Terminally Ill Adults (End of Life) Bill

House of Commons report stage, 16 May 2025

The Law Society of England and Wales is the independent professional body that works globally to support and represent 200,000 solicitors, promoting the highest professional standards and the rule of law.

Key points

- While the Law Society is neutral on whether or not the Bill should be passed, we consider that if it is, the law must be clear.
- The Bill must have robust, accessible and independent safeguards, as well as strong independent monitoring and review mechanisms to uphold the rule of law.
- We recommend that Parliament clarify how Assisted Dying Review Panels would deal with and decide cases, including the role lawyers may play in the process (including as potential panel members) and the availability of legal aid.
- We recommend that Parliament consider how capacity would be assessed under the Bill, with a view to making this clearer in the Bill or (at a minimum) in statutory guidance.
- We recommend that Parliament make what constitutes pressure clearer in the Bill and/or statutory guidance.
- The Bill should also appropriately balance robust protections against coercion and pressure with the aims of the legislation, so that assistance under the Bill is accessible in practice to those who are eligible.
- We recommend that Parliament revisit the term "next of kin" and further strengthen the Bill's provisions on the use of proxies.
- We recommend that Parliament consider how best to ensure there are strong independent mechanisms for monitoring and reviewing the Act.
- We support the widest possible consultation on all matters proposed to be left to regulations, codes of practice and other guidance, and emphasise these materials must be published before any legislation fully enters into force.

Introduction

The Law Society does not take a position on the principle of the Bill, which raises significant moral and ethical issues.

With this briefing, informed by the expertise of our members, we seek to help parliamentarians ensure that the Bill has sufficiently robust safeguards that can work in practice.

The Bill's safeguards were amended during committee stage - most notably, the Bill would now require each case to be considered by an Assisted Dying Review Panel rather than the High Court.

We continue to have concerns about the time constraints for considering this legislation, particularly in view of the substantial changes made during committee stage.

Important questions about how the scheme would work must be addressed during the Bill's legislative passage to ensure that any law that is passed is fit for purpose.

1. Assisted Dying Review Panels

The third stage of approval, after the person has made their first declaration and been assessed by independent doctors, was changed during committee stage. Instead of a declaration by the High Court, the Bill would now require a person to obtain a "certificate of eligibility" from a multidisciplinary panel comprising a senior legal figure, a psychiatrist and a social worker (the Panel).[1]

Like the High Court in the Bill as first drafted, the Panel would need to determine whether it is satisfied that the person's declaration, assessments and reports meet the Act's requirements, and that the person is eligible.[2] However, unlike the High Court, the Panel would be an administrative body - not a court or tribunal.[3] The Panel is intended to play an inquisitorial and investigative role in each case, rather than facilitate an adversarial process like a court deciding a dispute based on arguments from different sides.[4]

A senior judge may be involved with the process as the chair of a Panel,[5] but they would not be sitting as a judge in that role.[6] The Voluntary Assisted Dying Commissioner (the Commissioner) - who would be responsible for appointing and overseeing Panels, reconsidering certain Panel decisions, and monitoring and reporting on the Act's operation – must hold or have held office as a senior judge, but would not be sitting as a judge in that position.[7]

So while senior judges may be involved with the scheme in different ways, what is now proposed would operate outside the court and tribunal system. It is unclear why the Panels should not sit within the tribunal system. Decisions made by the Panels or the Commissioner would be subject to judicial review.[8]

The Panels could be beneficial in bringing a broader range of relevant expertise to bear when considering the difficult issues in these cases. There is also a risk the panel process

[1] Clause 23(1)(a); Schedule 2, paragraph 2(2).
[2] Clause 15(2). See also, Terminally Ill Adults (End of Life) Bill (as introduced), clause 12(3).
[3] See Sarah Sackman KC MP, Minister of State in the Ministry of Justice, *Parliamentary debates* (Committee Stage, 12 March 2025) 1102.
[4] See Kim Leadbeater MP, *Parliamentary debates* (Committee Stage, 12 March 2025) 1021.
[5] Schedule 2, paragraph 2(2)(a)(i); see also, Schedule 2, paragraph 2(2)(a)(iii).
[6] See Kim Leadbeater MP, *Parliamentary debates* (Committee Stage, 11 March 2025) 983.
[7] Clause 4(3); see Sarah Sackman KC MP, Minister of State in the Ministry of Justice, *Parliamentary debates* (Committee Stage, 12 March 2025) 1096.
[8] See Sarah Sackman KC MP, Minister of State in the Ministry of Justice, *Parliamentary debates* (Committee Stage, 12 March 2025) 1111.

could be more complex. We recommend that Parliament closely consider how the Panels should deal with and decide cases in practice, with a view to ensuring the safeguards are robust without being inaccessible to terminally ill people.

Considering how panels should deal with and decide cases

The Bill would require the Panel to be satisfied that the requirements for sections 7 to 11 of the Act have been met and that the person is eligible.[9] The Bill provides some guidance on how it should fulfil this function.[10] The Bill also provides the Commissioner with discretion to give guidance about panel practice and procedure, which the Panel must have regard to.[11] Subject to this, the Panel could "adopt such procedure as it considers appropriate for the case".[12]

We agree it is appropriate to leave some detail to secondary legislation and guidance, and to ensure Panels have the flexibility to deal with different cases appropriately. However, leaving key outstanding details about panel practice and procedure to be developed in discretionary guidance by the Commissioner (or dealt with by Panels in an ad hoc way) could create uncertainty. It could also result in less scrutiny, reducing Parliament's ability to ensure that the process provides robust safeguards. **Parliament should consider setting out further detail on panel practice and procedure in the Bill and/or secondary legislation, publicly consulted on and issued before the Bill fully commences.**

a. Assessing eligibility

Firstly, Parliament should consider how the Panel should go about satisfying themselves that the person is eligible[13] (not just that the Act has been complied with) and ensure it is clear for Panel members. The Bill would require the Panel to hear from at least one of the assessing doctors and (in most cases) the person themselves.[14]

This suggests the Panel would need to do more than review declarations and reports to check they do not disclose obvious errors or contain unreasonable conclusions. It appears it may need to assess the person in some way to be satisfied they have capacity, a clear settled and informed wish to end their life, and made their first declaration voluntarily.[15]

This may be complicated if, as the Bill provides, there are exceptional circumstances in which the Panel does not need to hear from the person.[16] We agree the process must be responsive to a person's individual circumstances, where they will be reasonably expected to have less than six months to live, may be very unwell, and have already been assessed as eligible by independent doctors. Parliament must carefully consider how to appropriately balance this reality against the need for rigour.
Parliament should consider clarifying the circumstances that may be considered exceptional such as to justify not hearing from the person, and how the Panel is to

[9] Clause 15(2).
[10] Clause 15(4)-(6); Schedule 2, paragraphs 5-7, 9.
[11] Schedule 2, paragraph 8.
[12] Clause 15(3).
[13] Clause 15(2)(b)-(i).
[14] Clause 15(4)(a)-(b); see also clause 15(6).
[15] Clauses 15(2)(c), 15(2)(h), 15(2)(i).
[16] Clauses 15(4)(b), 15(6).

reach a conclusion that it is (or is not) satisfied the requirements have been met where it has not heard from the person.

Suggested amendments:

Clause 15, page 13, after line 6 insert -
"(6a) The Secretary of State must by regulations make provision for the kinds of circumstances that may be considered exceptional such as to justify not hearing from the person."

Explanatory statement: *This amendment would require the Secretary of State to specify in regulations the kinds of circumstances that may be considered exceptional such as to justify not hearing from the person, to prompt Parliament to consider clarifying this issue.*

We also recommend that, given the Bill would make obtaining a certificate of eligibility from a Panel mandatory in all cases, Parliament should consider what support mechanisms would be in place for a person to participate in the panel process and who would be responsible for making these arrangements.

Suggested amendment:

Clause 54, page 36, after line 24 insert -
"(4a) The Secretary of State must, within six months of the day on which this Act is passed, lay a report before both Houses of Parliament detailing the supports that will be available to a person seeking the provision of assistance under the Bill to participate in the panel process".

Explanatory statement: *This amendment would require the Secretary of State to report to Parliament within six months of the Act passing on the supports that will be available to a person to participate in the panel process, to prompt Parliament to consider what kinds of supports would need to be available.*

b. Second opinion availability

Having a range of relevant expertise and powers to question (but not under oath) and seek (but not compel) information from people may assist the Panel in inquiring into each case.[17] The Panel would not appear to have the power to seek the assistance of an advocate to the court (or equivalent) to help it discharge its function. The Panel may need to depend at least partly on the reports prepared by assessing doctors to identify people they should hear from or potential issues to look into.

Reports would need to be thorough and consistent, particularly where the Panel could decide to hear from only one assessing doctor and not to question them.[18] We welcome the amendments made to the Bill during committee stage requiring assessing doctors to include an explanation of why they are (or are not) satisfied the person meets the

[17] Clause 15(4); see Sarah Sackman KC MP, Minister of State in the Ministry of Justice, *Parliamentary debates* (Committee Stage, 12 March 2025) 1102.
[18] Clause 15(4)(a).

requirements in their reports.[19] Recording reasons for these findings would likely help the Panel discharge its function and improve transparency.

We consider it would also be helpful for the Panel to be provided with information they have relied on, such as opinions obtained on referral or consultations with health or social care professionals.[20] We encourage discussion with practitioners about this to protect patient confidentiality.

Suggested amendments:

Clause 11, page 9, end of line 36 insert "and make that record available to any subsequent decision maker under this Act and to the Commissioner".

Explanatory statement: *This amendment would require an assessing doctor who consults a health or social care professional to make the written record of their consultation available to the Panel and the Commissioner.*

Clause 11, page 10, end of line 10 insert "and made available to any subsequent decision maker under this Act and to the Commissioner".

Explanatory statement: *This amendment would require an assessing doctor to make any second opinion they obtain as to whether the person is terminally ill or has capacity available to the Panel and the Commissioner.*

c. Public v. private sittings

Secondly, more detail is needed on how public sittings would differ from private sittings. The Panel would be required to determine a referral in public unless the person requests otherwise.[21] However it is not clear what this would mean, as the Bill does not indicate where sittings would take place or how people would know that a sitting is taking place.

Further, unlike a court or tribunal, the Panel does not appear to have any power to restrict the publication of information, so it is unclear how it could strike a balance between public scrutiny of decision-making and protecting sensitive information relating to the person. **We recommend that Parliament consider how sensitive information relating to the person seeking assistance would be protected in panel sittings.**

Suggested amendment:

Clause 42, page 30, after line 36 insert -
"(4) The Secretary of State must by regulations make provision for how Assisted Dying Review Panels will deal with the personal information of a person whose eligibility for assistance they are assessing, including sensitive information relating to their health".

Explanatory statement: *This amendment would require the Secretary of State to detail how Assisted Dying Review Panels are to deal with personal information, to prompt Parliament to consider how to address this issue.*

[19] Clauses 9(3)(a), 9(4), 9(5)(b), 10(5)(a), 10(6), 10(7)(b).
[20] Clauses 11(3), 11(6).
[21] Schedule 2, paragraph 6.

While the Bill would make the legal member solely responsible for deciding whether to grant requests to sit in private, it provides no guidance on the factors they should consider or the process they should follow (for example, whether they would need to hear from other parties).[22] **We recommend that Parliament consider how the Panel chair should decide whether to grant a person's request for their case to be dealt with privately.**

Suggested amendment:

Schedule 2, page 42, after line 31 insert -
"(3) The Secretary of State must by regulations make provision for how the chair of a panel is to decide whether to grant the person's request that the panel sit in private, including the factors to be taken into account and the process they should follow."

Explanatory statement: *This amendment would require the Secretary of State to detail in regulations how Panel chairs are to decide requests to sit in private, to prompt Parliament to consider how this should be addressed.*

The sensitive nature of these applications may lead many applicants to request that their case be dealt with privately, and the Bill does not specify whether the Panel would make reasons for its decisions public.[23] **We recommend that Parliament consider how to best ensure there is transparency and oversight of Panel processes and decision-making.** It may be beneficial to consider a range of options for ensuring accountability, such as a potential role for independent observers to confidentially view sittings.

Suggested amendment:

Clause 46, page 33, after line 16 insert -
"(f) the effectiveness of the mechanisms put in place to ensure transparency and accountability in the practice and procedure of Assisted Dying Review Panels".

Explanatory statement: *This amendment would require the Secretary of State to include an assessment of the effectiveness of the mechanisms put in place to ensure transparency and accountability in relation to Assisted Dying Review Panels, to prompt Parliament to consider how best to address this issue.*

d. Unanimity

Thirdly, Parliament should clarify the level of agreement required of the Panel in deciding whether to grant a certificate. **We recommend that the requirement for agreement to be unanimous (as has been stated is the intention)[24] is made clearer in the Bill.**

Suggested amendment:

[22] Schedule 2, paragraph 6(2). See Sir James Munby, *Assisted Dying: What Role for the Tribunal? Thoughts on the latest proposals*, 21 February 2025.
[23] Schedule 2, paragraph 9.
[24] See Kim Leadbeater MP, *Parliamentary debates* (Committee Stage, 12 March 2025) 1100.

We support amendment number 78, tabled by Kim Leadbeater MP -

Schedule 2, page 42, line 26, at end insert ", or
(b) abstains from voting on such a decision."

Member's explanatory statement: *This amendment ensures that a panel must not grant certificate of eligibility unless all members consider that such a certificate should be granted.*

Options once a certificate has been granted

While the Bill would allow a person refused a certificate of eligibility to apply to the Commissioner for reconsideration,[25] it does not provide any equivalent mechanism for reconsidering a decision to grant a certificate. This decision could potentially be challenged through judicial review,[26] and it has been suggested an injunction could be sought.[27]

The extent to which other people (such as family members) with potential concerns may be involved in determinations remains unclear. We consider it unclear whether judicial review would be an appropriate option to rely upon once a certificate has been granted within the short timeframes in the Bill. Seeking legal advice and applying to the court takes time, and would be even more difficult without access to the Panel's reasoning. While the Bill's sponsor has tabled an amendment requiring the Panel to provide written reasons for its decisions to the person seeking assistance, their coordinating doctor and the Commissioner, it is silent on whether they may be shared with others with an interest in the person's welfare.[28] It is also unclear how an injunction could be sought in this situation, not least because it is unclear whether and how legal aid would be available.

It is unclear how concerns could be otherwise raised once a certificate has been granted:

- The Bill does not give the Panel any power to reconsider or revoke a certificate, nor does it indicate that the Commissioner would be involved with these cases beyond being notified of the decision.[29]
- Concerns about coercion or pressure could be raised with police, but it is unclear what impact this would have on the process continuing under the Bill.[30]
- While the coordinating doctor would need to be satisfied the person is eligible when witnessing their second declaration and when giving them an approved substance, someone with concerns would need to be able to identify and contact them in time to share information.[31] The Bill does not spell out whether the Panel, the Commissioner or police should share any concerns or new information provided to them after a certificate is granted with the coordinating doctor.

[25] Clause 16.
[26] See Sarah Sackman KC MP, Minister of State in the Ministry of Justice, *Parliamentary debates* (Committee Stage, 12 March 2025) 1111.
[27] See Kim Leadbeater MP, *Parliamentary debates* (Committee Stage, 12 March 2025) 1044.
[28] Amendment Number 79.
[29] Clause 15(8)(c).
[30] See clause 31.
[31] Clauses 17(5), 23(5).

We recommend that Parliament consider whether including an appropriate process for reviewing a Panel's decision to grant a certificate of eligibility could provide an opportunity to correct errors and ensure public confidence in the process.

Recommendation:

- Before the Bill becomes law, a comprehensive consultation on options for reviewing a Panel's decision to grant a certificate of eligibility should be undertaken.

The need to further consider the role lawyers may play in the process

We understand the panel process is not intended to be adversarial like a court or tribunal process, with the intention that lawyers would not usually be needed to represent people. However, we consider greater clarity on what panel sittings would involve in practice is needed to fully assess the extent to which lawyers may play a role, and therefore the need for legal aid.

Given the complexity of the issues involved and the degree of formality Panels are likely to observe to discharge their functions properly, those seeking assistance under the Act should be able to access legal advice and assistance where they need it (for example, where they have been refused a certificate and would like to apply to the Commissioner for reconsideration).

We consider non-means-tested legal aid should be available where lawyers provide advice and assistance (and potentially represent, depending on the process) people seeking assistance under the Bill. Consideration may also need to be given to making legal aid available for others with an interest in the person's welfare.

Suggested amendment:

To move the following Clause: -
"Legal aid
Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services) is amended as follows.
After paragraph 5(c), insert -
the Terminally Ill Adults (End of Life) Act 2025."

Explanatory statement: *This amendment would bring the provision of legal services in connection with this Bill into the scope of legal aid.*

The Bill would also allow lawyers to be appointed to panels, provided they are one of His Majesty's Counsel (a KC). KCs are recognised primarily for their advocacy skills, while honorary KCs are recognised for their contribution to the law outside the courtroom.[32]

While we agree that an appropriate level of experience would be important to serve on a Panel, we consider Parliament should more closely consider what that should be in the

[32] King's Counsel Appointments, *Guidance for applicants* (2024) 1; Ministry of Justice, "Honorary King's Counsel nominations: deadline 30 September 2024" (2024).

specific context of assessing applications by people seeking assistance to end their lives. There may be a risk the eligibility criteria for appointment as a legal member does not fully reflect the skills and experience needed to effectively chair Panels and unjustifiably narrow the potential pool of appointees.

For example, the Bill would not permit solicitors who are eligible to sit as judges (but are not KCs)[33] to be appointed as panel members. Parliament may wish to consider whether solicitors who are eligible to sit as judges (of a certain rank, or more generally) should be eligible to sit on Panels. We note the Bill would already appear to allow a broader range of judges to be appointed as legal members if they have been asked to act as a High Court or Court of Appeal judge.[34]

Parliament should also consider what expertise may be needed to deal with the complex issues that will be involved in these cases – for example, assessing capacity. Ensuring legal members have sufficient experience and the right skills would be important for the strength of the Panel process.

We recommend that Parliament more closely consider the skills and experience that the legal member of a Panel would need to discharge their function effectively.

Suggested amendments:

Schedule 2, page 41, after line 26 insert -
"(iv) is a member of another category of persons as may be specified by the Secretary of State in regulations".

Explanatory statement: *This amendment would enable the Secretary of State to specify other categories of people eligible for appointment as the legal member of an Assisted Dying Review Panel, to prompt Parliament to consider the eligibility criteria.*

Schedule 2, page 41, end of line 21 insert -
"meets the requirements specified in regulations under subsection (4) and -"

Schedule 2, page 42, after line 2 insert:
"(4) The Secretary of State must by regulations make provision about the training, qualifications and experience that a person must have in order to act as the legal member."

Explanatory statement: *These amendments would require the Secretary of State to make regulations providing for the training, qualifications and experience needed for a person to act as the legal member on an Assisted Dying Review Panel.*

[33] See, e.g., Judicial Appointments Commission, *Eligibility for legally qualified candidates;* Tribunals, Courts and Enforcement Act 2007, section 50.
[34] Schedule 2, paragraph 2(2)(a)(iii).

2. Voluntary Assisted Dying Commissioner

As amended during committee stage, the Bill would make the Commissioner responsible for investigating, monitoring and reporting on the operation of the Act.[35] These functions were originally the responsibility of the Chief Medical Officers in the Bill as first drafted.[36]

We consider there is a risk these functions could conflict with the Commissioner's other functions, which include appointing Panel members, arranging and issuing guidance for Panel practice and procedure, referring cases to Panels and determining applications to reconsider certain Panel decisions.[37] The Commissioner's central role in establishing, managing and overseeing the Panels may affect their ability to report objectively on how the Act is working. **We recommend that Parliament consider how best to ensure there are strong independent monitoring and review mechanisms to uphold the rule of law and promote accountability.**

Suggested amendment:

To move the following Clause: -
"Independent monitor

(1) Within six months of this Act passing, the Secretary of State must establish an independent monitor to investigate, monitor and report on the operation of the Act.
(2) The independent monitor's functions must include:
    (a) monitor the operation of the Act, including compliance with its provisions and any regulations or code of practice made under it,
    (b) 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
    (c) submit an annual report to each appropriate national authority on the operation of the Act.
(3) The annual report must include information about the occasions when -
    (a) a report about the first assessment of a person does not contain a statement indicating that the coordinating doctor is satisfied as to all of the matters mentioned in section 9(2)(a) to (h);
    (b) a report about the second assessment of a person does not contain a 5 statement indicating that the independent doctor is satisfied as to all of the matters mentioned in section 10(2)(a) to (e);
    (c) a panel has refused to grant a certificate of eligibility;
    (d) the coordinating doctor has refused to make a statement under section 17(6).
(4) An annual report must include information about the application of the Act in relation to—
    (a) persons who have protected characteristics, and
    (b) any other description of persons specified in regulations made by the Secretary of State.
(5) When preparing an annual report, the independent monitor must consult-
    (a) The Commissioner,
    (b) The Chief Medical Officer for England,

[35] Clause 4(4)(e); clause 45.
[36] See Terminally Ill Adults (End of Life) Bill (as introduced), clause 34.
[37] Clause 4(4); Schedule 2, paragraph 8(1).

(c) The Chief Medical Officer for Wales, and
(d) such persons appearing to the Commissioner to represent the interests of persons who have protected characteristics as the Commissioner considers appropriate.

(6) An appropriate national authority must-
(a) publish any report received under this section,
(b) prepare and publish a response to any such report, and
(c) lay before Parliament or Senedd Cymru (as the case may be) a copy 25 of the report and response.

(7) In this section "appropriate national authority" means the Secretary of State or the Welsh Ministers.

(8) In this section "protected characteristics" has the same meaning as in Part 2 of the Equality Act 2010 (see section 4 of that Act).

Explanatory statement: *This amendment would require the Secretary of State to establish an independent monitor to investigate, monitor and report on the Act's operation, to prompt Parliament to consider how best to ensure there is independent oversight of the scheme.*

3. Capacity

The Bill would require a person to have the capacity to make a decision to end their own life in order to access assistance to do so.[38] A person's capacity would be assessed by different people at different stages of the process, including by two registered medical practitioners conducting separate assessments.[39] The Panel would need to be satisfied a person has capacity to grant a certificate of eligibility,[40] as would the coordinating doctor at the point of giving an approved substance to the person to use to end their own life.[41]

The Bill must be completely clear on what capacity to decide to end one's own life means and how it must be assessed, to ensure the safeguards are robust and effective.

We consider that (at a minimum) clear statutory guidance on capacity in the context of assisted dying, publicly consulted on and published before changes come into effect, would be essential.

We welcome amendments made during committee stage to require (rather than permit) the Secretary of State to issue one or more codes of practice in connection with assessing whether a person has a clear and settled intention to end their own life, including whether they have capacity to make that decision.[42] We consider a code on this issue would provide helpful guidance for people assessing capacity, including on complicated issues such as accounting for the effects of medication and symptoms of terminal illness. We also welcome the amendments requiring the Secretary of State to provide for mandatory training on capacity for assessing doctors.[43]

[38] Clause 1(1)(a).
[39] See, e.g., clauses 9(2)(b), 10(2)(b).
[40] Clause 15(2)(c).
[41] Clause 23(5)(a).
[42] Clause 36(1)(a)(i).
[43] Clauses 7(7)(a), 10(10)(a).

However, codes of practice are aids to interpreting the law[44] - the law itself must be clear on how to assess capacity in this context.

Parliament should fully consider how the Mental Capacity Act would operate under the Bill before any legislation is passed to assess whether more detail is needed on the face of the Bill.

Some of the issues that may warrant closer consideration include:

- What information would be relevant to a person's decision to end their own life, which they must be able to understand, retain, and use or weigh when making their decision?[45]
- How would the principle that a person "is not to be treated as unable to make a decision unless all practicable steps to help [them] do so have been taken without success" apply in the context of the Bill?[46] In what circumstances could this amount to pressure or coercion under the Bill?

Suggested amendment:

We support amendment number 17, tabled by Dr Ben Spencer MP -

Clause 3, page 2, line 18, at end insert -
"(2) For the purposes of the assessment of a person's capacity under this Act the information relevant to the decision as specified under section 3(1)(a) of the Mental Capacity Act 2005 must include, but is not limited to—

(a) the options for care and treatment of the terminal illness, including—
  (i) the extent of prognostic certainty of their illness or condition, and
  (ii) the likely effects on day-to-day functioning, symptom management, and pathway to and experience of death of-
    (A) relevant and available care and treatment including palliative care, hospice or other care,
    (B) withdrawal or absence of care and treatment,
(b) the likely pathway to and experience of death, including relevant risks of complications, following proceeding to self-administer a substance to end their own life under the provisions of this Act,
(c) a decision to proceed under this Act does not prevent or make unavailable any care and treatment provision that would normally be provided,
(d) the person's decision to proceed under this Act must be theirs alone and not bound or directed by the views or decisions of others,
(e) the person is able to change their mind at any stage of the process for requesting assistance to end their own life under the provisions of this Act, regardless of previous decisions,
(f) a decision to proceed under this Act is a decision to self-administer a substance to end their own life,
(g) the self-administration of such a substance is not a medical treatment for their terminal illness but a personal choice concerning life and death, and

[44] *An NHS Trust v Y* [2018] UKSC 46, [97]; *Re Lawson, Mottram and Hopton (appointment of personal welfare deputies) (Rev 1) [2019] EWCOP 22*, [16].
[45] Clause 3; Mental Capacity Act 2005, sections 3(1), 3(4).
[46] Clause 3; Mental Capacity Act 2005, section 1(3).

(h) relevant legal consequences from proceeding with a request for assistance to end their own life, including life insurance and categorisation of death certification."

Further and in any event, the Bill would only require an assessor to "have regard to" any relevant provision of a code, with failure to do so able to be taken into account in criminal or civil proceedings.[47] It is unclear why these codes of practice should differ in status to the Code of Practice to the Mental Capacity Act, where a failure to comply with the code must be taken into account where relevant in criminal or civil proceedings.[48]

Suggested amendment:

We support amendment number 20, tabled by Dr Ben Spencer MP -

Clause 36, page 28, line 5, leave out subsection (8) and insert -
"(8) If it appears to a court or tribunal conducting any criminal or civil proceedings that
(a) a provision of a code, or
(a) a failure to comply with a code,
is relevant to a question arising in the proceedings, the provision or failure must be taken into account in deciding the question".

4. Clarifying key terms

a. Pressure

The Bill would also require that a person has not been "coerced or pressured by any other person" into making the decision that they wish to end their own life.[49]

As with capacity, clarity on what pressure from another person means in the context of assisted dying would be essential for the strength of the Bill's safeguards overall. People exercising functions under the Bill must be able to recognise pressure from others and navigate their responsibilities safely without behaving in ways that could inadvertently amount to pressure from themselves – for example, when a doctor supports a person to make a decision whether to end their own life as part of a capacity assessment,[50] or when an independent advocate (a new role created by amendment during committee stage) provides support and advocacy to a person with a learning disability, mental disorder or autism.[51]

The Bill does not define "pressure" in relation to the eligibility requirements or as an element of the new offences. We recognise that the Public Bill Committee debated whether to include a statutory definition of pressure and raised concerns that this could inadvertently exclude behaviours Parliament may have wished to cover had it foreseen them.[52] However, leaving this term undefined in the legislation leaves room for uncertainty.

[47] Clauses 36(7), 36(8).
[48] Mental Capacity Act 2005, section 42(5).
[49] Clause 1(2)(b).
[50] Clause 3; Mental Capacity Act 2005, section 1(3).
[51] Clause 20(3).
[52] See, e.g., Dr Marie Tidball MP, *Parliamentary debates* (Committee Stage, 25 March 2025) 1469.

We recommend that Parliament further consider what would amount to "pressure" in the context of the Bill (including the kinds of behaviours that would not otherwise be captured by "coercion") with a view to making this clearer in the Bill (or at a minimum, statutory guidance).

We also reiterate our earlier recommendation that it would be beneficial to give guidance on recognising coercion or pressure from other people in a code of practice, publicly consulted on and published before the Bill takes effect. Unlike assessing whether a person has a clear and settled intention to end their own life, the Bill would not require the Secretary of State to issue a code of practice on assessing whether a person has made their decision voluntarily, without coerced or pressured by any other person. A code of practice with practical examples could provide helpful guidance for assessing doctors, panel members and the wider public.

Suggested amendment:

Clause 36, page 27, line 13, at end insert -

"(a1) the assessment of whether a person has made the decision that they wish to end their own life voluntarily and has not been coerced or pressured by any other person into making it, including recognising coercion and pressure by any other person;"

Explanatory statement: *This amendment would require the Secretary of State to issue a code of practice in connection with the assessment of whether a person has made the decision that they wish to end their own life voluntarily and has not been coerced or pressured by any other person into making it.*

b. Next of kin

The Bill would require:

- An assessing doctor to advise a person to consider discussing their request for assistance with their "next of kin and other persons they are close to" where appropriate[53]
- The Chief Medical Officers to have regard to the need to provide practical and accessible information, advice and guidance to the "next of kin and families" of terminally ill people when preparing guidance.[54]

The Bill does not define "next of kin", which we consider risks confusion. **We reiterate our earlier recommendation that Parliament revisit the use of this term (or at least define it), to provide greater clarity.** Parliament may wish to consider using "relative", which is defined in the Bill, and expanding it to include "other persons who have an interest in the person's welfare" illustrated with examples in relevant code/s of practice.

[53] Clause 11(2)(g).
[54] Clause 37(4)(b).

It may also be necessary to consider the potential impacts on estate administration and whether a person should discuss their request for assistance with those who would benefit financially from their death.

Suggested amendments:

Clause 11, page 9, line 26, replace "next of kin and other persons they are close to" with "relatives and other persons who have an interest in their welfare".

Explanatory statement: *This amendment, which concerns the requirement that an assessing doctor, in so far as they consider appropriate, advise the person to consider discussing their request with others, replaces the term "next of kin" with "relatives" (which is a defined term in the Bill), as well as other persons who have an interest in the person's welfare.*

Clause 37, page 28, line 20, replace "next of kin and families of such persons" with "relatives and other persons who have an interest in the welfare of a person requesting or considering requesting assistance to end their own lives".

Explanatory statement: *This amendment, which relates to the requirement that the Chief Medical Officers have regard to the need to provide practical and accessible information, advice and guidance, replaces the term "next of kin" with "relatives" of persons requesting or considering requesting assistance, which is a defined term in the Bill, as well as other persons with an interest in the person's welfare.*

5. Proxies

The Bill would allow a proxy to sign a declaration on behalf of a person who is unable to sign due to physical impairment, inability to read, or "any other reason".[55]

We welcome the requirement adopted during committee stage for a proxy to record on the declaration the reason why the person was unable to sign their name, as this would improve scrutiny and oversight.[56] However, this amendment would not limit the scope of reasons for which a proxy is able to sign a declaration on a person's behalf.

We reiterate our earlier recommendation that Parliament should clarify the scope of "any other reason" for which a proxy is permitted to sign a declaration.

We also consider the Bill should clarify how a proxy is to satisfy themselves, and potentially demonstrate, that a person understands the nature and effect of making the declaration.[57]

Suggested amendments:

[55] Clause 19(1)(a).
[56] Clause 19(3)(d).
[57] Clause 19(4)(a).

Clause 19, page 16, line 30 after "reason" insert "the Secretary of State may specify by regulations".

Explanatory statement: *This amendment would require "any other reason" for which a person may authorise a proxy to sign a declaration on their behalf to be specified by the Secretary of State in regulations, to prompt Parliament to clarify the scope of reasons for which a proxy may sign.*

Clause 19, page 17, insert the following new subsection after subsection (6):

"(7) The Secretary of State must make regulations setting out how to assess whether a person understands the nature and effect of the making of the declaration."

Explanatory statement: *This amendment would require the Secretary of State to provide guidance for proxies in assessing whether a person understands the nature and effect of the making of the declaration, to prompt Parliament to clarify this issue.*

6. Matters left to regulations, codes of practice and guidance

We reiterate our earlier concerns that the Bill leaves substantial details about how the scheme would operate to be dealt with in secondary legislation and guidance that may receive less scrutiny. This includes arrangements for delivering the scheme and the extent to which private providers may be involved.[58]

We welcome the amendments made during committee stage to require (rather than permit) the Secretary of State to make regulations on important matters such as the training, qualifications and experience required of assessing doctors, and to address in codes of practice other core issues including assessing capacity.[59] These changes would go some way to ensuring that these important details are considered and addressed.

Given these are matters of great significance and with serious consequences, **we consider regulations and codes issued under the Bill should be subject to the widest possible consultation to ensure the scheme is robust and workable in practice.** These materials should also be published before the scheme fully enters into force and be subject to regular evaluation and review to ensure they remain fit for purpose.

It will be important to ensure that steps in the process, such as assessments, are not affected by bias, discrimination or assumptions based on a person's characteristics. The general duty adopted during committee stage for the Secretary of State to consult the Equality and Human Rights Commission, as well as people with expertise in assessing capacity and coercion, would be important.[60] However we query why this duty is confined only to some regulation-making powers in the Bill and not to the issuing of codes of practice, which we anticipate would be an important source of guidance for people exercising functions under the Bill.

Suggested amendments:

[58] Clauses 38, 39.
[59] Clauses 7(6), 10(9), 36(1).
[60] Clause 51.

Clause 46, page 33, after line 16, insert -
"(4) The Secretary of State must, during the period of 12 months beginning at the end of the initial 2-year period -
(a) review each code issued under section 36(1) or 36(2), and
(b) lay a report of the review before Parliament."

Explanatory statement: *This amendment would require the Secretary of State to review and report on codes of practice issued under section 36(1) or 36(2).*

Clause 51, page 34, line 35 after "under section 7, 9, 10, 17, 24 or 26," insert "or issuing one or more codes of practice under section 36,".

Explanatory statement: *This amendment would extend the Secretary of State's duty to consult to the issuing of codes of practice.*

We recognise that the Public Bill Committee extended the period after which provisions would automatically come into force from two to four years, and a new clause would require the Secretary of State to report regularly to Parliament about implementation during that period.[61]

While this may partly address concerns around lack of readiness and gaps in implementation, we consider this is still a risk, particularly given the significant level of detail proposed to be worked out later in regulations, codes and other guidance. **We continue to recommend that regulations, code/s of practice and other guidance on core issues must be in place before the Bill enters into force.**

Suggested amendments:

We support amendment number 42, tabled by Adam Jogee MP -

Clause 54, page 36, line 16, leave out subsections (2) to (5) and insert -
"(2) In relation to England, the provisions of this Act not brought into force by subsection (1) come into force on such day or days as the Secretary of State may by regulations appoint."

Member's explanatory statement: *This amendment will mean that, except as provided by subsection (1), provisions of the Bill will only commence in England when the Secretary of State makes a commencement order, and not automatically.*

Clause 54, page 36, after line 18, insert -
"(2A) The Secretary of State may not make a statutory instrument containing (whether alone or with other provision) regulations which bring sections 23, 29 or 30 into force unless:

(a) the Secretary of State has by regulations made provision for all the matters they are required to make provision for under the Act

[61] Clauses 43, 54(4).

(b) the Secretary of State has issued one or more codes of practice in connection with all the matters in clause 36(1), and
(c) the Chief Medical Officers have published guidance under clause 37.

Explanatory statement: *This amendment would prevent the Secretary of State from making a commencement order for those provisions relating to the provision of assistance and criminal and civil liability for providing assistance unless all necessary regulations and guidance are in place.*

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