

The Welsh Government's Legislative Consent Memoranda on the Terminally Ill Adults (End of Life) Bill

October 2025



1. Background

The UK Government's Terminally Ill Adults (End of Life) Bill

1. The Terminally Ill Adults (End of Life) Bill¹ (the Bill) was introduced into the House of Commons and had its first reading on 16 October 2024. It is sponsored by Kim Leadbeater MP. It is a Private Members Bill.²

2. The long title to the Bill states that it is a Bill to:

“Allow adults who are terminally ill, subject to safeguards and protections, to request and be provided with assistance to end their own life; and for connected purposes.”³

3. The Bill has 43 clauses and 6 Schedules.

4. The Bill had its second reading on 29 November 2024. Committee stage in the House of Commons concluded on 25 January 2025 and Report Stage started on 16 May 2025. The Bill completed its passage through the House of Commons on 20 June 2025 and received its first reading in the House of Lords on 23 June 2025.⁴ At the time we agreed our report the Bill was at second reading in the House of Lords.

The Welsh Government's Legislative Consent Memorandum

5. Standing Orders 29.1 and 29.2 provide that a legislative consent memorandum is required when a relevant UK Bill makes provision in relation to Wales that has regard to devolved matters.

6. On 9 April 2025, Jeremy Miles MS, the Cabinet Secretary for Health and Social Care (the Cabinet Secretary), laid before the Senedd a Legislative Consent Memorandum (the Memorandum) in respect of the Bill.⁵

7. The Business Committee agreed that the Health and Social Care Committee and the Legislation, Justice and Constitution Committee should report on the

¹ Terminally Ill Adults (End of Life) Bill, as introduced (Bill 12)

² See: [Private Members' Bill ballot to be drawn on Thursday 5 September](#), 3 September 2024

³ Terminally Ill Adults (End of Life) Bill as introduced, page 1

⁴ Terminally Ill Adults (End of Life) Bill, as brought from the Commons (HL Bill 112)

⁵ Welsh Government, [Legislative Consent Memorandum Terminally Ill Adults \(End of Life\) Bill](#), 9 April 2025

Memorandum by 27 June 2025.⁶ On 24 June 2025, the Business Committee agreed to extend the reporting deadline until 19 September 2025.⁷

Background information about the Bill

- 8.** Currently, it is a criminal offence, by virtue of section 2 of the *Suicide Act 1961* (the 1961 Act) to intentionally assist or encourage the suicide or attempted suicide of another person.
- 9.** The Bill, if passed, will set out that if any person assists a terminally ill adult to end their life in accordance with procedures set out in the Bill, such assistance will not be an offence under section 2.
- 10.** The Bill seeks to achieve this policy objective by:
- firstly amending the 1961 Act to protect those acting in accordance with the Bill from criminal liability;
 - secondly by regulating how assistance must be provided in order to benefit from that protection.
- 11.** If a person assists another's suicide *otherwise* than in accordance with the Bill, it would therefore remain an offence under section 2 of the 1961 Act.
- 12.** The regulatory framework established by the Bill includes provision that the person seeking assistance is assessed by two registered medical practitioners who report on those assessments. The reports will then be considered by a multi-disciplinary Assisted Dying Review Panel which will include a judge, a psychiatrist and a social worker. The Panel will hear directly from the person seeking assistance and the coordinating doctor. Having considered the evidence, the Panel will then determine whether the person seeking assistance is eligible to receive the assistance under the Bill. Both assessing doctors and the Panel will all consider whether the person seeking assistance has a clear, settled and informed wish to end their own life and has reached that decision free from coercion or pressure.
- 13.** The Bill also creates a Voluntary Assisted Dying Commissioner (the Commissioner) appointed by the Prime Minister who must hold or have held office as a judge of the Supreme Court, the Court of Appeal, or the High Court. The

⁶ Business Committee, [Timetable for consideration: Legislative Consent Memorandum on the Terminally Ill Adults \(End of Life\) Bill](#), April 2025

⁷ Business Committee, [Revised timetable for consideration: Legislative Consent Memorandum on the Terminally Ill Adults \(End of Life\) Bill](#), June 2025

Commissioner's principal functions will be to receive documents made under the Act, make appointments to a list of persons eligible to sit on Assisted Dying Review Panels, referring cases to review Panels, determining applications for reconsideration of Panel decisions and monitoring the operation of the Act and reporting annually on it.

14. The Welsh Government's Memorandum sets out a narrative on the provisions of the Bill.⁸

Provisions for which the Senedd's consent is required

15. Following its introduction, the Bill was amended in Public Bill Committee⁹ and Committee Stage proceedings were completed on 25 March 2025.

16. The Cabinet Secretary states that the Welsh Government's assessment of the Bill as amended in Public Bill Committee has concluded that the consent of the Senedd is required in respect of the following provisions:

- Clause 37 – Guidance about operation of the Act

Clause 37 requires the Chief Medical Officer for Wales ('CMO') to prepare and publish guidance relating to the operation of the Act and must consult such persons they consider appropriate before preparing guidance, which must include persons with learning disabilities.

- Clauses 39(1), (2), (5) and (6) – Voluntary Assisted Dying Services: Wales

Clauses 39(1) and 39(2) permit the Welsh Ministers by regulations to make provision about voluntary assisted dying services in Wales, including provision securing that arrangements are made for the provision of such services, where such provision could be made by an Act of Senedd Cymru and would be within the legislative competence of the Senedd if it were contained in such an Act. Clause 39(5) confirms regulations may not amend the Act and clause 39(6) defines 'voluntary assisted dying services' for the purposes of the wider provision.

Regulations made under this power will be subject to the affirmative procedure (see clause 50).¹⁰

⁸ Memorandum, paragraph 6, sub-paragraphs a to o.

⁹ Bill 212, as amended in Public Bill Committee. See also Committee stage proceedings.

¹⁰ Clause 39 also provides the Secretary of State with a counterpart power to make regulations in relation to Wales relating to matters outside of competence.

- Clause 45 – Monitoring by Commissioner

Clause 45 requires the Commissioner to monitor the operation of the Act, investigate, and report to an appropriate national authority on any matter connected with the operation of the Act which the appropriate national authority refers to the Commissioner, and submit an annual report to each appropriate national authority on the operation of the Act. In preparing the report, the Commissioner must consult with (among others) the CMO. The appropriate national authority must publish any annual report received under this section, prepare and publish a response to any such report, and lay before Parliament or Senedd Cymru (as the case may be) a copy of the report and response. An appropriate national authority means the Secretary of State or the Welsh Ministers.

- Clause 47(4) – Provision of information in English and Welsh

Clause 47 requires any service, report, declaration or certificate of eligibility provided under the Act to a person seeking assistance to end their own life to be in the person's first language, if that language is English or Welsh, or in their preferred language of English or Welsh. It also requires any regulations made by the Secretary of State under other specified sections of the Act (sections 7, 9, 10, 17 or 26) specifying the form and content of declarations or statements to also make provision for their being in both English and Welsh. Clause 47(4) provides that regulations that contain provision for the Welsh language may not be made unless a draft has been laid before and approved by a resolution of Senedd Cymru.

- Clause 50(1), (2), (5) and (6) – Regulations

Clause 50 sets out the procedure for regulations made under the Act. Clause 39(5) states that the Welsh Ministers may not make a statutory instrument containing regulations under section 39 unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru. Clause 50(1) also includes a general power which states that a power to make regulations under any provision of the Act includes power to make different provision for different purposes and incidental, consequential, transitional or saving provision. Clause 50(2) confirms that regulations are to be made by statutory instrument.

Clause 50(6) confirms this clause does not apply to regulations under section 54 (commencement).

- Clause 54(6), (8) and (9) – Commencement

Clause 54 deals with commencement. Clause 54(6) provides that, in relation to Wales, the provisions of the Act not brought into force by clause 54(1) come into force on such day or days as the Welsh Ministers may by regulations appoint (and such regulations may not be made unless a draft statutory instrument containing them has been laid before, and approved by a resolution of, Senedd Cymru). Clause 54(1) brings into force sections 43 and 49 to 55 on the day on which the Act is passed. Clause 54(8) provides that the power to make regulations under this section includes the power to make different provision for different purposes. Clause 54(9) provides that regulations under this section are to be made by statutory instrument.

The Welsh Government's position

17. The Cabinet Secretary states in the Memorandum:

"This Bill seeks to allow adults who are terminally ill, subject to safeguards and protections, to request and be provided with assistance to end their own life.

The primary mechanism through which the Bill achieves this is via amendments to the Suicide Act 1961, which is restricted by Schedule 7B.

*Clauses 37, 39, 45, 47, 50 and 54 however make provision that confers functions on the Welsh Ministers and the Chief Medical Officer for Wales and which directly impacts Senedd Cymru and therefore has regard to devolved matters."*¹¹

18. The Cabinet Secretary adds:

"The UKG has not confirmed their position as to whether they believe the consent of the Senedd is required for this Bill as amended at Public Bill Committee but have acknowledged that some clauses do cut across devolved matters. We agree

¹¹ Memorandum, paragraphs 10 to 12

*with this assessment and will continue to liaise with UKG and assess this position as the Bill progresses.*¹²

19. We wrote to the Cabinet Secretary on 19 May 2025 asking why consent was not required for clauses 1 to 28, 31 to 36, 38, 40 to 44, 46, 48, 49 and 51 to 53 of the Bill (as amended in Public Bill Committee), given that the regulatory framework being created, within which assistance can lawfully be provided to another to end their own life, would be delivered largely in an NHS setting.¹³ The Cabinet Secretary responded on 30 June 2025.¹⁴

The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 2)

20. On 4 July 2025 the Cabinet Secretary laid before the Senedd a Supplementary Legislative Consent Memorandum (Memorandum No. 2) in respect of the Bill.¹⁵

21. On 8 July 2025, the Business Committee set a reporting deadline of 10 October 2025 for Memorandum No. 2.¹⁶

Provisions for which the Senedd's consent is required

22. Memorandum No. 2 concerns amendments agreed to the Bill at House of Commons Report Stage.¹⁷

23. Three amendments omitted provisions for which consent was being sought through the Memorandum, namely:

- Clause 37 – Guidance about operation of the Act;
- Clause 47 – Provision of information in English and Welsh;
- Clause 54(6) – relating to commencement.¹⁸

¹² Memorandum, paragraph 8

¹³ ~~Letter to the Cabinet Secretary~~, 19 May 2025

¹⁴ ~~Letter from the Cabinet Secretary~~, 30 June 2025

¹⁵ Welsh Government, ~~Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Terminally Ill Adults (End of Life) Bill~~, 4 July 2025

¹⁶ Business Committee, ~~Timetable for consideration: Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Terminally Ill Adults (End of Life) Bill~~, July 2025

¹⁷ See ~~Report stage proceedings~~, and HL Bill 212, as brought from the Commons

¹⁸ Memorandum No. 2, paragraph 11

24. Memorandum No. 2 seeks the Senedd's consent for a further three report stage amendments, which make new provision in relation to the same matters covered by the omitted provisions:

- New clause 40 (Guidance about operation of the Act) – this provision confers a power on the Welsh Ministers to issue guidance relating to the operation of the Act in Wales, about matters within devolved competence. The Welsh Ministers must consult prior to exercising the power. It also confers a power on the Secretary of State to issue guidance relating to the operation of the Act, including in relation to matters about which the Welsh Ministers can issue guidance; it therefore creates a concurrent power.
- New clause 51 (Provision about the Welsh language) – this clause requires the Welsh Ministers, when making regulations under clause 42 to make provision for Voluntary Assisted Dying Services in Wales¹⁹, to include such provision as they consider appropriate to ensure, if a person seeking assistance under the Act who indicates they wish to communicate in Welsh, all reasonable steps are taken to ensure communications and reports are in Welsh. It also provides that, after a person indicates they wish to communicate in Welsh, the Commissioner must take all reasonable steps to secure that communications are in Welsh and members of the panel speak Welsh. Finally, it provides that when making regulations that provide for the format of the declarations under clauses 8 (Initial request for assistance: first declaration) and 19 (Confirmation of request for assistance: second declaration), doctor's reports under clauses 10 (First doctor's assessment (coordinating doctor)) and 11 (Second doctor's assessment (independent doctor)) and the final statement required under clause 28 (Final Statement), the Secretary of State's regulations on those matters should make provision for the forms to be in English and Welsh.
- Clause 58(5) (previously clause 54(5)) – following amendment, this clause provides that the Welsh Ministers may, by regulations, commence sections 42(1), 42(2), 51(2) and 51(3). Commencement regulations under this provision are not subject to any Senedd procedure.²⁰

25. The Cabinet Secretary states:

¹⁹ Previously clause 39 as amended in Public Bill Committee

²⁰ See Memorandum No. 2, paragraphs 13 to 16

"New clauses 40 (Amendment NC20) and 51 (other than subsection (4)) (Amendment NC21) and clause 58(5) (as amended by amendment 94 – originally clause 54(5)) make provision that confers functions on, or impacts functions of, the Welsh Ministers and the Chief Medical Officer for Wales and therefore has regard to devolved matters."²¹

26. Accordingly, the Cabinet Secretary considers that consent is required for these provisions.²² As regards the UK Government's position, this remains unchanged.²³

2. Committee Consideration

27. We considered and agreed our report at our meeting on 15 September 2025.²⁴

Our view

28. We note the Welsh Government's assessment of the provisions within the Bill that require the consent of the Senedd as set out in the Memorandum and Memorandum No 2.

29. We also note the position of the UK Government as regards consent.

Conclusion 1. Subject to recommendation 1, we agree with the Welsh Government's assessment of the provisions within the Bill, as set out in the Memorandum and Memorandum No. 2, that require the consent of the Senedd in accordance with Standing Order 29.

30. The Bill creates a regulatory framework within which assistance can lawfully be provided to another to end their own life, and that framework would be delivered largely in an NHS setting. In our view that meets the test in Standing Order 29.1 of covering matters that have regard to devolved matters. We therefore asked the Cabinet Secretary why clauses 1 to 28, 31 to 36, 38, 40 to 44, 46, 48, 49 and 51 to 53 of the Bill (as amended in Public Bill Committee) did not require consent. The Cabinet Secretary replied:

²¹ Memorandum No. 2, paragraph 21

²² Memorandum No. 2, paragraph 18

²³ Memorandum No. 2, paragraph 17

²⁴ Legislation, Justice and Constitution Committee, 15 September 2025

*"Our assessment of the Bill in line with the test in Standing Order 29 of the Senedd's Standing Orders (SO29) concluded that the consent of Senedd Cymru is required in respect of clauses 37, 39, 45, 47, 50 and 54. We concluded that the test in SO29 was not met in respect of the other clauses raised in your letter. We are unable to disclose the details of our assessment as to do so would waive legal professional privilege."*²⁵

31. We are surprised by this response, particularly in the context of the legislative consent process and the role of the Senedd in that process.

32. Health is broadly devolved to the Senedd. The Committee has reached the view that the majority of these Bill provisions have regard to the devolved matter of health because the Bill provisions place duties on the health professionals who will assist an individual to end their life by administering medical care, and also in relation to many of the crucial safeguards built in to how that care is delivered in order to protect the public. We are therefore surprised that the Cabinet Secretary is unable to provide any insight into the government's alternative interpretation without comprising legal professional privilege. We anticipate that would assist the Senedd to make an informed decision and would be consistent with previous handling of legislative consent memoranda between the government and the Senedd, which inevitably engages questions of competence.

33. In the absence of any evidence from the Welsh Government to the contrary, we believe that clauses in the Bill that are relevant to the NHS setting and regulatory framework within which a person may lawfully receive assistance to end their own life require the consent of the Senedd (this includes new clauses added to the Bill by amendment at Report Stage in the House of Commons).

Recommendation 1. We consider that the Senedd's consent is required for clauses 1 to 31, 34 to 40 and 42 to 59 of the Bill (as brought from the Commons).

34. We note that the Welsh Government's principles on UK legislation in devolved areas state that the following factors form part of its consideration on whether to recommend consent to UK Bills:

- delegated powers in UK Bills in devolved areas should be conferred on the Welsh Ministers alone;
- UK Bills should not create concurrent powers;

²⁵ Letter from the Cabinet Secretary, 30 June 2025

- if, in “exceptional cases”, the Welsh Ministers agree to the creation of concurrent powers, such powers should be subject to relevant consent mechanisms and associated ‘carve outs’ from the *Government of Wales Act 2006* (the 2006 Act), such that no consent is required for the Senedd to remove the powers in future.²⁶

35. The Bill does not appear to include a relevant consent mechanism for circumstances in which UK Ministers exercise the power provided in clause 40 of the Bill (as brought from the Commons) in a devolved area and an associated ‘carve out’ to the 2006 Act.

Recommendation 2. The Minister should explain why the Bill (as brought from the Commons) creates a concurrent power in clause 40 that is not subject to a relevant consent mechanism and an associated ‘carve out’ from the *Government of Wales Act 2006*.

36. Clause 58(4) of the Bill (as brought from the Commons) contains a four-year commencement “backstop” in England i.e. it provides that if any provisions of the Bill have not been brought into force by Order within four years Royal Assent, they are automatically commenced. However, paragraph 16 of Memorandum No. 2 suggests that the commencement backstop also applies to the Welsh Ministers’ commencement powers in clause 58(5) in relation to sections 42(1), 42(2), 51(2) and 51(3) of the Bill (as brought from the Commons), when this does not appear to be the case by virtue of the wording of that clause.

Recommendation 3. The Cabinet Secretary should confirm that the Welsh Ministers may commence sections 42(1), 42(2), 51(2) and 51(3) of the Bill (as brought from the Commons) by regulations only and that no automatic commencement backstop applies.

²⁶ Welsh Government, *Principles on UK Legislation in devolved areas*, December 2024