



Department
of Health &
Social Care

*From Baroness Merron
Parliamentary Under-Secretary of State for
Women's Health and Mental Health*

*39 Victoria Street
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26 February 2026

Dear Earl Howe,

Thank you for your contribution to the ninth day of Committee Stage for the Terminally Ill Adults (End of Life) Bill on 6 February 2026.

This letter sets out the Government's response to the question you raised. The Government is neutral on the Bill and on the policy of assisted dying, but I am pleased to address your point following the debate. As you are aware, the Government has a duty to ensure this Bill is workable, effective and enforceable.

In relation to amendment 581A tabled by Lord Sandhurst, you asked whether – in circumstances such as those his amendment seeks to address - specific guidance should be issued by the Government over and above guidance already issued under the Mental Capacity Act 2005 (MCA).

As currently drafted, Clause 25 subsection 5 provides that capacity is assessed and that the coordinating doctor is satisfied of this capacity. Clause 39 subsection 1(a) requires the Secretary of State to issue a code of practice in connection with the assessment of whether a person has a clear and settled intention to end their own life, including (a) assessing capacity; (b) recognising and taking account of the effects of depression or other mental disorders. Such a code of practice can address capacity assessments at all stages of the assisted dying process, including when capacity is concerned under clause 25.

It is a policy question for the Sponsor and Parliament to determine whether additional guidance should be specified in the Bill, over and above the code of practice already issued under the MCA, and the code of practice which the Secretary of State must issue under Clause 39 of this Bill. Should the Bill pass, we will work with stakeholders to consider what training, guidance and other support is needed to deliver the Bill safely and effectively.

I hope this letter has provided clarification on the query you raised. I have copied this letter to all Peers who tabled amendments and/or spoke during the debate. I will deposit this letter in the libraries of both Houses.

All good wishes,

BARONESS MERRON