

Report on Supplementary Legislative Consent Memorandum (Memorandum No. 3) for the Terminally Ill Adults (End of Life) Bill

February 2026

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Conclusions and recommendations

Conclusions

Conclusion 1. As a Committee, we remain neutral on the matter of voluntary assisted dying for terminally ill adults in Wales. As such, and in line with our report on the previous consent memoranda, we do not offer any view as to whether the Senedd should support Memorandum No. 3. This remains a matter of conscience for individual Members.

Recommendations

Recommendation 1. In advance of the consent debate, the Cabinet Secretary should set out:

- why he has chosen to include only the five amendments tabled by the Bill sponsor to the four clauses named in Memorandum No.3; and
- given the likelihood that at least some of the other amendments to those clauses will have regard to devolved matters, what assessment he has made of those amendments in that regard and why they have been omitted from Memorandum No.3.

Recommendation 2. In advance of the consent debate, the Cabinet Secretary should provide further information about his decision to adopt a narrow approach when deciding which provisions of the Bill have regard to devolved matters and are therefore subject to a consent request. A direct consequence of this decision is to potentially limit the involvement of the Senedd in a decision of considerable public importance in an extensively devolved policy area. Given the significance of the subject matter and the strength of the public interest arguments, we believe that the Cabinet Secretary should put more information on his decision into the public domain, and that to do so would be possible without compromising the legal advice he has been given on this matter.

1. Background

The 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 on 16 October 2024. It is a private member’s bill, sponsored by Kim Leadbeater, MP for Spen Valley, in the House of Commons and Lord Falconer of Thoroton in the House of Lords.
- 2.** The Bill relates to choice at the end of life, to allow adults who are terminally ill to request and to be provided with assistance to end their own life, subject to safeguards and protections.
- 3.** Currently it is a criminal offence, by virtue of section 2 of the Suicide Act 1961, to intentionally assist or encourage the suicide or attempted suicide of another person. 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. This will ensure that neither the registered medical practitioner, nor any other person who supports the terminally ill person to seek assistance under the Act, faces criminal liability for doing so.
- 4.** The policy objective of the Bill is achieved firstly by amending the Suicide Act 1961 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. Therefore if a person assists another’s suicide otherwise than in accordance with the Bill, such action will remain an offence under section 2 of the Suicide Act 1961.

2. The Legislative Consent Memoranda

- 5.** On 9 April 2025, the Cabinet Secretary for Health and Social Care (“the Cabinet Secretary”) laid a legislative consent memorandum² (“the LCM”) for the Bill.

¹ Terminally Ill Adults (End of Life) Bill, as amended in Public Bill Committee

² Legislative Consent Memorandum for the Terminally Ill Adults (End of Life) Bill

6. A supplementary LCM, “Memorandum No. 2”³ was laid on 4 July 2025. This memorandum related to amendments agreed during Report stage of the Bill in the House of Commons, which took place on 20 June 2025.

7. A further supplementary LCM, “Memorandum No.3”⁴ was laid on 23 December 2025. This memorandum relates to amendments tabled as part of the Committee Stage in the House of Lords. That stage is still in progress at the time of preparing this report, with amendments yet to be considered and a decision taken on them.

Our consideration of the Memoranda

8. We have previously considered and reported on the LCM and Memorandum No.2.⁵

9. On 13 January 2026, the Business Committee referred Memorandum No.3 to us with a reporting deadline of 20 January, which was subsequently extended to 23 February 2026. Memorandum No.3 was also referred to the Legislation, Justice and Constitution Committee.

10. In the time available, we were not able to consult on Memorandum No. 3, although we considered its contents at our meeting on 15 January 2026.

Five amendments for which consent is being sought

11. Memorandum No.3 sets out that, between 14 November 2025 and 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. It goes on to state that the Bill Sponsor has, up to 16 December 2025, tabled 36 amendments, of which five amendments have been identified as having regard to devolved matters. It further states that Memorandum No.3 has been laid at a point where these five amendments have been tabled by the Bill Sponsor but have not yet been formally agreed by the House of Lords.⁶

³ Supplementary Legislative Consent Memorandum (Memorandum No 2): Terminally Ill Adults (End of Life) Bill

⁴ Supplementary Legislative Consent Memorandum No.3 for the Terminally Ill Adults (End of Life) Bill. Welsh Government

⁵ Senedd Cymru – Legislative Consent: Terminally Ill Adults (End of Life) Bill

⁶ Memorandum No.3, paragraphs 4-5

12. The Welsh Government considers that consent is required in respect of five amendments to four clauses, namely clauses 47, 49, 50 and 55⁷. Paragraphs 13 to 17 of Memorandum No.3 provide a summary of these amendments:

- **Clause 47 (as amended by amendment 784) – Reporting on the Implementation of Act:** requires the Secretary of State to report upon implementation of the Act. The amendment inserts a new subsection (3A) requiring the Secretary of State to consult the Welsh Ministers when reporting under this section;
- **Clause 49 (as amended by amendments 804 and 809) – Monitoring by the Commissioner:** requires the Assisted Dying Commissioner to monitor, and report annually, on the operation of the Act. The first amendment to this clause requires annual reports to include the most recent report of the Disability Advisory Board established by the Bill. The second amendment requires the Commissioner to consult the Disability Advisory Board when preparing an annual report;
- **Clause 50 (as amended by amendment 824) – Review of this Act:** requires the Secretary of State to review and report on the operation of the Act 6 years after Royal Assent. The amendment requires the Secretary of State to consult the Welsh Ministers when undertaking that review;
- **Clause 55 (as amended by an unnumbered amendment to be confirmed) – 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 requires the Welsh Ministers to consult such persons as they consider appropriate before exercising that power.

The UK and Welsh Governments' position

13. Both the Welsh Government and the UK Government remain neutral on the issue of voluntary assisted dying for terminally ill adults. The Welsh Government states it is also neutral, by extension, on the appropriateness of this matter and its inclusion in a UK Bill.⁸

14. More specifically in relation to Memorandum No.3, paragraph 17 states:

⁷ Memorandum No.3, paragraph 12

⁸ Memorandum No.3, paragraphs 7 and 23

“The UKC 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 UKC and assess this position as the Bill progresses in the remaining stages of the Lords.”

Our view

15. As a Committee, we continue to take a neutral position on the matter of voluntary assisted dying for terminally ill adults. Our consideration of the Terminally Ill Adults (End of Life) Bill has been focused purely on the provisions of that Bill which are the subject of the three legislative consent memoranda that have been laid before the Senedd.

16. We feel it is important to emphasise that the consent debate on the three memoranda for this Bill that have been laid to date will not be a debate about the principle of assisted dying for terminally ill adults in Wales. Rather, it will be a debate about whether, if this Bill continues its passage through Parliament, the Senedd consents to the Welsh Ministers being given the power to provide for voluntary assisted dying services in Wales via the NHS (and, by extension, for the Welsh Ministers to decide when that should happen), and associated governance arrangements as set out in the Bill. This is an important distinction, and the two matters should not be conflated.

17. A decision by the Senedd to give consent to these memoranda will not necessarily lead to the provision of assisted dying services by the NHS in Wales. That will depend upon if and how a future Welsh Government chooses to exercise the regulation-making power that this Bill provides them with. Instead, a decision by the Senedd to give consent to these memoranda would (subject to the Bill receiving Royal Assent) give a future Welsh Government the power to bring forward regulations providing for such NHS services in Wales, to be subject to scrutiny by the Senedd, the public and stakeholders.

18. In our previous report, we highlighted the potential for the availability of assisted dying services to be different in England and Wales. This could be for two reasons. Either because the Senedd withholds consent for these memoranda, in which case, it is reasonable to expect the powers for the Welsh Ministers to be removed from the Bill by further amendment; or because the Senedd gives consent to the memoranda (and the Bill receives Royal Assent), but

a future Welsh Government chooses not to bring forward regulations or does so at a different time to England (or makes different provision).

19. We wish to, once again, draw attention to the significant implications of an asymmetrical cross-border approach, which would likely include uncertainty and inequity for patients, and operational challenges for health professionals.

Conclusion 1. As a Committee, we remain neutral on the matter of voluntary assisted dying for terminally ill adults in Wales. As such, and in line with our report on the previous consent memoranda, we do not offer any view as to whether the Senedd should support Memorandum No. 3. This remains a matter of conscience for individual Members.

20. As we stated in our last report, we are acutely aware that the Bill is still progressing through its amending stages in the UK Parliament. As such, its final, settled form is currently unknown, and there is no clear indication of what that final form will eventually look like, particularly given the sheer number of amendments that have been tabled for consideration at Committee Stage in the House of Lords.

21. In bringing forward Memoranda No.3, the Welsh Government has chosen to seek consent for only five amendments to four clauses, with other amendments to those same clauses not being the subject of the consent request. The rationale for this seems to be that those five amendments were tabled by the Bill sponsor, however, there is no guarantee that, as such, they will be agreed.

22. It seems likely that at least some of the other amendments to those clauses (i.e. the amendments that are not included in Memorandum No.3) will have regard to devolved matters, but the Cabinet Secretary has not explained what assessment has been made of those amendments in that regard, and why they have been omitted from the Memorandum.

23. In the interests of clarity, we believe there is merit in the Welsh Government setting out why it has taken this approach.

Recommendation 1. In advance of the consent debate, the Cabinet Secretary should set out:

- Why he has chosen to include only the five amendments tabled by the Bill sponsor to the four clauses named in Memorandum No.3; and

- Given the likelihood that at least some of the other amendments to those clauses will have regard to devolved matters, what assessment he has made of those amendments in that regard and why they have been omitted from Memorandum No.3.

24. We have previously recorded our concerns about the decision by the Welsh Government to take a narrow approach to the question of consent with this Bill, and recommended that the Cabinet Secretary should set out his reasons for taking this approach. In his response to our previous report, the Cabinet Secretary stated:

“While health is a broadly devolved area, our assessment concluded that only the clauses identified in the Legislative Consent Memoranda have regard to devolved matters and therefore require the consent of the Senedd under Standing Order 29. The Bill seeks to enable adults who are terminally ill to be lawfully provided with assistance to end their own life. The primary mechanism through which the Bill achieves this is via modification of the current criminal offence in section 2 of the Suicide Act 1961, which is restricted under Schedule 7B to the Government of Wales Act 2006.

25. We have considered his response, and we remain of the view that a broader approach would have concluded that the majority of clauses in the Bill require consent, as the core provisions of the Bill will be delivered in a medical setting, with the policy aim of alleviating pain and suffering. In this way, they could reasonably be considered to have regard to the extensively devolved matter of ‘health’.

26. As such, we continue to believe that some further explanation could and should be provided by the Cabinet Secretary for his decision not to adopt a broader approach to the matter of consent. A direct consequence of this decision is to potentially limit the involvement of the Senedd in a decision of considerable public importance in an extensively devolved policy area. Given the significance of the subject matter and the strength of the public interest arguments, we believe it would be possible for the Cabinet Secretary to put more information on his decision into the public domain without compromising the legal advice he has been given on this matter.

Recommendation 2. In advance of the consent debate, the Cabinet Secretary should provide further information about his decision to adopt a narrow

approach when deciding which provisions of the Bill have regard to devolved matters and are therefore subject to a consent request. A direct consequence of this decision is to potentially limit the involvement of the Senedd in a decision of considerable public importance in an extensively devolved policy area. Given the significance of the subject matter and the strength of the public interest arguments, we believe that the Cabinet Secretary should put more information on his decision into the public domain, and that to do so would be possible without compromising the legal advice he has been given on this matter.