Palliative Care (Scotland) Bill

Bill Number: SP Bill 50
Introduced on: 1 June 2010
Introduced by: Gil Paterson MSP (Member’s Bill)
Status: Withdrawn 2 December 2010

Passage of the Bill
The Palliative Care (Scotland) Bill [SP Bill 50] was introduced in the Parliament on 1 June 2010. The Health and Sport Committee was appointed lead Committee for stage 1 scrutiny of the Bill. The Committee first discussed the Bill on 23 June 2010, and issued its call for written evidence on 7 July 2010. The Committee published its Stage 1 Report on 29 November 2011. The Bill was withdrawn by the Member in Charge on 2 December 2010, under Standing Order Rule 9.13.

Purpose and objectives of the Bill
The Bill stemmed from evidence that palliative care services vary across Scotland in terms of both provision and quality. It sought to “secure access to palliative care (including end of life care) for everyone in Scotland with a progressive life-limiting condition, and their family members” (Policy Memorandum, para 4).

Provisions of the Bill
The Bill had two key provisions, both of which were to be provided for through the introduction of new sections to the National Health Service (Scotland) Act 1978 (c 29) (the 1978 Act):

- to provide or secure the provision of palliative care for persons who have been diagnosed with a life-limiting condition and their family members, based on the reasonable needs of such persons
- setting up reporting arrangements so that provision can be monitored by Scottish Ministers and the Parliament. This will require Scottish Ministers to report annually on the provision of palliative care, based on the data arising from 11 key indicators which are set out in the Bill
The Bill also contained definitions for “life limiting condition”, “palliative care”, “family members” and “reasonable needs”.

Through these provisions, the Bill sought to give legislative effect to the key objectives of the Scottish Government’s palliative care strategy, ‘Living and Dying Well’, which was published in October 2008.

Parliamentary consideration

The Committee’s call for evidence resulted in 70 written responses being submitted. A wide range of views were expressed on the Bill as a whole and on specific elements of it. A summary of the written evidence was produced for the Committee to alert Members to the key themes raised by respondents. Based on the written responses, the Committee agreed a programme of evidence sessions which took place in late October and early November 2010. It heard from 22 witnesses from a range of backgrounds – the NHS, palliative care organisations, health professionals, the voluntary sector and the Scottish Government. The SPICE briefing on the Bill also includes a brief analysis of the responses received and uses them to discuss the provisions in the Bill.

The range of evidence received is reflected in the Committee’s Stage 1 Report, which was published on 29 November 2010. There was general agreement that palliative care should be given more priority. However, there was much debate surrounding whether or not there should be specific provision for palliative care services in the 1978 Act, over and above the general duty in section 1 to promote a comprehensive and integrated health service. Those in favour considered that the variable nature of palliative care required such a solution. They also pointed to the fact that a precedent had already been set as the 1978 Act specified a number of services that Ministers have a duty to provide. These include the care of mothers and young children (s 38), and vaccinations and immunisations (s 40). Those against a specific duty were concerned that it would skew health service priorities. Many also believed that progress was being made under the current strategy. They argued that this should be fully implemented and analysed before considering whether or not there was a need for legislation.

There was also significant discussion concerning the reporting provisions in the Bill. Whilst there was general agreement that better reporting mechanisms were required, there were differing opinions concerning how easy it would be to measure the indicators outlined in the Bill, given available data sources. This, as well as the provision of services, led to concerns about the assumptions made in the Financial Memorandum.

After considering the evidence, the Committee (2010, paragraph 146-151) came to a number of conclusions. It noted the motivation of the Member in Charge of the Bill and shared his desire to bring improvements to the delivery of palliative care. However, it also considered that:
• progress was being made under the Scottish Government’s current strategy and that more time was required before its full impact could be evaluated
• that there may be unintended consequences of passing the Bill
• that introducing a statutory duty in primary legislation may result in the flexibility of service provision being lost

However, it also sought a commitment from the Scottish Government to produce a suite of appropriate indicators to allow for the monitoring and reporting of progress against the strategy.

It recommended, by a majority, that the Parliament should not agree to the general principles of the Bill.

Following publication of the Stage 1 Report, on 2 December 2010, the Member in Charge notified the Presiding Officer that he was withdrawing the Bill, under Standing Order Rule 9.13.