

# **The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Terminally Ill Adults (End of Life) Bill**

January 2026



## 1. Background

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

**1.** The Terminally Ill Adults (End of Life) Bill<sup>1</sup> (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.<sup>2</sup>

**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."<sup>3</sup>*

**3.** On its introduction, the Bill had 43 clauses and 6 Schedules.

**4.** 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.<sup>4</sup> At the time we agreed our report the Bill was at Committee Stage in the House of Lords.

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

**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.<sup>5</sup>

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<sup>1</sup> Terminally Ill Adults (End of Life) Bill, as introduced (Bill 12)

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

<sup>3</sup> Terminally Ill Adults (End of Life) Bill as introduced, page 1

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

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

**7.** On 4 July 2025 the Cabinet Secretary laid before the Senedd a Supplementary Legislative Consent Memorandum (Memorandum No. 2) in respect of the Bill.<sup>6</sup>

**8.** In these memoranda the Welsh Government was seeking consent for certain clauses in the Bill as set out in paragraphs 9 and 10 below.

**9.** In the Memorandum (in relation to the Bill as amended in Public Bill Committee in the House of Commons<sup>7</sup>) consent was being sought for:

- clause 37 – Guidance about operation of Act;
- clauses 39(1), (2), (5) and (6) – Voluntary assisted dying services: Wales;<sup>8</sup>
- clause 45 – Monitoring by Commissioner;<sup>9</sup>
- clause 47(4) – Provision of information in English and Welsh;
- clauses 50(1), (2), (5) and (6) – Regulations;<sup>10</sup>
- clauses 54(6), (8) and (9) – Commencement.<sup>11</sup>

**10.** In Memorandum No. 2 (concerning amendments agreed to the Bill at Report Stage in the House of Commons<sup>12</sup>), it was noted that amendments omitted clauses 37, 47 and 54(6) for which consent was previously sought in the Memorandum. As a consequence, Memorandum No. 2 sought consent for three replacement clauses:

- clause 40 – Guidance about operation of Act;
- clause 51 – Provision about the Welsh language;
- clause 58(5) – concerning commencement.

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<sup>6</sup> Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No. 2\) on the Terminally Ill Adults \(End of Life\) Bill](#), 4 July 2025

<sup>7</sup> [Terminally Ill Adults \(End of Life\) Bill](#), as amended in Public Bill Committee (Bill 212)

<sup>8</sup> HL Bill 112 (as brought from the Commons), clause 42

<sup>9</sup> HL Bill 112 (as brought from the Commons), clause 49

<sup>10</sup> HL Bill 112 (as brought from the Commons), clause 54

<sup>11</sup> HL Bill 112 (as brought from the Commons), clause 58

<sup>12</sup> HL Bill 112 (as brought from the Commons)

**11.** We reported on the Memorandum and Memorandum No. 2 on 7 October 2025 (our first report).<sup>13</sup>

**12.** Our first report expressed the view 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).<sup>14</sup> The Welsh Government responded to our report on 18 November 2025.<sup>15</sup> In that response, the Cabinet Secretary rejected our view, stating:

*“... our assessment under Standing Order 29 (SO29) concluded that the consent of the Senedd is required only in respect of provisions in clauses 40, 42, 49, 51, 54, and 58. For the other clauses referenced by the committee, our assessment determined that the test in SO29 was not met.*

*As explained previously, we are unable to provide further detail on this assessment without waiving legal professional privilege... ”<sup>16</sup>*

## **The Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 3)**

**13.** On 23 December 2025 the Cabinet Secretary laid before the Senedd a Supplementary Legislative Consent Memorandum (Memorandum No. 3) in respect of the Bill.<sup>17</sup>

**14.** Memorandum No 3 states that:

*“Between 14 November 2025 to 18 December 2025, a total of 1,159 amendments have been tabled in the Lords, and as the Bill continues through Committee Stage, this number is expected to rise. The Bill Sponsor has, up to 16 December 2025,*

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<sup>13</sup> Legislation, Justice and Constitution Committee, [The Welsh Government's Legislative Consent Memoranda on the Terminally Ill Adults \(End of Life\) Bill](#), October 2025

<sup>14</sup> Legislation, Justice and Constitution Committee, The Welsh Government's Legislative Consent Memoranda on the Terminally Ill Adults (End of Life) Bill, October 2025, recommendation 1

<sup>15</sup> Welsh Government, [Response to the Legislation, Justice and Constitution Committee's report](#), 18 November 2025

<sup>16</sup> Welsh Government, Response to the Legislation, Justice and Constitution Committee's report, 18 November 2025, response to recommendation 1. See also [Letter to the Cabinet Secretary](#), 19 May 2025 and [Letter from the Cabinet Secretary](#), 30 June 2025

<sup>17</sup> Welsh Government, [Supplementary Legislative Consent Memorandum \(Memorandum No. 3\) on the Terminally Ill Adults \(End of Life\) Bill](#), 23 December 2025

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*tabled 36 amendments. Of these, 5 amendments have been identified as having regard to devolved matters. (...)*

*This SLCM is laid at a point where the amendments identified above have been tabled by the Bill Sponsor but have not yet been formally agreed by the House of Lords. This reflects the exceptionally high volume of amendments under consideration and the extended Committee Stage timetable. Laying the Memorandum at this stage is intended to ensure that Senedd Cymru has a meaningful opportunity to scrutinise and debate those proposed amendments most likely to engage devolved matters, and to mitigate the risk that consent could not be sought within the available parliamentary timetable were the Memorandum delayed until later stages of the Bill.*

*The amendments that make provisions which have regard to devolved matters, are detailed in paragraphs 13 to 16 below.*<sup>18</sup>

**15.** As regards the Bill's passage through the House of Lords, Memorandum No. 3 states:

*"Committee Stage began on 14 November 2025 and is currently expected to conclude on 24 April 2026, with its Report Stage and Third Reading anticipated to begin shortly thereafter."*<sup>19</sup>

**16.** Paragraphs 13 to 16 of Memorandum No. 3 set out the Welsh Government's summary of five amendments, to four clauses of the Bill (as brought from the Commons), which they consider require the Senedd's consent. These are:

- Clause 47 (Reporting on implementation of Act) requires the Secretary of State to report about the implementation of the Act. Amendment 784 inserts a new subsection (3A) requiring the Secretary of State to consult the Welsh Ministers when reporting under this section.
- Clause 49 (Monitoring by Commissioner) requires the Assisted Dying Commissioner to monitor, and report annually, on the operation of the Act. Amendment 804 to this clause requires annual reports to include the most recent report of the Disability Advisory Board established by

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<sup>18</sup> Memorandum No 3, paragraphs 4 to 6

<sup>19</sup> Memorandum No 3, paragraph 11

the Bill. Amendment 809 requires the Commissioner to consult the Disability Advisory Board when preparing an annual report.

- Clause 50 (Review of this Act) requires the Secretary of State to review and report on the operation of the Act 6 years after Royal Assent. Amendment 824 requires the Secretary of State to consult the Welsh Ministers when undertaking that review.
- Clause 55 (Duty to consult before making regulations) amends the Welsh Ministers' proposed regulation-making power in clause 42 to make provision about voluntary assisted dying services in Wales. The amendment (unnumbered at the time Memorandum No. 3 was laid) requires the Welsh Ministers to consult such persons as they consider appropriate before exercising that power.

**17.** As regards the position of the UK Government, paragraph 17 of Memorandum No. 3 states:

*"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 the House of Commons Report stage but have acknowledged that some clauses do cut across devolved matters. I agree with this assessment and will continue to liaise with UKG and assess this position as the Bill progresses in the remaining stages of the Lords."*

## 2. Committee Consideration

**18.** We considered Memorandum No. 3 at our meeting on 12 January 2026.<sup>20</sup> Following that meeting, we wrote to the Business Committee expressing concern at the likely timetable for scrutiny, requesting that we be given enough time to effectively scrutinise Memorandum No 3, which would mean holding the consent motion debate later than the scheduled 20 January 2026.<sup>21</sup>

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<sup>20</sup> [Legislation, Justice and Constitution Committee](#), 12 January 2026

<sup>21</sup> [Letter to the Business Committee](#), 12 January 2026

**19.** On 13 January 2026, the Business Committee set a reporting deadline of 20 January 2026 for Memorandum No. 3.<sup>22</sup> We considered and agreed our report at our meeting on 19 January 2026.<sup>23</sup>

**20.** Subsequently, the Welsh Government postponed the consent motion debate to 24 February 2026 and the Business Committee set a revised reporting deadline of 23 February 2026 for Memorandum No. 3.<sup>24</sup> We considered and agreed a revised version of our report on 26 January 2026.<sup>25</sup>

## Our view

**21.** Having considered the Memorandum and the Bill, our assessment was that the majority of the clauses in the Bill required the consent of the Senedd. When we asked the Welsh Government in correspondence why consent was not being sought for these clauses we were told that its assessment determined that the test in Standing Order 29 was not met but it could not disclose the details of its assessment "as to do so would waive legal professional privilege."<sup>26</sup> Our first report expressed surprise at this response and stated:

*"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*

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<sup>22</sup> Business Committee, Timetable: Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Terminally Ill Adults (End of Life) Bill, 13 January 2026

<sup>23</sup> Legislation, Justice and Constitution Committee, 19 January 2026

<sup>24</sup> Business Committee, Revised timetable for consideration: Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Terminally Ill Adults (End of Life) Bill, 20 January 2026

<sup>25</sup> Legislation, Justice and Constitution Committee, 26 January 2026

<sup>26</sup> Letter to the Cabinet Secretary, 19 May 2025 and Letter from the Cabinet Secretary, 30 June 2025

*government and the Senedd, which inevitably engages questions of competence.*

*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).<sup>27</sup>*

**22.** We are disappointed that, in response to our first report, the Welsh Government has repeated its unhelpful view that it cannot provide further information about its assessment without waiving legal professional privilege.

**23.** To date we have considered 188 legislative and supplementary legislative consent memoranda relating to 72 UK Government Bills and we are not aware of the Welsh Government previously expressing concerns in relation to legal professional privilege when providing information about their assessment of UK Bill provisions that have regard to devolved matters.

**Recommendation 1.** The Cabinet Secretary should explain why concerns about legal professional privilege prevent information about the Welsh Government's assessment being provided in relation to consideration of these memoranda, but not the 185 memoranda related to 71 other UK Government Bills considered to date by the Committee.

**24.** Our view remains as set out in recommendation 1 of our first report.

**25.** We note the Welsh Government's assessment of the provisions within the Bill that require the consent of the Senedd as set out in Memorandum No. 3.

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

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<sup>27</sup> Legislation, Justice and Constitution Committee, The Welsh Government's Legislative Consent Memoranda on the Terminally Ill Adults (End of Life) Bill, October 2025, paragraphs 32 to 33

**Recommendation 2.** We agree with the Welsh Government's assessment, as set out in Memorandum No. 3, that the amendments to clauses 47, 49, 50 and 55 of the Bill (as brought from the Commons) require the consent of the Senedd in accordance with Standing Order 29.

**27.** We wrote to the Business Committee to seek a longer timeframe in which to report, to enable us to seek further information from the Welsh Government about Memorandum No. 3. Specifically, we wanted to request information about other proposed amendments to the Bill that are likely to have regard to devolved matters but are not addressed in Memorandum No. 3, either directly or through an appropriate explanatory narrative. In particular, we would also have liked the Welsh Government to explain why it is seeking consent for some amendments to clauses 47, 49, 50 and 55 but not for other amendments tabled in relation to those same clauses. It appears to the Committee that if any of those other amendments are agreed in the UK Parliament, the substance of these clauses may be changed, as compared to how they have been assessed by both the Welsh Government and this Committee.

**28.** The time available for reporting has not enabled us to write to seek the Welsh Government's views on these matters, so our observations below, and recommendation 13, seek to provide a mechanism for that clarity to be provided before the debate on the legislative consent motion takes place.

**29.** Memorandum No. 3 concerns five amendments to the Bill, which at the time this report was agreed, had not been considered and voted on in the House of Lords.

**Recommendation 3.** The Cabinet Secretary should advise whether:

- i. he believes the five amendments that are the subject of Memorandum No 3 will have been considered and voted on before the consent motion is debated on 24 February; and,
- ii. if not, explain why in his view it is appropriate for a legislative consent motion debate to take place in relation to amendments to clauses in the Bill before a decision on whether to agree to those amendments, has been taken in the House of Lords.

**30.** Memorandum No. 3 also references a further 1,154 amendments tabled to the Bill. However, Memorandum No. 3 does not confirm what assessments the Welsh Government has made in relation to any of these 1,154 amendments, or whether the Welsh Government considers that any of these amendments may

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make provision with regard to devolved matters. Furthermore, no narrative about these amendments is provided in Memorandum No. 3 and, therefore, no explanation as to whether any of those 1,154 amendments are likely to require, or will require, the Senedd's consent if passed.

**Recommendation 4.** The Cabinet Secretary should explain the Welsh Government's rationale for selecting only the five amendments of 1,159 tabled for inclusion in Memorandum No. 3.

**Recommendation 5.** The Cabinet Secretary should clarify whether the Welsh Government has made any assessment of whether the other 1,154 amendments tabled in the House of Lords between 14 November 2025 and 18 December 2025 have regard to devolved matters and, if not, state the reasons for that decision.

**Recommendation 6.** The Cabinet Secretary should explain what the implications would be if any of those 1,154 amendments have regard to devolved matters and are passed into law without having received the consent of the Senedd.

**31.** The fourth marshalled list of amendments for Committee Stage in the House of Lords<sup>28</sup> indicates that 62 other amendments are proposed to the four clauses which are the subject of Memorandum No. 3, namely clauses 47, 49, 50 and 55.

**Recommendation 7.** The Cabinet Secretary should clarify whether the Welsh Government has made an assessment of whether the other 62 amendments tabled to clauses 47, 49, 50 and 55 of the Bill (as brought from the Commons) have regard to devolved matters and, if not, state the reasons for that decision.

**Recommendation 8.** If, in the view of the Welsh Government, any of these additional 62 amendments to clauses 47, 49, 50 and 55 of the Bill have regard to devolved matters and are subsequently agreed, the Cabinet Secretary should explain:

- i. the impact of the decision to agree those amendments on the consent being sought for those same clauses via Memorandum No. 3;
- ii. what the outcome would be if consent was given to the amendments to clauses referred to in Memorandum No. 3 but those amendments were subsequently not agreed, while other amendments to those

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<sup>28</sup> Terminally Ill Adults (End of Life) Bill, Fourth Marshalled List of Amendments to be Moved in Committee of the Whole House, 10 December 2025

clauses, which have regard to devolved matters but are not the subject of Memorandum No. 3, are agreed;

- iii. in the circumstances described in bullet ii, what the Welsh Government consider the Senedd would have consented to.

**32.** We appreciate that the timetable for the Bill's scrutiny in the House of Lords and its overlap with the end of the Sixth Senedd and dissolution, as well as the Bill being a Private Members' Bill, makes the handling of issues related to legislative consent problematic.

**33.** Our concern is to ensure that the Senedd is clear about what it is being asked to give consent to and the implications of that decision.

**Recommendation 9.** If not specifically included in the motion, to ensure the Senedd is clear about what it is being asked to consent to, the Cabinet Secretary should list the clauses and the amendments to clauses in the Bill (as brought from the Commons) for which consent is being sought.

**34.** We believe it is important to highlight a few key points relevant to the debate on this motion and draw them to the attention of the Senedd.

**35.** The Bill seeks to amend the *Suicide Act 1967*. This a reserved matter and, as a result, the Senedd could not itself pass a law on assisted dying as set out in the Bill.

**36.** However, clause 42 of the Bill (as brought from the Commons)<sup>29</sup> provides that the Welsh Ministers may by regulations make provision about voluntary assisted dying services in Wales, and section 58(5) provides a power for the Welsh Ministers to commence clause 42 (albeit, this issue would likely be a matter for the next Welsh Government and Senedd, given the proximity of the next Welsh general election).

**Recommendation 10.** The Cabinet Secretary should explain what the implications would be for assisted dying in Wales if the Senedd was to provide consent in accordance with the memoranda, and section 42 of the Bill (as brought from the Commons and if enacted) was subsequently not commenced by the Welsh Ministers in the future.

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<sup>29</sup> Previously section 39 in the Memorandum and as contained in Bill 212 (as amended in Public Bill Committee in the House of Commons)

**Recommendation 11.** The Cabinet Secretary should explain what the implications would be for assisted dying in Wales if the Senedd was to withhold consent to the Bill in accordance with the memoranda.

**Recommendation 12.** In responding to recommendations 10 and 11, the Cabinet Secretary should provide explanations by reference to NHS and non-NHS services.

**Recommendation 13.** Responses to these recommendations should be provided to the Committee as soon as possible and no later than Wednesday 11 February 2026.