

The Terminally Ill Adults (End of Life) Bill has received significant media attention in the United Kingdom over the last few weeks following the historic vote in the House of Commons on the 20th June this year. The Bill, as it currently stands, would allow a terminally ill adult with fewer than six months to live, to apply for an assisted death, if:

- they have a progressive illness, disease, or medical condition that cannot be reversed by treatment, and their death is reasonably expected within six months;
- the person must have the mental capacity to make an informed decision about ending their own life, in accordance with the Mental Capacity Act 2005, which capacity must be assessed at multiple stages of the process;
- the person must be an adult, aged 18 or over; and
- they must be ordinarily resident in England and Wales for at least twelve months and registered with a GP in England or Wales.

The decision must be clear, informed and made voluntarily, free from coercion or pressure from any other person. It should be noted that the Bill explicitly states that those with disabilities or mental illness alone, if they are not terminally ill, are excluded.

HOW MUCH AUTONOMY SHOULD A PERSON HAVE IN THIS REGARD?

Whether individuals with little or no quality of life should be able to choose to end their lives in this manner is a highly debated aspect of the assisted dying discussion. There are ethical, moral, practical and often religious considerations on both sides.

For individuals experiencing a prolonged or painful decline due to an incurable illness or condition, where palliative care may no longer adequately alleviate their distress, the option of an assisted death can be seen as a compassionate and dignified choice for a person to have the choice to end suffering on their own terms. What constitutes someone's "quality of life" is personal and subjective. Some would argue that if a mentally competent person judges their own quality of life to be intolerable, they should have the right to choose to end their suffering.

Gibraltar's Lasting Powers of Attorney and Capacity Act 2018 brought into place some important planning tools for individuals which were previously absent in our legislation, such as allowing a trusted person/attorney to act for you (either financially or in relation to your health and welfare) in the event of loss of mental capacity – a Lasting Power of Attorney or LPA. It also catered for Advance Decisions to be made- a decision for a certain treatment not to be carried out in the event of loss of capacity (sometimes also called an advance refusal). At present, there is no assisted dying legislation in place in Gibraltar. It is an area of law most do not even consider until they have a family member or person close to them who is diagnosed with a progressive illness or medical condition.

In a recent interview, Dame Joanna Lumley stated: "People are terribly anxious about it and think one may be coerced (into voluntary euthanasia). But I'm saying this now when nobody's coercing me, don't let me turn into somebody who doesn't recognise the people I love most, where I'm having a miserable time. When I get to the stage where I can't speak and have to be fed, that won't be me anymore and that's when I wouldn't mind saying farewell."

The Bill includes safeguard approvals that must be given from two doctors, in order for them both to independently confirm that the person meets the eligibility criteria (with at least seven

days between the two medical assessments) and a panel featuring a social worker, a senior lawyer and a psychiatrist.

The Bill is due to come before the House of Lords for further debate and votes at its Second Reading, scheduled for 12th September 2025.

'Whose choice should it be?' is more than just a question of law. It requires meticulous consideration and the flexibility to combine both individual dignity and autonomy with collective social responsibility.

Sarah Bray
Partner
ISOLAS LLP

sarah.bray@isolas.gi