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

Welsh Government response to the Legislation, Justice and Constitution Committee's report

12 February 2026

In January 2026, the Legislation, Justice and Constitution Committee submitted its report on the Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No.3) for the Terminally Ill Adults (End of Life) Bill. The report includes thirteen recommendations. This is the Welsh Government's response to those recommendations.

Introduction

I welcome the Legislation, Justice and Constitution Committee's report on the Supplementary Legislative Consent Memorandum (Memorandum No.3) for the Terminally Ill Adults (End of Life) Bill. The committee's scrutiny plays an important role in examining the constitutional, legal and devolution issues arising from this Bill.

For clarity, all clause references in this response refer to the latest version of the Bill as brought from the House of Commons, which can be accessed at [Terminally Ill Adults \(End of Life\) Bill publications - Parliamentary Bills - UK Parliament](#). These include the amendments identified by the Welsh Government in Memorandum No.3 as having regard to devolved matters in Wales and for which the Senedd's consent is being sought.

The Terminally Ill Adults (End of Life) Bill, introduced as a Private Member's Bill in the House of Commons, seeks to provide adults who are terminally ill, subject to safeguards and protections, to request assistance to end their life. The Welsh Government recognises both the complexity of this issue and the importance of ensuring any legislative changes respect the devolution settlement and the distinct legal context in Wales.

I recognise the challenges the Bill presents in terms of scrutiny, particularly given the volume of amendments tabled during its passage through the House of Lords.

In response to these challenges, the Welsh Government has moved the date of the legislative consent motion debate to 24 February to allow committees additional time to consider Supplementary Legislative Consent Memorandum

No.3. I also note the committee's interest in the rationale for the Welsh Government seeking consent in respect of specific amendments included in Memorandum No.3.

The Welsh Government is committed to ongoing constructive engagement with the UK Government, the Bill's Sponsors, and the Senedd as the Bill progresses. I thank the members of the Legislation, Justice and Constitution Committee for its detailed report. I have set out my responses to the recommendations below.

Response to the 13 recommendations

Recommendation 1

The committee recommends that

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.

Response: Accept

Legal analysis sits at the heart of our assessment of Bill provisions that may have regard to devolved matters. As with all legislation, that legal advice is subject to legal professional privilege and cannot be disclosed.

In this case, the Welsh Government has concluded that the provisions for which the three memoranda have been laid have regard to devolved matters and therefore would meet the test under Standing Order 29. We consider that the remaining clauses of the Bill (as brought from the Commons) do not meet that test.

Financial Implications – None

Recommendation 2

The committee recommends that

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.

Response: Accept.

I welcome the committee's agreement with the Welsh Government's assessment as set out in the Legislative Consent Memorandum No.3.

The proposed amendments by the Sponsor to clauses 47, 49, 50 and 55 have been assessed as having regard to devolved matters in Wales and therefore require the consent of the Senedd under Standing Order 29.

Financial Implications – None.

Recommendation 3

The committee recommends that

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.

Response: Accept.

Based on the current Parliamentary scheduling information available, it cannot be confirmed whether the House of Lords will have completed consideration of the five amendments before the Senedd debate on 24 February. The timing of the Lord's consideration remains subject to the management of the UK Parliament's timetable, over which the Welsh Government has no control.

Notwithstanding this uncertainty, it is appropriate for the Senedd to consider the legislative consent motion at this stage, which will ensure its view is properly and appropriately considered by the Lords during its ongoing deliberations in committee.

This approach ensures that scrutiny keeps pace with the Bill's progression through Parliament and enables Members to consider those key amendments that have already been tabled by the Bill Sponsor and are assessed as having regard to devolved matters in Wales.

Financial Implications – None.

Recommendation 4

The committee recommends that

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.

Response: Accept.

Given the unique nature of this Private Members' Bill, its current extended passage through the House of Lords Committee Stage, and the unprecedented volume of amendments tabled, the Welsh Government has taken a pragmatic approach to preparing the legislative consent memoranda for this Bill.

Under Standing Order 29, the Welsh Government is required to bring forward a memorandum in respect of (non-government) amendments that are agreed and make provision in relation to Wales which have regard to devolved matters. There is no obligation to undertake a full analysis of all amendments that have not yet been agreed by the UK Parliament.

In this context, the Welsh Government has focused its detailed assessment on the key amendments tabled by the Bill Sponsor which, if agreed, would require the Senedd's consent. This approach enables us to provide the Senedd with the most meaningful and relevant information available at this stage, supporting informed scrutiny and decision-making.

Financial Implications – None.

Recommendation 5

The committee recommends that

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.

Response: Accept.

As outlined in my response to Recommendation 4, the Welsh Government undertook detailed assessment of the key amendments tabled in the House of Lords by the Bill Sponsor up to 18 December 2025; specifically those amendments to provisions already covered by legislative consent memoranda, or which

proposed entirely new clauses. Five of these were identified as having regard to devolved matters.

Given the exceptionally high volume of other amendments tabled during the House of Lords Committee Stage, it has not been practical or proportionate to undertake a full analysis of each individual amendment at this point. Accordingly, the Welsh Government has focused its detailed assessment on the Sponsor's proposed amendments while continuing to monitor the Bill's overall progression through Parliament.

Should any of the other 1,154 amendments be considered and subsequently agreed by the House of Lords, and should they be assessed as meeting the test in SO29, the Welsh Government would bring forward further supplementary legislative consent memoranda.

Financial Implications – None.

Recommendation 6

The committee recommends that

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.

Response: Accept.

If any of the 1,154 amendments were to have regard to devolved matters and were subsequently passed into law, those provisions would have legal effect in Wales in the same way as any provision of a UK Act, regardless of whether the Senedd had given consent.

In such circumstances, the Welsh Government would advise the Senedd on its position.

Ultimately, it is for the UK Parliament to determine whether to legislate, irrespective of whether consent has been given. That constitutional position applies equally to amendments made during the passage of a UK Bill.

Financial Implications – None.

Recommendation 7

The committee recommends that

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.

Response: Accept.

As outlined in my previous responses, the Welsh Government prioritised detailed assessment of key amendments tabled in the House of Lords by the Bill Sponsor up to 18 December 2025, specifically those amendments that would amend provisions already covered by legislative consent memoranda or which would introduce entirely new clauses. Five of these were identified as having regard to devolved matters.

Given the volume of other amendments tabled during Lords Committee Stage, including the remaining 62 amendments to clauses 47, 49, 50 and 55, it has not been practical or proportionate to assess each one prior to any resolution. Should any of these amendments be agreed by the UK Parliament and are then assessed as meeting the test in SO29, further legislative consent memoranda will be brought forward.

Financial Implications – None.

Recommendation 8

The committee recommends that

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 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.

Response: Accept.

As set out in my responses to Recommendations 4, 5 and 7, the Welsh Government prioritised detailed assessment of key amendments tabled by the Bill Sponsor.

If any additional amendments to clauses 47, 49, 50 or 55 are agreed by the House of Lords and assessed as having regard to devolved matters, further supplementary memoranda would be brought forward.

If the Senedd were to give consent to the amendments set out in Memorandum No. 3, but those amendments were not subsequently agreed in the House of Lords while other amendments to the same clauses – which are then assessed by the Welsh Government as having regard to devolved matters – were agreed, that consent would not extend to the new amendments.

Consent applies only to the provisions identified in the memoranda before the Senedd.

In those circumstances, the Senedd would have consented solely to the amendments included in Memorandum No. 3.

Any additional amendments having regard to devolved matters would require further memoranda.

Financial Implications – None.

Recommendation 9

The committee recommends that

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.

Response: Accept.

For clarity, the clauses and amendments for which the consent of the Senedd is being sought are those identified in the Legislative Consent Memorandum Nos. 1, 2 and 3.

These are:

- Clause 40
 - Clause 42(1), (2), (5) and (6)
 - Amendment 784 tabled to Clause 47
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- Clause 49
- Amendment 824 tabled to Clause 50
- Clause 51 (1), (2), (3), (5), (6) and (7)
- Clause 54(1), (2), (5) and (6)
- Amendment 877A tabled to Clause 55
- Clause 58(5), (7) and (8)

These clause numbers are from the version of the Bill as brought from the Commons: Terminally Ill Adults (End of Life) Bill.

These are the provisions that fall within the scope of the legislative consent motion before the Senedd.

I will ensure the Motion is clear on what the Senedd is being asked to vote upon.

Financial Implications – None.

Recommendation 10

The committee recommends that

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.

Response: Accept

The statutory functions conferred upon the Welsh Ministers by section 42(1) and (2) would not be exercisable unless those provisions were commenced by the Welsh Ministers. In practical terms, not commencing those provisions would mean the Welsh Ministers would not be able to regulate about assisted dying in Wales under this Act.

As the model for assisted dying services has not yet been determined, it is not possible at this stage to set out the full implications of non-commencement. Should this Bill be passed by Parliament, further consideration of these matters would fall to the next Welsh Government.

There is an implied duty to keep under review the commencement of primary legislation.

Financial Implications – None.

Recommendation 11

The committee recommends that

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.

Response: Accept

If the Senedd were to withhold consent to the provisions identified in the memoranda, the UK Parliament could still choose to proceed with the Bill, including those provisions that have regard to devolved matters in Wales. In that case, Welsh Ministers could be required to operate within a framework that has not been endorsed by the Senedd, taking into account the duties, functions and regulatory oversight established by the Bill.

Parliament could alternatively choose to remove some of these provisions from the Bill, including Welsh Minister functions and provisions that would otherwise provide for Senedd involvement. For example, this could result in the Welsh Ministers not being provided with powers to regulate about assisted dying in Wales under this Act. Independent providers of non-NHS services could still be established in Wales due to the change in the criminal law following the commencement of other provisions of the Act.

While these represent potential implications, the final outcome would depend on decisions taken by the UK Parliament and therefore cannot be stated with certainty at this stage.

Financial Implications – None.

Recommendation 12

The committee recommends that

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

Response: Reject.

I note the request for explanations by reference to NHS and non-NHS services. However, as the model for assisted dying services in Wales has not yet been determined, it is not possible at this stage to provide detailed explanations by reference to specific types of service provision.

Should the Bill be passed by Parliament, the practical implications for different types of service delivery would depend on the operational model adopted for Wales. This work would be a matter for the next Welsh Government to consider, informed by the scope of any functions conferred on Welsh Ministers, including those regulation-making powers under clause 42.

Financial Implications – None.

Recommendation 13

The committee recommends that

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

Response: Accept.

I enclose this document as the Welsh Government's response to the committee's recommendations.

Financial Implications – None.
