

**Legislative Council
HANSARD
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MOTION

Voluntary Assisted Dying Commission Annual Report 2022-2023

Consideration and noting

[excerpt]

Ms WEBB (Nelson) - Mr President, I welcome this opportunity to formally note the inaugural annual report of the Voluntary Assisted Dying Commission and thank the member for Mersey for providing us with the opportunity to do so. This is a truly sombre, yet momentous milestone for both the Voluntary Assisted Dying Commission and for our state of Tasmania.

While considering this annual report it is important to note that the End-of-Life Choices (Voluntary Assisted Dying) Act 2021 did not commence until 23 October 2023. The report therefore covers the first eight months of the operation of Tasmania's voluntary assisted dying system. Despite being in its infancy, a clear picture is beginning to emerge from the commission's data in the annual report. It is especially pleasing to reflect on that today.

The key aspect of Tasmania's voluntary assisted dying scheme is the matter of choice. In the eight months covered by the reportable period, 72 Tasmanians chose to submit a first request to access voluntary assisted dying. Of these 72 first requests, 55 continued on to make the second required request; with 44 then submitting the necessary, final request. The report then details that of the 44 final requests made, 42 VAD substance authorisations were issued. In these eight months of operation, 25 Tasmanians made the choice of voluntary assisted dying. This is estimated to be 0.5 per cent of all Tasmanian deaths recorded over that same period.

Examining this particular data set in further detail is also very informative. Of the 7 first requests made, 62 were determined by the medical practitioner who then became the requestor's PMP for the purposes of the act to be eligible to access voluntary assisted dying. This is 94 per cent of the first requests made.

Four individuals, or 6 per cent of the first requests made, were deemed ineligible. Of the 55 people who submitted a second request, 54 were considered eligible. The annual report states that one individual was deemed eligible after the reporting period and therefore is not included in the presented statistics. During the second request stage, 49 determinations were made with 48 deemed eligible, which is 98 per cent of this sub group of applicants. Of the 44 people who went through the final checks to make a final request, 43 were deemed eligible during this reporting period, which equated to 100 per cent - as noted in the annual report.

We are then informed that the commission issued 42 VAD substances authorisations, with the VAD statewide pharmacy service dispensing 37 VAD substance kits to the PMPs. Ultimately, 25 deaths occurred by administration of the VAD substance as reported on page 20

of the annual report. It is also worth noting that seven people, or 11 per cent, of those deemed eligible at the first request stage died before a VAD substance authorisation was issued.

Two interesting matters arise from this information. The low proportion of ineligible applications should reassure those who were concerned that these laws could open a floodgate of people seeking to terminate their life, despite not having a terminal illness. This does not appear to have been the case. Secondly, the pattern of decreasing number of applicants from one stage of the VAD assessment process to the next, confirms much of the evidence considered during debate on the bill in this place - that applicants may choose not to proceed to the next stage, despite being deemed eligible. Despite 37 VAD substance kits being dispensed, it is evident from the data presented in the report that not all recipients chose to administer that option. Arguments were put during debate on the bill that access to this option could provide suffering Tasmanians with peace of mind, knowing that they had this option available whether they used it or not. I hope that peace of mind was provided to all 3 recipients of the VAD substance kits, their family and friends, whether or not those were used.

The other important area of choice identified during debate on the bill was that exercised by medical practitioners. We debated in some detail the concerns, risks, ramifications and also the hopes regarding medical practitioners and their right to choose whether or not to participate in a regulated VAD system. It is therefore heartening to see that during this initial eight-month period 330 people were provided with Tasmanian voluntary assisted dying training. Of the 67 who successfully completed the training, 33 were medical practitioners and 22 were registered nurses. Although there is considerable discrepancy in the geographical location of those trained medical practitioners, with only two being in the north-west of the state during the reportable period, the interest indicated provides a sound foundation for the VAD system to consolidate in this state.

It is worth highlighting the testimony provided in the report by some of the medical practitioners. To from a report from practitioner:

It has been a privilege to be invited to act as a medical practitioner to support people at the end of their life who are suffering from various terminal conditions.

Another quote:

As a family physician it is my role to support people from birth to death. The VAD process has been incredibly professionally rewarding helping very brave people at the end of their lives.

Those quotes are on page 6 of the report.

For many here, recollections of the intense and emotional deliberations on the End-of-Life Choices (Voluntary Assisted Dying) Bill remain fresh and ingrained in our memories. It was not an easy debate for anyone in this place. We were literally debating matters of life and death for our fellow Tasmanians; of suffering, despair but also of hope and compassion, provided by choice. As members will recall, a key tension during that debate was the effort required to strike a viable and workable balance between providing accessible end of life choices that could make a real difference to suffering Tasmanians, and the need to provide necessary protections and safeguards. Again, the dataset presented in the annual report would

indicate the VAD safeguards have acted as intended. We can see that eligibility was tested at all stages of the process. Further, the annual report details on page 19, even at the final stages of the process one VAD substance authorisation was revoked by the commission because of a change in administration method.

However, it is beyond the scope of the annual report to assess whether from the perspective of suffering Tasmanians the balance between eligibility and safeguards is too prescriptive or not. As was acknowledged during the debate in this place on the legislation, there was every likelihood the established end-of-life choices would require ongoing review and refinement through its implementation stages. For example, concerns raised during the debate the prescribed documentation and notification process may prove onerous, appears to have been borne out by the VAD commission's identified challenges and recommendations detailed on page 29 of the annual report. This is emphasised by the report's recommendation three, which was that:

The Tasmanian State Government purchase or develop an online portal for use by authorised medical practitioners acting as PMPs, CMPs or AHPs, and registered nurses acting as AHPs and for the Commission.

The commission notes that other jurisdictions including Victoria, Western Australia and South Australia have developed online portals, all of which could provide tried and tested models Tasmania could adapt.

The annual report's recommendations provide valuable and thoughtful insight into the operations and experienced impediments of the state's VAD system and warrant careful consideration by the Government. Not all recommendations fall within the state's jurisdiction to act upon, but do require the Government to be proactive in advocating for Tasmanians with the Commonwealth.

Recommendation one is fundamental to the ongoing successful operation of Tasmania's VAD system and to ensure it functions as the act intends it:

The Tasmanian State Government continue to advocate for amendments to the Commonwealth *Criminal Code* to remove the limitations on providing voluntary assisted dying information by way of a carriage service as a matter of priority.

Similarly, recommendation four requires the state Government to advocate on behalf of Tasmanians, specifically to:

... support the review of the Medicare Benefits Schedule to include items which specifically cover voluntary assisted dying and administration of voluntary assisted dying substances.

This is a common sense and equitable recommendation in my opinion, as are the remaining recommendations for which the Tasmanian Government is responsible, including recommendation 2:

The Tasmanian State Government explore models for the equitable remuneration of medical practitioners and registered nurses who provide voluntary assisted dying services. The

implementation of an appropriate scheme for remuneration will remove barriers to practitioner participation in the voluntary assisted dying processes.

Last but not least, are the range of identified legislative amendments required as detailed across pages 30 and 31 of the annual report. I will not read them out here in detail, but it is worth stressing the commission has clearly identified practical matters to do with the definition of 'authorised medical practitioners' and 'unnecessary administrative burdens'. Significant and perhaps worryingly, the commission has identified that:

Provisions for the prescription, supply and administration of a VAD substance are inflexible and do not clearly accommodate circumstances in which an alternative supply pathway is required.

It is a matter of urgency that the state Government does progress appropriate amendments to the act to address the issues noted in consultation with the commission as is stated in recommendation five of the report.

This annual report is an historic milestone for this parliament and for Tasmania. I wish to place on the record my deep appreciation for the work undertaken by those practitioners and the commission. They have provided and continue to provide professional and compassionate assistance to those deciding to choose to seek access to our legislated voluntary assisted dying system as their end-of-life choice.

I also offer my sincere condolences to the families, friends and loved ones of those who have died. I also wish to pay tribute to the work and determination of the member for Mersey, the efforts of whom were so crucial to the development and passage of the End-of-Life Choices (Voluntary Assisted Dying) Act 2021.

It is no exaggeration to state without the member's determined efforts, the Voluntary Assisted Dying Commission would most likely not exist and nor would there be an annual report for the parliament to consider today. It is due to the member for Mersey's commitment and effort our medical professionals can now choose to participate in a legal, regulated and safe environment by which to provide this end of life option for eligible Tasmanians in need. Crucially, a dignified death can now be a safe and legal choice for those eligible Tasmanians in need. This is indeed a legacy of compassion.

I commend the efforts of all involved in developing and delivering a regulated voluntary assisted dying system and note the Voluntary Assisted Dying Commission annual report 2022-23.