeted at specific sites. The one instance where end-of-life issues have given rise to protests in this country relates to different circumstances, and not to assisted dying as such, and I think that it is probably fair to say that it was generated as much by online activity and information that was not necessarily accurate as by the issue itself.

I was mostly concerned that we were going to have this discussion in the context of the possibility that the Parliament might have agreed to organisational opt-outs, if our discussion last week had gone a different way. I was concerned that, if organisations—for example, providers of hospice or care home facilities—were under pressure to make an organisational decision whether they supported their residents in being able to access the assistance provided under the bill, they could become targets of the kind of protests that we have seen in relation to abortion services. Given that the committee, so far, does not seem to have gone down that route, I am minded at the moment not to move these amendments when we come to them. Obviously, though, I will want to see how the debate goes on other amendments and might revisit at least this discussion at stage 3, even if only for the purposes of debate.

The Convener: I call Brian Whittle to wind up and press or withdraw amendment 173.

Brian Whittle: I will press amendment 173, and, in doing so, I have to say that I am feeling increasing disquiet at the way in which a lot of these amendments are being dealt with, both by Liam McArthur and by the committee. These are amendments that I have lodged on behalf of the Royal Pharmaceutical Society and which Jackie Baillie has lodged at the request of the RCN, and I remind members that those are the actual people who will be at the delivery end of this bill, should it pass. I worry about the pushback against both of those groups, because, in my view, they are the experts and their views have to be taken into consideration.

Medicine is not an exact science and, as we have heard, there will be adverse reactions to medication, however rare those reactions might be. I have tried, through advance care directives, to put some protection in place with regard to a medical professional's liability in the case that something goes wrong. Colleagues across the table here—Douglas Ross, Bob Doris, Sue Webber and Paul Sweeney—have all raised the same issues, and quite frankly, I do not think that the bill, as drafted, takes into consideration or addresses properly what happens on the rare occasions when something goes wrong.

Patrick Harvie: I am grateful to the member for allowing an intervention. I take his point, and I hear his discomfort with some of the discussion, but would he acknowledge that the member in charge of the bill has indicated openness to addressing some of the issues around how, in those rare circumstances that Brian Whittle has described, the correct information can be recorded? Liam McArthur has said that he is not convinced that any particular variant of that, as has been proposed at stage 2, is quite right, but he has indicated a willingness to work towards a consensual way of capturing that information at stage 3. Would it not be reasonable for all the members who want to see change in this area to collaborate in that spirit?

Brian Whittle: I recognise Mr McArthur's on-going willingness to work with members and collaborate on the bill, but it seems that there is a presumption that none of the other members in the room have previously spoken to each other about their amendments.

12:15

In fact, many more amendments, including some duplicates, would have been lodged had we not spoken to each other. Members have, to date, lodged many amendments to address safeguarding issues and those amendments have been rejected, which concerns me. I have put it on the record that I voted for the principles of the bill at stage 1; I had not decided at that time which

side of the argument I would fall on, come stage 3, but I said that there would have to be significant changes to the bill in respect of safeguarding if I was ever to support it at stage 3.

On the specific requests from the Royal Pharmaceutical Society and the RCN to me, Jackie Baillie and Daniel Johnson on lodging amendments, I note that the RCN is concerned because its members have to deliver on the bill, and to push back against that raises a concern for me.

Daniel Johnson: I wonder whether Brian Whittle would agree with me that there are two fundamental points here. First, it is important that safeguards are put in place, especially where those issues have been raised by the people who would be delivering the bill. Secondly, as we proceed, given the sensitivity of the issues, we have to be seen to be providing those safeguards. Those are two very important purposes. The second point is about providing strong signals and clarifying principles that we want to see if the bill is to be enacted safely with the confidence of the people who we are going to ask to deliver it. I wonder whether Mr Whittle would agree with those two distinct points.

Brian Whittle: I could not agree more with Daniel Johnson—the signal that comes out of the Parliament is incredibly important. As we have already held a session on the bill at stage 2, many of us will have already had responses by email and discussions with members of the general public and the medical profession who have raised concerns.

Liam McArthur talked about precedents for the way in which medication is delivered, but what the bill seeks to do is unprecedented. We are asking medical professionals, who operate on the "Do no harm" principle, to do something that they have never done before, so we have to take their views into consideration and ensure that the likelihood of there being any liability on a medical professional is minimised. That is why, at stage 3, I will bring back advance care directives, and should the committee push back against some of the amendments before us, they will be brought back again.

Liam McArthur: Will the member give way?

Brian Whittle: Of course.

Liam McArthur: I am grateful to Brian Whittle for taking my intervention and for his generous comments about the approach that I have taken to the bill. That remains the case, and I observe that I have been supportive of amendments from pretty much every member who has lodged an amendment. That is not to say that I have supported every amendment, but I have, in many instances, accepted the point that has been made.

I ask Brian Whittle to reflect on the fact that, even if the principle behind an amendment could be supported, it is in nobody's interest to pass amendments that may have unintended consequences, or an amendment that would not do what it is that the member who has lodged that amendment would wish it to do. That is why, at stage 2, we have an opportunity to explore those issues, and at stage 3, we will have an opportunity to refine amendments, which I have committed to doing in many instances.

This bill is like any other bill. A lot of amendments are lodged at stage 2 to allow a debate to take place; they will not all necessarily be accepted, but that process should strengthen and improve the bill as it moves on to stage 3, where it can be further strengthened and improved, as I have committed to doing.

Brian Whittle: Again, I welcome the way in which Liam McArthur has engaged with members from across the chamber, but I disagree with him on one point. This bill is not like any other bill that we have ever had before us—it is very different from anything that we have been asked to consider previously.

My concern is that, if we do not manage to deliver some of the changes that we want and some of the safeguards that we have tried to put forward—be it that they must be reworded—it becomes increasingly difficult for people such as me, who have not made a decision one way or the other, to support that principle. I urge Mr McArthur and the committee to consider what has been said.

I press amendment 173.

Amendment 173 agreed to.

Amendment 174 moved—[Brian Whittle].

The Convener: The question is, that amendment 174 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 3, Against 4, Abstentions 1.

Amendment 174 disagreed to.

Amendment 175 moved—[Brian Whittle].

The Convener: The question is, that amendment 175 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 3, Against 4, Abstentions 1.

Amendment 175 disagreed to.

Amendment 76 moved—[Jackie Baillie].

The Convener: The question is, that amendment 76 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)

Abstentions

Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 1.

Amendment 76 agreed to.

Amendment 77 moved—[Jackie Baillie].

The Convener: The question is, that amendment 77 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)

Abstentions

Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 1.

Amendment 77 agreed to.

Amendment 124 not moved.

Amendment 176 moved—[Sue Webber].

The Convener: The question is, that amendment 176 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Sweeney, Paul (Glasgow) (Lab)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 3, Against 4, Abstentions 1.

Amendment 176 disagreed to.

Amendment 244 moved—[Bob Doris]—and agreed to.

Amendment 78 moved—[Jackie Baillie].

The Convener: The question is, that amendment 78 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)

Abstentions

Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 1.

Amendment 78 agreed to.

Amendment 10 moved—[Daniel Johnson]—and agreed to.

Amendment 79 moved—[Jackie Baillie].

The Convener: The question is, that amendment 79 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)

Abstentions

Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 3, Abstentions 1.

Amendment 79 agreed to.

Amendment 177 moved—[Brian Whittle].

The Convener: The question is, that amendment 177 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 3, Against 4, Abstentions 1.

Amendment 177 disagreed to.

Amendment 178 moved—[Brian Whittle].

12:30

The Convener: The question is, that amendment 178 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 3, Against 4, Abstentions 1.

Amendment 178 disagreed to.

Amendment 179 moved—[Douglas Ross].

The Convener: The question is, that amendment 179 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mochan, Carol (South Scotland) (Lab)

Abstentions

Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 3, Against 4, Abstentions 1.

Amendment 179 disagreed to.

Amendment 180 not moved.

Amendment 33 moved—[Liam McArthur].

The Convener: The question is, that amendment 33 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Against

Whittle, Brian (South Scotland) (Con)

The Convener: The result of the division is: For 7, Against 1, Abstentions 0.

Amendment 33 agreed to.

Amendment 181 moved—[Sue Webber].

The Convener: The question is, that amendment 181 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 181 disagreed to.

Amendment 182 moved—[Sue Webber].

The Convener: The question is, that amendment 182 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 182 disagreed to.

Amendment 183 moved—[Sue Webber].

The Convener: The question is, that amendment 183 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0.

As convener, I use my casting vote to vote in favour of the amendment.

Amendment 183 agreed to.

Amendment 184 moved—[Stuart McMillan].

The Convener: The question is, that amendment 184 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Harper, Emma (South Scotland) (SNP)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harvie, Patrick (Glasgow) (Green)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 5, Against 3, Abstentions 0.

Amendment 184 agreed to.

Amendment 245 moved—[Paul Sweeney].

The Convener: The question is, that amendment 245 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 3, Against 4, Abstentions 1.

Amendment 245 disagreed to.

Amendment 185 moved—[Brian Whittle].

The Convener: The question is, that amendment 185 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 3, Against 4, Abstentions 1.

Amendment 185 disagreed to.

Amendment 34 moved—[Liam McArthur].

Amendment 34A moved—[Liam McArthur]—and agreed to.

Amendment 34B moved—[Paul Sweeney]—and agreed to.

Amendment 34, as amended, agreed to.

Amendment 70 moved—[Jackie Baillie].

The Convener: The question is, that amendment 70 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 3, Against 4, Abstentions 1.

Amendment 70 disagreed to.

Amendment 186 not moved.

Amendment 35 moved—[Liam McArthur].

Amendments 35A and 35B moved—[Liam McArthur]—and agreed to.

Amendment 35, as amended, agreed to.

Section 15, as amended, agreed to.

After section 15

Amendment 125 moved—[Bob Doris].

The Convener: The question is, that amendment 125 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Haughey, Clare (Rutherglen) (SNP)

The Convener: The result of the division is: For 2, Against 5, Abstentions 1.

Amendment 125 disagreed to.

Amendment 187 moved—[Stuart McMillan].

12:45

The Convener: The question is, that amendment 187 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 3, Against 5, Abstentions 0.

Amendment 187 disagreed to.

Section 16—Final statement

Amendment 126 moved—[Douglas Ross].

The Convener: The question is, that amendment 126 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 3, Against 5, Abstentions 0.

Amendment 126 disagreed to.

Section 16 agreed to.

The Convener: With the conclusion of consideration of section 16, I suspend the meeting until 6 pm.

12:46

Meeting suspended.

18:10

On resuming—

The Convener: Welcome back to the 31st meeting in 2025 of the Health, Social Care and Sport Committee. We resume consideration of agenda item 2, which is day 3 of stage 2 proceedings on the Assisted Dying for Terminally Ill Adults (Scotland) Bill.

Schedule 4—Form of final statement by coordinating registered medical practitioner

Amendment 188 moved—[Douglas Ross].

The Convener: The question is, that amendment 188 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 3, Against 5, Abstentions 0.

Amendment 188 disagreed to.

Schedule 4 agreed to.

Section 17—Death certification

The Convener: Amendment 36, in the name of Liam McArthur, is grouped with amendments 246, 37, 38 and 247. I point out that, if amendment 246 is agreed to, I cannot call amendment 37.

Liam McArthur: I will address my amendments before I turn to the other amendments in the group. Amendments 37 and 38 alter the death certificate requirements in section 17 to require the death certificate to record—secondary to the primary cause of death, as covered by section 17(2)—that an approved substance was self-administered under the bill's provisions. Amendment 36 is a consequential drafting amendment.

The bill requires that the death certificate for a terminally ill adult who has had an assisted death under the bill's provisions must record the terminal illness as the primary cause of death. The explanatory notes add that it is expected that the substance that the person used would also be recorded on the death certificate as a secondary or additional cause. My policy has always been that both the terminal illness and the substance that is used should be recorded on the death certificate. I note that the committee's stage 1 report concluded that

"both the illness, disease or condition which led to an individual requesting assistance to end their life, and the approved substance provided to enable them to do so"

should be

"detailed on the death certificate."

My amendments will ensure that that is the case.

After further consideration following discussions with the chief medical officer and others, I have lodged my amendments to ensure that my policy is reflected in the bill and that death certificates capture both the underlying terminal illness as the cause of death and the fact that an approved substance was used. That will ensure appropriate transparency.

I note the Scottish Government's confirmation that that will require consultation with Public Health Scotland, National Records of Scotland, Healthcare Improvement Scotland and health and social care services to ensure that deaths continue to be recorded in an accurate, consistent and helpful manner, that new processes and investment will be needed to support that level of data collection, development and reporting, and that alignment with other UK jurisdictions will also need to be considered. I welcome that helpful clarification and am keen to work with the Government if further work is required ahead of stage 3.

Pam Duncan-Glancy's amendments 246 and 247 would change the death certification provision

so that the approved substance used is listed as the primary cause of death and the terminal illness is recorded as an underlying condition. I certainly acknowledge the different perspectives on the issue, and although I remain of the view that the right and most transparent thing to do is to record the primary cause of death as the terminal illness, with the substance also being noted on the death certificate, I want to hear what Pam Duncan-Glancy and other members on the committee have to say when speaking to her amendments before deciding whether to press my amendments.

I move amendment 36.

18:15

Pam Duncan-Glancy: Good evening. Amendments 246 and 247 would ensure a transparent and accurate recording of deaths resulting from assisted dying. Amendment 246 would require that the individual's terminal illness be listed as "an underlying condition", while amendment 247 would require that

"the act of assisted dying",

including ingestion or administration of the approved substance, is

"recorded as a direct cause of death."

The amendments promote what I think is honest documentation that supports future public health monitoring and avoids misleading records. The bill as it stands instructs that, for someone who undergoes assisted dying, the cause of death be recorded simply as their terminal illness. That is problematic, not least because without a proximity-to-death test, it would be difficult to say whether the terminal illness was the direct cause of death at the time.

Brian Whittle: My concern, which you might be able to address, is that your proposed approach skews matters. If, for example, there was a cancer diagnosis, it would not be recorded as such. That approach could skew a lot of health sector data.

Pam Duncan-Glancy: I understand that my amendments could do that. In one sense, you could say that you would see that data on deaths from both approaches caused change. However, the problem that we have is that by not including the assisted death element of the death on the certificate, we could be suggesting that cancer—to use your example—was the cause. However, we would not know whether it would have been the cause, because the person has instead died as a result of ingesting the substance.

We could run the risk of underreporting the numbers of assisted deaths, but we could also run the risk of not reporting accurately the reason why the person died. A person might not have ultimately died from their terminal illness; something else could have ended their life. In the case that we are discussing, that something else would be the ingestion of the substance that they chose to take in order to end their life.

Including the terminal illness on the death certificate is important, and that is why my amendments do not say that that information would not be there; the amendments simply reflect that we could not accurately say that the terminal illness caused that death, because, at that moment in time, it would not necessarily have been the cause.

I do not think that recording something that is not necessarily accurate in such important documentation is right or proper.

I appreciate that this is a difficult issue, but accuracy and transparency are really important. If deaths were recorded in a way that did not highlight that they were a result of an assisted death, we would create difficulties in the future. Not only would the information not be accurate, but it would, to an extent, be difficult to evaluate the social, medical and ethical impacts of the legislation.

The Convener: Let us roll back a wee bit and think about the purpose of a death certificate. A death certificate is there not for statistics but so that grieving loved ones can bury or cremate the body of the person they have lost. It gives them permission to carry out that process legally.

I think that we are getting a bit caught up in the point about collecting data when, at the end of the day, there are grieving loved ones left behind who want to carry out their loved one's last wishes. Does Pam Duncan-Glancy accept that we are perhaps going down a rabbit hole in relation to what is on a death certificate, as opposed to considering that it allows a family to carry out that process?

Pam Duncan-Glancy: I take the point. However, I think back to the death of my father, for example, and the detail that was on the death certificate. There were two aspects to it. I will not go into the detail—not necessarily because I do not want to, but in the interests of time—but the information on the certificate and the fact that we had a death certificate and could therefore move forward with all the processes that it allows were both quite important. The information allowed us to understand the circumstances in which my father died. Had we not seen the full detail on the death certificate—there was a primary and a secondary cause of death—we would not have understood the impact of some of the changes in his life that led to his death. It is about the fact that a death certificate is more than a perfunctory piece of paper that allows you to move on with a cremation

or burial, for example; it is an important part of the grieving process.

In the instances that we are discussing, families will want to understand whether it was the terminal illness or their loved one's choice to end their life that, ultimately, ended their life. Not accurately recording that could leave many questions hanging over family members for a significant time—

Elena Whitham: Will the member give way?

Pam Duncan-Glancy: I just want to finish this point first.

It could leave questions, such as how much longer the person might have had and whether or not they died of that condition. I think that that could be really difficult, so my amendments are important—yes, for data collection, but that is secondary to the convener's point about the grieving process and the importance of families fully understanding what their loved one has gone through.

Elena Whitham: I want to explore that a bit further. Have you had any conversations with National Records of Scotland or Public Health Scotland about their interpretation of the data that is collected on a death certificate? I am thinking about Brian Whittle's point. For example, if there were a cluster of a certain type of cancer in an area, would the information that would pertain follow through, in terms of its being recorded as the primary or secondary cause of death on the death certificate? Have you had any interaction with those bodies to understand how that information is used?

Pam Duncan-Glancy: I will be honest and say that, at that level of detail, I have not. However, I understand that that sort of information and detail is quite important with regard to the accuracy of recording the number of deaths as a result of cancer, for example. That could still be counted as the primary or secondary cause of death, and it would not be beyond National Records of Scotland or Public Health Scotland to work in a system that was set up specifically to look at whether the act of assisted dying or the underlying condition was the primary cause of death. There are tried and tested systems that have been used for a long time that would be able to manage that question.

The point that I am making is that the Parliament has a responsibility to set the parameters for the legislation and to be really clear about not only what we want to record, but how we want it to be recorded. It is important for data collection but also for closure and understanding for families that we record the cause of death accurately. Forgive me for putting it like this, but if someone who has a terminal illness, such as cancer, dies in a car accident, the cause of death is not cancer; the cause of death is the thing that happened that caused their death. I think that we have to be really careful to record these things accurately.

I appreciate that these are different examples, but I am trying to illustrate why it is important that we accurately record what caused someone's death. Saying that someone also had a terminal condition does not take away from that—I am sure that that could and should still be recorded—but it should be recorded that, ultimately, that is not what caused them to die.

The Convener: Thank you. I call Liam McArthur to wind up and to press or withdraw amendment 36.

Liam McArthur: I thank Pam Duncan-Glancy very much for lodging the amendments and for walking me through the rationale for opening up the debate that we absolutely need to have on the issue. I reflect that the one change that I made subsequent to the consultation on my proposals all those years ago was to beef up the requirements on data gathering, because it is crucial. To some it might feel a bit dry or bureaucratic, but data will be critical in understanding how the act is operating, who is accessing it and in what circumstances, and so on.

Data gathering also has wider implications, which Brian Whittle spoke to very pertinently. Those who are eligible for assisted dying under the provisions of my bill will have an advanced and progressive terminal illness, with there being little doubt that the terminal illness will lead to their death. We have had the debate about a prognosis period, and I am certain that we will come back to it at stage 3.

Brian Whittle: I am sorry to prolong the debate on this issue, but I am struggling with the fact that one of your amendments would have the bill say that what is recorded as the "direct cause of death" is the terminal illness, because that will not be the case. Those individuals will have accessed assisted dying because of an illness that would have ultimately led to their death, but it will not be the direct cause of death. I am struggling between your amendment 37 and Pam Duncan-Glancy's amendment 247, and I do not know where to go on the issue. I think that the answer somehow lies between both amendments.

Liam McArthur: You are not alone, Mr Whittle. Your point is entirely pertinent. In my discussions with the chief medical officer, there was no strong view that this must be done in a particular way. However, there was an absolutely clear understanding that both aspects would need to be captured on the death certificate. My amendments propose one way of doing that, and Pam Duncan-Glancy has helpfully given the committee an

opportunity to consider an alternative way of addressing the issue.

At this stage, rather than leave the issue unresolved from my perspective, I will press my amendment, but I give the assurance that I am happy to work with Pam Duncan-Glancy and others at stage 3 to see whether further refinements are needed in order to address the points that she and Brian Whittle raised. It is difficult stuff, but I do not believe that the difficulty is insurmountable. However, it is important that the bill is amended at stage 2 to address what I think is a shortcoming in its drafting.

On that basis, I will press amendment 36.

Amendment 36 agreed to.

Amendment 246 moved—Pam Duncan-Glancy.

The Convener: The question is, that amendment 246 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Whittle, Brian (South Scotland) (Con)

The Convener: The result of the division is: For 1; Against 7. [*Interruption*.] I will give the result again.

The result of the division on amendment 246 is: For 1; Against 6; Abstentions 1.

Amendment 246 disagreed to.

Amendment 37 moved—Liam McArthur.

The Convener: The question is, that amendment 37 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 7; Against 0; Abstentions 1.

Amendment 37 agreed to.

18:30

Amendment 38 moved—[Liam McArthur].

The Convener: The question is, that amendment 38 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 7, Against 0, Abstentions 1.

Amendment 38 agreed to.

Amendment 247 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 247 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Whittle, Brian (South Scotland) (Con)

The Convener: The result of the division is: For 1, Against 6, Abstentions 1.

Amendment 247 disagreed to.

Section 17, as amended, agreed to.

After section 17

The Convener: Amendment 189, in the name of Murdo Fraser, is grouped with amendments 200 and 214.

Murdo Fraser (Mid Scotland and Fife) (Con): The purpose of amendment 189 is to allow the next of kin or a relative to request an independent medical review if they believe that the deceased did not meet the eligibility criteria in the bill, in which case two independent doctors who were not involved in the original case must examine all relevant records and, if they find evidence of a breach, refer the matter to the Crown Office and Procurator Fiscal Service. The number and outcome of such reviews must be included in the statutory review under section 27 of the bill.

The reason for the amendment is that, when we legislate on life and death, we have a duty not only to write laws that are clear but to ensure that they can be trusted. As it stands, the bill contains no mechanism for what happens when an assisted death may have taken place outside the law. There is no mechanism for families to raise concerns, no means to review what has happened and no pathway to justice if something has gone wrong.

The Convener: Do we not already have laws that cover such things? If a family member was suspicious that a death had not occurred naturally, they could report that to the police, it could be investigated and someone could be prosecuted for that.

Murdo Fraser: That is correct. However, this is about taking a belt-and-braces approach by formalising that position and putting something in the bill that makes it absolutely clear what the route is for a family to go down in the event that they have concerns. We are all very much aware of the pressure on the police, the justice system and the procurator fiscal service. Creating a specific mechanism is a way in which those concerns can be raised on a much simpler basis and it ensures that, when complaints are made to the procurator fiscal, they are backed up with the appropriate medical evidence, which is what we are trying to achieve.

Brian Whittle: I raised a similar issue in a previous amendment, although I did not mention the procurator fiscal. The issue would be malicious intervention by other members of the family, and the moral grounds for trying to prevent someone from accessing assisted dying. I was asking for a 10-day window and an independent adjudicator, but my amendment was not passed.

If the procurator fiscal was brought into the process, would that not mean that the length of time that it took for the case to be processed would be such that the person who was trying to access assisted dying might have already died?

Murdo Fraser: I think that Mr Whittle perhaps misunderstands amendment 189, which relates to a situation in which an assisted death has taken place and the family has concerns that the criteria were not met. In effect, it would enable a family that was concerned to ask for a review of the assisted death process at that point, after the event. It would not impact on the situation to which Mr Whittle refers.

Elena Whitham: I have a query further to the point that Mr Whittle raised in relation to malicious intervention. If amendment 189 was agreed to, how do you foresee that a case in which someone asked for a review would proceed? That process could open up information about the deceased person's medical history that they might not have wanted the individual who requested a review to know. They might not have had a loving relationship with that individual. What safeguarding would be put in that would respect the deceased person's wishes?

Murdo Fraser: That is a reasonable point. The amendment has been crafted in such a way that it would be for two independent doctors to review the evidence; it would not be necessary to discuss that with the person who made the complaint. I hope that that answers the member's point.

The two medical professionals concerned would be ones who were unconnected to the death. They would have full access to the deceased person's medical records and declarations. If the review found that the eligibility criteria had not been met or that the law had been broken, the case would have to be referred to the procurator fiscal.

Amendment 189 is about providing accountability, transparency and respect for both the living and the dead. It would ensure that, in granting the most serious of powers, Parliament also guarantees the highest standard of oversight.

Patrick Harvie: Murdo Fraser seems to be coming to the end of his remarks, and I was wondering whether he was going to address why he chose to make specific reference to family members in his amendment. As the convener pointed out, we have criminal law and regulation of the medical professions. If an assisted death was provided today, in the absence of such legislation, it would be dealt with by those mechanisms. Those mechanisms will still be available if anybody had a concern that the law had been broken. I am wondering why Mr Fraser thinks that a different mechanism ought to be available if, and only if, a family member has such a concern.

Murdo Fraser: I think that that is because those who had the closest interest in the matter would be members of the family of the person who had

opted for an assisted death. They would have the closest knowledge of the individual and, therefore, the biggest interest in the matter. One could conceivably extend the provision to any person, but it would be unreasonable to expect a review to be carried out at the request of anyone. The amendment is quite narrowly drawn, so it relates only to next of kin or family members, as they are defined under the original legal definition.

Sue Webber: I have been aware of a case in Canada in which a family found out that the death of a family member was an assisted death only when they saw the death certificate. Do you agree that your amendment would provide a means for such families to find out a little bit more if they were concerned?

Murdo Fraser: The member makes a reasonable point. The family would have to have a genuine concern that something had happened that was improper in order to be able to ask for a review, but that could happen in such a case.

I have taken a lot of interventions, and I think that I have come to the end of my remarks. I note that my colleague Miles Briggs has two amendments in this group, which I encourage committee members to support.

I move amendment 189.

Miles Briggs (Lothian) (Con): I lodged amendments 200 and 214 on behalf of BMA Scotland and the Royal College of General Practitioners Scotland, which represent all branches of practice of the doctors who will be associated with carrying out the functions in the bill. The purpose of the amendments is to create a review panel to monitor all assisted deaths as they occur, to ensure that the correct process has been followed and to make recommendations for how the process and service can be improved, including, but not limited to, from a medical perspective. The provisions would ensure that the documentation from each case is brought together and analysed to ensure the compassionate, safe and practical operation of the act.

Review committees are common in other jurisdictions where assisted dying is provided. Having a system of routine monitoring and review of individual cases is important for those who are providing assisted dying to patients. Patients might want to access that, but it is also important for maintaining public trust and confidence in the system.

In healthcare, it is normal to discuss cases, to take on best practice and to learn from experience. An assisted dying service, should it come about through legislation, should be no different. Under amendment 200, the review panel would report to the chief medical officer. I urge the committee to support amendments 200 and 214.

Liam McArthur: I thank Murdo Fraser and Miles Briggs for talking through their amendments. The bill contains offences relating to coercing or pressurising a terminally ill adult into requesting assistance and it also provides that it is not a crime to provide assistance under the provisions of the act and that there is no civil liability for doing so.

It therefore follows, as you suggested in your intervention, convener, that there remains criminal and civil liability if a person is provided with assistance outwith the provisions of the bill. If any person believes that another person has been provided with assistance who has not been eligible for such assistance to be provided, it is a criminal matter and should be reported to the police and investigated by the relevant authorities. I appreciate the point that, more often than not, it might be family members who have such concerns, but I do not think that we should say that the right to call for an investigation needs to be reserved entirely to them.

It is perhaps worth reflecting that, in the stage 1 evidence that was taken on the role of the COPFS Scottish fatalities investigation unit in investigating fatalities on behalf of the Lord Advocate, the view of COPFS was that independent scrutiny would already exist. As members will recall, the committee heard at stage 1 about the role of the unit in investigating all deaths in Scotland that are sudden, suspicious, unexpected or unexplained. Indeed, the head of the investigation unit set out the independent scrutiny of the circumstances of death that currently exists, covering not only potential criminality but wider investigation to establish any systemic issues or issues of public concern requiring further investigation. COPFS also confirmed to the committee that medical practitioners are already provided with guidance on the deaths that require to be reported to the Crown Office.

I note that the Scottish Government highlighted various drafting and resourcing issues with amendment 189, and I urge Murdo Fraser not to press that to a vote.

Miles Briggs's amendment 200 would establish an assisted dying review panel to review whether the act is complied with in each case and analyse information that is provided. I agree with his points about the importance of learning from the way in which the act is developing, and some of the data gathering that we referred to in earlier groupings will help to facilitate that. I am not opposed to the principle, but I am concerned that any such oversight panel might duplicate existing roles or processes. I have already touched on and set out in detail the evidence from COPFS and the responsibilities of the Scottish fatalities investigation unit.

The Scottish Government also notes that amendment 200

"seems to cover a similar role as the provision under Section 27",

and that amendment 214 is consequential to amendment 200.

At this point, I do not believe that the review panel necessarily adds an additional safeguarding layer. There might be elements in what Miles Briggs is trying to get at with the review panel that might be helpful in augmenting what is already in section 27, but, at this stage, I encourage Miles Briggs not to move amendment 200, and I urge the committee not to support it.

The Convener: I call Murdo Fraser to wind up and indicate whether he wishes to press or withdraw amendment 189.

Murdo Fraser: I wish to press amendment 189, but if members are not inclined to support it, I encourage them to support the amendments in the name of Miles Briggs.

The Convener: The question is, that amendment 189 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Whittle, Brian (South Scotland) (Con)

The Convener: The result of the division is: For 1, Against 6, Abstentions 1.

Amendment 189 disagreed to.

Section 18—Conscientious objection

18:45

Amendment 39 moved—[Liam McArthur].

The Convener: The question is, that amendment 39 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Against

Sweeney, Paul (Glasgow) (Lab)

The Convener: The result of the division is: For 7, Against 1, Abstentions 0.

Amendment 39 agreed to.

The Convener: Amendment 190, in the name of Jeremy Balfour, has already been debated with amendment 151. I remind members that, if amendment 190 is agreed to, I cannot call amendment 40 due to pre-emption.

Amendment 190 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 190 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

The Convener: The result of the division is: For 0, Against 8, Abstentions 0.

Amendment 190 disagreed to.

Amendment 40 moved—[Liam McArthur].

The Convener: The question is, that amendment 40 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Against

Sweeney, Paul (Glasgow) (Lab)

The Convener: The result of the division is: For 7, Against 1, Abstentions 0.

Amendment 40 agreed to.

Amendment 11 moved—[Daniel Johnson]—and agreed to.

Amendment 248 moved—[Paul Sweeney]—and agreed to.

The Convener: Amendment 41, in the name of Liam McArthur, has already been debated with amendment 151. I remind members that, if amendment 41 is agreed to, I cannot call amendment 191 due to pre-emption.

Amendment 41 moved—[Liam McArthur].

The Convener: The question is, that amendment 41 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Against

Sweeney, Paul (Glasgow) (Lab)

The Convener: The result of the division is: For 7, Against 1, Abstentions 0.

Amendment 41 agreed to.

Amendment 192 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 192 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Against

Sweeney, Paul (Glasgow) (Lab)

The Convener: The result of the division is: For 7, Against 1, Abstentions 0.

Amendment 192 agreed to.

Section 18, as amended, agreed to.

After section 18

Amendment 16 moved—[Daniel Johnson].

The Convener: The question is, that amendment 16 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 3, Against 4, Abstentions 1.

Amendment 16 disagreed to.

Amendment 20 moved—[Daniel Johnson].

The Convener: The question is, that amendment 20 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 3, Against 4, Abstentions 1.

Amendment 20 disagreed to.

Amendment 52 moved—[Jackie Baillie].

The Convener: The question is, that amendment 52 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)

Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 2, Against 5, Abstentions 1.

Amendment 52 disagreed to.

Amendment 193 moved—[Pam Duncan-Glancy].

The Convener: The question is, that amendment 193 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 193 disagreed to.

Amendment 194 not moved.

The Convener: Amendment 195, in the name of Miles Briggs, is grouped with amendments 53, 53A and 53B.

Miles Briggs: The proposal in amendment 195 is from BMA Scotland. It is quite a sensitive issue in the sense that it is about sensitive conversations that people will have with their GP.

The amendment comes in two parts. It provides first, that there is no duty for doctors to raise assisted dying with patients, and secondly, that there is no prohibition against it. Similar provisions are included in legislative proposals in other parts of the UK and Crown dependencies. I note that the Health, Social Care and Sport Committee recognised the need to explore the wording of the bill further to provide legal clarity and protections for medical practitioners around whether they choose to raise assisted dying with their patients.

The first part of amendment 195 addresses concerns that BMA Scotland members have with the scope of information that must be provided when discussing treatment options with a patient. It is BMA Scotland's view that assisted dying is not a treatment option in the conventional sense. Therefore, the 2015 Supreme Court judgment of Montgomery v Lanarkshire Health Board, concerning the scope of information that must be provided when seeking consent to treatment, and the judgment in McCulloch v Forth Valley Health Board in 2023, which provides that doctors have the duty to raise treatment options with patients, are not relevant here.

There is, however, no guarantee that a court would take a similar or the same view should a complaint be made because a doctor did not raise the option of assisted dying. For the avoidance of doubt and to provide further clarity, doctors would like there to be a specific provision in the bill that there is no duty on doctors to raise assisted dying with their patients.

Doctors must be allowed to use their clinical and professional judgment to decide whether discussing assisted dying is appropriate, based on the individual needs of each patient, wherever they are in their treatment journey, as well as on their mental and emotional state. We cannot risk having a system where every doctor a patient sees brings up the question of assisted dying because they are fearful of being criticised if they do not do so.

Equally, BMA members would not want to be prohibited from raising the option of assisted dying when that is right for an individual patient. That forms the second part of amendment 195. It was discussed as part of an earlier amendment from Pam Duncan-Glancy on the prohibition of doctors raising the issue of assisted dying. Doctors should be able to talk to their patients about all reasonable and legal available options. A provision that limits or hinders open discussion about any aspect of death and dying is likely to be detrimental to patient care and would prevent doctors from being able to deliver.

Bob Doris: I am very supportive of Mr Briggs's amendment 195. Fundamentally, however, one of my issues with the proposed legislation is that it could change that doctor-patient relationship. Not being compelled to raise assisted dying is an important protection.

Mr Briggs, clearly you do not want to restrict GPs from being able to raise assisted dying if they feel that it is appropriate, but should GPs be exploring palliative care options, pain management and social care provision that could be improved before they raise the subject of assisted dying? At what point during the conversation should GPs raise it, or should that simply be left to their professional judgment?

Miles Briggs: For most doctors I have spoken to about my amendments, it has been about their professional judgment. They know their patients best. Depending on where someone is on whatever pathway they are on, whether they have a six-month terminal diagnosis for whatever

condition and comorbidities—it is important to look at those—doctors will be dealing with that patient on a daily basis and so they will want to know whether it is appropriate for them to raise the issue. I hope that amendment 195 will provide that clarity for professionals.

BMA members have discussed the fact that some patients find it difficult to bring up sensitive subjects during consultations. I believe that doctors are skilled at reading between the lines of what a patient wants to say.

19:00

Brian Whittle: I am really struggling with this—not with your amendment as such, but with the thought that doctors would actually raise the issue of assisted dying. I cannot, for the life of me, think of a situation where a GP would say to a patient, "We've tried everything else; have you considered assisted dying?" I just cannot get my head round the fact that we would be giving GPs the opportunity to have that conversation and I do not even know how they could start it. Would we not be taking healthcare into a completely different sphere if we gave GPs licence to raise assisted dying?

Miles Briggs: That would apply to all medical professionals and the eligibility created by the bill would also provide the legal framework for having those conversations. We are talking about the circumstance of a skilled doctor gently opening the door to those conversations, if they felt that that would be appropriate for a patient, and then allowing the patient to walk through into a safe space where they can discuss what is on their mind. The idea of eligibility in the bill is still being debated and looked at, but that would point towards whether a referral can be made.

Any prohibition on raising the idea of assisted dying would tie doctors' hands and would create uncertainty and legal risks that would inhibit effective doctor-patient communication and understanding, which we all know is important.

I apologise for going on at length, but amendment 195 is important because it is important to consider those sensitive conversations and to ensure that our professionals have a space where they feel they can raise the subject.

Pam Duncan-Glancy: I am listening carefully to the point that the member is making and I understand his concerns about restricting that sort of doctor-patient conversation.

His amendment proposes a framework. How does he imagine managing the issue that the quality of life of a disabled person, or of someone who has lost function—which is very likely in the case of people who are considering assisted dying—is often rated by other people, and, indeed, by health professionals, as being much lower than it would be rated by the individual themselves? There is a risk that someone could imagine that life must be so difficult that they would suggest that the person should consider assisted dying. Has the member thought about how to mitigate that in the context of his amendment?

Miles Briggs: It is important to create a framework so that professionals can assess whether the patient in front of them is actually eligible. The conversations are important, too, and will enable them to decide whether that can be taken forward.

There should be flexibility. In some cases, patients will have researched the subject themselves and will come in order to have those conversations. In other cases—which is why the legal framework is important—medical professionals need the option to feel safe enough to raise assisted dying, if they think that that is appropriate. I understand that there is a juxtaposition in the amendment, but it is important for the bill to provide clarity for the medical world.

I move amendment 195.

Jackie Baillie: I have lodged amendment 53 on behalf of Children's Hospices Across Scotland. I always have sympathy with Miles Briggs but, on this occasion, I am not sure that he is suggesting the right approach. My amendment deals specifically with the necessary difference when we are dealing with children.

I genuinely believe that it would be unethical for medical practitioners to proactively raise the subject of assisted dying with young people under the age of 18 as part of anticipatory care planning. Anticipatory care planning is the process in which the future care needs of a young person with a life-shortening condition are discussed and planned for, and I think that the risk of coercion in that process is high. Healthcare professionals have a privileged relationship with young people and their families. They might have known a young person for a considerable period of time prior to that young person becoming potentially eligible for an assisted death. For that medical practitioner to proactively raise the possibility of assisted dying is not a neutral act: it might be perceived as a recommendation, even if it is presented neutrally. Raising assisted dying as an option for young people might also cast doubt on the efficacy of other treatments or measures, or on the ability of family members to provide support.

The reason that coercion is such a worry at that time in a young person's life is that they may well be transitioning from children's to adult services. That can be really hard, because many of the

people who they know and rely on, such as health professionals, social care workers and voluntary sector organisations, are changing over. That makes the young person particularly vulnerable. My amendment does not prevent doctors answering questions if they are asked, but it prevents pre-planning for assisted dying before the age of 18. I urge support for amendment 53.

Patrick Harvie: Will the member give way?

Jackie Baillie: I have just finished, but I am happy to give way.

Patrick Harvie: I do not think that it is likely that anybody would raise it as a recommendation—I do not think that that would be intended.

I am curious about the fact that amendment 53 says that this cannot happen

"where the subject has not first been raised by the person with the registered medical practitioner".

Surely in a situation where a child or young person has raised the issue with somebody else—for example, a family member or a professional in a non-medical capacity who is supporting them—by saying, "I have heard that this is an option. Will you ask the doctor to tell me about it?", the amendment as written would prevent the doctor or the registered medical professional from doing so.

Jackie Baillie: It does not do that. It does makes it really clear that it would be up to the young person to make that request, and the doctor can then deal with it.

However, I think that such discussions would have unintended consequences. A young person with a life-limiting illness usually has the same medical team over time, and they become almost like family members. Something said by one of the team can be perceived as a recommendation rather than as entirely neutral. My amendment presents a belt-and-braces approach to ensure that that does not happen and that no such unintended consequences result from the legislation.

I rest my case on the fact that CHAS thinks that this provision is critical.

The Convener: Thank you, Ms Baillie. I call Daniel Johnson to speak to amendment 53A and other amendments in the group.

Daniel Johnson: I thank the committee for its forbearance in allowing me to speak remotely. I have had to do a bit of juggling this afternoon.

With regard to the amendments, I say up front that I think that Jackie Baillie's amendment 53 is very important. Having previously spent some time around the sick kids hospital in Edinburgh, I realise that, for many families, healthcare settings are home. They are part of everyday life and the medical teams are part of the extended family, and discussing matters with them seamlessly and on an on-going basis is very much part of the day-to-day norm. The prospect of assisted dying being discussed with a young person in that context is hugely problematic, which is why amendment 53 is so important.

My amendments seek to extend the age limit in amendment 53 a little further. Under previous groups of amendments, we discussed the differences for those who are facing terminal illness earlier in life. There are different considerations for them and there are questions regarding the capacity of people up to the age of 25, when brains are still forming.

My amendment would not withhold treatment for those aged under 25; it is just about recognising that such treatment needs to be dealt with differently.

In that regard, I am careful to state that Jackie Baillie's amendment is important in its own right. My amendments are simply about exploring whether there is a lighter-touch way to address the point about those aged under 25. They are not about preventing treatment or providing that people aged between 18 and 25 would be precluded from having an assisted death; they would merely provide that the options could not be proactively raised with them. Amendments 53A and 53B would give effect to that.

Liam McArthur: I thank Miles Briggs for initiating this debate. Listening to him reminded me of some of the exchanges that we had way back this morning, when I think it was Bob Doris who was playing devil's advocate for me and for Sue Webber—which I thought was a heroic act on his part. Miles Briggs talked about the need for a framework but also the need to protect discretion in medical judgment. In all this, that is the balance that we need to strike.

Sue Webber: Surely you realise that the relationship that a patient has with their healthcare practitioner, such as their GP, is unique. That trust is unparalleled. It is very rare for people to turn up at their GP or their consultant armed with information about the options available to them. If doctors were to raise assisted suicide unprompted, it would mean the complete devastation of that relationship—it is not a neutral act. Jackie Baillie spoke about young people at length. In my heart, I just feel that I cannot imagine how there could be any trust between me and a healthcare practitioner if they brought that up with me unprompted. You must understand that challenge.

Liam McArthur: I understand what Sue Webber is saying, but I also note that this concern has been raised as a result of representations made

by the BMA, which represents many of these medical professionals. The BMA makes strong arguments about many aspects of this bill, and the other bills that are going through legislatures around the UK, which are about ensuring that we do not cut across appropriate medical discretion and judgment and that we take care about interfering with the doctor-patient relationship.

Sue Webber is absolutely right—Jackie Baillie made the same point—about how integral that relationship can be, particularly for someone who has a terminal illness and who has therefore probably been under treatment with the support of not just one medical professional but possibly a team of medical and other professionals. Those relationships are very important. However, within that, it is important to allow professionals, using their training and experience, to exercise their judgment in an appropriate way.

Bob Doris: Thank you for reflecting on my heroic efforts this morning. [*Laughter.*] At this point, I should put on the record that I agree with Brian Whittle, who said that he cannot imagine a situation in which a clinician would raise the option of assisted dying. My view, however, is that to absolutely bar clinicians from doing so would be an undue restriction, which is why I think that the issue is a bit nuanced.

Liam McArthur and Miles Briggs mentioned a framework. The amendments in my name that we discussed this morning were designed to create such a framework but, unfortunately, none of those held sway with the committee. I hope that the exchange that we are having opens the space to include a framework in the bill at stage 3, as it is absolutely required. How does Mr McArthur feel about that?

Liam McArthur: I do not disagree with the point that Bob Doris has just made, which he made earlier, about the importance of the framework. We perhaps disagree about the extent to which there is a framework, but it is part of the stage 2 and stage 3 processes to decide, even if there is a framework, whether we need to buttress that further. However, whatever framework we set, we need to allow scope for clinical judgment, based on appropriate training. We have covered some of the training aspects that are linked to the bill, and further strengthening might be required in some areas, but that all speaks to the need to allow judgment to be exercised.

19:15

Brian Whittle: I have to say that I am incredibly uncomfortable with the direction of travel of this conversation. Having listened to the interventions and contributions from colleagues, I can see no circumstances in which a GP would be able to raise the subject of assisted dying in the first instance—

Miles Briggs: Will the member take an intervention?

Brian Whittle: Yes, I will in two seconds. It will be an intervention on an intervention—I like that. I cannot imagine those circumstances because, as Jackie Baillie highlighted, there is a unique relationship between a patient and a doctor, and I suggest that, in and of itself, a GP raising the option of assisted dying is a form of coercion. I cannot imagine a single situation in which a GP could be the person to raise the option of assisted dying.

Miles Briggs: I want to set this in context, on the basis of having spoken to medical practitioners, who want this legal clarity. Say that you were a GP, and I came to you and said, “I have a terminal condition. I want to go to Switzerland—I want to go to Dignitas.” How would you provide information to me about what would be legally available in Scotland—if the bill passes? That issue being raised with professionals is a real-world experience.

Brian Whittle: Thank you for that intervention on my intervention. In that circumstance, it would be the patient, not the GP, who had raised the matter of assisted dying—that is the key. I cannot envisage any situation in a patient-GP relationship in which it would be appropriate for the GP to raise the issue of assisted dying.

The Convener: I seek absolute clarity on this, Mr Briggs. We are talking about GPs, which I can understand, but your amendment refers more broadly to medical practitioners, which might cover the situation of a palliative care doctor who is asked by a patient who is in a lot of pain, faces losing the ability to swallow or is at risk of suffocation, “What are my options?” Your amendment would give the medical practitioner the leeway to say, “These are your options: there is this medication or that medication, or you could look at this.”

Miles Briggs: For clarity, it relates to all doctors who would operate within the scope of the bill. That legal clarity is important, as it would provide protections for medical practitioners, regardless of whether they choose to raise the option of assisted dying. It is an important ask from medical professionals that this is in the bill.

The Convener: Thank you for that absolute clarity, which is really important.

Liam McArthur: That exchange was, if somewhat unusual for stage 2 proceedings, very helpful. It is probably worth reiterating that the bill is predicated on a terminally ill adult requesting assistance to begin the process. On the point

about Dignitas that Miles Briggs referred to, in relation to his amendment, because that is not a procedure that is covered by the bill, there would not be a protection in relation to that. Therefore, to some extent, that issue remains pertinent. We need to allow discretion and medical judgment to apply and to avoid creating an environment in which assistance under the legislation becomes stigmatised or is not subject to free, open and transparent consideration.

As it stands, the bill almost certainly covers that. To some extent, Miles Briggs's amendment might be more for the avoidance of doubt, but the debate that we have had on it has, if nothing else, perhaps demonstrated the need for greater clarity on that, and I am certainly sympathetic to that.

Turning to Jackie Baillie's amendment 53 and Daniel Johnson's amendments 53A and 53B, I note that Sandesh Gulhane's amendments to change the eligibility age from 16 to 18 have been agreed to, which means that no person under the age of 18 will be eligible to request assistance under the legislation. I have previously set out why I do not support changing the age limit to 25.

As I have made clear, the bill does not require, nor does it actively permit, any health professional to raise assisted dying with a person. It is predicated on a terminally ill adult requesting assistance to start the process. That said, I absolutely accept some of the arguments that Jackie Baillie and CHAS have been making about how the process for younger people will almost certainly be very different, in every instance, from the process for somebody in later life with late-stage cancer or whatever it may be.

That said, I ask members to consider whether amendment 53 is necessary, given that those under 18 are not eligible to be provided with assistance. I suppose that the same factors apply in relation to Daniel Johnson's amendments. The rationale for introducing them relates to a point that I have accepted before: the training that will be required for the practitioners involved is likely to be different from that relating to patients at a later stage, and some of how the process works in practice will almost certainly be different, not least because a wider team is likely to be involved—not just medical practitioners but social work and other experts in particular fields.

Aside from those observations about the age limit, which we have already discussed, I have no strong views on the amendments in this group.

The Convener: I call Miles Briggs to wind up and either press or withdraw amendment 195.

Miles Briggs: I do not have anything further to add. BMA Scotland, which I have been working with on a number of amendments, is very much in favour of ensuring that it has legal clarity as proposed, so I will press amendment 195.

The Convener: The question is, that amendment 195 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Against

Sweeney, Paul (Glasgow) (Lab)

The Convener: The result of the division is: For 7, Against 1, Abstentions 0.

Amendment 195 agreed to.

Amendment 249 moved—[Stuart McMillan].

The Convener: The question is, that amendment 249 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 2, Against 6, Abstentions 0.

Amendment 249 disagreed to.

Section 19 agreed to.

19:24

Meeting suspended.

19:32

On resuming—

Section 20—Civil liability for providing assistance

The Convener: Amendment 250, in the name of Stuart McMillan, is grouped with amendment 251.

Stuart McMillan (Greenock and Inverclyde) (SNP): Section 20 is designed to ensure that, if a person helps someone to end their own life in accordance with the processes that are set out in the bill, they could not be sued for doing so. The Salvation Army, with which I worked on the amendments, wants to ensure that, if a person helps someone to decide not to end their own life, they would be equally protected from being sued.

Such a situation might seem unlikely; it is a hypothetical situation. Let us say that, after the bill passes into law, a terminally ill adult is thinking of seeking assisted dying and they discuss the possibility with people whom they trust. As a result of one of those discussions, the person changes their mind and decides not to seek assisted dying but to let the illness take its course. Some members of the family do not agree with that decision. They do not understand how the person could have changed their mind and chosen a longer death, which they think will be less dignified and, perhaps, more costly, because of care expenses, than assisted dying would have been.

After the individual dies, family members blame the person with whom the individual had the discussion for persuading them to choose a way of dying that they believe was not in the best interests of the now deceased person. They try to sue the person for having made their relative's death more distressing than, in their view, it could and should have been. No one knows how the court would respond to such a case. It might decide that the claim could not succeed or that there were no legal grounds for bringing it, but no one can be sure.

The Salvation Army proposed amendments 250 and 251 to make sure that such a claim could not be made. Rather than being about seeking special protections for anybody, they are about equal protection before the law. It would be perfectly reasonable for a terminally ill person who is thinking about seeking assisted dying to discuss the question with family, friends and other persons whom they trust. The amendments seek to ensure that everyone who is part of those discussions can exercise that privilege and responsibility without fear that a civil claim might later be made against them, as long as they act honestly, in good faith and otherwise in accordance with the law.

The bill gives that protection to people who help a terminally ill adult end their life. Amendments 250 and 251 are seeking equal protection for those who provide advice to the contrary.

I move amendment 250.

Liam McArthur: I thank Stuart McMillan for setting out the rationale behind his amendments. I echo his point about the importance of the openness of the conversations that ideally should happen. In earlier groups, we had quite a bit of discussion about anticipatory care plans. Underlying all of this is the desire for more people to take more care in setting out their wishes and discussing them with loved ones or family and friends as early as possible.

I, too, have engaged with the Salvation Army, although much earlier on in the process and not specifically in relation to this issue. I am not aware of the issue being raised at stage 1 or in the consultation on my proposals way back in 2021. I note that, in Scotland, unlike in England and Wales, there is no specific statutory offence of assisting somebody's death. Therefore, I consider that the bill's provisions are sufficient in providing protection from civil liability, and I urge Stuart McMillan not to press amendment 250 or to move amendment 251.

As I said, I am not sighted on more of the background to the issue, and the Salvation Army might be able to help me with that, along with Stuart McMillan, so I am happy to continue those discussions. However, at this stage, I do not see the need for the amendments.

Stuart McMillan: I thank Liam McArthur for his comments and for acknowledging what is behind the amendments, which is the dialogue that I had with the Salvation Army. I genuinely did not fully take on board the issue initially, but even without the discussion that we had, I recognised that we do not know what is ahead of us and that the law can change. The purpose of the two amendments is safeguarding and protecting individuals who might be involved in the type of dialogue that I mentioned. It is really just about safeguarding.

Liam McArthur: I appreciate that. As you will be aware, we have added a number of for-the-avoidance-of-doubt provisions to the bill through various amendments, so I am certainly not averse to doing that. However, I would need to have a better understanding of what we are seeking to achieve with the amendments. Even if they are for the avoidance of doubt, there are potential risks that we could cause more confusion in trying to go down that route. However, my offer is there.

Stuart McMillan: Can I come back in briefly, convener?

The Convener: Yes. I am looking for you to press or withdraw your amendment.

Stuart McMillan: If Mr McArthur is content to have further dialogue, I am content not to press amendment 250 and not to move amendment 251, although I could do so at stage 3, depending on the conversation that we have with the Salvation Army.

Amendment 250, by agreement, withdrawn.

Amendment 251 not moved.

Section 20 agreed to.

After section 20

Amendment 62 moved—[Jackie Baillie].

The Convener: The question is, that amendment 62 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0.

As the outcome of the division is tied, I will use my casting vote as convener in favour of the amendment.

Amendment 62 agreed to.

Amendment 127 not moved.

Before section 21

Amendment 53 moved—[Jackie Baillie].

Amendments 53A and 53B not moved.

The Convener: The question is, that amendment 53 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)
Whittle, Brian (South Scotland) (Con)

Abstentions

Mochan, Carol (South Scotland) (Lab)

The Convener: The result of the division is: For 7, Against 0, Abstentions 1.

Amendment 53 agreed to.

Section 21—Offence

Amendments 42 and 43 moved—[Liam McArthur]—and agreed to.

Section 21, as amended, agreed to.

After section 21

The Convener: Amendment 252, in the name of Pam Duncan-Glancy, is grouped with amendments 253 and 276.

Pam Duncan-Glancy: Amendment 252 seeks to create an offence of advertising assisted dying. It will make it illegal for any person to "publish, distribute or display" material that promotes, encourages or solicits assistance for a terminally ill adult to end their life.

The amendment's definition of "advertisement" is broad: it covers printed, electronic and social media communications, as well as other forms of public or private communication. The proposed penalties include fines on summary conviction and imprisonment of up to two years, a fine or both on indictment. The sentences are identical to those that have been proposed in similar amendments at Westminster. The section that amendment 252 proposes will not apply to professional or educational communications in which no encouragement or solicitation has occurred.

There is a striking omission from the bill—nothing in it prevents another person from encouraging someone to seek an assisted death. In our discussion on a previous group of amendments, we had a conversation about the role of health professionals. It is important for us to understand that, if we are trying to support people to live—which I think is what we, as a Parliament, are aiming to do—we need to have conversations about that, as opposed to conversations about assisting people to die. As we have just amended the bill to include some conversations initiated by medical professionals, I think that it is important that we look to prevent the advertising of assisted dying on any scale.

19:45

This is not just a small oversight. People who come under the scope of the bill are, by definition, at a very difficult and vulnerable point in their lives, whether physically, emotionally or, indeed, psychologically. They often put immense trust in others, including medical professionals, family members and carers, believing that they have their best interests at heart. However, even a gentle suggestion, or a question asked at the wrong time, could have a powerful and dangerous impact on someone who might feel as though they are a burden or who is struggling to find hope.

If the bill intends to be about choice, as advocates say that it is, that choice must be free from pressure, persuasion or professional suggestion. Anything less risks crossing the line from autonomy to influence. Amendment 252

seeks to provide such a safeguard by making it clear that any request for assisted death must be entirely self-initiated by the individual and must not be the result of encouragement, suggestion or inducement. It will protect people from subtle but powerful pressures, spoken or unspoken, that could lead them to see death as an obligation rather than an option.

I ask committee members to think about whether they have seen any examples of advertisements for assistance for people to live, advertisements for the great good that can come from having personal assistance and a really good social care plan, or advertisements for accessible homes where disabled people are living full and enjoyable lives. Such advertisements are few and far between, if they exist at all. I have always argued that, in this Parliament, we should be doing what we can to legislate to make it easier for people to choose to live rather than to die.

Amendment 252 seeks to make it clear that we cannot have adverts that would encourage people to have their lives ended, particularly in a context where we rarely see advertisements for a good life, in which disabled people's rights to practical assistance and support enable them to participate in society and lead an ordinary life.

Joe FitzPatrick: Will the member give way?

Pam Duncan-Glancy: I am happy to take the member's intervention, and I am sorry for the delay in doing so.

Joe FitzPatrick: Thank you very much—I did not want to interrupt your flow.

I am sympathetic to the amendment, but, at the start of your remarks, you mentioned that it is similar to those to, I think, clause 43 of the Westminster bill, as amended. My understanding is that that clause would apply to Scotland. Have you considered how amendments to the bill before us might interface with amendments to clauses in the Westminster bill that would apply to Scotland?

Pam Duncan-Glancy: Of course, it is important to look at how the bill here interacts with the bill at Westminster. Given that both bills are going through at the same time, we must keep those discussions live, so I take the member's point.

However, I see no harm in underpinning legislation in Scotland in a way that does not contradict what is being done elsewhere but which asserts that the Scottish Parliament means to protect against this sort of thing and to make it clear that we want to guard against it in the legislation. I see no reason why that would prevent such amendments from progressing, and I hope that committee members will take into consideration the fact that advertising can have a subtle but important impact on people's choices. In the absence of the advertisement of the good life that can be experienced by people who lose function—including at the end of life—we need to put in this very important measure to protect against that.

I am happy to take a further intervention.

Patrick Harvie: I am grateful to Pam Duncan-Glancy for giving way. I was wondering about the use of the term "advertising" in amendment 252. That is clearly the subject of the amendment, but the amendment also covers "social media posts". Is it Pam Duncan-Glancy's view that a social media post by an individual expressing a view that might be found offensive would be regarded as advertising under the terms of the amendment? What in the amendment would prevent that from being captured by what is proposed?

Pam Duncan-Glancy: No, that is not my intention. My intention is to catch things that would be directive and which would encourage someone to actively make that particular choice. Social media is a space in which advertisements are used; in fact, a lot of adverts come through social media, so I think that it is particularly important that, if we are to regulate advertising, we include social media. If we did not do so, we would be precluding a large platform that is consumed by many people and which we know includes advertising. That is why it is important to include that in the bill.

I move amendment 252.

The Convener: I call Sue Webber to speak to amendments 253 and 276.

Sue Webber: Amendments 253 and 276, which are in my name, discuss the prohibition of dissemination of information relating to the substances used for assisted dying. The bill, as drafted, says nothing about the dissemination of information on the substances used for assisted suicide. There is no prohibition on publishing or sharing details about what those substances are, where to obtain them and in what quantities they should be used, and I believe that such an omission is dangerous.

Vulnerable adults who are suicidal could access the information online and attempt to end their own lives, outside the protections—if they are there—and the oversights of the bill. That runs directly counter to the objectives of the Online Safety Act 2023, which seeks to remove content that encourages or facilitates suicide. In matters of life and death, information itself can be lethal, and we cannot legislate for assisted suicide while leaving dangerous knowledge unregulated.

Amendment 253 attempts to close that gap by prohibiting the unauthorised sharing of information about the substances used in assisted suicide,

including composition, sourcing and dosage. The purpose is threefold: to prevent misuse; to ensure strict ministerial oversight of highly sensitive information; and to maintain public confidence in the safety and integrity of the assisted suicide framework. It is a targeted, responsible measure to protect the vulnerable, uphold professional standards and prevent the misuse of lethal information.

I want to speak briefly to Pam Duncan-Glancy's amendment.

Patrick Harvie: Will the member give way?

Sue Webber: I will.

Patrick Harvie: I am grateful to the member for taking an intervention on amendment 253 before she moves on. I see entirely that there are circumstances in which information of the kinds to which Sue Webber is referring would be inappropriate or would be made available in an inappropriate place or with inappropriate framing. However, from my reading of the amendment, it seems as though it would prohibit, for example, academic research from being disseminated, unless it had specific approval by Scottish ministers. Can Sue Webber explain in what way legitimate sharing of information for such purposes would not fall within the terms of her amendment?

Sue Webber: I hope that the member might consider it somewhat ironic that, in earlier amendments, we were looking to collate data on side effects of these drugs and how patients interacted with them while carrying out their own deaths, and the challenge with the dissemination of such information was: when might it not be inappropriate?

We are talking here about public dissemination, not dissemination through the sorts of clinical channels that exist right now to allow people to move on with medical decisions and to share information. As I have said, this is more about attempting to follow the Online Safety Act 2023; after all, you do not find many clinicians sharing their medical practice on TikTok.

As for Pam Duncan-Glancy's amendment on advertising, we will want to ensure that we prohibit the dissemination of information on services that are provided, as well as the substances, because you might start to get inappropriate advertisements in that respect. Indeed, one can envisage some of the gross and inappropriate advertising that might materialise if that is not prohibited. I am talking about both subtle and direct advertising, because marketing is extremely powerful. We see it all around us, including in the sort of influencing that you get on social media, and we really must do everything that we can to prohibit that sort of thing.

With that, I conclude my remarks.

The Convener: On Mr Harvie's point about the sharing of information, subsection (4) in amendment 253 says:

"The Scottish Ministers must, by regulations, make provision for the publication and maintenance of a list of persons or bodies authorised to hold or communicate such information."

Within that list, are you thinking about including universities that teach pharmacy, pharmaceutical companies, researchers and so on? I am keen to know who that part of the amendment is aimed at.

Sue Webber: It is aimed at professionals who are involved in the medical and scientific field. I would say yes to your clarification: it is aimed at those who are seeking to—it is challenging for me to say this—make changes to the substances that are involved in assisted dying. My earlier amendments were about some of the substances' challenging side effects and understanding how all the substances interact with various individuals—because, after all, we are all unique in how we interact with medicines.

The Convener: I was seeking clarity that that provision would allow information to be shared in a professional clinical sphere, but not for nefarious purposes; it is about information being shared for good clinical practice, teaching and education.

Sue Webber: Yes, that subsection is there to allow the appropriate sharing of information—not for it to be shared in ways that might be deemed inappropriate and through which it could be used by the vulnerable individuals who I alluded to in my commentary.

Liam McArthur: I thank Sue Webber and Pam Duncan-Glancy for speaking to their amendments. I turn to Pam Duncan-Glancy's amendment 252, which seeks to make it an offence to

"publish, distribute or display any advertisement, notice or material which ... promotes ... encourages, or ... solicits ... the provision of assistance to a terminally ill adult to end that adult's life."

The amendment also lists examples of advertising, including

"printed material ... electronic communications ... social media posts ... websites"

and

"any other form of public or private communication intended to reach more than one person."

Pam Duncan-Glancy has explained the rationale behind that very well. The amendment exempts communication that is solely aimed at providing information about the act and provides for a maximum penalty of a fine at level 5 on the scale or of two years in prison.

I am aware that the committee considered the legislative consent motion that Joe FitzPatrick referred to. That arose due to an agreed amendment to the Westminster bill that extended to Scotland a duty on the secretary of state to make regulations prohibiting the advertising of a voluntary assisted dying service. Unlike the provision in the Westminster bill, which limits the advertising offence to assisted dying services that are provided in accordance with the act, Pam Duncan-Glancy's amendment seems to relate slightly more broadly to advertising the provision of assistance to a terminally ill adult in general. I wonder about the potential crossover with the Westminster bill and any uncertainty that that might create. I also note the Scottish Government's comments on some of the technical aspects of the amendment.

That said, I am very supportive of the principle behind the amendment, which seems to seek to achieve—much the same as in the Westminster bill—a change that I very much welcome. If Pam Duncan-Glancy's intent is to create an equivalent belt-and-braces provision in this bill to what is provided in the Westminster bill, I would certainly be happy to support those endeavours ahead of stage 3. However, there are issues that need to be addressed in the amendment for that to happen.

With regard to Sue Webber's amendments 253 and 276, the offence appears at odds with the requirement under section 7 of the bill for assessing doctors to discuss the nature of the substance with the person requesting an assisted death. That opens up the potential for creating uncertainties for assessing doctors. I note the Scottish Government's concern that

"labelling the substance could be interpreted as committing an offence. It is also unclear how someone's access to information could be time limited."

I also note that amendment 253, through subsection (1), does not appear to be limited solely to publishing. I therefore encourage Sue Webber not to move amendments 253 and 276, and, if she does, I ask committee members not to support them.

20:00

The Convener: I call Pam Duncan-Glancy to wind up and press or withdraw amendment 252.

Pam Duncan-Glancy: I thank members for that discussion. I have listened carefully, particularly to some of the technical aspects, not least from Patrick Harvie on social media. I have also listened to Liam McArthur's points on the specific provisions in the amendment.

I want to test with Liam McArthur the point on the breadth of the definition and what my amendment is seeking to not advertise, if that is the right way of putting it. We have an opportunity to look at whether the definition should be broader. It is not necessarily unhelpful that it is broad, given that existing legislation can change and that there could well be a difference between UK and Scottish legislation.

I would be keen to know whether that aspect would be a deal breaker at stage 3, if I were to bring back a revised amendment, or whether there are other aspects of the amendment that Liam McArthur thinks could be tightened up through drafting that would meet with some support.

Liam McArthur: That is helpful in exemplifying what the member is seeking to achieve, which is to go beyond what has already been agreed to in the Westminster bill. However, I must say—I feel this acutely—that a challenge arises from that fact that legislation on the same area is passing through both Parliaments simultaneously.

I would have concerns about extending the definition more broadly. There are concerns about ensuring that people have access to the information that they need to make an informed decision. The evidence from other jurisdictions suggests that, for example, as with many other aspects of health and care, those in lower socioeconomic demographics often find themselves less able to access services because of that lack of information.

I get the sensitivities around that, and I absolutely support the change that was made to the Westminster bill. I would support applying that change through the provisions of my bill. However, I would be wary about extending that further because, irrespective of where you stand on whether there should be a change in the law, there could be problematic consequences in doing so.

Pam Duncan-Glancy: I thank the member for offering that information in response to my question, which I appreciate. On balance, having heard that response, it is worth testing the issue with the committee at this point. This is a matter of principle as well as a matter of detail.

The point that has just been made about the need for information is different to the point about advertisements, and the amendment tries to deal with that. I believe that we, as a Parliament, need to make a clear statement that advertising assisted dying is not something that we support, given that any kind of encouragement or suggestion could leave vulnerable people without key protections.

Advertisements are often subtle, but they can be really powerful, so it is important for us to make the point at this stage that we do not believe that advertising assisted dying should take place. Of course, there may be other opportunities at stage 3 to look at the technical details. However, this has

become a question of principle again, and it is important that we address that here, so I will press amendment 252.

The Convener: The question is, that amendment 252 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whittle, Brian (South Scotland) (Con)

Against

Harvie, Patrick (Glasgow) (Green)

Abstentions

Haughey, Clare (Rutherglen) (SNP)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 5, Against 1, Abstentions 2.

Amendment 252 agreed to.

Amendment 253 moved—[Sue Webber].

The Convener: The question is, that amendment 253 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Whittle, Brian (South Scotland) (Con)

Against

FitzPatrick, Joe (Dundee City West) (SNP)
Harper, Emma (South Scotland) (SNP)
Harvie, Patrick (Glasgow) (Green)
Haughey, Clare (Rutherglen) (SNP)
Mochan, Carol (South Scotland) (Lab)
Sweeney, Paul (Glasgow) (Lab)
Whitham, Elena (Carrick, Cumnock and Doon Valley) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 253 disagreed to.

Section 22 agreed to.

After section 22

The Convener: Amendment 54, in the name of Jackie Baillie, is grouped with amendments 55, 258 to 260, 21, 269, 22, 18, 199, 19, 129, 201, 57, 202, 23, 130, 203, 204, 131, 132, 205, 206, 271, 272, 14, 15, 218, 64, 280 to 282, 61 and 284 to 287.

Jackie Baillie: I am moving the amendments in this group on behalf of Hospice UK, which, as members will know, represents the palliative care sector in Scotland.

My amendments 54, 55, 61 and 64 are a package that is designed to assess and mitigate any impact on the hospice and palliative care sector of the introduction of assisted dying in Scotland. Amendment 54 and consequential amendment 64 require an assessment of the impact on palliative end-of-life care services of assisted dying being legalised, and amendment 61 requires that a report be published prior to assisted dying being available.

My amendment 55 sets out the creation of a code of practice on how assisted dying would interact with hospices and other providers of palliative and end-of-life care. Additionally, my amendment 57 requires the five-year review in the bill to also consider the impact of the act on hospices and other providers of palliative and end-of-life care services.

If I may, I will set out briefly the reasons for the amendments. We all know that hospices have been under pressure on funding for years—they are stretched to breaking point. Demand is rising because we are all getting older and suffering from more complex health problems and care needs. Hospices need to grow to meet that rising demand but the reverse is happening. Their concern is that the bill will represent a significant change to people's choices at the end of their lives, and they want to be sure that all staff and organisations, such as hospices, that care for people who have a terminal diagnosis at the end of life, will be supported through that change.

Amendments 54 and 55 therefore set out an approach to assessing and managing any impact on hospices and other providers. The approach aligns with the committee's stage 1 recommendation that there needs to be careful consideration of how the bill, if it becomes law, will interact with all other key aspects of end-of-life care provision, including palliative care. The key aim of the amendments is to ensure that assisted dying coming into operation in Scotland does not have unintended consequences on palliative care services.

We know that palliative care services in jurisdictions where assisted dying has been legalised have experienced increased demands on time, with resources being diverted from palliative care to support people and families around assisted dying. That is a pragmatic assessment of where there might be implications for hospices.

Liam McArthur: That there is interaction and interplay between assisted dying, palliative care and hospice care in jurisdictions in which similar laws have been passed is undeniable. The

evidence that the committee took, however, suggests that assisted dying led not only to additional funding for palliative care, but improved engagement with palliative care. That was a similar finding to that of the House of Commons Health and Social Care Committee, which undertook an 18-month inquiry. We came up with similar evidence that there was no sign of a detrimental impact on palliative care.

Jackie Baillie: I certainly welcome that intervention, and I hope that that ends up being the case. However, Hospice UK has advised in its briefing that, in other jurisdictions where this has happened, palliative care has suffered. We need to make sure that that does not happen here. I am only sharing with members the evidence that Hospice UK has provided me.

Bob Doris: I chair the cross-party group on palliative care in the Scottish Parliament, and the amendments that I have lodged have come from working in partnership with the Scottish Partnership on Palliative Care.

I would stress to Jackie Baillie and to Liam McArthur that the case for more strategic, structural funding that is embedded in palliative care and the hospice movement in general is absolutely core to the civilised society that we all want to see, irrespective of whether the Parliament passes the bill.

Does Jackie Baillie agree that, although there is a variance of views about whether palliative care will be enhanced or undermined by the bill, the bottom line is that we should support palliative care and our hospices, irrespective of this proposed legislation?

Jackie Baillie: I have no problem in agreeing 100 per cent with Bob Doris on that point. That does not happen often, but on this occasion I am delighted that we are in lockstep. I could not agree more with his comments. My amendments in this group are about being pragmatic and making sure that the palliative care and hospice sector is protected.

Amendment 57 would ensure that the five-year review considers the impact of the bill on palliative and end-of-life care services.

Amendment 64, which is consequential to amendment 54, requires an initial assessment of the legislation's impact on palliative and end-of-life care, a report on which should be published prior to the substantive provisions of the act coming into force. The member in charge of the bill has indicated that he would consider that that would delay the act's implementation. Hospice UK is clear that that is not its intention, and it thinks that the assessment can be made very quickly.

Amendment 61 requires that report to be published.

I move amendment 54.

Pam Duncan-Glancy: My amendment 258 requires that the Scottish ministers,

"as soon as practicable after Royal Assent, carry out an assessment of the capacity of social care services provided by ... local authorities, and ... organisations providing social care ... to support the functions under this Act."

I want to make members aware that I had hoped that the assessment of capacity could go beyond the capacity within social care services, local authorities and other providers of social care, and could go beyond looking at only the functions under the act. My intention was to highlight the level of difficulty that there can be in accessing social care, which can, of course, mean the difference between life becoming tolerable or being intolerable. However, given the scope of the bill, my amendment is drafted specifically to address supporting the functions under the act, and despite that limitation, I think that that would be a very useful assessment of capacity.

The amendment specifies that the assessment

"must, in particular, consider ... staffing resource associated with provision of social care services, including the training and support that will be required,"

and

"existing funding streams for social care services and organisations supporting disabled people."

It further requires that ministers lay the report before the Parliament and that, within six months of the report being laid, the Parliament must

"consider a motion to approve the report."

My amendments 280 and 284 provide that the sections cannot be brought into force until that report on the assessment of capacity within social care services has been published.

As I have said before, and it is important to say again, I think that it is crucial that we send a signal that we are a country that seeks to make it easy to choose to live. Part of that is about having access to good social care when we need it, and all of us around this room will have inboxes full of casework that shows that that is just not the case. If we pass a piece of legislation that seeks to offer someone the alternative of ending their own life, in the absence of capacity in an essential system such as social care, which can make the difference between finding life tolerable or intolerable, we could be sending a signal—in fact, it would not be a signal; it could be easier to choose to die than to choose to live. The assessment and report are a crucial part of bringing in any legislation to support people to die.

My amendment 287 would specify that the act may not come into force

"a day before the day on which legislation is brought forward by Scottish ministers to remove charges for non-residential social care being provided to, or which would otherwise be available to, terminally ill adults requesting assistance"

under the act.

20:15

As I said about my previous amendments, I want the provisions to be broader, so that we are looking at the capacity in the social care system in order to be certain, or as certain as we can be, that a lack of capacity in that system is not impacting on somebody's decision whether to continue with a loss of function at any point. I wanted that aspect to be much broader than only in relation to the bill.

It is also important to understand that the difference between accessing social care and not accessing social care is not only about its availability; for some, it is also about the associated charges. Some people might pay in excess of £700 or £800 a week towards their social care, which can be quite prohibitive. Some people decide to deny themselves access to social care based on its cost. The fact that they cannot afford to access social care as a result of the charges might mean that they can no longer engage in some aspects of their life.

Ending non-residential social care charges has been an ambition of the current Government for some time but it has not yet delivered it—that is not intended to be a political point, although plenty of political points could be made. The fact remains that the charges are not yet abolished and they are still causing some significant concern for people accessing social care. A barrier such as the cost of access to social care should not be in the way, particularly if legislation on the statute books gives people the option to have an assisted death. That is why my amendment seeks to say that we could not bring in the legislation in an environment in which some people have lost out on crucial social care. I can testify to how important access to social care is—I am sure that members have seen the difference that it can make to people's lives.

We cannot put a piece of legislation on to the statute books that could assist people to die while some people are making the choice to do without social care on the basis that they cannot afford it, which puts them in such a situation that they find their life intolerable. That is why I have lodged the amendment to say that we must first end non-residential social care charges.

Together, the measures speak to an important point. At the risk of labouring said point, it is important that, if we are legislating for people to die, we ensure that we are doing so in an environment in which the choice to live is viable. As it stands, I am not sure that that is the case, given the situation in social care and with social care charges that can prohibit some people from accessing it. The amendments seek to protect against that, which is why I have lodged them.

Stuart McMillan: My amendment 259 is a substantive amendment and amendments 281 and 285 are consequential to it. Fundamentally, the amendments provide for a referendum of the bill's proposals if it is successful at stage 3. Scotland does not have a written constitution but, if it did, I would want constitutional matters to be decided by referenda of the people.

I have considered the engagement that takes place in other jurisdictions—Ireland and Switzerland are two examples—as well as elsewhere. That level of engagement is hugely important for the sense of local democracy, particularly when it comes to matters of such importance. As we are aware, those countries have had referenda on assisted dying, and I argue that the issues before us in the bill should be considered in that context.

As I have previously stated during stage 2, although this is technically a normal bill, the subject matter is not a normal issue. I am sure that we can all agree on those two points. I have long considered referenda to be essential exercises in democratic activity—long before I was elected to the Scottish Parliament in 2007. Just because there is no such tradition in Scotland or the UK does not mean that it is not the right thing to do. Early in this process, I suggested a referendum on assisted dying to Friends at the End, which was working with Liam McArthur, and I met the group online on 12 November 2021.

Prior to the stage 1 debate, more than 270 constituents from Greenock and Inverclyde directly contacted my office to ask me to vote against the bill; in contrast, 130 constituents contacted me to ask me to support it. In addition, I received emails from elsewhere across the country. The online situation was very different; I found that most people wanted me to support the bill, with a minority wanting me to vote against it.

When the previous bill—Patrick Harvie's bill—came before the Parliament, I surveyed more than 10,000 constituents in Inverclyde, and I found that a slight majority of the respondents wanted me to vote against the bill. The figure was around 54 or 55 per cent. I am sure that, due to differing demographics, faiths, health inequalities and many other factors, the results in every constituency will be mixed, notwithstanding the poll undertaken by

Dignity in Dying. So, I genuinely have no idea what the outcome would be in Inverclyde if a referendum were to take place.

Patrick Harvie: First, I want to make a minor point for clarity: the previous bill that the member referred to was introduced by Margo MacDonald. As the second member in charge, I took it through the committee process at stage 1.

Clearly, Stuart McMillan is quite correct to say that there is a wide range of strongly held views on this contested and difficult issue. However, it is not the only such contested and difficult issue. In the past, we have had campaigns calling for issues affecting my human rights, and my community's human rights, to be subject to a referendum, including an attempt to stage a mock referendum that was funded by a private individual. I have no doubt that if the next Parliament were to legislate on, for example, recommendations on the reform of abortion care, there might be those who would call for that to be subject to a referendum, and for similar reasons to those that Stuart McMillan has just set out.

I am not convinced of the case that the member is making, but if he were successful at persuading the Parliament to authorise a referendum in this case, how would he say no to the many other potential campaigns that would arise to put the rights and freedoms of marginalised minorities, which are contested in society, to a referendum? How would he resist those much more provocative attempts to marshal the same argument?

Stuart McMillan: Until we had some type of written or formalised constitution, these things would have to be looked at on an issue-by-issue basis. We also have this Parliament, and it would be up to the politicians of the day to agree, or not, that a referendum should, or should not, take place on any issues going forward.

It is common knowledge that some colleagues across the chamber voted for the bill at stage 1 but were quite clear about reserving their right to offer support later in the process, depending on amendments at stages 2 and 3. I genuinely feel that, if a referendum were to take place, that would be a genuine reflection of a citizens assembly.

I have noted the Scottish Government's consideration of what such a question would be in the documentation on the committee's web page, but I do not, for one minute, believe that concerns about whether the question would be fair or unfair are realistic. I would make one suggestion, which is this: "Do you support the provisions in the Assisted Dying for Terminally Ill Adults (Scotland) Bill, as passed in the Scottish Parliament on whatever date? Yes or no?" That is not a leading question. Obviously, other suggestions would be available.

As for timescales, if the bill were to pass, that would happen at some point early in 2026, so no referendum could take place before the Scottish elections. I think that having a referendum of any type within the first two and a half years of the next parliamentary session would be a logical timescale, but if it were to happen in the early part of that two-and-a-half-year period, that would be fine, too. I am very relaxed about that, as long as it happened within that period of time.

I am happy to end there, convener.

The Convener: I call Daniel Johnson to speak to Michael Marra's amendment 260 and to amendment 18 in his name.

Daniel Johnson: I will be speaking to three sets of amendments in this group. Amendments 260, 282 and 286 are in Michael Marra's name, amendments 18 and 19 are in my name, as are amendments 271, 272, 14 and 15. I should say at this point that I have spoken to more amendments in my colleagues' names than I have in my own. Members should intimate to them rather than to me whether that has been effective—it would be simply upsetting if they did so directly.

Michael Marra lodged amendment 260 with a view to the resource implications of implementation of the bill. The amendment is modelled on amendments that have been tabled in the Lords to Kim Leadbeater's bill, which is proceeding through Westminster. The aim is to ensure that there is robust financial oversight and scrutiny before the act is implemented.

As we have seen throughout stage 2, should the bill pass into law, it will establish a number of duties, considerations and undertakings in respect of the many individuals and services that might be involved. Members are also very much aware that those self-same services are not always overburdened with finances and resources. Indeed, in many cases, they are stretched. It is therefore important that we look at what the impacts will be on public services, such as the health service, local government and social services. Amendment 260 seeks to establish those duties for making those assessments and for the Government to provide a report on the findings of that review. Amendments 282 and 286 are consequential to amendment 280.

Amendments 18 and 19 seek to set up a commission to provide oversight of the implementation of the bill, were it to become an act. Again, there has been much discussion about what it is right and proper to put in the bill and to what extent things should be left to practice, procedure, training and guidance. Quite rightly, many of those details are a matter of judgment and practice and it is right that much of the

implementation should be left to that sort of approach.

However, as has just been alluded to, the bill is not a normal bill and it is not normal public policy. Some of the detail, subtlety and nuance is incredibly important. We in this place know that scrutinising, let alone amending, anything that is in the form of guidance or secondary legislation is incredibly difficult. Amendment 18 would therefore require the setting up of a cross-party commission, to sit independently, that would provide oversight and guidance to Government when it is drawing those things up. It would not provide a veto, but it would provide a mechanism whereby there is oversight of those important details in the legislation, which is particularly sensitive in that regard.

My amendments 271, 272, 14 and 15 relate to the creation of a sunset clause. I note that the committee recommended that such a sunset clause should be considered during the amending stages of the bill. I think that it should be an important feature of the bill. I do not normally have much time for thin-end-of-the-wedge arguments, but it is very important that, in such important legislation, we provide some guarantees to people that, should a situation arise where the legislation ends up leading to unforeseen circumstances or expanding in ways that we had not intended when passing it, there is an emergency break, or in other words, a release valve.

20:30

That said, I was not entirely clear on precisely what length of time would be appropriate. The original amendment 14 sets a time period of five years, but I recognise that that might be too short, so I have tried to create a set of options for the committee. In terms of sequencing, amendment 271, which provides the option of a sunset clause set at 15 years, should be taken first; followed by amendment 272, which would set it at 10 years; and then finally by amendment 14, which would set it at five years. Amendment 15 would apply the affirmative procedure, in other words, that there would have to be a Parliamentary vote in order for the legislation to continue. That would be a one-off decision by the Parliament; it would not reoccur or repeat. I hope that it would provide the Parliament with the ability to have a say, to ensure that what was intended is what has come into effect, and to provide reassurance to people who have concerns about what effect the bill might end up having in future years. I will close my remarks there.

Miles Briggs: I think that, somewhere in the 37 amendments that are in this group, we are probably all trying to achieve the same thing. Members will be aware that, in March 2024, I consulted on a proposal for a member's bill to give people of all ages who are living with terminal illness and residing in Scotland the legal right to palliative care. I am grateful to Marie Curie UK and others for their support with that consultation; the support that I received is noted in my entry in the register of interests. To go back to Bob Doris's earlier point on the cross-party group on palliative care, a lot of the conversations in the Parliament about the current situation of our palliative care sector and the support and additional investment it needs are really important.

I am disappointed that I have not been able to use the bill as a legislative vehicle in establishing that right to palliative care, which many people would support. The amendments that I have tried to pursue around that have been deemed inadmissible. However, I have not given up. Amendments 21 and 22 provide for reporting on discussions with individuals about social care services and access to palliative care services, and on referrals to such services. Amendment 23, which I believe could specifically help to progress the arguments for the legal right to palliative care, would provide a review and assessment by ministers of the availability of palliative care services.

I am very grateful to those who have engaged with my proposal for a member's bill to give a legal right to palliative care. I hope that, with the election less than six months away, the consultation and debate around this bill will also look towards the next session of the Parliament. I hope that the debate will influence all our parties when forming their manifestos for that election and impress upon them the need for a new funding model and vision for palliative care services in Scotland.

Paul Sweeney: Amendment 269 would strengthen the practical framework for administering assisted dying safely and responsibly. The amendment would require the Scottish ministers to provide necessary structure for medical professionals to enable them to respond to side effects or even failed medication. Without that, clinicians could face serious medical legal risks arising from problems during the final stages of the assisted dying process.

The amendment would ensure that issues of safety are captured and analysed to inform on-going review and improvement of the assisted dying service. Passing the amendment would strengthen the practical framework for administering assisted dying safely and responsibly.

Murdo Fraser: I have two amendments in the group—amendments 199 and 203. Amendment 199 deals with the issue of independent oversight. It proposes the creation of an

"Assisted Dying Safeguards and Oversight Body."

I am grateful to Daniel Johnson for making the arguments as to why some independent oversight is required, although I think that my solution is better than his—he proposes a parliamentary body to oversee operation of the bill, and I propose an independent body. Members will see from the wording of the amendment how that body would be made up.

As Daniel Johnson alluded to, the reason why that is necessary is that, as it stands, the bill relies entirely on internal reporting and ministerial review but does not provide for a permanent independent authority that is charged with monitoring how the bill will operate in practice, ensure compliance with safeguards or investigate when things go wrong. When we are dealing with a new law on life and death, it is essential that we have those safeguards in place. Indeed, as we have seen in other jurisdictions where such oversight is missing, there are risks of a slippery slope, where regulations become loosened over time, eligibility expanded and terminology blurred.

Amendment 199 seeks to prevent that. It would establish an independent safeguard and oversight body with clear and enforceable duties. Its responsibilities would include the need to review every case within 14 days after the substance was provided, maintain a national register of authorised medical professionals, investigate concerns about conduct or competence, audit compliance with law and regulations and publish anonymised data on every assisted death, including demographic and clinical information. The body would be composed of legal, medical, ethical and patient advocacy experts. Crucially, none of its members could be involved in providing assisted suicide themselves. Everyone acting under the act would be legally required to comply with the directions of the independent body.

The amendment is about vigilance. If the Parliament is determined to cross the moral line into assisted suicide, it must not do so blindly or complacently. An oversight body is the minimum protection against the erosion of safeguards and the slow normalisation of assisted suicide that could happen under the bill.

Amendment 203 proposes an adjustment to section 27 of the bill. It would provide that review reports specify how many medical reviews took place, what they discovered and whether any cases were referred for potential prosecution. It would add real transparency and accountability to how the act will operate in practice.

The Convener: I call Douglas Ross to speak to and move amendment 129, in the name of Stephen Kerr.

Douglas Ross: I am grateful for the opportunity to speak to amendments 129, 201, 130, 204, 131, 132, 205, 206 and 218, in Stephen Kerr's name, which collectively seek to strengthen transparency, accountability and parliamentary oversight in the operation of the bill.

The amendments focus on three interrelated objectives—ensuring that reporting is evidence-based and complete, that reviews are meaningful and inclusive, and that the Parliament retains a firm focus and control of such a grave and irreversible policy.

Amendment 129 would expand the requirement for annual reporting to include aggregated data

"drawn from final statements under section 16"

—specifically,

"the average and range of time ... between provision of the approved substance and death and the nature and frequency of any complications recorded".

Those details are not mere statistics. They are the only way Parliament can judge whether the law, if enacted, truly achieves what it claims to achieve—a swift, humane and safe end of life for those who choose it.

Amendments 201 and 204 to 206 clarify and tighten the framework for periodic reviews by requiring that each review be distinct, regular and informed by appropriate consultation. Amendment 206, in particular, shortens the review cycle from five years to two, recognising that the early years of operation will be crucial in detecting any problems or unintended consequences. These are not bureaucratic exercises, but acts of vigilance.

Amendments 130 to 132 ensure that those most affected by the operation of the act—hospices, palliative care providers, faith-based and charitable organisations and advocacy bodies—are consulted and protected. Amendment 130 explicitly requires reporting to be carried out on whether any hospice or institution has experienced direct or indirect pressure, whether financial, regulatory or reputational, to participate in assisted dying. It also asks whether the quality or availability of palliative care has been affected and whether further safeguards are needed to protect conscience, ethics and institutional independence.

Finally, amendment 218 introduces a sunset or continuation clause to ensure that the Parliament returns to review and reauthorise the legislation after a defined period. A law that changes the relationship between medicine and mortality cannot simply be left to drift; it must be re-earned through evidence and accountability.

These amendments in Stephen Kerr's name do not undermine the purpose of the bill; instead, they dignify it. If Parliament chooses to legislate for assisted dying, it must also choose to face, without evasion, the full reality of what follows—the data, the consequences and the moral responsibilities. I

therefore commend the amendments in Stephen Kerr's name to the committee as essential instruments of transparency, integrity and parliamentary control.

The Convener: I call Brian Whittle to speak to amendment 202 and other amendments in the group.

Brian Whittle: Amendment 202 is a simple amendment that asks that, as part of the annual report, a review be undertaken to ensure that the independence of registered medical practitioners is being maintained in practice. That would require data to be anonymised to adhere with the general data protection regulation, and the review itself should be independent, too.

Turning briefly to the amendments in the name of Jackie Baillie and Pam Duncan-Glancy, I feel that it is absolutely fundamental that the services and the system are able to cope and have the capacity required to deliver the bill, and that will include carrying out a review of palliative and social care services. Once again, I have been struck by Pam Duncan-Glancy's remarks on the quality of life, and I would just like to highlight a simple example in that respect.

Members knew that I would get sport into this somewhere, but in relation to powerchair football, I have been struck by the value of interaction. I want to mention powerchair football for two reasons, the first of which relates to the Ayrshire Tigers. It is evident to me that social interaction and the ability to be social are fundamental to the players' quality of life, having seen a couple of them unable to participate, because they were unable to get transport. We take that sort of social interaction for granted.

The other reason that I want to highlight the sport is that I never tire of mentioning the trauma that Alexander Stewart had when he played powerchair football against the Scottish national team. He thought that sitting-down motorised sport would be his way of getting involved in sport, and the trauma that he received has given me no end of joy since.

The Convener: I am not quite sure how to respond to that, Mr Whittle, to be quite honest. [*Laughter.*]

Brian Whittle: I always have to mention it.

The Convener: I believe that Mr McArthur wished to make a declaration.

Liam McArthur: I apologise, convener—I should have done this at the outset of proceedings. Having listened to Miles Briggs make his declaration of interest, I remind the committee that I am supported by Dignity in Dying Scotland, Friends at the End and the Humanist Society Scotland.

The Convener: Thank you, Mr McArthur. That is now on the record.

I propose to close the meeting for this evening. At next week's meeting, we will continue our stage 2 consideration of the Assisted Dying for Terminally Ill Adults (Scotland) Bill.

Meeting closed at 20:44.

Official Report
Room T2.20
Scottish Parliament
Edinburgh
EH99 1SP

Email: official.report@parliament.scot
Telephone: 0131 348 5447

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@parliament.scot

The Scottish Parliament
Pàrlamaid na h-Alba