



Terminally Ill Adults (End of Life) Bill Committee

Corrected oral evidence

Wednesday 22 October 2025

10.15 am

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Members present: Lord Hope of Craighead (The Chair); Baroness Berger; Baroness Berridge; Baroness Finlay of Llandaff; Lord Goddard of Stockport; Lord Goodman of Wycombe; Baroness Hayter of Kentish Town; Lord Markham; The Lord Bishop of Newcastle; Lord Patel; Baroness Scotland of Asthal; Baroness Smith of Newnham; Lord Winston.

Evidence Session No. 1

Heard in Public

Questions 1 - 13

Witnesses

I: The Rt Hon. Lord Falconer of Thoroton; Kim Leadbeater MP.

Examination of witnesses

Lord Falconer of Thoroton and Kim Leadbeater.

Q1 The Chair: Good morning and welcome to the first public meeting of the Terminally Ill Adults (End of Life) Bill Committee. Before we begin, I would like to say just a few words to explain why we are here and what we are expected to do and, indeed, not to do.

The Bill has had its Second Reading. It has been committed to a Committee of the whole House where it will receive line-by-line scrutiny. Many amendments have already been tabled and more are likely to be put down in coming weeks. I understand that the date set for the first day in committee is Friday 14 November. We have been given a date for our report of 7 November.

What, then, is the purpose of this committee? It is a Select Committee separate from the proceedings on the Bill in the House. Its purpose, and, indeed, its only purpose, is to obtain information before those proceedings start on Friday 14 November. This is so that the House will have the benefit of the expertise and insight of the professional bodies, others with professional and practical experience, and others who will bear the responsibility of carrying out the functions that are provided for in the Bill.

What we will be doing, in short, is finding out what in those provisions will work, what will not work and, indeed, what needs to be done about them. The House needs this information before it undertakes its detailed scrutiny.

I must make it clear that it will not be for this committee to draw any conclusions or to make any recommendations from the evidence that we will receive. There is no time for us to do that, and it is not our function. The function that we will be performing in these next three weeks is very important, but it is limited to the gathering of information by taking evidence by questioning the witnesses who are appearing before us. Their evidence will be broadcast live and recorded, and it will be published in full. The transcripts will be added to our website week by week.

Finally, we aim to have a full set of evidence published on Tuesday 11 November. That means that the House will have that evidence before it begins its scrutiny.

One final point that I would like to make before we begin is about the substance of our proceedings. The committee will be dealing with highly sensitive matters, of which many people taking part, or watching or listening, may have direct personal experience. I am sure that we will all wish to approach these very important matters with all due care and respect.

Well, welcome to the first session of our inquiry into the Terminally Ill Adults (End of Life) Bill. We are joined in this session by Lord Falconer of Thoroton and by Kim Leadbeater MP. You are both extremely welcome

and we look forward to your evidence. We would be grateful, in a moment, if you would introduce yourselves very briefly, and then we will proceed to questions. I will remind you that this meeting is being broadcast and a verbatim transcript will be available, which will be sent to you to check for accuracy. We refer to our list of Members' interests as published on the committee's website.

Lord Falconer, would you be kind enough just to say a few words? I will then pass to Kim Leadbeater.

Lord Falconer of Thoroton: Thank you very much indeed. In terms of declarations, I have the support of an assistant funded by Bernard Lewis for work on this Bill, and Dignity in Dying funded the printing of literature on the Bill sent to Peers prior to the Second Reading.

Thank you for inviting us both to give evidence today. I am the sponsor of the Bill in the Lords and Kim is the sponsor of the Bill in the Commons. Throughout, we have worked as a team and take joint responsibility for the Bill. Our positions should be regarded as joint positions. We welcome the calling of evidence before this committee. The House as a whole values the work of its committees because they are trusted, in relation to evidence, to act in a balanced, impartial way.

Because this parliamentary session will last until the spring, this House has time to inform itself with evidence before your committee and then to scrutinise the Bill in the Lords through the normal legislative process on the basis that this committee completes its work before 7 November.

The Government, once this Bill got a Second Reading in the Commons, have provided the sponsors with both significant assistance in the drafting of the Bill and substantial technical advice on how to make the Bill workable. They have done so without abandoning the Government's neutrality. I have long experience of shepherding government Bills through Parliament. The quality of the official help we have received on this Bill has been extensive and excellent.

On the basis of the support we have received from officials, we have no doubt the Bill is workable. Experience from other jurisdictions confirms that expectation. This Bill builds on the extensive work done on this subject in both Houses over years. We have the benefit of learning from over 30 other jurisdictions that have made the change. Indeed, around 300 million people around the world have access to a legally assisted death. Bills to change the law have been introduced in Scotland and the Isle of Man. Reform is coming.

The current law in this jurisdiction is simply not fit for purpose. Just last week, Louise Shackleton found that, having accompanied her husband to Dignitas, she faced 10 months of criminal investigation. Do people deserve this on top of their grief and loss?

Finally, constitutionally, at the heart of our parliamentary democracy is the primacy of the Commons because they are elected and we are not.

Ultimately, it is for the Commons to make the decisions on assisted dying. It is not for us, secular or spiritual, to make the key political decisions on this issue. We should not assert that we know better.

This Bill effects the legal changes that are necessary and appropriate to allow those who want an assisted death in their terminal illness to have choice at the end of their life. It is subject to safeguards that are manifestly lacking in the current law and are probably the most stringent safeguards among assisted dying laws in the world. Thank you very much indeed.

The Chair: Thank you very much. Would you like to add anything, Kim Leadbeater?

Kim Leadbeater: I will. Thank you very much, Chair, and thank you to the committee for giving us the opportunity to come and speak to you and to make a few opening remarks.

As Charlie says, the benefit of your Lordships' experience and expertise is very welcome in scrutinising this Bill. Public support for changing the law to give terminally ill adults choice at the end of life has been very strong for many years and it remains so, but we owe it to them to get this legislation right.

We all have our own experiences of death and dying, but I think it is impossible to imagine what it must feel like to receive a terminal diagnosis and be told that you only have a few months left to live: the uncertainty, the fear, the lack of control. For those people and their families, this debate is not an abstract concept. It is not a political game or a series of clauses and amendments. It is a very emotional and traumatic reality. People like Nat, Shafaq, Angela, Anil, Katie and Mick, who are here on the public benches today, know from painful personal experience that the law as it stands is unjust, unenforceable and frequently very cruel.

I fully respect the views of those who will always be implacably opposed to assisted dying, and I know that includes some people on the committee and others who will give evidence to it, but the elected Chamber, reflecting the views of the public, has decided that the law should be changed.

The Bill before you has benefited from extensive evidence received in the Commons: 50 witnesses giving oral evidence; 444 pieces of written evidence; and 100 hours of debate. As Lord Faulkner said, it has also benefited greatly from the expert drafting, advice and guidance from an outstanding team of civil servants and parliamentary counsel. As a result, it is an excellent piece of legislation, but if, through constructive scrutiny and working together, it can be further strengthened, I for one will be more than happy.

From my experience as sponsor of the Bill in the Commons, if we work together collaboratively and in good faith, we can do the job we are here to do and we can show Parliament at its best.

The issues that you are addressing are not new, though. We are not breaking new ground. This happens in countries around the world, and I hope the committee will also read the Health and Social Care Select Committee report from 2024. They did a 14-month investigation into this issue, so there are huge amounts of evidence there, drawing on the experience of other jurisdictions, where very tightly defined legislation like this has been in place for quite some time.

International experience shows us that we can offer dignity, compassion and choice to terminally ill people. I want to thank you all for the input and the important role that you are going to play in making that happen.

The Chair: Thank you very much indeed.

Q2 Baroness Hayter of Kentish Town: As the Chairman said, we are looking to make this workable and look at problems. I am interested in two things—well, one thing. On the problems—you have heard the issues and the problems with the Bill—what have you learned from both those ill and their families around them and, indeed, from international experience to address the sorts of problems that have been raised about the Bill?

Kim Leadbeater: It has been a long journey. I have spoken to lots and lots of people, and lots and lots of organisations. What I have tried to do throughout that process is always look at the status quo as it is now. That is the problem that we are trying to fix, and that is why the law needs to change. The voices that are really important to be heard in that are the people who have suffered as a result of the inadequacies of the current situation, people with lived experience, who have felt the injustice of having a situation where people who are terminally ill feel they have no choice other than to take their own life, because they feel so desperate, or make the very difficult decision to go to another country, to Switzerland, to Dignitas, for an assisted death.

That is sometimes presented as the easy choice. “I’ll just jump on a plane”. It is really deeply traumatic for people to do that. Often they do it alone because they know their families face potential prosecution if they do that. It is a very difficult experience and it is clearly hugely inequitable, in that it costs a lot of money to do that.

The Chair: Can I ask you to keep your answers quite short? We have a lot to get through.

Kim Leadbeater: Apologies, Chair. Their voices are really important. To the other point that you that you asked, Baroness Hayter, yes, this is not the new thing that we think it is. Obviously, it is in this country, but there are countries that have been delivering safe compassionate assisted dying laws for quite some time, so it is really important that we hear from international experts, who have the experience of delivering this and giving those terminally ill people the choice that they deserve and need.

Lord Falconer of Thoroton: Can I just add one thing? The international experience shows two things. First, introducing terminally ill assisted dying laws vastly improves the experience of death for a number of people. Secondly, the safeguards work. Very many countries in the world—and I draw your attention particularly to New Zealand, which has issued a report in November 2024, Western Australia and Victoria—focus heavily on the question of whether there is coercion in relation to this, and they indicate that there is not. There are countries that have done it over a long period of time. I draw your attention to Oregon, which has produced annual reports that have identified no problem with coercion. The most moving thing about the international evidence is how much it improves the experience for so many people.

Baroness Hayter of Kentish Town: I would like to take you up on one thing, which is about the coercion and whether they measured that. One of the other issues that have been raised is about whether it could be particularly vulnerable groups, such as the disabled or people with other difficulties. When you have spoken to them, have they discovered that there is that issue and how have they dealt with that?

Lord Falconer of Thoroton: There are two groups there. First is disabled people. Disabled people, in my experience and international experience, want to be treated the same as everybody else in relation to the option of an assisted death. There is absolutely no evidence from abroad that there is a particular problem in relation to disabled people. In relation to people with various learning difficulties or autism, again, with proper assistance, they too can have that option. Special care has to be taken, but that care can be taken, and the option is available to them as well.

The Chair: I will have to move on to the next question, if you will forgive me.

Q3 **Baroness Berridge:** I declare an interest of assistance received as a donation from Dr John Etherton. Lord Falconer, the first level of safeguard is, of course, the criminal law. Could you turn to the Bill at Clause 34? Lord Falconer, do you agree with me that, when a criminal judge comes to direct a jury in relation to an offence under Clause 34(1), relating to pressure, there is nothing in your Bill requiring a guilty mind on the part of the offender?

Lord Falconer of Thoroton: Correct. The Bill requires somebody, in order to commit the offence, by pressure to induce another person to make the first or second declaration. If there is something that a jury regards as pressure—and I think juries are capable of defining what is pressure—then the offence is committed. What this clause is doing is saying, “It’s a crime to pressure somebody so that their free will is compromised”.

Baroness Berridge: Yes, there are two people mentioned in that clause: a person, the offender, who by pressure induces another person, who is the victim. “A person”. Where is the language of mens rea, Lord Falconer,

in relation to the offender in your Bill?

Lord Falconer of Thoroton: I think it makes it an even more strict offence. The offence is completed where there is pressure.

Baroness Berridge: Are you accepting, Lord Falconer, that you are introducing a strict liability offence into the criminal law with a sentence of life or 14 years' imprisonment?

Lord Falconer of Thoroton: Yes, I am. It is the same as the current law in relation to assisted suicide.

Kim Leadbeater: Can I just add on that point? I think the other really important point is that those offences do not exist at the moment. If I think about a gentleman who gave evidence at the committee, Pat Malone, he had a brother and a sister, one who went to Dignitas, one who took their own life. No one was checking for coercion, pressure or dishonesty in those instances. This provides a legal framework that at the moment just does not exist.

Baroness Berridge: Thank you for your answers. Lord Falconer, is it correct that there is currently no other criminal law statute in England and Wales that uses the word "pressure" as the actus reus and it is not defined in your Bill?

Lord Falconer of Thoroton: I cannot think of one. As I said before, "pressure" is a phrase that people understand and I think that a jury would be able to understand what is meant by "pressure".

Kim Leadbeater: If I can just add as well, the committee in the Commons took evidence about this. It might be that the Minister from the Ministry of Justice can help with this because we had a long debate about those words and those terms.

Baroness Berridge: Do you accept that it is usual in pre-legislative scrutiny to look at defining in law a word such as "pressure" before introducing it into our criminal code?

Lord Falconer of Thoroton: Sometimes yes, sometimes no. When you have the Commons and the Lords debating an issue like the word "pressure"—as Kim has described, the Commons looked at it in detail—the Lords would be very able to look at the question of whether "pressure" is the right word.

The Chair: We will have to move on to the next question.

Q4

Baroness Scotland of Asthal: First, can I just turn to the issues in relation to safeguards? You have said that these are very strong safeguards, particularly in relation to judicial. I think you are both fully aware of the really quite extensive exploration and criticism that has been made by Sir James Munby about both of these areas, first in relation to the commissioner and secondly in relation to the panel. Just for the purpose of clarity, can I say that I am persuaded and adopt the

concerns that he has set out?

I just want to take you through them because I think one of the issues you have made plain is that you believe there is a judicial safeguard.

Lord Falconer of Thoroton: Sorry, he believes there is a judicial safeguard?

Baroness Scotland of Asthal: No, the assertion is—and you said it just this morning—that the safeguards are robust.

Lord Falconer of Thoroton: Yes.

Baroness Scotland of Asthal: They are stringent.

Lord Falconer of Thoroton: Yes.

Baroness Scotland of Asthal: I want to explore that with you because this panel, which has now been introduced, is not a judicial panel.

Kim Leadbeater: It is not a judge, yes. The decision was taken, following evidence given in the committee in the Commons, to have a multidisciplinary panel with the oversight of a judge, through the assisted dying commissioner, not acting as a judge. You are absolutely right. That was a decision that was taken based on the evidence. To bring in that extra level of multidisciplinary expertise, with a social worker, a psychiatrist and a legal expert, was seen to be much more robust than having one individual set of eyes on these cases.

Baroness Scotland of Asthal: No one on the panel is being asked to perform that judicial process.

Kim Leadbeater: No, it is not a court. It is not a court, no.

Baroness Scotland of Asthal: There is no cross-examination, no introduction of evidence. There is no other side.

Kim Leadbeater: It is not a court.

Baroness Scotland of Asthal: Families cannot come in.

Kim Leadbeater: They can be asked to come in, if the panel wishes. They can speak to anybody they want to speak to.

Baroness Scotland of Asthal: There is no obligation.

Kim Leadbeater: No, because the decision was taken in the Commons, based on evidence from ex-judges, including James Munby, but others as well who take a very different view to him, that, actually, the judge would not be the most patient-centred approach to this process. The patient will go through the two doctors with a compulsory psychiatric referral, if it is felt necessary.

They will then be assessed by the social worker, the psychiatrist and a legal expert, all overseen by a voluntary assisted dying commissioner.

The number of professionals involved in the process now is far superior to having one set of eyes through a judge. It also makes it much more compassionate and patient-centred, rather than putting a dying person before a judge in a court.

Baroness Scotland of Asthal: The process has to be one that the public can rely on is not going to be being pursued unless there is clear evidence. From the panel's procedure, we have no idea as to how they are actually going to do it. It says "may". There is no obligation on them to test—

Kim Leadbeater: They have to hear from the patient. They have to hear from the patient.

The Chair: I am going to have to interrupt you, I am afraid, because we have to move on for timing purposes.

Baroness Scotland of Asthal: I very much would suggest to you that the process that has been adopted by the Bill does not comply with any process that we would normally appreciate as being robust enough to do that which it is being asked to do.

Kim Leadbeater: I would respectfully say the process as set out in the Bill is far safer than what is going on at the moment because there are no checks. Adding all those professional eyes has to be a positive.

The Chair: We have to move on quickly.

Q5 **Lord Goddard of Stockport:** I declare my interest as vice-chair of Dignity in Dying. It is a two-part question to the pair of you. We hear a lot about the so-called slippery slope. What makes sure that the courts will not intervene and demand revision of the law perhaps on the grounds of equality, as has happened in Canada? As this debate has developed this morning, you are on record as saying this is the safest and strongest Bill in the world. Can you just amplify what gives you that confidence to make that statement, which is quite bold?

Lord Falconer of Thoroton: In relation to the first bit of the question, can the law that Parliament passes be changed in some way, for example, under the European Convention on Human Rights? I am completely satisfied that it cannot. I am backed up by that by the human rights assessment that the Government, not Kim and I, independently have made. The reason that I am so convinced that that is right is that the European Court of Human Rights has said assisted dying is quintessentially an issue for the Parliaments of each of the member states. Very senior judges in the UK have repeatedly said that as well. They have said it is for us to decide.

In the debate at Second Reading, a Conservative Peer suggested that the six-month cut-off—you have to have a diagnosis of six months of terminal illness—might be something that people might say is discriminatory. No. It is quintessentially a policy issue. There are seven assisted dying laws in Europe at the moment. All of them have existed

without being changed at all by the European Convention on Human Rights.

Parliament will decide this question, and it is right that Parliament does decide this question. I am completely satisfied, as is everybody else who has looked at that, that it is safe in that respect.

Kim Leadbeater: If I can just add to that, I would concur with what Lord Falconer has said. The ECHR memorandum confirmed that the Bill is compatible with the ECHR. That came from the Government.

In terms of safeguards, I would reiterate what I have said already in terms of the lack of safeguards that exist at the moment. If we look at the legal framework that the Bill sets out, we have two independent doctors. We have a multidisciplinary panel, including a legal expert, a psychiatrist and a social worker. We have judicial oversight through the voluntary assisted dying commissioner. We have five separate assessments of the person's eligibility. There is a requirement that the person is given all options that are available to them in their dying days. We have a compulsory psychiatric assessment, if either doctor has any doubts about the person's capacity. We have access to independent advocates. We have a disability advisory board. We have new criminal offences, including around coercion. We have specific training on mental capacity and on identifying domestic abuse, coercive control and financial abuse for all doctors and panel members. We have rigorous oversight and reporting mechanisms requiring the involvement of the Chief Medical Officers and reports to Parliament.

None of that exists at the moment. In terms of safeguards, am I clear that this would be the safest piece of legislation in the world? Yes, 100%.

Lord Falconer of Thoroton: You just referred to slippery slopes.

The Chair: Lord Falconer, I have to move on.

Q6 **Lord Winston:** I have a question for Lord Falconer. You have talked about experience in other places. This committee has a responsibility to see whether this Bill could be made workable. Many of its opponents argue that it is flawed, and of course it has flaws that can be changed, possibly. I wonder whether you feel that it is really quite important to see evidence from other countries. There are so many who have been doing this for a long time, who have great experience. How would you suggest that we could improve this Bill by accepting such evidence from other legislatures?

Lord Falconer of Thoroton: The foreign jurisdictions that have introduced assisted dying Bills are wrestling with exactly the same problems that we are wrestling with in relation to this Bill, in particular capacity and safeguards. They are not the only problems, but those are the two main problems that one is looking at.

If one looks at the terminally ill Bills across the world, they have dealt with that issue in a variety of ways. The best way to look and see how

they have done is to see the independent reports that have been produced in very many of these countries after such legislation was introduced. For example, Oregon produces a report every year. I know the Bishop of Newcastle will be conscious of this. The New Zealand state introduced, after three or four years of its assisted dying Bill, a full report in relation to it. For example, New South Wales produces a report every year about how its Bill is getting on. For example, Western Australia produces such a report.

I strongly recommend, first of all, that the committee draws some evidence from abroad because they will be addressing the same issues. Can I give you an example? Clause 5 of this Bill allows a doctor, subject to his or her clinical judgment, to introduce the issue of assisted dying to a patient in the context of making sure all options are made available.

In relation to both New Zealand and Victoria, the question of what is called the gagging clause has arisen. The question, in Western Australia and New Zealand, is whether the position should be that the doctor cannot raise it unless the patient raises it. In New Zealand, where there is a gagging clause—the doctor cannot raise it—a report has just been produced by the Ministry of Health. They say that maybe that is not the right conclusion.

That is an example of an issue that our House will have to deal with where looking abroad can really help you. There are a number of people who would be very keen to give evidence and who would provide you with real assistance in relation to that.

Kim Leadbeater: I would 100% agree with that. We can provide a long list of names of people who would be happy. Multiple international experts gave evidence in the House of Commons. We had Dr Ryan Spielvogel from California. He is responsible for the training of all the doctors and the medics. We had Clare Fellingham from Australia and Ben White, who is another Australian doctor. They have been involved in setting this up, monitoring it, training the medical people involved and everything around it. Their voices are really, really important.

Q7 Lord Goodman of Wycombe: Lord Falconer, could I ask you to turn to Clause 27 of the Bill, which is approved substances? In relation to approved substances, the Delegated Powers Committee, on which I sit, recommended that a definitive list of substances on the face of the Bill would—and I quote—“facilitate an expert debate and generally be in the interests of clarity and transparency”. Now, at the Second Reading you explicitly ruled out such a change because you said—I am sure this is correct—“Advances come thick and fast”. Why should such advances not be addressed later by regulation after Parliament has initially discussed and debated which substances should be used? Why should we not debate that on the Floor of the House?

Lord Falconer of Thoroton: I can think of nothing worse than politicians deciding what drugs to use. The right course is for a proper

body to decide that. The idea of a bunch of politicians deciding that seems to be wrong.

Kim Leadbeater: I would agree with that. That was certainly the same in the Commons. We have 650 Members of Parliament. There are a handful with a medical background. They are brilliant, but, for a number of reasons, for lots of other people to have that discussion would not seem the right approach.

Lord Goodman of Wycombe: It is absolutely clear you disagree with the Delegated Powers Committee, which had on it people with all sorts of different views about the Bill, that the matter should be discussed on the Floor of the House.

Let us just leave that there and turn to Clause 37, if you would not mind, which is about the regulation of approved substances. The committee pointed out that there is nothing on the face of the Bill about the following: the power to create criminal offences and penalties, civil sanctions, and investigatory and enforcement-related powers. If I am correct, the Secretary of State would have the power to amend primary legislation. The committee said this is "highly inappropriate", which is pretty strong language for a committee. Will you be tabling amendments stating what such offences, penalties and powers will be, guaranteeing that the substances will be safe, efficacious and not cause suffering?

Lord Falconer of Thoroton: Yes, I agree on that point. As I made clear in the Second Reading, I hope, there are changes that we can introduce in relation to Clause 37, in which we are deciding what the purpose is and the points you just made at the end. I agree. Changes are required in relation to that.

Lord Goodman of Wycombe: You will be tabling amendments.

Lord Falconer of Thoroton: I myself will be making proposals in relation to that. Although I strongly disagree with the first proposal you made in relation to Clause 27 and will say that on the Floor of the House, as is very normally the case with the House of Lords Delegated Powers Committee, which is an important and worthwhile committee, we will draw on what they are suggesting in many of the respects that you have identified in Clause 37.

Q8 Baroness Finlay of Llandaff: This question is to both of you, but then I have questions for each. I should declare that I am a non-remunerated director of Living and Dying Well, and I have had some part-time research support in relation to this Bill from there.

This Bill has been promoted on the basis of a solution to severe pain and suffering. You have spoken about other countries, other jurisdictions, that do include suffering in their legal definition. Why did you choose to not mention either pain or suffering anywhere in your qualifying conditions?

I might just also pursue your comment about the reports. Are you happy with Oregon destroying all of its evidence after one year? Its reports are

produced often with many gaps in data and there can be no research into the data provided to them.

There is one other question that I would like to ask in relation to the panel. Why is there no appeal mechanism in the event that somebody feels that an approval for lethal drugs should not have been given? There is only an appeal mechanism against a decision to not provide lethal drugs.

Lord Falconer of Thoroton: First of all, on suffering, the essence of the Bill is autonomy. You have a choice. We did not take the view that it is appropriate to have as a condition the suffering of an individual, which is a subjective matter. Once you satisfy that requirement—obviously, the safeguards have to be complied with—that is the essence of the Bill. It is autonomy.

Secondly, on the destruction of records by Oregon, it is for Oregon to decide what the position is. The key thing about the Oregon reports, which come every year, is that they indicate absolutely no problem whatsoever about coercion. I cannot remember what your third question was.

Baroness Finlay of Llandaff: I asked you about the appeal mechanism in relation to the panels.

Lord Falconer of Thoroton: You have to have a system that can work properly in the context of somebody who is dying. What you do not want, if you want to make this work, is some inflated court process.

Baroness Finlay of Llandaff: When you talk about the Oregon reports, 58% of people cite feeling a burden. Feeling a burden is a common feeling among patients, particularly when they are subject to different pressures, such as worrying about finances and so on. I am concerned that you have not allowed for that, either with suffering or with pain. You talk about choice, but, if there is no service there to deal with somebody's pain, they do not have a real choice.

Lord Falconer of Thoroton: You know from those reports, because you have read them, that the three items that people most cite in Oregon are, first, a lack of autonomy; secondly, a lack of dignity; and, thirdly, pain and suffering. The item that you refer to, feeling a burden, is something like sixth or seventh. It is one of a number of items. The key thing for us is the choice.

Kim Leadbeater: Can I just add to a few of those points? In terms of the phraseology around suffering, this was a very conscious decision on my part because of conversations that I had with disabled people. They had said to me, particularly disabled people who are supportive of a change in the law, that they would not be keen to support a change in the law if it included the word "suffering" based on their lived experience of how they had been treated essentially by people saying to them, "You must be suffering. Your life must be awful". That is just dreadful. I was

very clear that the terminal diagnosis and the six-month prognosis were the criteria that should be in the Bill. As Charlie said, suffering is a very subjective concept. It should be the autonomous right of the patient to choose, if this is what they want to choose.

In terms of reporting, I agree we need really strong thorough reporting, and that is why the mechanisms in this Bill are there: to make sure that all these cases are logged; everything is reported; and we have robust data. That is really important.

In terms of the concept of someone feeling a burden, it is a really delicate conversation to have, but it is a really important conversation to have. One of the doctors from California said that, as soon as a patient mentions that word, it is considered a red flag. They explore that conversation. They explore why the patient has said that. These are not quick conversations with doctors. They are very detailed and very patient-centred conversations. It is very, very important, as the Bill sets out, that this is the patient's clear, settled and informed decision, so every aspect of that is examined throughout the process.

Baroness Finlay of Llandaff: Can I come back on that slightly? Why, in your committee, did you accept the statement that a doctor should not be asking a patient why they want to die? That is clear. That is in the record of your committee. Yet asking a patient why they are distressed is a fundamental step in all diagnoses in all good medical practice.

Kim Leadbeater: There are two different questions.

Baroness Finlay of Llandaff: I just wonder why you feel that this process is a medical treatment and why it should not be completely outside clinical medicine.

Kim Leadbeater: It is not completely outside clinical medicine, but there are two different questions there. Asking someone why they want to make this choice is a different question to asking why they feel distressed. Clearly, if a patient is distressed, that is something any doctor would explore and want to have that conversation about.

Baroness Finlay of Llandaff: If you are exploring why they want this choice, you have to understand the background to it.

Kim Leadbeater: Absolutely, and you would ask them lots of questions about how they are feeling and lay out the options to them. They are very detailed conversations. As doctors on the panel and others have said, doctors have these conversations at the moment. They are very, very good at having those conversations. It is a very patient-centred approach. Again, when you hear from international experts, they will tell you that this is the most patient-centred piece of their work. It is very, very personal. Those conversations are very detailed and they are very patient-focused.

The Chair: I would like to move on to Lord Markham, but, before I do that, I am afraid I cut Baroness Berridge short and also Baroness

Scotland. I would like to give you both a chance to come back once we have finished.

Q9 Lord Markham: There is a concern that the committee might not hear from the people this Bill is about, the terminally ill. As the Bill's sponsors, I was wondering whether you could represent their view in your replies, if they are not given the opportunity to speak to this committee.

Lord Falconer of Thoroton: The purpose of this Bill is to make the experience better both for people who are terminally ill and for those who are left behind. Not to hear from them is not to hear from the driving purpose of this Bill, but in hearing from them we have to be extremely conscious of the need for safeguards. One would be very, very surprised if any committee gathering material did not hear from them.

Kim Leadbeater: Yes. It is fundamental, is it not? If we were passing a piece of legislation about violence against women and girls, there is no way you would not hear from victims and survivors. In the same way as we are passing a piece of legislation about terminally ill adults—and the title of the Bill is very clear in that regard—of course you must hear from those people and you must hear from the families of people who have lost loved ones, who will give very clear evidence of the failings of the status quo and why the law does need to change.

I have met with lots and lots of those families. I am very fortunate. I have not been affected by this issue on a personal basis, but I have spent time with people who have been and, indeed, people who are in their dying days, who know that this law will not come into effect in time for them but who are still campaigning because they do not want other people to not have the choice and the dignity that this law would provide for them.

I have also spoken to families who have faced that fear of prosecution. Lord Falconer referred to Louise Shackleton. She was the person who went with her husband to Dignitas after the Second Reading of the Bill in the Commons. She wrote to me after that with a very long and very emotional email of what that experience was like and the threat that hung over her for months. I have met lots of those people as well. People are dealing with loss, grief and bereavement. They should not be dealing with the fear of a prosecution on top of that.

Lord Markham: Similarly, there is a concern that we might not be able to hear from international people who face similar things. Coming back to the questions around safeguards and whether there should be a judicial process around that, again, I was wondering whether you could tell us about some of the international experience from places that are not using a judicial process.

Lord Falconer of Thoroton: As far as I am aware, with the possible exception of Spain, where there is a committee process, no other country has the sort of regime that we are proposing in this Bill, where a panel will look at the matter.

In relation to practically every other country, it is primarily doctors who have to make the decisions. There are places where the doctor has to be supported by an independent doctor. That, for example, is the position in relation to New Zealand. I cannot say that the idea of the panel is completely unique, but we are one of the very few countries that, assuming it becomes the law, will have such a proposal. What that involves is a senior lawyer or judge, a social worker and a psychiatrist looking at it, which is an added safeguard.

Lord Markham: I know a number of people have expressed a concern about the palliative care impact of such legislation coming forward. Again, based on your experience and the international experience, what has happened to palliative care in these examples?

Lord Falconer of Thoroton: The state of Victoria in Australia looked at this. The Select Committee in the Commons, which did a 14-month inquiry that reported in 2024, looked at this. They said the following. In no country has palliative care gone down as a result of assisted dying, and in many cases it has gone up.

In this country, the Secretary of State for Health announced a further £100 million for palliative care after the Bill was introduced. The chief executive of Hospice UK said publicly that the reason for the increase in funding in the UK was as a result of the introduction of the assisted dying law.

One can be pretty sure that the effect of an assisted dying law is to make people debate the way that one dies more. The consequence is a much greater focus on palliative care. That leads to greater resources coming to palliative care regimes. Take, for example, Oregon. In Oregon, which is the first of the American states to do it, palliative care was quite low down in its standards when it started. It is now in the top group of palliative care providers in the United States of America.

Lord Markham: Finally, in terms of mental capacity, there are other concerns about whether people have mental capacity to make the decision. Again, I would welcome your thoughts on the safeguards that you have built into the Bill.

Lord Falconer of Thoroton: What we are proposing in the Bill is that you use the Mental Capacity Act in relation to that. There are various people—and Baroness Finlay is one of them—who have made a proposal that we have a completely different form of mental capacity check for this. I disagree with that strongly.

I think the Mental Capacity Act has proved a very robust framework in which decisions are made about medical issues with the assistance of doctors. Sir Chris Whitty, who I think you may be hearing from, gave very powerful evidence to the Commons Bill Committee, saying that the Mental Capacity Act was a very robust and well understood method of determining the capacity of patients, and he strongly supported it being used in relation to it.

The Mental Capacity Act at the moment determines the capacity of patients who have to determine, for example, whether they want life support to be stopped. To have two separate regimes, one for this Bill and one for major decisions like that, seems to me to be confusing and completely wrong. We strongly adopt the views of Sir Chris Whitty in relation to that.

Q10 Baroness Berridge: I will begin with the question that I am putting to you, Ms Leadbeater, to give you time to look at the legislation. At Clause 43 we prohibit advertisements. There is no definition, though, in the Bill of "advertisement". That word does not include what young people view through YouTube influencers, TikTok videos, video games or artificial intelligence, including ChatGPT, which parents might not be aware of. Are you not concerned, Ms Leadbeater, that we are opening up to messages and promotions that are not caught by your clause?

While you look at that, the final question that I had is for you, Lord Falconer, in relation to our strict liability offence. Say a doctor or nurse is stressed because they need to pick up the children or they missed a night's sleep. They enter the room and bring that pressure with them subconsciously into that room. The relatives then say that it was as a result of that that they self-administered. Are you saying that the fear of prosecution and life imprisonment should hold over that doctor or nurse on a strict liability offence?

Kim Leadbeater: On the advertising clause, this is a really good example, actually, of cross-party working on the Bill. This amendment was originally proposed by a colleague who is not a supporter of changing the legislation but wanted to see something around prohibiting advertising. I fully supported that. We have worked quite closely on that and we got legal advice from officials around that.

Lord Falconer and I are doing some additional work on this because you raise a really valuable point. I was always very clear that it would be inappropriate for services for assisted dying to be advertised. That would feel wrong. We are still working on the detail of that and we would be very happy to provide updates on that.

Baroness Berridge: Could you, when you do your updates, consider any impact on the Online Safety Bill? Lord Falconer said that this is a well-thought-through piece of legislation. I do not think parents will agree with you, if we are still having to look at matters such as advertising at this stage, would they?

Kim Leadbeater: The other thing that I would say is that this is a terminally ill adults Bill. Young people would not be eligible under this Bill. Again, that is something I was very, very clear about. It is a fair point to talk about advertising. I am very happy to continue those conversations and work together, if that is helpful.

Lord Falconer of Thoroton: Your point about it not being a well-thought-out Bill because we have not fully worked out the

ramifications of online advertising is a point that could be made about the way that online adverts and online influence happens right across the board. Society is wrestling with that in a big, big way. We are wrestling with that as well in relation to this, in the form that we are trying to come back with more detail in relation to advertising. I do not accept the criticism that, because we have not solved the problem of online advertising in this respect, it is not a well-thought-out Bill.

In relation to your other point about pressure, we were extremely keen that the thing the safeguards have to do is to ensure that the person, when they make a decision about whether they want an assisted death, does it free from pressure. It is their own decision. Therefore, I do not apologise at all for having pretty fierce offences to ensure that.

Q11 Baroness Scotland of Asthal: Can I just take you up on a matter that you referred to in your statement? You said the current law on assisted dying contained in the Suicide Act 1961 is not fully applied by the DPP, provides no safeguards and is often cruel in its effect. I think you will be more than conversant with the DPP guidelines that came out in February 2010, which were highly consulted upon and, indeed, received a lot of applause for the way in which they were undertaken.

Would you therefore like to qualify your statement? If we look at the data since those guidelines came in, we have had only 191 cases reviewed since 2010. That is over the last 15 years. Some 133 of those were not proceeded with because a proper decision was made that it was not justified; 10 are ongoing; and only five were prosecuted. They were prosecuted in relation to serious offences, which are concerns in terms of homicide or serious crime.

I am sure, as a former Solicitor-General, you are not suggesting that the DPP, with the oversight of the current Attorney-General, is not properly applying these principles to enable those who are responsible for offences to be dealt with. What I am going to ask you is this. How do you propose that, under this Bill, we will deal with those cases where improper pressure has been carried out? How is that analysis going to be made? Are we going to have the Official Solicitor? Are we going to have the Attorney General's panel? How are we going to do it? That is a mischief.

Lord Falconer of Thoroton: First of all, to your first point, the law in the 1961 Act is that, if you provide any assistance to somebody to commit suicide, including in the context of terminal illness, you are committing a serious criminal offence. The choice made in the 1961 Act is unequivocal. It does not matter what your motivation is. You are guilty simply by providing the act of assistance. For example, if I buy the air tickets to fly my spouse to Switzerland knowing that he or she is going to commit suicide there, I am committing an offence.

Can I just answer the question first? In relation to your question, the effect of the guidelines of the DPP is that, despite the fact that the law is unequivocal in that respect, he or she has introduced a defence in effect. That defence is, "If you are motivated by compassion and you are not a

medical person, you will not be prosecuted". In effect, well-meaning officials—they are not breaking the law in relation to this—are indicating that they are not going to apply the law in its full rigour, as they are entitled to do.

Baroness Scotland of Asthal: Can I just stop you?

Lord Falconer of Thoroton: Please let me finish. The important point to make is that the DPP does not think that the law in its full rigour can be enforced. I suspect the reason he has thought that over time is that no jury will convict where there is compassion.

Baroness Scotland of Asthal: You know perfect well, as I do, that there are two tests. One is whether the matters complained of are found and the second test for every prosecution is whether it is in the public interest to prosecute. That is not failing to implement the law. It is implementing the law in accordance with the prosecutorial practice that we apply to every single case. The Suicide Act is no exception. The guidelines that the DPP puts out in relation to a number of offences will always take those two tests into account.

Do you accept that it is quite wrong to say somehow that this is an amendment of the law because in fact it is the fulfilment of the law by the legal officer who has to make that decision as the guardian of the public interest?

Lord Falconer of Thoroton: I would be very, very surprised if there is any other identified case where you could say the public interest introduces a defence not in the Act.

Kim Leadbeater: Can I just make two very quick points on that? For me, as a non-lawyer, when four former Directors of Public Prosecutions say that the law needs to change, I think there is very clear evidence that the law needs to change.

Can I also just come back to the person at the centre of this? In the middle of this, we have a dying patient. We have someone who does not have long left to live. I understand that we have to get the legalities of this right. That is absolutely right. I understand it. Why would we put that person, their family and their loved ones through a potential prosecution? Even if it is only a potential prosecution, why would we do that to them, when we can change the law to make sure that they are not subjected to that?

The Chair: We have a few minutes left. Does any member of the committee want to contribute?

Q12 **Baroness Hayter of Kentish Town:** One of the arguments made in our Second Reading debate—I cannot remember when; I think it was 12 September—was that you have overdone it, that there are just too many safeguards now and that it is going to be almost unworkable. That was Lord Forsyth in particular; it may have been others. Can you give some reassurance that you have not so overloaded this that no one is actually

going to be able to get through it?

Kim Leadbeater: That is a really fair and difficult criticism. It is something I really wrestled with. Again, thinking about the people who the Bill will be there for, these are people who do not have very long left to live. We have asked them to go through what is in reality quite a lengthy bureaucratic process. It was Chris Whitty, the Chief Medical Officer, who said we must try to avoid a bureaucratic thicket. He also said that sometimes the safest safeguards are the simplest. I have wrestled with that.

I have been contacted by people who have terminal diagnosis who have said, "Goodness me, Kim. We are already going through so much, and we will have to go through this process, which could take up to two months". That is difficult.

I would also come down on the fact that it does need robust safeguards, and the Bill provides robust safeguards. I take the point on board that some people—this has happened in other jurisdictions—will sadly pass away before they can go through the whole process. Is it better to have a really robustly safeguarded piece of legislation that puts things in place that just do not exist now? I think it is. That is certainly the decision that I made.

Lord Falconer of Thoroton: Just to pick up on that, we have erred on the side of caution in relation to this, which is the right thing to do. A very significant issue will then be how it is introduced by the medical profession and in particular the National Health Service. It is very important that there should not be an overengineered process.

If you look, for example, at the way that slimming drugs are being introduced, nobody is ever going to get one, basically. You have to be careful about how it is introduced.

The Chair: We are almost up to our time. Baroness Berger, a quick question, please.

Q13 **Baroness Berger:** I just have a quick question. Forgive me. You referred to the evidence given by Chris Whitty, but can I just, for the record, make clear that Chris Whitty had to retract some of his evidence relating to some of the points that you made? You will perhaps know the reports. There were reports that votes were taken in the Commons, which could not be changed, that would have been different, had his correct evidence been given.

Lord Falconer of Thoroton: Can I give you the evidence that I was thinking of? He did not retract this bit. The Mental Capacity Act "is used up and down the country by doctors and nurses every day; they know it and understand it". "To practitioners like me"—this is Chris Whitty—"it feels like a piece of robust and predictable legislation". "Having a system with two completely separate groups of assessment"—he is referring to withdrawal of care and assisted dying—"one of which has never been tested in the courts or used outwith this Bill"—that is referring to the

sorts of proposals that Baroness Finlay is making—"would lead to a whole set of potential complications and ambiguities, which are not there at the moment because we have a well-tested mechanism through the Mental Capacity Act".

I do not think he withdrew that piece of evidence.

Baroness Berger: Indeed, but what he did have to retract, which was the context of the points that he made, was that the Mental Capacity Act carried the absolute expectation that the more serious the decision, the greater the level of capacity that someone needs to have. He had to retract that.

Kim Leadbeater: He changed the way he expressed himself. I have that somewhere among my many, many papers. He did say that, but it is about the fact that the severity of the decision has to be taken into account when you are thinking about someone's mental capacity. He did change his terminology. I am happy that that is on the record.

The Chair: I think we really have to stop it there because we have another session coming up. On behalf of the committee, can I thank you both very much indeed for coming and for your evidence?

Lord Falconer of Thoroton: Thank you for having us.

Kim Leadbeater: Thank you very much indeed.

The Chair: I remind you please to check the transcript when it comes out and draw our attention to any errors you may find there.