

Terminally Ill Adults (End of Life) Bill

AMENDMENTS

TO BE MOVED

IN COMMITTEE OF THE WHOLE HOUSE

[Supplementary to the Marshalled List]

After Clause 18

LORD SANDHURST

After Clause 18, insert the following Clause —

“Fees and costs associated with applications to the Commissioner

- (1) The Secretary of State must make regulations providing for —
 - (a) the circumstances in which a fee is payable in relation to any of the steps set out at sections 15 to 18,
 - (b) the level of any such fee or fees, and
 - (c) the circumstances under which a person otherwise required to pay a fee or fees is entitled to claim relief by reason of means or otherwise.
- (2) The Secretary of State may make regulations providing for the amendment of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and any associated relevant regulations to provide for the provision of legal assistance in relation to any of the steps set out in sections 15 to 18.”

Member's explanatory statement

At present, the Bill is silent about the costs of applications for certificates of eligibility. This amendment makes provisions for such costs (and remissions where appropriate). Equitable access to the framework may well require (in some cases) legal help, and the regulation-making power would enable such help to be provided to those who would not otherwise be able to afford it.

Clause 22

LORD MCCREA OF MAGHERAFELT AND COOKSTOWN

Clause 22, page 19, line 23, leave out “for a qualifying person”

Member's explanatory statement

This amendment ensures that every applicant is able to have the support of an independent advocate.

Schedule 2

LORD SANDHURST

Schedule 2, page 47, line 23, after “Counsel” insert “but not as Honorary King’s Counsel”

Member's explanatory statement

Many Honorary King’s Counsel will not have appeared or acted in legal proceedings, having been appointed Honorary King’s Counsel for services to the development of the law outside the courtroom. They will therefore not have the skills or experience required to discharge the function of legal member of the Panel.

LORD SANDHURST

Schedule 2, page 47, line 23, at end insert –

“(ia) is a solicitor of not less than 15 years post-qualification, or”

Member's explanatory statement

Solicitors have historically formed a statistically smaller proportion than barristers at the rank of King’s Counsel and appointed High Court judge. As drafted, the Bill therefore inadvertently narrows the pool of those with appropriate legal expertise and experience.

LORD SANDHURST

Schedule 2, page 47, line 34, at end insert –

“(d) the person has such expertise in relevant matters as is set out in regulations to be made by the Secretary of State.”

Member's explanatory statement

This amendment allows the Secretary of State to specify other categories of expertise - for instance palliative care - qualifying a person for Panel membership, to ensure that Panels are able to consider cases from a fully rounded perspective.

LORD SANDHURST

Schedule 2, page 48, line 13, leave out from “of” to end of line 16 and insert “three members, of whom one must be a legal member”

Member's explanatory statement

This amendment ensures that Panels are able to consider cases with expertise appropriate to the particular nature of the case.

LORD SANDHURST

Schedule 2, page 48, line 16, at end insert—

- “(2A) In making the arrangements for determining the membership of a panel, the Commissioner must have regard to the nature of the expertise required to determine the particular circumstances of the person to whom the referral relates.”

Member's explanatory statement

This amendment ensures that Panels are able to consider cases with expertise appropriate to the particular nature of the case.

LORD SANDHURST

Schedule 2, page 48, line 32, at end insert—

- “(3) For purposes of the law of contempt, where a panel determines a referral in public, then unless the panel provides to the contrary, publication of information about the person to whom the referral relates shall be treated as contempt of court, as if (in any relevant legislation) for the word “court” were substituted “panel”.
- (4) Proceedings in relation to any contempt arising by operation under subsection (3) must be brought in the King’s Bench Division.”

Member's explanatory statement

The Panel is not a court, but will be hearing very sensitive information in public hearings (by default). These amendments seek to ensure that such sensitive information about the person is not made public.

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