

## **Terminally Ill Adults (End of Life) Bill: Second Reading (Lords)**

### *Briefing Paper No.2 for Peers – Assisted Dying and Adult Safeguarding*

British Association of Social Workers. September 2025

#### **Introduction**

The multidisciplinary panel is central to the Terminally Ill Adults (End of Life) Bill. Social workers are members of the panel.

The British Association of Social Workers (BASW) represents some 20,000 social workers. While BASW has no 'in principle' view on the Bill, it is the role of the association to ensure that the Bill takes into account the existing legal responsibilities of social workers, and if the Bill becomes law, it can be implemented in practice.

This is one of three related briefings on the Bill and key social work responsibilities. This briefing covers the topic of Adult Safeguarding. Recommendations in relation to adult safeguarding are presented below with more detailed evidence and supporting arguments following.

#### **Recommendation 1**

The Bill needs to amend Section 42 of the 2014 Care Act so that the Voluntary Assisted Dying (VAD) service (and not the local authority) is responsible for triggering and approving adult safeguarding assessments in relation to those who apply for an assisted death. Without this, responsibility will continue to remain with local authority adult social care who are already often unable to deliver their statutory safeguarding duties in a timely manner. This threatens the six-month timescale of completing applications to the panel.

In Wales there is parallel legislation and responsibilities of local authorities in relation to adult safeguarding (Part 7, Social Services and Well-being (Wales) Act 2014). If the Bill passes Part 7, of the Social Services and Well-being (Wales) Act 2014 will also need to be amended.

#### **Recommendation 2**

Panel social workers will need the legal power to access records at local authority adult social care and, very occasionally, police records and information held by relevant agencies. At present Section 17 (3) of the Bill states that "*the panel may adopt such procedure as it considers appropriate for the case*" before listing a number of individuals that it must, or may, speak to and question. However, there is no power to access records.

Safeguarding Adults Reviews (SAR) continue to highlight the lack of information sharing and communication between agencies, particularly in complex cases. Most people with a terminal illness will not be known to adult social care but occasionally

they will be, and this record may cover adult safeguarding concerns. For the reasons described below panel social workers will be unable to access local authority records.

The police and potentially other agencies may hold relevant information about domestic abuse / controlling or coercive behaviour which is not known to local authority adult social care and occasionally the panel social worker may need to access this. This request for information should be necessary and proportionate and the body of this submission deals with how that might work.

Section 17 of the Bill needs to be amended to reflect that the VAD has the power to request relevant information from local authorities and, under certain circumstances, the police and relevant agencies.

### **Recommendation 3**

While it is envisaged that the VAD service will have robust internal systems of assurance and quality control, no organisation should be entrusted with marking its own homework.

The VAD service needs to be subject to external independent inspection. The Care Quality Commission currently regulates both health and adult care provision and this will include adult safeguarding processes. This might provide an effective model.

The Bill needs to be amended to reflect the need for robust external inspection.

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### **Adult Safeguarding under the Care Act 2014**

Section 42 of the 2014 Care Act sets out the statutory safeguarding duties of local authorities and partners of the local Safeguarding Adults Board. Local authorities must make enquiries or cause others to do so, if they reasonably suspect an adult who meets the relevant criteria is or is at risk of being abused or neglected<sup>i</sup>. In Wales the relevant legislation is Part 7 of the Social Services and Well-being (Wales) Act 2014.

An enquiry is the action taken or instigated by the local authority in response to a concern that abuse or neglect may be taking place. Where there is reasonable cause to suspect that an adult meets the criteria under S42(1), the local authority will progress the Safeguarding Concern to a Safeguarding Enquiry under S42(2).

Many safeguarding enquiries do not meet the threshold for criminal charges: an elderly person with dementia wandering at night, unauthorised withdrawals from the bank account of a person with a physical disability or mental disorder, taking advantage of a person with a learning disability.

In contrast there are serious potential safeguarding risks in relation to assisted dying: death is irreversible and there can be a significant transfer of assets at death (e.g. the value of a house).

Given current statutory responsibilities of local authorities a failure not to clarify responsibilities at the legislative stage presents major challenges. Leaving local authorities to instigate and complete safeguarding investigation in relation to assisted dying would be at best slow and cumbersome (threatening the six-month timescale) and at worse would be caught in a bureaucratic quagmire.

The way to resolve this is that the Panel has legal responsibility for adult safeguarding where there is an application for an assisted death. The Bill needs a clause to opt out of relevant subsections of Section 42 of the 2014 Care Act so that the Voluntary Assisted Dying (VAD) service (and not the local authority) is responsible for approving adult safeguarding assessments in relation to those who apply for an assisted death.

At the appropriate time, Part 7 of the Social Services and Well-being (Wales) Act 2014 will also need to be amended.

### **Adult Safeguarding and relevant information**

Adult safeguarding applies to people who have '*needs for care and support*'.<sup>ii</sup> For example, the frail elderly, people with a learning disability, or people with a physical disability. Many people who are terminally ill will not be known to adult social care, but some of them might be. Arguably they have '*needs for care and support*', and as Section 42 (1) (a) states the safeguarding duty applies '*whether or not the authority is meeting any of those needs*'.

The police hold records of reported incidents of domestic abuse / controlling or coercive behaviour. The vast majority of these would not be shared with adult social care since the victims did not have '*needs for care and support*'. However, it is not too hard to imagine that there might be cases of an individual with a terminal illness who is also a victim of domestic abuse and / controlling or coercive behaviour.

(It is important to note that in an application for an assisted death safeguarding challenges could be as much about people *not* wanting their loved ones to die as about seeking to coerce someone into an assisted death).

If social workers are to be able to undertake work for the VAD service, they will not be able to remain as employees of the local authority. The priority of local authority adult social work is to deliver statutory functions. In local authorities there are already long waiting lists for a range of statutory services (e.g. Adult Care Assessments / DoLs). The priority of the VAD service would be to ensure those eligible for an assisted death were able to receive that within six months. This would set up an irresolvable conflict for the individuals and their organisations.

The priorities of adult social care and the VAD service are fundamentally different and individual social workers will deal with this conflict by declining to undertake work for the VAD service. Nor can the VAD service rely on independent social workers (i.e. self-employed) since at least in the earliest period the professional insurance premiums would be unrealistically high.

The role of social workers in the VAD service must, and needs to be, broader than sitting on a committee ('the panel') and we envisage that social workers will be proactive in conducting adult safeguarding assessments (see below).

As an employee of the VAD service, these social workers will be unable to access local authority records. Since the VAD service is likely to be regional it is important that social workers can access records from a range of local authorities.

Information requests to the police and other agencies in relation to safeguarding concerns need to be necessary and proportionate. It is proposed that where there is reasonable cause for a safeguarding concern to trigger an enquiry, with the approval of the panel chair, police and other agencies' records may need to be accessed.

This would need an amendment to the Bill as it currently stands.

### **Current safeguarding practice and safeguarding under the VAD service**

The current position is that adult safeguarding assessments are essentially a test of a specific hypothesis: is there reasonable cause to suspect that the person with '*needs for care and support*' is experiencing or at risk of abuse or neglect? To trigger the assessment there needs to be a specific concern.

Under the VAD service the question is rather different. Here the question is are the panel confident that there are no safeguarding issues? It is impossible to prove a negative. Instead, a series of proportionate enquiries could be made that would be 'good enough' to satisfy the assessing social worker and, in turn, the panel that there were no indicators of safeguarding considerations.

If there were safeguarding issues, and consideration of the assisted death could not be taken forward, the safeguarding management of the case ('the safeguarding plan') would be passed back to the relevant local authority.

### **Assurance and Inspection**

While it is envisaged that the VAD service will have robust internal systems of assurance and quality control, no organisation should be entrusted with marking its own homework. This is particular the case where the VAD has responsibility both for irreversible decisions (approving and implementing an assisted death) and as a consequence the transfer of potentially significant amounts of money.

The VAD service needs to be subject to external inspection. The Care Quality Commission currently regulates both health and adult care provision and this will include adult safeguarding processes. This might provide an effective model.

## Conclusions

The issues identified here cannot be resolved post legislation (for example, through a Code of Practice) - they are too foundational.

Without clarification of the primary legislation there will be potential for significant confusion over adult safeguarding responsibility both at organisational and individual level, lack of relevant information to inform safeguarding enquiries and no reassurance of external inspection. Collectively, these factors will erode safeguarding in the process of assisted dying.

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<sup>i</sup> Care and Support Statutory Guidance issued under The Care Act 2014, paragraph 14.36: <https://assets.publishing.service.gov.uk/media/5a7dcf2aed915d2ac884dafa/Care-Act-Guidance.pdf>

<sup>ii</sup> The Care Act 2014, Section 42 (1). <https://www.legislation.gov.uk/ukpga/2014/23/section/42>