

# Briefing

## Terms of reference for the statutory review of the End of Life Choice Act 2019

**Date due to MO:** 19 December 2023      **Action required by:** 19 January 2024

**Security level:** IN CONFIDENCE      **Health Report number:** H2023033040

**To:** Hon Dr Shane Reti, Minister of Health

**Consulted:** Health New Zealand:       Māori Health Authority:

### Contact for telephone discussion

Name	Position	Telephone
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<b>Emma Prestidge</b>	Group Manager, Strategy, Policy and Legislation   Te Pou Rautaki	s 9(2)(a)

### Minister's office to complete:

- |   |                                    |  |
|---|------------------------------------|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Decline   | <input type="checkbox"/> Noted               |
| <input type="checkbox"/> Needs change         | <input type="checkbox"/> Seen      | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |  |

Comment:

# Terms of reference for the statutory review of the End of Life Choice Act 2019

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**Security level:** IN CONFIDENCE                      **Date:** 19 December 2023

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**To:** Hon Dr Shane Reti, Minister of Health

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## Purpose of report

1. This briefing addresses the statutory requirement for the Ministry of Health | Manatū Hauora to review the operation of the End of Life Choice Act 2019 by 7 November 2024, and outlines a potential scope and approach for this review, based on the wording in the Act.

## Summary

2. The End of Life Choice Act 2019 (the Act) enables persons who have a terminal illness and who meet certain criteria the option of lawfully requesting medical assistance to end their lives and establishes a lawful process for those people to exercise that option through the Assisted Dying Service. The Ministry of Health | Manatū Hauora (the Ministry) administers and regulates the Act, while Health New Zealand | Te Whatu Ora centrally manages the delivery of the Assisted Dying Service.
3. The Ministry is required to review the operation of the Act within three years of it coming into force, and every five years after that. As such, the Ministry has until 7 November 2024 to undertake and complete a review of the operation of the Act and provide advice to you, which must then be presented to Parliament. This includes considering whether any amendments to the Act (or any other enactment) are 'necessary or desirable', and making recommendations based on those findings.
4. The coalition agreement between the New Zealand National Party and the ACT Party includes a commitment to '*agree the terms of reference for the statutory requirement to review the End of Life Choice Act 2019 following consultation between the Parties, with any potential future changes to be progressed by way of a member's bill, recognising this is a conscience issue*'. We anticipate that this will mean that the terms of reference for the review will need to be agreed by Cabinet prior to the commencement of the review.
5. We are therefore seeking your agreement to develop a draft Cabinet paper which sets out the proposed terms of reference for the review, including the scope, engagement approach, and timing. In order to complete the review by November 2024, the terms of reference would need to be agreed by Cabinet in March 2024.
6. Based on the wording in the Act, it is our view that the review should consider whether the legislation as written is achieving its intended purpose, and consider changes to support its effectiveness, without contemplating changes to the core process to apply, be assessed for, and receive assisted dying.

7. A review based on this scope would take a targeted approach to engagement with stakeholders (see **Appendix A**).
8. This approach would not involve undertaking engagement or seeking submissions from the general public, reflecting the fact that the review would be focused on the operation of the Act, rather than a broader public discussion about assisted dying.
9. We are confident that a review based on these settings could be completed by November 2024.
10. As part of a Cabinet paper, we could provide advice on alternative options if these are desired, such as options for a narrower or broader scope or wider engagement. We are seeking your direction on whether any alternative options should be canvassed for inclusion in this advice.

## Recommendations

We recommend you:

- a) **note** that under section 30 of the End of Life Choice Act 2019, the Ministry is required to undertake a review of the operation of the Act, with the review to be completed and a report provided to you by 7 November 2024

*Process to develop terms of reference for the review*

- b) **note** that the coalition agreement between the New Zealand National Party and the ACT party includes a commitment to 'agree the terms of reference for the statutory requirement to review the End of Life Choice Act 2019 following consultation between the parties', and that we propose to develop a Cabinet paper setting out proposed terms of reference, to be considered in early 2024

*Scope for the review*

- c) **EITHER:**
  - i. **agree** to the scope outlined in the table below, **OR**

**Yes / No**

In Scope	Out of Scope
Changes to the Act that: <ul style="list-style-type: none"> <li>• increase clarity around the meaning and interpretation of rules or settings in the Act</li> <li>• improve the effectiveness of mechanisms in the Act, such as those intended to address issues of access and safety</li> <li>• support effective administration of assisted dying</li> <li>• provide clarity around the roles and responsibilities of those involved, including the End of Life Review Committee, Support and Consultation for End of Life in New</li> </ul>	<ul style="list-style-type: none"> <li>• The intent and purposes as stated and implied in the Act.</li> <li>• Changes to the eligibility criteria for assisted dying.</li> <li>• Changes to the structural elements of the process to apply, be assessed for, and receive assisted dying (for example, the need to be assessed by two medical practitioners).</li> <li>• Elements related to assisted dying that fall outside the scope of the Act, such as operational</li> </ul>

<p>Zealand (SCENZ) group, Registrar (assisted dying), and practitioners</p> <ul style="list-style-type: none"> <li>improve alignment of the Act with other pieces of legislation and the wider health system, including the principles of the Pae Ora (Healthy Futures) Act 2022.</li> </ul>	<p>decisions around how assisted dying is delivered, clinical practice, and funding arrangements.</p>
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- ii. **agree** to meet with officials to discuss the considerations and risks around widening or narrowing the scope of the review **Yes / No**

*Engagement approach for the review*

- d) **note** that a review based on the scope described in recommendation (c)(i) above would take a targeted approach to engagement with stakeholders
- e) **agree**, given the proposed scope above, not to undertake public engagement as part of a review **Yes / No**

*Stages and timing for the review*

- f) **note** that we are confident that a review based on the scope and targeted engagement approach referenced above could be completed by November 2024, with work organised into the stages set out in paragraph 29 and Appendix B
- g) **note** that to meet this timeframe, the terms of reference for the review would need to be confirmed by March 2024

*Next steps*

- h) **direct** the Ministry to develop a draft Cabinet paper which sets out proposed terms of reference for the statutory review of the End of Life Choice Act 2019, to be provided for Ministerial and coalition consultation by March 2024 **Yes / No**
- i) **agree** to forward this paper to the Associate Ministers of Health Hon Matt Doocey, Hon Casey Costello, and Hon David Seymour. **Yes / No**



Dr Diana Sarfati  
**Director-General of Health**  
**Te Tumu Whakarae mō te Hauora**

Date: 15 December 2023

Hon Dr Shane Reti  
**Minister of Health**

Date:

# Terms of reference for the statutory review of the End of Life Choice Act 2019

## Background

11. The End of Life Choice Act 2019 (the Act) is the law that makes assisted dying<sup>1</sup> legal in New Zealand. It came into force on 7 November 2021, and is administered by the Ministry of Health | Manatū Hauora (the Ministry). The Act sets out the legal framework for assisted dying, including strict eligibility criteria, processes, safeguards to protect patients and practitioners, and the establishment of administrative bodies to oversee and monitor the provision of assisted dying. The Assisted Dying Service – Ngā Ratonga Mate Whakaahuru was set up to provide a service by which people can access assisted dying.

## The Ministry is required to review the operation of the Act

12. The Ministry is required to review the operation of the Act within three years of it coming into force,<sup>2</sup> and every five years after that. This includes considering whether any amendments to the Act (or any other enactment) are 'necessary or desirable', and making recommendations to the Minister of Health based on these findings.
13. The Ministry has until 7 November 2024 to complete a review of the operation of the Act and provide a report to the Minister of Health, which must then be presented to Parliament.

## The New Zealand National and ACT Parties have committed to agree the terms of reference for the review

14. The coalition agreement between the New Zealand National Party and the ACT Party includes a commitment to '*agree the terms of reference for the statutory requirement to review the End of Life Choice Act 2019 following consultation between the Parties, with any potential future changes to be progressed by way of a member's bill, recognising this is a conscience issue*'.  
*PROPOSED*
15. We are therefore seeking your agreement to develop a draft Cabinet paper which sets out a proposed term of reference. To complete the review by November 2024, the terms of reference would need to be agreed by Cabinet in March 2024, with coalition consultation on a draft paper to take place before that.
16. The following sections set out a potential approach to the review based on the wording in the Act, including the scope, engagement approach, and timing.

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<sup>1</sup> In the Act, 'assisted dying' means an eligible person's medical or nurse practitioner giving them medication to relieve their suffering by bringing on death; or the taking of medication by the eligible person to relieve their suffering by bringing on death.

<sup>2</sup> Section 30 of the Act.

## Proposed scope of the review

17. Clause 30 in the Act, which describes reviewing the *operation* of legislation, indicates that the review should consider whether the legislation as written is achieving its intended purposes, and consider changes to support its effectiveness. The stated purposes of the Act are to:
  - a. give persons who have a terminal illness and who meet certain criteria the option of lawfully requesting medical assistance to end their lives; and
  - b. to establish a lawful process for assisting eligible persons who exercise that option.
18. The review would also consider how well the Act operates to achieve a set of implied purposes, which are to provide for safeguards as part of this process. The safeguards are to ensure that assisted dying is only provided to those who are eligible, who actively seek and consent to it, are competent to consent to it, and that this consent is provided without pressure from others.
19. Based on this view, the scope of the review would include considering changes to:
  - a. increase clarity around the meaning and interpretation of rules or settings in the Act
  - b. improve the effectiveness of mechanisms in the Act, such as those intended to address issues of access and safety
  - c. support effective administration of assisted dying
  - d. provide clarity around the roles and responsibilities of those involved, including the End of Life Review Committee, Support and Consultation for End of Life in New Zealand (SCENZ) group, Registrar (assisted dying), and practitioners
  - e. improve alignment of the Act with other pieces of legislation, and the wider health system, including the principles of the Pae Ora (Healthy Futures) Act 2022.
20. In line with the Ministry's obligations under te Tiriti o Waitangi and the principles of the Pae Ora Act, the review will recognise and be informed by:
  - a. **tino rangatiratanga** – within the scope of this review, this means considering how the Act is operating in its alignment with the principle of tino rangatiratanga
  - b. **equity** – considering how the Act is supporting equitable outcomes for Māori, and ensuring that any recommendations made as part of the review support equity of access, quality, safety and outcomes for whānau Māori
  - c. **active protection** – ensuring that we seek to understand any challenges for Māori caused by the Act throughout the review, and ensuring that the Act promotes transparency and protection of Māori interests
  - d. **options** – ensuring that there are no barriers as a result of the Act for kaupapa Māori health services relating to assisted dying.
21. The review will also consider matters related to a te Tiriti o Waitangi claim (Wai 3023) in which the applicant is concerned that there is a risk of suicide rates of rangatahi Māori, and Māori generally increasing as a result of the Act coming into force. The Tribunal has referred the issue to the Health Services and Outcomes Enquiry (Wai 2575). It is now being considered as part of stage two of that Enquiry. We will consider the issues raised under the initial claim, as well as any issues arising from the Health Services and Outcomes Enquiry, that are in scope of the review.

## *Matters proposed to be out of scope*

22. The matters that would be out of scope for the review, and the reasons why they would be considered **out of scope**, are set out below:
- a. **Changes to the intent and purposes as stated and implied in the Act:** The purpose of the review, as described by the Act, is to review the operation of the Act. We consider this to indicate that the review is intended to ensure that the Act is operating in a way that achieves its current purposes. Therefore, changes to those purposes of the Act would be out of scope.
  - b. **Changes to the eligibility criteria for assisted dying:** Contemplating changes to the eligibility criteria for assisted dying (whether broadening or narrowing eligibility) would go beyond the intent of a review focused on the operation of the Act. Further, and noting the Government's direction that changes will be considered as a conscience issue, we consider that changes of this nature would be matters better considered and addressed by Parliament directly. While the Ministry can provide policy, legal and clinical advice, making changes to who can or cannot receive assisted dying involves considering broader social, ethical and moral considerations that go beyond the purview of public officials.
  - c. **Changes to the structural elements of the process to apply, be assessed for, and receive assisted dying** (for example, the need to be assessed by two medical practitioners): It is our view that contemplating changes to the structural elements that make up the process in the Act would step beyond a focus on the operation of the Act, and instead get into matters involving its fundamental policy design.
  - d. **Changes to elements that fall outside the scope of the Act**, such as operational decisions around how assisted dying is delivered, clinical practice, and funding arrangements: While issues involving these areas may be identified during the review, they would be considered to be out of scope for the review itself given that they can typically be addressed without changing legislation.

## **The review would take a targeted approach to engagement in 2024**

23. In line with the proposed scope for the review outlined above, engagement would take a targeted approach, and would focus on:
- a. organisations and individuals that are directly referenced in the Act, or that have a role directly related to the Act.
  - b. organisations and individuals that are directly involved in the provision of assisted dying, or that regulate or represent workforces that are.
  - c. organisations and individuals with particular knowledge or expertise relevant to the operation of the Act, or particular groups that may be affected by it.
24. **Appendix A** includes more detail of the types of organisations that would fit into these categories. We would engage with these stakeholders through private interviews, focus groups, or surveys (where appropriate) in the first half of 2024.
25. We are not proposing to undertake any engagement or seek submissions from the general public, given the review is focused on the operation of the Act rather than seeking broader views on assisted dying. This position may be unpopular with those who hold strong views on the Act and assisted dying more generally. However, we note that:

- a. many of the changes sought by those with strong views on the Act are likely to fall outside the scope of the review – such as seeking to narrow or broaden eligibility provisions in the Act
  - b. if an amendment bill is progressed based on the findings of the review, this would be subject to the normal parliamentary process which includes opportunities for public input as part of the Select Committee process.
26. Engagement with Māori during the review is crucial for the Ministry to meet its Tiriti obligations and ensure that the review considers how the legislation is operating for Māori. This will include engaging with Nga Pou Mana Tangata Whenua – Māori Allied Health Professionals, Te Ohu Rata o Aotearoa – Māori Medical Practitioners Association, Māori researchers and experts, and Māori organisations and providers.

### **Taking the above approach, we expect the review would be completed by November 2024**

27. We consider that a review based on the scope and approach to engagement outlined above could be completed by November 2024. The work would be organised into the following stages:
- a. Phase 1: Developing and agreeing the terms of reference (November 2023 – March 2024)
  - b. Phase 2: Information gathering and engagement (March – June 2024)
  - c. Phase 3: Analysis and development of options (July – August 2024)
  - d. Phase 4: Development of final report (September – October 2024).
28. See **Appendix B** for more detail.
29. It is our intention that most internal papers developed during the review would be released publicly following the conclusion of the review, except where these may include information subject to legal privilege.

### **We are seeking your feedback on the proposed approach to the review**

30. We are seeking your direction on whether you are comfortable with the approach outlined in this paper, or whether you would like officials to canvass alternative options, such as options for a narrower or broader scope or wider engagement. These options could be set out in the Cabinet paper.
31. Note that broadening the scope of the review or widening the engagement approach are likely to result in a longer process, and/or additional resource demands.

### **Risks**

32. Some key risks associated with this review will include:
- a. public criticism that the review has not engaged widely enough or not included particular stakeholders, or that the views of particular stakeholders are not addressed through the review
  - b. misinterpretation of, or misinformation about the review by individuals and groups with strong views in this area, including suggesting the review is an opportunity to change the purposes, processes or eligibility criteria of the Act, which are (subject to Cabinet agreement) out of scope of the review



- c. delays in progressing or completing the review due to competing pressures for resources from other priorities/projects in the health and disability system.
33. The mitigation of these risks will include clear communication to stakeholders about the original intent of, and thus scope of, the review, including information to be published on the Ministry website, and development of supporting communications to help manage expectations.
34. These risks will be built on in our implementation plan, which will set out further management strategies for these and other risks that we identify.

## **Equity**

35. The review will consider equity in its scope. In the context of establishing assisted dying services, equity primarily relates to positive and negative access considerations where no group of people should:
- a. experience issues that prevent them from accessing assisted dying services when they would otherwise be eligible
  - b. be accessing assisted dying services at a rate that is disproportionately high, as this could imply an upstream issue, such as disproportionate terminal illness, or a lack of healthcare access.
36. The review will also consider how we ensure safety, particularly for disabled people.

## **Next steps**

37. Subject to your agreement, we will begin drafting a Cabinet paper which sets out proposed terms of reference for the statutory review of the End of Life Choice Act 2019, by March 2024.
38. As part of a Cabinet paper, we could provide advice on alternative options for the terms of reference for the review, such as on the scope or engagement approach. We are seeking your direction on whether any alternative options should be canvassed for inclusion in this advice.

ENDS.

# Appendix A: Engagement approach for the review

In line with the proposed scope for the review, engagement would take a targeted approach, and would involve the following groups:

- **Organisations and individuals that are directly referenced in the Act, or that have a role directly related to the Act:** These include the Health and Disability Commissioner, the Privacy Commissioner, the Chief Coroner, the Department of Corrections, New Zealand Police, the Department of Internal Affairs, and other relevant agencies and the committees that operate under the Act.
- **Organisations and individuals that are directly involved in the provision of assisted dying, or that regulate or represent workforces that are:** These include Health New Zealand | Te Whatu Ora, practitioners, and professional colleges and groups including the NZ Nursing Council, NZ Medical Council, College of GPs, College of Nurses, Nga Pou Mana Tangata Whenua – Māori Allied Health Professionals, Te Ohu Rata o Aotearoa – Māori Medical Practitioners Association, and the Aged Residential Care Association.
- **Organisations and individuals with particular knowledge or expertise relevant to the operation of the Act, or particular groups that may be affected by it:** These include Whaikaha – Ministry of Disabled People, Pharmac, the Ministry of Justice, the Disability Rights Commissioner, Human Rights Commissioner, the Māori Health Authority | Te Aka Whai Ora, and Māori practitioners, organisations, providers and experts (including, for example, through Iwi-Māori partnership boards).

## Appendix B: Timing of the review

Timeframe	Phase
November 2023 – March 2024	<p>Phase 1: Developing and agreeing the terms of reference</p> <p>This phase would include:</p> <ul style="list-style-type: none"> <li>• establishing oversight of the project</li> <li>• developing the terms of reference for the review, including the scope, approach to engagement, and timing</li> <li>• seeking Cabinet agreement to the terms of reference</li> <li>• developing and confirming a stakeholder engagement plan.</li> </ul>
March – June 2024	<p>Phase 2: Information gathering and engagement</p> <p>This phase would involve gathering information and evidence to identify issues to be examined through the review. This would be informed by:</p> <ul style="list-style-type: none"> <li>• a list of potential issues with the Act identified by agencies during the two years it has been operating</li> <li>• a clause-by-clause analysis of the Act</li> <li>• legal, academic and public discourse about the Act</li> <li>• feedback received by the Assisted Dying Service from those who have interacted with assisted dying services</li> <li>• an environmental scan of recent developments in overseas jurisdictions for experiences or lessons that might be relevant here</li> <li>• pieces of analysis on specific subject areas – for example, an examination of the effectiveness of safeguards in the Act, and reviewing the Act against the principles of the Pae Ora Act.</li> </ul> <p>This phase would also involve targeted engagement with a range of key stakeholders to further understand the issues.</p>
July – August 2024	<p>Phase 3: Analysis and development of options</p> <p>This phase would involve analysing the key issues and identifying options to respond. We would test the options we identify with key stakeholders and revise if required.</p> <p>Our analysis would be informed by a range of inputs including policy and legal analysis, and available data and evidence on assisted dying from New Zealand and overseas.</p>
September – October 2024	<p>Phase 4: Develop final report</p> <p>We would draft advice based on analysis and stakeholder feedback, and provide you with a final report with recommendations for amendments to be made to the Act.</p>

## Minister's Notes

PROACTIVELY RELEASED

# Briefing

## Terms of reference for the statutory review of the End of Life Choice Act 2019

<b>Date due to MO:</b>	29 February 2024	<b>Action required by:</b>	8 March 2024
<b>Security level:</b>	IN CONFIDENCE	<b>Health Report number:</b>	H2023033040
<b>To:</b>	Hon Dr Shane Reti, Minister of Health		
<b>Consulted:</b>	Health New Zealand: <input checked="" type="checkbox"/> Māori Health Authority: <input type="checkbox"/>		

### Contact for telephone discussion

Name	Position	Telephone
<b>Maree Roberts</b>	Deputy Director-General, Strategy, Policy and Legislation   Te Pou Rautaki	s 9(2)(a)
<b>Emma Prestidge</b>	Group Manager, Strategy, Policy and Legislation   Te Pou Rautaki	s 9(2)(a)
<b>Derek Senior</b>	Policy Manager, Family and Whānau Policy, Strategy, Policy and Legislation   Te Pou Rautaki	s 9(2)(a)

### Minister's office to complete:

- |   |                                    |  |
|---|------------------------------------|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Decline   | <input type="checkbox"/> Noted               |
| <input type="checkbox"/> Needs change         | <input type="checkbox"/> Seen      | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |  |

Comment:

# Terms of reference for the statutory review of the End of Life Choice Act 2019

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**Security level:** IN CONFIDENCE                      **Date:** 29 February 2024

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**To:** Hon Dr Shane Reti, Minister of Health

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## Purpose of report

1. This briefing addresses the statutory requirement for the Ministry of Health | Manatū Hauora to review the operation of the End of Life Choice Act 2019 by 7 November 2024.
2. This is a revised version of a briefing that we provided to you on 19 December 2023, following feedback from your office and Minister Seymour. This version provides advice on options for the review, including the scope and engagement approach.

## Summary

3. The End of Life Choice Act 2019 (the Act) enables persons who have a terminal illness and who meet certain criteria the option of lawfully requesting medical assistance to end their lives, and establishes a lawful process for those people to exercise that option through the Assisted Dying Service – Ngā Ratonga Mate Whakaahuru. The Ministry of Health | Manatū Hauora (the Ministry) administers and regulates the Act, while Health New Zealand | Te Whatu Ora manages delivery of the Assisted Dying Service.
4. Under clause 30 of the Act, the Ministry is required to review the operation of the Act within three years of it coming into force, and every five years after that. This includes considering whether any amendments to the Act (or any other enactment) are 'necessary or desirable' and making recommendations based on those findings.

5. s 9(2)(h)



6. Assisted dying is a complex subject which attracts both strongly held views and significant public and media interest. Reviewing the Act will involve managing a range of risks and other factors, including the conflicting interests of different groups and significant technical complexity in the Act due to its subject matter.
7. The Act requires that a review is completed by November this year. However, it may not be possible to complete a review within this timeframe, both because of the complexity involved and the stakeholder engagement process.

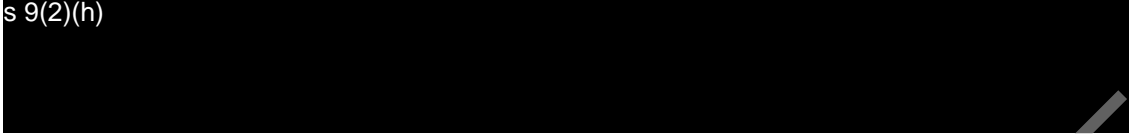
8. We have identified three options with indicative timeframes. These are:

- **Option 1: Reviewing the operation of the Act (baseline review)** – This approach would be closely based on the wording in the Act and would focus on looking at how effectively the Act is operating and achieving its purposes. This approach could involve targeted engagement with stakeholders and take approximately nine months.
- **Option 2: Baseline review *and* investigating options for expanding eligibility to people without terminal illnesses** – This approach would involve reviewing the operation of the Act (like Option 1), but would also investigate options for expanding eligibility to those without a terminal illness in future. This approach could involve targeted and/or public engagement, and is estimated to take 12-18 months depending on whether public engagement is required.
- **Option 3: Baseline review *and* a policy review of the Act** – This approach would look beyond the current Act and investigate how assisted dying could be provided for in the future, and to whom. Given the broad scope, such an approach would involve both targeted engagement with stakeholders and a public consultation process, and could take up to two years.

We are seeking your direction on which option you would like to receive detailed advice on, including a proposed plan for the review, a stakeholder engagement plan, and advice on risk management.

## Recommendations

We recommend you:

- a) **note** that under section 30 of the End of Life Choice Act 2019, the Ministry is required to undertake a review of the operation of the Act, with the review to be completed and a report provided to you by 7 November 2024
- b) s 9(2)(h) 
- c) **indicate** which option you would like to receive detailed advice on:
- i. Option 1: Reviewing the operation of the Act (baseline review) Yes / No  
**OR**
  - ii. Option 2: Baseline review *and* investigating options for expanding eligibility to people without terminal illnesses Yes / No  
**OR**
  - iii. Option 3: Baseline review *and* a policy review of the Act Yes / No
- e) **agree** to forward this paper to the Associate Ministers of Health Hon Casey Costello and Hon David Seymour Yes / No
- f) **note** that officials are available to discuss any of the options in this briefing with you.



Dr Diana Sarfati  
**Director-General of Health**  
**Te Tumu Whakarae mō te Hauora**  
Date: 27 February 2024

Hon Dr Shane Reti  
**Minister of Health**  
Date:



# Terms of reference for the statutory review of the End of Life Choice Act 2019

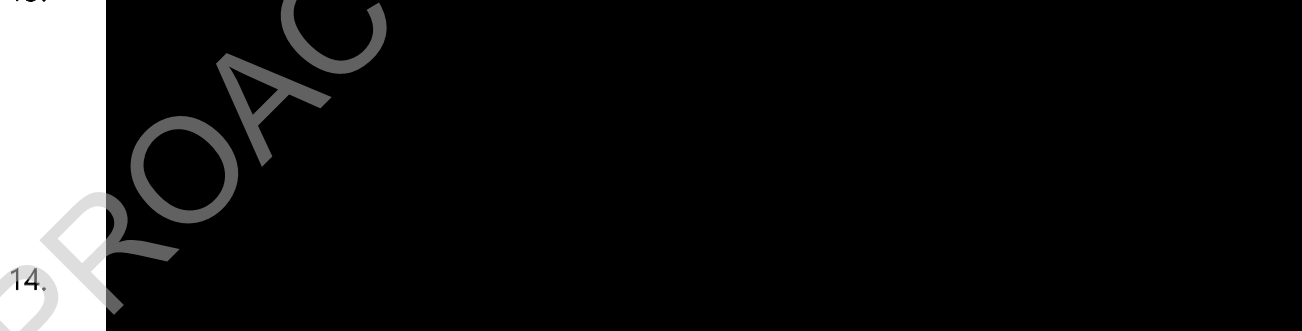
## Background

9. The End of Life Choice Act 2019 (the Act) is the law that makes assisted dying<sup>1</sup> legal in New Zealand. It came into force on 7 November 2021, and is administered by the Ministry of Health | Manatū Hauora (the Ministry).
10. The Act sets out the legal framework for assisted dying, including strict eligibility criteria, processes, safeguards to protect patients and practitioners, and the establishment of administrative bodies to oversee and monitor the provision of assisted dying. The Assisted Dying Service – Ngā Ratonga Mate Whakaahuru was set up to provide a service by which people can access assisted dying.

## The Ministry is required to review the operation of the Act

11. Broadly speaking, there are two levels of legislative review that agencies can undertake:
  - a. **an operational review** – this considers whether the legislation as written and agreed by parliament is operating as intended, how effectively it is achieving its stated purposes, and whether improvements can be made to make it work better
  - b. **a policy review** – this considers whether the fundamental purpose of the legislation is correct, and whether/how the purpose and core elements of the legislation might need to change.
12. Under clause 30 of the Act, Ministry is required to, within 3 years after the commencement of the Act and then at subsequent intervals of not more than 5 years, review the operation of the Act, and consider whether any amendments to the Act or any other enactment are necessary or desirable, and report on its findings to the Minister of Health, who then tables these in parliament.

13. s 9(2)(h)

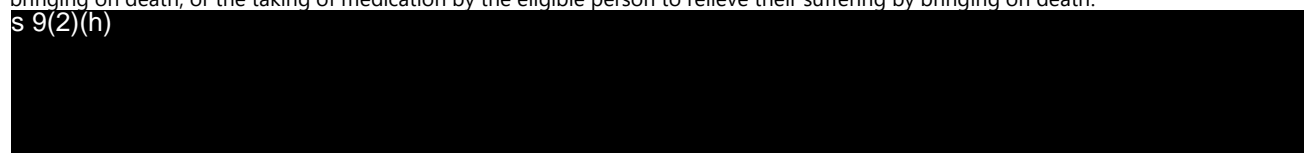


14.

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<sup>1</sup> In the Act, 'assisted dying' means an eligible person's medical or nurse practitioner giving them medication to relieve their suffering by bringing on death; or the taking of medication by the eligible person to relieve their suffering by bringing on death.

s 9(2)(h)



15. In practice, this would mean that to meet the requirement in section 30(1)(a), the statutory review should assess whether the Act is functioning to achieve the statutory intent sought to be enacted by Parliament. Pursuant to section 30(1)(b), advice would then need to be given as to whether, as a result of that review, there are changes that can be made to improve the functioning of the Act to achieve the statutory intent. Commissioning a statutory review within these parameters would constitute compliance with the minimum requirements of section 30. The review does not need to involve a first principles review of the policy settings that could be put in place in New Zealand in relation to assisted dying to meet this statutory requirement.
16. We have interpreted section 30 to mean that an operational review of the Act is required at a minimum, and have included this as a baseline option for the approach to the review. We have also developed two additional options for Ministers to consider that involve also reviewing a specific policy issue that goes beyond the current legislation, or a undertaking a policy review.

### **Assisted dying is a complex subject and reviewing the Act will involve managing a range of risks and conflicting interests**

17. There are a range of factors that mean a review of the End of Life Choice Act will be a complex process to manage.
18. Assisted dying is a subject on which there are strongly held and conflicting views from a range of individuals and groups. These views often reflect fundamentally different philosophical, moral, and ethical perspectives about matters including the value of human life and human autonomy.
19. Assisted dying is also a subject that attracts significant public and media interest. Two previous public processes that considered issues related to assisted dying received record levels of engagement. A select committee process during 2015 and 2016 in response to a petition about assisted dying received more than 21,000 submissions, while the select committee for the End of Life Choice Bill received nearly 40,000 submissions.
20. Progressing the review will mean managing the conflicting interests of different groups. Being seen to give consideration or preference to certain organisations or views is likely to result in criticism and challenges from those that are not included.
21. The review will also involve navigating significant technical complexity, including because the Act addresses subject matter that is both relatively new to New Zealand and also novel, meaning that there may be limited information to draw upon when considering its effectiveness.
22. The Act requires that a review is completed by November this year. However, completing a review in this timeframe will be challenging, because of the complexity involved and stakeholder engagement required.

## Options for setting the approach for the review

23. We have identified three options for how we could approach the review. For each option we have noted the proposed, scope, engagement approach, and estimated timeframes.

### Option 1: Reviewing the operation of the Act (baseline review)

24. This option reflects the wording in the Act. It would involve reviewing the operation of the Act, and whether the legislation as written is achieving its intended purposes. The purposes of the Act are to:
- give people who have a terminal illness and who meet certain criteria the option of lawfully requesting medical assistance to end their lives
  - establish a lawful process for assisting eligible persons who exercise that option
  - provide for safeguards to ensure that assisted dying is only provided to those who are eligible, who actively seek and consent to it, are competent to consent to it, and that this consent is provided without pressure from others.
25. Based on the wording in the Act, the scope of the review could involve considering:
- the meaning and interpretation of rules or settings in the Act
  - the effectiveness of mechanisms in the Act, such as those intended to support access and provide safeguards
  - the administration of assisted dying
  - the roles and responsibilities of those involved
  - alignment of the Act with other pieces of legislation and the wider health system.
26. While we cannot anticipate all the issues that would be considered as part of a review under this scope, some issues we are aware of that were identified during the implementation of the Act or through feedback already received on the Act include:
- clarifying important provisions that are currently subject to a degree of interpretation, such as whether the eligibility criteria are all connected to the terminal illness that will end a person's life, or whether the requirement related to pain and suffering can relate to a separate condition
  - examining the prescriptive provisions in the Act to determine whether they are all required and whether the Act can support more flexibility in the process, recognising that the end of a person's life is a period where circumstances can change quickly
  - considering whether prohibiting health practitioners from raising assisted dying before a patient does could be creating barriers to access
  - considering whether the Act should include a requirement for medical and nurse practitioners to complete training before providing assisted dying
  - considering whether and when assisted dying should be provided by junior medical and nurse practitioners, overseas-trained medical and nurse practitioners, and medical and nurse practitioners operating under supervision
  - considering whether the role of nurse practitioners should be expanded to allow them to provide more of the assisted dying process than they do now, and whether

nurse practitioners should continue to be required to operate under the supervision of medical practitioners when providing assisted dying

- g. more clearly defining the roles, responsibilities, and powers of the Support and Consultation for End of Life in New Zealand (SCENZ) group, Review Committee and Registrar (assisted dying), and how these entities operate together
- h. removing or revising provisions in the Act that do not reflect the way assisted dying has been operationalised (for example, the way medications are sourced and provided).

27. Under this option, matters outside the intent of the current legislation, such as expanding or narrowing eligibility criteria would be out of scope for the review.

*Engagement*

28. This option lends itself to a targeted approach to engagement, that would involve seeking input from:

- a. organisations and individuals that are directly referenced in the Act, or that have a role directly related to the Act
- b. organisations and individuals that are directly involved in the provision of assisted dying, or that regulate or represent workforces that are
- c. organisations and individuals with particular knowledge or expertise relevant to the operation of the Act, and groups that may be affected by it.

29. We consider that a review based on the scope and approach to engagement outlined above could be completed in approximately nine months.

*Summary of the benefits and risks of Option 1*

<b>Benefits</b>	<b>Risks</b>
<ul style="list-style-type: none"> <li>• Aligns closely with the wording in the Act, with a scope specifically focused on this.</li> <li>• Least complicated option in terms of undertaking, managing, and completing a review, and fastest option for getting a review completed.</li> <li>• Could be done within current resourcing.</li> <li>• Focusing on current legislation may provide some reassurance to individuals and groups who do not wish to see eligibility for assisted dying narrowed or widened.</li> </ul>	<ul style="list-style-type: none"> <li>• Focusing on current legislation likely to attract criticism from individuals and groups that wish to see eligibility rules widened or narrowed.</li> <li>• Targeted approach to engagement likely to attract criticism from individuals and groups that are not included.</li> </ul>

## Option 2: Baseline review *and* investigating options for expanding eligibility to people without terminal illnesses

30. This option involves taking a step beyond an operational review, by examining both the operation of the Act (as set out in Option 1), as well an additional matter that goes beyond current legislation.
31. It would involve:
- the scope and engagement approach set out in Option 1, and
  - Ministers directing officials to investigate and provide advice on options for expanding eligibility to people without terminal illnesses in future.
32. Making assisted dying available to people without terminal illnesses was originally contemplated as part of the End of Life Choice Bill but was ultimately removed to obtain parliamentary support for the Bill.
33. Under this option the Ministry would investigate and provide policy advice on:
- arguments for and against expanding access
  - potential criteria
  - potential processes
  - potential safeguards.
34. As decisions related to expanding access to assisted dying involve wider moral and ethical considerations, the Ministry would provide advice on what could be done, but would not take a position on whether it should be.

### *Engagement*

35. There are two options that could be taken with this approach:
- Targeted engagement:** Direct engagements with individuals and organisations that have a role under the Act, are directly involved in assisted dying, or that have particular relevant expertise (as per Option 1), as well as drawing on submissions made on the End of Life Choice Act. This approach would take 12 months.
  - Targeted and public engagement:** This includes the targeted approach outlined above, as well as a public engagement process that would allow any individuals and organisations to make submissions, and a number of public meetings and/or discussion sessions. This is estimated to take 18 months.

### *Summary of the benefits and risks of Option 2*

Benefits	Risks
<ul style="list-style-type: none"><li>Provides for a relatively defined scope, aligning with the wording in the Act, along with one additional matter.</li><li>Will respond to individuals and groups who would like to see changes considered that</li></ul>	<ul style="list-style-type: none"><li>Explicitly investigating options to extend access to people who are not terminally ill will alarm some individuals and groups who oppose this.</li><li>May attract criticism from groups and individuals who want to see other changes that</li></ul>

would expand eligibility for those without terminal illnesses.	<p>go beyond the current Act considered (such as allowing people to consent in advance).</p> <ul style="list-style-type: none"> <li>• Additional resource may be required if the review involves public consultation.</li> </ul>
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**Option 3: Baseline review *and* a policy review of the Act**

36. Minister Seymour has indicated that he would like to see the review take a much broader scope and include a public consultation process. This option sets out what that approach would look like.
37. Under this approach the review could consider both the operation of the Act (as set out in Option 1), as well as how assisted dying could be provided in the future, including what stakeholders and the public think about this. This latter part of the review could effectively take the form of an inquiry.
38. In addition to the scope described for Option 1, the scope for this review would also explore a set of policy questions, covering whether and how:
  - a. the purpose of the Act could change in future
  - b. the eligibility criteria to receive assisted dying could change in future
  - c. the process to apply for and receive assisted dying could change in future
  - d. the roles and responsibilities of entities involved with assisted dying could change in future.
39. We cannot anticipate all the matters that would be raised as part of this scope, but we could expect them to include:
  - a. whether people who are not terminally ill should be able to access assisted dying
  - b. whether safeguards should be added or removed from the process to receive assisted dying (for example, adding cool-down periods, or requirements for witnesses to be present at an assisted death)
  - c. whether people should be able to consent to assisted dying in advance and receive assisted dying at a time when they are no longer deemed competent to make medical decisions.

*Engagement*

40. Under this approach, engagement could include both:
  - a. direct engagements with individuals and organisations that have a role under the Act, are directly involved in assisted dying, or have particular relevant expertise (as per Option 1), and
  - b. a public engagement process that would allow any individuals and organisations, including lobby groups, to make submissions, and a number of public meetings and/or discussion sessions.
41. We estimate that a review based on this scope and engagement approach would take approximately two years to complete.

### Summary of the benefits and risks of Option 3

Benefits	Risks
<ul style="list-style-type: none"><li>• Provides for a broader inquiry that examines both the Act as it is drafted now, and public views on how it could change in future.</li><li>• Public consultation will allow a range of individuals and groups, including those who would like to see significant changes, to input into a managed review process.</li></ul>	<ul style="list-style-type: none"><li>• Most complex option, with the combination of a broad scope and public engagement potentially resulting in much longer review timeframes.</li><li>• Potential for 'scope creep' if stakeholders seek to widen the scope to include connected issues such as the adequacy of palliative care, or the role of advanced directives in healthcare.</li><li>• Considering matters beyond current legislation will alarm some individuals and groups who do not want to see changes considered that may narrow or expand access to assisted dying.</li><li>• Would likely need additional resourcing.</li></ul>

### Next steps

42. We are seeking your decision on which option you would like to receive further advice on. We will then provide you with a detailed briefing setting out a plan for the review, which includes:
  - a. details on the proposed process
  - b. a stakeholder engagement plan
  - c. advice on risk management.
43. Officials working on the review are available to meet with you if required.

ENDS.

## Minister's Notes

PROACTIVELY RELEASED



# Briefing

## Draft Cabinet paper for agreeing terms of reference for the review of the End of Life Choice Act 2019

<b>Date due to MO:</b>	3 May 2024	<b>Action required by:</b>	6 May 2024
<b>Security level:</b>	IN CONFIDENCE	<b>Health Report number:</b>	H2024040628
<b>To:</b>	Hon Dr Shane Reti, Minister of Health		
<b>Copy to:</b>	Hon David Seymour, Associate Minister of Health (Pharmac)		

### Contact for telephone discussion

Name	Position	Telephone
<b>Maree Roberts</b>	Deputy Director-General, Strategy, Policy and Legislation   Te Pou Rautaki	s 9(2)(a)
<b>Emma Prestidge</b>	Group Manager, Strategy, Policy and Legislation   Te Pou Rautaki	s 9(2)(a)
<b>Derek Senior</b>	Policy Manager, Family and Whānau Policy, Strategy, Policy and Legislation   Te Pou Rautaki	s 9(2)(a)

### Minister's office to complete:

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| <input type="checkbox"/> Approved             | <input type="checkbox"/> Decline   | <input type="checkbox"/> Noted               |
| <input type="checkbox"/> Needs change         | <input type="checkbox"/> Seen      | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |  |

Comment:

# Draft Cabinet paper for agreeing terms of reference for the review of the End of Life Choice Act 2019

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**Security level:** IN CONFIDENCE      **Date:** 3 May 2024

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**To:** Hon Dr Shane Reti, Minister of Health

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## Purpose of report

1. This briefing provides you with a draft Cabinet paper for your review, which would seek Cabinet agreement to:
  - a. progress the review of the End of Life Choice Act 2019 (the Act) in two parts, and
  - b. draft terms of reference for the review of the operation of the Act, which is required to take place during 2024.
2. If you are comfortable with the paper, we will proceed with departmental, Ministerial and coalition consultation for two weeks. Agreement will be sought from the Cabinet Social Outcomes Committee (SOU) on 29 May 2024.

## Summary

3. We have previously provided you with advice on options for setting the terms of reference for the review of the End of Life Choice Act 2019 [H2023033040 refers], which is required to take place this year.
4. Following joint discussions with you and Minister Seymour, and your offices, we have developed a draft Cabinet paper which seeks agreement for the review to include:
  - a. a review of the operation of the Act, to address the requirement in the legislation for a review during 2024, and
  - b. an independent investigation which would provide advice on options for expanding the eligibility settings for assisted dying.
5. We have undertaken some initial engagement with the Ministry of Justice and the Law Commission to discuss the potential for the independent investigation to be conducted by the Law Commission. We have developed a draft proposal for the Law Commission's work programme. The Ministry of Justice and the Law Commission will be providing advice to the Minister of Justice on what projects could be included in the Law Commission's work programme within the next few weeks, with decisions expected in June 2024.
6. The paper notes that you are exploring with the Minister of Justice the option of having the Law Commission undertake the independent investigation, and that the terms of reference for this will be confirmed with Cabinet at a later date.

7. We are seeking your feedback on the Cabinet paper by 6 May, so that two weeks of Ministerial and coalition consultation can commence from 7 May, with a view to having the paper considered by the Cabinet Social Outcomes Committee on 29 May 2024 and decisions confirmed by Cabinet on 3 June 2024.

## Recommendations

We recommend that you:

- a) **note** that a draft Cabinet paper is attached for your review, which seeks Cabinet's agreement on the approach to the review of the End of Life Choice Act 2019 (the Act)
- b) **note** that the Cabinet paper seeks agreement for the review to include:
- a review of the operation of the Act, and
  - an independent investigation which will provide advice on options for expanding the eligibility settings for assisted dying
- c) **note** that we are exploring the option of having the Law Commission undertake the independent investigation, recognising that eligibility for assisted dying is a complex area on which there are a wide range of views, including within government, and that we are developing a proposal to be considered by the Minister of Justice on this
- d) **note** that the Cabinet paper also seeks Cabinet's agreement of the terms of reference for the review of the operation of the Act, so that this can proceed, and attaches a draft of this document which would be approved by Cabinet and then published
- e) **note** that we propose that Cabinet approve the terms of reference for the independent investigation at a later date, once it has been confirmed that this can be done by the Law Commission
- f) **note** that in order for the Cabinet paper to be considered by the Cabinet Social Outcomes Committee on 29 May 2024, it will need two weeks of Ministerial and coalition consultation commencing no later than 7 May



Maree Roberts  
Deputy Director General  
**Strategy, Policy and Legislation**  
Date: 3 May 2024



Hon Dr Shane Reti

**Minister of Health**

Date: 4.5.2024

# Draft Cabinet paper for agreeing terms of reference for the review of the End of Life Choice Act 2019

## Background

8. We previously provided you with advice on options for setting the terms of reference for the review of the End of Life Choice Act [H2023033040 refers]. The terms of reference for the review are subject to agreement between Government parties, as set out in the coalition agreement between the New Zealand National Party and the ACT Party.
9. The approach to the review has been jointly discussed between Minister Seymour and you, **Out of scope, s 9(2)(g)(i)**

## Progressing the review

10. Following discussions with you, Minister Seymour, and your offices, we have developed a draft joint Cabinet paper which seeks agreement for the review to include:
  - a. a review of the operation of the Act, to address the requirement in the legislation for a review during 2024, and
  - b. an independent investigation which will provide advice on options for expanding the eligibility settings for assisted dying.
11. The paper notes that you are exploring with the Minister of Justice the option of having the Law Commission (the Commission) undertake the independent investigation, and that the terms of reference for this will be confirmed with Cabinet at a later date.
12. To enable the review of the operation of the Act to proceed, the paper seeks Cabinet approval for the terms of reference for that review. Draft terms of reference are attached to the Cabinet paper for your review. This will be provided to Cabinet for approval and then published on the Ministry of Health website.

## Engagement with the Ministry of Justice and the Law Commission

13. We have undertaken some initial engagement with the Ministry of Justice and the Law Commission to discuss the potential for the independent investigation to be conducted by the Law Commission.
14. Each year the Minister responsible for the Law Commission (currently the Minister of Justice) sets the work programme for the Commission, which can include projects referred to the Commission by the government. The Minister of Justice recently sought proposals from other Ministers – the closing date for these was 19 April 2024, although we understand that there is scope to consider late proposals.
15. The Ministry of Justice is currently working through the proposals they have received, after which both the Ministry of Justice and the Law Commission will provide advice to the Minister on what projects he could put onto the Commission's work programme. We

expect that this will take place within the next few weeks with decisions expected in June 2024.

15. In our discussion with the Law Commission on 1 May 2024 it was noted that:

a. s 9(2)(g)(i)

b. While the Commission is reasonably good at doing consultation, the largest consultation it has ever done (on how legalised abortion should be framed in law) drew around 3,500 submissions and the Commission needed additional resources to manage that. Additional resources will likely be required to support a full public consultation.

c. s 9(2)(g)(i)

d. The investigation should take place after the review of the operation of the Act is completed, to avoid the potential for duplication and allow this investigation to consider information gathered and findings from the review as part of its work.

e. Based on the demands of the Commission's current work programme, it is not expecting to be able to start any new work until the beginning of 2025.

17. Following this discussion, we are developing a draft proposal which we will provide to the Ministry of Justice. This would involve the Law Commission undertaking the independent investigation, and is currently framed as the Law Commission being asked to provide advice on:

a. options for expanding access to assisted dying, and the arguments for and against these

b. what changes to legislated eligibility criteria could be considered to give effect to these, and

c. what mechanisms may be needed to provide sufficient safeguards for any such changes.

18. This commissioning is fairly broad and reflects the fact that while the government can ask the Law Commission to undertake work in a particular area, the Commission sets the terms of reference for the work that it does. There is an expectation in the proposal that the Commission would undertake full public engagement as part of this work.

19. s 9(2)(g)(i)

20.

## Timelines for the Cabinet paper

21. In your recent discussion with officials, Ministers expressed a desire to get a paper up to Cabinet quickly to confirm the approach and terms of reference for the review.
22. It would be possible for the attached paper to be submitted and considered by Cabinet Social Outcomes Committee on 29 May 2024 based on the timelines outlined below.
23. In order to meet this timeframe, we will need any feedback from you seeking changes to the paper by 6 May 2024, so that these can be quickly turned around and Ministerial and coalition consultation can commence no later than 7 May 2024.

Action	Date
Draft version of Cabinet paper provided to Ministers for feedback	3 May 2024
Feedback received and revised Cabinet paper provided for Ministerial and coalition consultation, and cross-agency consultation	6 May 2024
Combined cross-agency, Ministerial and coalition consultation	7 May – 20 May 2024
Final version of Cabinet paper provided to Ministers for review	22 May 2024
Cabinet paper lodged for consideration by SOU	23 May 2024
Cabinet paper considered by SOU Committee	29 May 2024
Cabinet paper considered by Cabinet	3 June 2024

## Next steps

24. We will continue to engage with your office around the process related to the Law Commission undertaking the independent investigation.
25. Following consultation, we will provide a final draft Cabinet paper that reflects the feedback received for your consideration and agreement to lodge on 23 May 2024.
26. The Cabinet paper could be considered by the Social Outcomes Committee on 29 May, with decisions confirmed by Cabinet on 3 June 2024.

ENDS.

# Briefing

## Revised Cabinet paper agreeing terms of reference for the review of the End of Life Choice Act 2019

<b>Date due to MO:</b>	31 May 2024	<b>Action required by:</b>	4 June 2024
<b>Security level:</b>	IN CONFIDENCE	<b>Health Report number:</b>	H2024043081
<b>To:</b>	Hon Dr Shane Reti, Minister of Health		
<b>Copy to:</b>	Hon David Seymour, Associate Minister of Health (Pharmac)		

### Contact for telephone discussion

Name	Position	Telephone
<b>Maree Roberts</b>	Deputy Director-General, Strategy, Policy and Legislation   Te Pou Rautaki	s 9(2)(a)
<b>Emma Prestidge</b>	Group Manager, Strategy, Policy and Legislation   Te Pou Rautaki	s 9(2)(a)
<b>Derek Senior</b>	Policy Manager, Family and Whānau Policy, Strategy, Policy and Legislation   Te Pou Rautaki	s 9(2)(a)

### Minister's office to complete:

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| <input type="checkbox"/> Approved             | <input type="checkbox"/> Decline   | <input type="checkbox"/> Noted               |
| <input type="checkbox"/> Needs change         | <input type="checkbox"/> Seen      | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |  |

Comment:

# Revised Cabinet paper agreeing terms of reference for the review of the End of Life Choice Act 2019

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**Security level:** IN CONFIDENCE      **Date:** 31 May 2024

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**To:** Hon Dr Shane Reti, Minister of Health

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## Purpose of report

1. This briefing provides you with a revised draft Cabinet paper for your review, which seeks Cabinet agreement to:
  - a. progress the review of the End of Life Choice Act 2019 (the Act) in two parallel streams, and
  - b. draft terms of reference for the review.
2. If you are comfortable with the paper, we will proceed with departmental, Ministerial and coalition consultation for two weeks. Agreement can be sought from the Cabinet Social Outcomes Committee (SOU) on 26 June 2024.

## Summary

3. On 3 May 2024, we provided you with a draft Cabinet seeking agreement to the approach and terms of reference for the review of the End of Life Choice Act to you and Minister Seymour for your feedback [H2024040628 refers].
4. Following further discussions with your offices we have developed a revised draft Cabinet paper which seeks agreement to:
  - a. the review to be progressed in two parallel streams:
    - i. a review of the operation of the Act, which will be conducted by the Ministry of Health
    - ii. an online process administered by the Ministry of Health to canvass public opinion on what changes could be made to the Act
  - b. the terms of reference for the review, which reflect that approach.
5. We are seeking your feedback on the Cabinet paper so that two weeks of Ministerial and coalition consultation can commence. If this can get underway by 4 June the paper could be considered by the Cabinet Social Outcomes Committee on 26 June 2024 and decisions confirmed by Cabinet on 1 July 2024.



## Recommendations

We recommend that you:

- a) **note** that a revised draft Cabinet paper is attached for your review, which seeks Cabinet's agreement to the approach to be taken and terms of reference for the statutory review of the End of Life Choice Act 2019 (the Act)
- b) **note** that the Cabinet paper seeks agreement for the review to be progressed in two parallel streams:
  - a review of the operation of the End of Life Choice Act 2019, which will be conducted by the Ministry of Health and informed by targeted engagement with relevant stakeholders, and
  - an online process, administered by the Ministry of Health, which will canvass public opinion on what changes could be made to the End of Life Choice Act 2019
- c) **note** that the Cabinet paper also seeks Cabinet's agreement to the terms of reference for the review, and attaches a draft of this document which would be approved by Cabinet and then published
- d) **note** that the paper signals that the review process will be completed and reported back by February 2025, reflecting the need to ensure that there is sufficient time to undertake a thorough review of the legislation
- e) **note** that for the Cabinet paper to be considered by the Cabinet Social Outcomes Committee on 26 June 2024, it will need two weeks of Ministerial and coalition consultation commencing no later than 4 June.



Emma Prestidge  
General Manager, Family and Community  
Health Policy

**Strategy, Policy and Legislation**

Date: 31 May 2024



Hon Dr Shane Reti

**Minister of Health**

Date: 3/6/2024

# Revised Cabinet paper agreeing terms of reference for the review of the End of Life Choice Act 2019

## Background

6. On 3 May 2024, we provided you and Minister Seymour with a draft Cabinet paper seeking agreement to the approach and terms of reference for the review of the End of Life Choice Act 2019 (the Act) for your feedback [H2024040628 refers].
7. The terms of reference for the review are subject to agreement between Government parties, as set out in the coalition agreement between the New Zealand National Party and the ACT Party.

## We have developed a revised Cabinet paper

8. Following discussions with your offices we have developed a revised draft Cabinet paper which seeks agreement to the approach to be taken and terms of reference for the statutory review of the Act.
9. The paper proposes to progress the review in two parallel streams:
  - a. A review of the operation of the Act, which will be conducted by the Ministry of Health and will consider whether the legislation as written is operating effectively and achieving its intended purposes. This review would take a targeted approach to engagement focused on individuals and organisations with a role under the Act, or particular expertise relevant to assisted dying.
  - b. An online process administered by the Ministry of Health to canvass public opinion on what changes could be made to the Act, where individuals and organisations can provide their views on the Act through an online portal. The feedback that is received through the portal will be summarised in a report, which will accompany advice from the Ministry of Health.
10. The paper also seeks Cabinet approval for the terms of reference, based on the approach set out above. Draft terms of reference are attached to the Cabinet paper and will be published on the Ministry of Health website once confirmed.
11. This paper notes that the review process is able to be completed and reported back by February 2025. This is longer than the timeframe set out in the Act, which states that a review should be completed by November 2024 (within three years of commencement).
12. This timeframe reflects the need to ensure that there is sufficient time to undertake a thorough review of what is a relatively new and sensitive piece of legislation.

## Timelines for the Cabinet paper

13. You have expressed a desire to confirm the approach and terms of reference for the review with Cabinet quickly. It would be possible for the attached paper to be submitted

and considered by Cabinet Social Outcomes Committee on 26 June 2024 based on the timelines outlined below.

14. In order to meet this timeframe, Ministerial and coalition consultation would need to commence no later than 4 June 2024.

<b>Action</b>	<b>Date</b>
Draft version of Cabinet paper provided to Ministers for feedback	31 May 2024
Combined cross-agency, Ministerial and coalition consultation	4 June – 17 June 2024
Final version of Cabinet paper provided to Ministers for review	19 June 2024
Cabinet paper lodged for consideration by SOU	20 June 2024
Cabinet paper considered by SOU Committee	26 June 2024
Cabinet paper considered by Cabinet	1 July 2024

### **Next steps**

15. Following consultation we will provide a final draft Cabinet paper that reflects the feedback received for your consideration and agreement to lodge on 20 June 2024.
16. The Cabinet paper could be considered by the Social Outcomes Committee on 26 June, with decisions confirmed by Cabinet on 1 July 2024.

ENDS.

# Briefing

## Agreeing terms of reference for the review of the End of Life Choice Act 2019: Cabinet paper for lodging

**Date due to MO:** 19 June 2024 **Action required by:** 20 June 2024

**Security level:** IN CONFIDENCE **Health Report number:** H2024044126

**To:** Hon Dr Shane Reti, Minister of Health

**Copy to:** Hon David Seymour, Associate Minister of Health (Pharmac)

### Contact for telephone discussion

Name	Position	Telephone
Maree Roberts	Deputy Director-General, Strategy, Policy and Legislation   Te Pou Rautaki	§ 9(2)(a)
Emma Prestidge	Group Manager, Strategy, Policy and Legislation   Te Pou Rautaki	§ 9(2)(a)
Derek Senior	Manager, Family and Whānau Policy, Strategy, Policy and Legislation   Te Pou Rautaki	§ 9(2)(a)

### Minister's office to complete:

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| <input type="checkbox"/> Approved             | <input type="checkbox"/> Decline   | <input type="checkbox"/> Noted               |
| <input type="checkbox"/> Needs change         | <input type="checkbox"/> Seen      | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |  |

Comment:

# Agreeing terms of reference for the review of the End of Life Choice Act 2019: Cabinet paper for lodging

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**Security level:** IN CONFIDENCE      **Date:** 19 June 2024

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**To:** Hon Dr Shane Reti, Minister of Health

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**Copy to:** Hon David Seymour, Associate Minister of Health (Pharmac)

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## Purpose of report

1. This report provides you with a final Cabinet paper and terms of reference for the review of the End of Life Choice Act 2019, to be lodged for agreement by Cabinet. It also provides a short summary of feedback received from other agencies and Ministers on the paper and notes where changes have been made to address this.
2. If you are happy with the paper, it can be lodged with Cabinet Office by 10am on 20 June for consideration by the Cabinet Social Outcomes Committee (SOU) on 26 June 2024.

## Recommendations

We recommend that you:

- a) **note** the attached final Cabinet paper and terms of reference, which have been revised in response to feedback from Ministerial and departmental consultation, to be lodged for agreement by Cabinet
- b) **agree** that the attached Cabinet paper and terms of reference be lodged with Cabinet Office by 10am on 20 June, to enable consideration at the Cabinet Social Outcomes Committee on 26 June 2024 **Yes/No**
- c) **note** that officials will provide advice to you in July 2024, seeking decisions on prompts and timing for the online portal as part of the review.



Emma Prestidge  
Group Manager, Family and Community  
Health Policy

**Strategy, Policy and Legislation**

Date: 19/06/24

Hon Dr Shane Reti

**Minister of Health**

Date:

# Agreeing terms of reference for the review of the End of Life Choice Act 2019: Cabinet paper for lodging

## Background

3. We previously provided you with a draft Cabinet paper and terms of reference for the review of the End of Life Choice Act 2019 (the Act) on 31 May 2024 for combined departmental, Ministerial and coalition consultation [H2024043081 refers].
4. Following Ministerial and coalition consultation, we received comments from the office of Hon Minister Lee in her capacity as the Minister for Ethnic Communities. We also received feedback from the following departments: the Ministry for Pacific Peoples, New Zealand Police, Department of Corrections, Whaikaha – Ministry of Disabled People, Ministry of Business, Innovation and Employment, the Accident Compensation Corporation, Ministry of Justice, Department of Internal Affairs, Te Puni Kōkiri, and Health New Zealand | Te Whatu Ora (Health NZ).
5. We have summarised the feedback received, and noted any changes made to the papers below.

## Summary of Consultation Feedback

### Feedback from Ministerial consultation

6. The Minister for Ethnic Communities Hon Melissa Lee raised a concern that the online-only public portal may limit the participation of some ethnic communities and other priority groups who may traditionally face barriers to access. We have made an amendment to the population implications section of the Cabinet paper to note the Ministry of Health | Manatū Hauora will consider how to address accessibility needs as part of work to design the online portal (see paragraph 40).

### Feedback from departmental consultation

7. Agencies broadly supported the approach to the review outlined in the Cabinet paper and terms of reference. Agency feedback generally centred around how the review will address equity, and ensuring that the online portal is accessible.
8. Feedback on the Cabinet paper and terms of reference, and our response to the feedback, is outlined in the table below.

Agency comments	Response
The Ministry of Pacific Peoples (MPP) recommended clarifying the scope of the process to canvass public opinion, and whether that process will result in recommendations made to Ministers.	We consider the scope of the process to canvas public opinion to be already covered in the terms of reference. We have added an amendment to the terms of reference to clarify that this process will not result in

	recommendations (see page 3 of the terms of reference).
MPP and Health NZ sought clarity on how equity will be considered as part of the review.	Equity will be considered in the context of how the Act supports access to the assisted dying service.
Health NZ recommended that the scope set out in the terms of reference address both how equitable the application of the Act has been, particularly for Māori, and the consistency of the Act with te Tiriti o Waitangi.	We will consider consistency of the Act with te Tiriti o Waitangi as part of the review by examining the Act against the health sector principles of the Pae Ora (Healthy Futures) Act 2022.
The Ministry of Business, Innovation and Employment and the Accident Compensation Corporation recommended that the rationale for the extended timeframe for the statutory review be strengthened.	We consider the rationale provided in paragraph 24 to be sufficient, which is that the timeframe ensures that officials have sufficient time to conduct a thorough review of what is a new and sensitive piece of legislation, while also ensuring that parties have time to consider and respond to it within this parliamentary term.
<p>A number of agencies (Whaikaha, MPP, New Zealand Police, Te Puni Kōkiri, and Health NZ) noted concerns that the online process to canvass public opinion will not be accessible to a range of populations, particularly members of the public who may have difficulty engaging in an online-only process. Those agencies recommended that:</p> <ul style="list-style-type: none"> <li>• the online process be designed for accessibility</li> <li>• sufficient time is given for the public to engage</li> <li>• consideration is given to targeted (non-virtual) engagement or a specific online meeting for priority groups (such as disabled people)</li> <li>• engagement is sufficiently advertised.</li> </ul>	<p>We have made an amendment to the population implications section of the Cabinet paper to note that the Ministry of Health will consider how to address accessibility needs as part of work to design the online portal (see paragraph 40).</p> <p>The online-only process is intended to be a pragmatic, timely, and low-cost way to allow the public to provide their views on the Act, and for these views to then be quickly summarised and provided alongside the advice from officials.</p> <p>We also note that any changes that are proposed through members bills will be subject to the full parliamentary process, which includes opportunities for public input through the Select Committee process.</p>
Te Puni Kōkiri recommended that the review should have flexibility to respond to new issues as they arise and consider the needs and interests of whānau.	We will ensure we gather a range of voices as part of the targeted engagement, including engagement with Te Puni Kōkiri and inviting individuals and family and whānau with experience of assisted dying services to reach out to the Ministry of Health.
The Department of Internal Affairs questioned what the approach is to developing questions for the online portal process, and whether agencies would be involved in developing those questions.	The questions for the online portal will be developed by the Ministry of Health, and agreed by Ministers. We have not made an amendment to the paper.

<p>Whaikaha recommended that we engage the Disabled People’s Organisations Coalition as part of targeted engagement, and Health NZ recommended including Māori as a specific targeted population for engagement.</p>	<p>We note that Māori and disabled perspectives will be sought as part of the targeted engagement process.</p>
<p>Health NZ recommended that we clarify whether targeted engagement will involve people who have been personally affected by the operation of the Act.</p>	<p>We have included an amendment to note that public communications on the review will include an invitation for anyone who has sought or is seeking assisted dying, and family and whānau members of those who have been through the process, to contact the Ministry of Health to share their feedback or insights (see paragraph 23). We are interested in hearing from these people but have been mindful that this could be a sensitive topic for them.</p>
<p>Health NZ sought clarity on why eligibility of age is excluded from the review given its inconsistency with the New Zealand Bill of Rights Act 1990 (NZBORA).</p>	<p>This is because eligibility in general is not being considered through the review of the operation of the Act. We have amended paragraph 41 to reflect this.</p>
<p>The Ministry of Justice recommended broadening the human rights section of the Cabinet paper to acknowledge that a broad range of rights are relevant to end-of-life and may be raised through the online consultation process.</p>	<p>We have amended the human rights section to reference these wider human rights (see paragraphs 42 and 43).</p>

## Next steps

9. We are seeking your agreement to lodge the attached papers with the Cabinet Office by 10am on 20 June to be considered at the Cabinet Social Outcomes Committee on Wednesday 26 June 2024. Following SOU consideration, we expect the paper to be confirmed by Cabinet on 1 July 2024, and that the terms of reference and related communications material would be released shortly after in consultation with your office.
10. Following agreement by Cabinet, we will provide advice for planning the online portal as part of the review, including potential prompts for the public to respond to and indicative timing.

ENDS.



## Minister's Notes

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# Briefing

## Review of the End of Life Choice Act 2019: Confirming the review approach, timelines and details for the online process canvassing public opinion on the Act

<b>Date due to MO:</b>	4 July 2024	<b>Action required by:</b>	9 July 2024
<b>Security level:</b>	IN CONFIDENCE	<b>Health Report number:</b>	H2024045571
<b>To:</b>	Hon Dr Shane Reti, Minister of Health		
<b>Copy to:</b>	Hon David Seymour, Associate Minister of Health (Pharmac)		
<b>Consulted:</b>	Health New Zealand: <input type="checkbox"/>		

### Contact for telephone discussion

Name	Position	Telephone
Maree Roberts	Deputy Director-General, Strategy, Policy and Legislation   Te Pou Rautaki	s 9(2)(a)
Emma Prestidge	Group Manager, Strategy, Policy and Legislation   Te Pou Rautaki	s 9(2)(a)
Derek Senior	Manager, Family and Whānau Policy, Strategy, Policy and Legislation   Te Pou Rautaki	s 9(2)(a)

### Minister's office to complete:

- |   |                                    |  |
|---|------------------------------------|--|
| <input type="checkbox"/> Approved             | <input type="checkbox"/> Decline   | <input type="checkbox"/> Noted               |
| <input type="checkbox"/> Needs change         | <input type="checkbox"/> Seen      | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |  |

Comment:

# Review of the End of Life Choice Act 2019: Confirming the review approach, timelines and details for the online process canvassing public opinion on the Act

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**Security level:** IN CONFIDENCE      **Date:** 4 July 2024

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**To:** Hon Dr Shane Reti, Minister of Health

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**Copy to:** Hon David Seymour, Associate Minister of Health (Pharmac)

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## Purpose of report

1. This briefing seeks your agreement to some details for the online process to canvass public opinion as part of the review of the End of Life Choice Act 2019.

## Background

2. The terms of reference for the review of the End of Life Choice Act 2019 (the Act) are being discussed at Cabinet on Monday 8 July 2024. The terms of reference set out that the review will be progressed in two parallel streams:
  - a. a review of the operation of the Act, which will be conducted by the Ministry of Health and informed by targeted engagement with relevant stakeholders, and
  - b. an online process, administered by the Ministry of Health, which will canvass public opinion on what changes could be made to the Act.
3. The Act states that a review of the operation of the Act should be completed by 7 November 2024. We understand that you would like both of these processes to be completed by that date.

## Process and decisions required to progress the review

### Progressing the review of the operation of the Act

4. To complete the review of the operation of the Act within the timeframe, we will move additional policy resource from other areas of work. This may require policy work in some other areas to be delayed or slowed. This will be considered as part of our current organisational change process, which requires the reprioritisation of activities in our policy work programme.
5. Targeted engagement with stakeholders to inform this part of the review will need to happen at pace. To support this, the terms of reference for the review will need to be

announced as quickly as possible after Cabinet consideration on 8 July, so that targeted engagement can get underway quickly.

## Progressing the online process to canvass public opinion

### *Timing of the online portal process*

6. To ensure that a report summarising public submissions can be provided to you in November 2024, we are proposing that:
  - a. the online portal opens on 1 August 2024 for the public to provide their views
  - b. the portal is open for eight weeks, closing on 26 September 2024, to allow a reasonable amount of time for the public to share their views.
7. This timing provides five weeks for the submissions received online to be summarised and a summary report to be produced.
8. It is likely that we will need to contract staff to catalogue and theme the submissions and produce a summary report. The amount of additional resource required will depend on the number of submissions received. Based on previous experience, we expect that more than 10,000 submissions could be received on this, noting that the End of Life Choice Bill received nearly 40,000 submissions at Select Committee.

### *Prompts for the online portal*

9. We have developed three options for the prompts that could be used for the public to respond to through the portal (see **Appendix A**). Prompts are important as they help the public to think about the areas that they want to provide feedback on, and help to organise the feedback that is provided, which will assist in summarising feedback later.
10. In the development of these prompts, we have been mindful of the need to consider:
  - a. neutrality – providing prompts that seek responses without influencing the person making the submission
  - b. ease of engagement – providing prompts that are relatively simple for the public to understand and respond to, and considering how many prompts are used, as higher numbers of prompts in online forms tend to result in lower response rates
  - c. ease of analysis – prompts are needed to help organise and catalogue the feedback that we receive, and support production of a summary report. More prompts provide more structure and improve the ease of analysis, but too many can be a barrier to people completing the form, so there is a balance to be struck.
11. A summary of the options is set out below:
  - a. **Option 1:** This option provides prompts directly based on sections of the Act. Using the Act itself as a basis supports a neutral tone, and this option comprehensively canvasses all sections of the legislation. However, it is complex to understand as there are a large number of prompts that require respondents to read sections of the legislation.
  - b. **Option 2:** This option provides prompts based on topics referenced in the Act. It includes both general prompts covering broad areas of the Act, and some specific prompts focused on particular points in the Act that may be of particular public

interest (such as whether doctors should be able to raise assisted dying with a patient). This option uses more plain language and frames prompts around questions rather than specific sections in the Act, with some additional context provided to help inform respondents.

- c. **Option 3 (recommended):** This option is similar to the previous one, but it includes only general prompts based on broad areas of the Act, which makes it shorter. We think this option strikes a reasonable balance between keeping the number of questions relatively short (to support people to complete the form) while still providing some general prompts to organise feedback into a number of broad areas for analysis.
12. All of the options include a question providing for 'other' feedback so that the public can include comments on any matters that are not addressed directly by the prompts.

#### *Process for the online portal*

13. In order to meet the timeframe for the review, this process will be online only, and will not provide for submissions via other means such as physical copies, in person submissions, and online or in person meetings. Any change to this would require additional time and resource.
14. The process to design the portal will consider accessibility needs for disabled people. We are planning to use Citizen Space as our solution for the online portal, which is designed to provide for:
  - a. zooming in up to 200% without the text spilling off the screen
  - b. navigating the website using just a keyboard
  - c. navigating the website using speech recognition software
  - d. listening to the website using a screen reader.
15. Whaikaha – Ministry of Disabled People has also advised that online forms are generally a positive form of engagement for disabled people.
16. We will do our best to make the online portal as accessible as possible, noting that there may be some constraints given the need to have the portal operating by August.
17. Feedback from the online portal will be collated and summarised in a report. This report will not include analysis or recommendations, as the intent of this process is to allow the public to have their views captured and presented for parties to consider alongside the advice from officials. Feedback received through the online portal will likewise not be considered as part of the review of the operation of the Act, as the two streams of the review are separate processes with different purposes.
18. As agreed by the government parties, findings from the review will be treated as a conscience issue. Individual parties can decide whether to pick up and progress changes through private members' bills.

#### **Next steps**

19. Subject to your decisions, we will establish the online portal and report back to you in November with two reports:

- a. a report outlining findings from the review of the operation of the Act, and noting recommended changes to the Act
- b. an accompanying report summarising the public feedback received through the online portal.

## Recommendations

We recommend you:

- a) **note** that the review of the End of Life Choice Act 2019 (the Act) is being progressed in two parallel streams: a review of the operation of the Act, and an online process which will canvass public opinion on what changes could be made to the Act
- b) **note** that you have asked the Ministry of Health to complete both of these processes by 7 November 2024, and that to complete the review within this timeframe, we require immediate decisions on a number of details related to the online process
- c) **note** that completing the operational review on time will require us to commence targeted engagement quickly, and to support this the terms of reference for the review will need to be announced as soon as possible after Cabinet consideration on 8 July
- d) **agree** that the online portal will open on 1 August 2024, and close on 26 September 2024, allowing a period of eight weeks for the public to share their views **Yes / No**
- e) **indicate** your preferred option for the prompts that will form the online portal:
  - **Option 1:** Prompts directly based on sections of the Act **Yes / No**  
OR
  - **Option 2:** Prompts based on topics referenced in the Act **Yes / No**  
OR
  - **Option 3:** General prompts based on broad areas of the Act **Yes / No**  
**(recommended)**

- f) **note** that you may wish to share your preferred option at Cabinet on Monday 8 July 2024, alongside the Cabinet paper *Agreeing terms of reference for the review of the End of Life Choice Act 2019*.



Maree Roberts  
Deputy-Director General  
**Strategy, Policy and Legislation**  
Date: 4 July 2024



Hon Dr Shane Reti

**Minister of Health**

Date: 7/7/2024

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## Appendix A: Structure and options for prompts for the online portal

### Section 1: Preamble

#### **Canvassing your views on what changes could be made to the End of Life Choice Act**

The End of Life Choice Act 2019 (the Act) is the law that makes assisted dying legal in New Zealand. It came into force on 7 November 2021, and is administered by the Ministry of Health | Manatū Hauora.

The Act sets out the legal framework for assisted dying, including eligibility criteria, processes, safeguards to protect patients and practitioners, and the establishment of administrative bodies to oversee and monitor the provision of assisted dying.

The Ministry of Health is currently undertaking a review of the operation of the Act, to be completed in November 2024. Further information on the review can be found in the [terms of reference](#).

The Government recognises that assisted dying is an issue on which there are a range of strong views, and that many individuals and organisations have expressed a desire to share their views on the Act.

Alongside the review, the Ministry is providing an [online portal](#) where individuals and organisations can share their views on changes that they believe could be made to the End of Life Choice Act.

The portal includes questions that you can respond to when providing feedback, but you are free to provide feedback on any aspect of the Act.

The review will produce two reports which will be provided to the Minister of Health in November 2024:

- A report from the Ministry of Health outlining findings from its review of the operation of the Act.
- An accompanying report summarising the public feedback received through the online portal on the Act.

These reports will be tabled in parliament, where individual parties can decide whether they wish to pick up and progress changes through private members' bills.

### Section 2: Administrative and demographic questions

1. What is your name?
2. Please indicate whether you are:
  - a. a medical or nurse practitioner who provides assisted dying services
  - b. a medical or nurse practitioner who does not provide assisted dying services
  - c. someone from the wider health workforce
  - d. someone who has sought assisted dying, or a family member of someone who has sought or received assisted dying
  - e. submitting on behalf of an organisation – name:
  - f. a member of the public.
3. Please indicate whether you are providing a submission from New Zealand or overseas?
4. Feedback provided through this portal will be summarised and captured in a report that will be published. Please indicate whether you are comfortable having your name or the name of your organisation referenced in this report, or if you wish to be anonymous.



### Section 3: Providing feedback on the Act

#### Option 1: Prompts directly based on sections of the Act

This form provides hyperlinks to clauses in the End of Life Choice Act 2019. For each question you can enter comments on that clause.

There will be an opportunity at the end for you to provide feedback that does not relate to particular clauses in the Act.

#### Part 1 – Preliminary provisions

1. Do you have any feedback on the [purpose of the Act](#)?
2. Do you have any feedback on the [interpretation](#) section of the Act?
3. Do you have any feedback on the [eligibility requirements for assisted dying](#)?
4. Do you have any feedback on requirements to be [competent to make an informed decision about assisted dying](#)?

#### Part 2 – Assisted dying

5. Do you have any feedback on the rules related to exercising [conscientious objection](#) or the [effect of conscientious objection by an attending medical practitioner](#)?
6. Do you have any feedback on the requirement that conversations about assisted dying [must not be initiated by a health practitioner](#)?
7. Do you have any feedback on the requirements for a [request to be made](#) for assisted dying?
8. Do you have any feedback on the requirements for a [request to be confirmed](#) for assisted dying?
9. Do you have any feedback on the process for a [first opinion to be given by the attending medical practitioner](#)?
10. Do you have any feedback on the process for a [second opinion to be given by the independent medical practitioner](#)?
11. Do you have any feedback on the process for a [third opinion to be given by psychiatrist if competence is not established to the satisfaction of 1 or both medical practitioners](#)?
12. Do you have any feedback on the process where an [opinion is reached that the person is not eligible for assisted dying](#)?
13. Do you have any feedback on the process where an [opinion is reached that person is eligible for assisted dying](#)?
14. Do you have any feedback on the requirement for the [eligible person to choose a date and time for administration of medication](#), and/or the [provisional arrangements for administration of medication](#)?
15. Do you have any feedback on the requirements for the [administration of medication](#) and process for an assisted death to occur?
16. Do you have any feedback on the requirements for the [death to be reported](#)?
17. Do you have any feedback on the requirements for the [destruction of prescription if no longer required](#)?
18. Do you have any feedback on the requirements for [no further action to be taken if a person rescinds their request to exercise option of receiving assisted dying](#)?

19. Do you have any feedback on the requirements for [no further action to be taken if pressure is suspected?](#)

#### Part 3 – Accountability

20. Do you have any feedback on the role or requirements for the [SCENZ Group](#)?

21. Do you have any feedback on the role or requirements for the [Review Committee](#)?

22. Do you have any feedback on the role or requirements for the [Registrar \(assisted dying\)](#)?

23. Do you have any feedback on requirements for [persons to provide information to the Registrar](#)?

24. Do you have any feedback on requirements for the [Minister of Health to present to the House of Representatives a report under section 27](#)?

25. Do you have any feedback on the requirement for a [review of operation of Act](#)?

#### Part 4 – Related Matters

26. Do you have any feedback on the [regulation making provision](#)?

27. Do you have any feedback on provisions that set out [other rights and duties not affected](#)?

28. Do you have any feedback on the requirement that [advance directives may not provide for assisted dying](#)?

29. Do you have any feedback on the requirement that [welfare guardians have no power to make decisions or take actions under this Act](#)?

30. Do you have any feedback on provisions covering the [effect on contracts of death under this Act](#)?

31. Do you have any feedback on provisions covering [restrictions on making public details of assisted dying deaths](#)?

32. Do you have any feedback on provisions covering [immunity from criminal liability](#)?

33. Do you have any feedback on provisions covering [immunity from civil liability](#)?

34. Do you have any feedback on provisions covering [offences](#) under the Act?

35. Do you have any feedback on provisions making [amendments to other enactments](#)?

#### Other feedback

36. Do you have any other feedback related to the Act?

## Option 2: Prompts based on topics referenced in the Act

This form asks questions related to the End of Life Choice Act 2019. The questions are based around key requirements and processes related to the Act.

A prompt is included at the end for you to provide feedback on anything that has not been addressed through the other questions.

### Eligibility for assisted dying

1. Do you consider that any changes are needed to the [eligibility requirements](#) for a person to receive assisted dying? If so, what changes would you like to see made and why?

### Process to receive assisted dying

2. Do you consider that any changes are needed to the process to apply for and receive assisted dying? If so, what changes would you like to see made and why?

*Under the Act the process to apply for and receive assisted dying includes:*

- a. [making a request](#) and [confirming a request](#)
  - b. receiving a first assessment by [the attending medical practitioner](#)
  - c. receiving a second assessment by [the independent medical practitioner](#)
  - d. a third opinion to be provided by [a psychiatrist \(if required\)](#)
  - e. choosing the [date and time for administration of medication](#)
  - f. making [provisional arrangements for administration of medication](#)
  - g. the [administration of medication](#) for the assisted death, and
  - h. the [death being reported](#).
3. Do you consider that the Act includes any requirements beyond eligibility that unreasonably limit access to assisted dying? If so, what changes would you like to see made and why?

### Safeguards

4. Do you consider that the Act provides sufficient safeguards to ensure that people only receive assisted dying if:
  - a. they are eligible (*referenced in clause [5](#), clause [13](#), clause [14](#), clause [15](#), clause [16](#), and clause [17](#)*)
  - b. they actively seek and consent to it (*referenced in clause [11](#), clause [12](#), clause [18](#), clause [23](#), clause [33](#), and clause [34](#)*)
  - c. they are competent to consent to it (*referenced in clause [5](#), clause [6](#), and clause [15](#)*)
  - d. this consent is provided without pressure from others (*referenced in clause [11](#) and clause [24](#)*).
5. Do you consider that any changes are needed to the safeguards in the Act? If so, what changes would you like to see made and why?
6. Do you consider that health practitioners should be able to initiate conversations about assisted dying with a person, and why?

*Currently the Act prohibits health practitioners from initiating any discussion with a person that, in substance, is about assisted dying under the Act, or making any suggestion to the person that, in*

substance, is a suggestion that the person exercise the option of receiving assisted dying under the Act.

#### Practitioners providing assisted dying

7. Do you consider that changes should be made to the requirements for medical practitioners and nurse practitioners to provide parts of the assisted dying process? If so, what changes would you like to see made and why?

- a. *An attending medical practitioner is a medical practitioner who is registered with the Medical Council of New Zealand as a practitioner of the profession of medicine and holds a current practising certificate.*
- b. *An independent medical practitioner is required to meet the same requirements as an attending medical practitioner, but must have held their practising certificate, or the equivalent certification, for at least five years consecutively. They must be independent of the person and of the person's attending medical practitioner.*
- c. *An attending nurse practitioner is a nurse practitioner who is registered with the Nursing Council of New Zealand, whose scope of practice permits the performance of nurse practitioner functions and holds a current practising certificate.*

8. Are there situations or circumstances where you consider that medical or nurse practitioners should be limited in or prevented from providing assisted dying services?

9. Do you consider that nurse practitioners should be able to provide more of the assisted dying process than they do now?

*Currently nurse practitioners are limited to arranging for and administering the medication, and completing the death certificate, and must act under the instruction of an attending medical practitioner.*

10. Do you consider that practitioners providing assisted dying should be required to complete training as a condition of providing assisted dying? If so, what types of things do you think this should include?

#### Oversight of assisted dying

11. Do you consider that changes are required to the roles and responsibilities of the entities that are established under the Act to oversee assisted dying? If so, what changes do you think should be made and why?

*The three entities set out in the Act are the [SCENZ Group](#), the [Review Committee](#), and the [Registrar \(assisted dying\)](#).*

#### Increasing clarity in the Act

12. Are there any areas of the Act that you consider could be clearer?

*For example, this might involve increasing clarity about what should happen during parts of the process, or what particular terms or rules in the Act mean.*

#### Alignment with the wider health system

13. How well does the assisted dying process align with other parts of the health system? Are there any changes that you consider could improve this alignment?

#### Other feedback

14. Do you have any other feedback related to the Act?

### Option 3: General prompts based on broad areas of the Act (recommended)

This form asks some general questions related to the End of Life Choice Act 2019, and a prompt is included at the end for you to provide feedback on anything that has not been addressed through the other questions.

#### Access to assisted dying

1. Do you consider that any changes are needed to the [eligibility requirements](#) for a person to receive assisted dying? If so, what changes would you like to see made and why?
2. Do you consider that any changes beyond eligibility are needed to support access to assisted dying?

#### Safeguards

3. Do you consider that the Act provides sufficient safeguards to ensure that people only receive assisted dying if:
  - a. they are eligible (*referenced in clause [5](#), clause [13](#), clause [14](#), clause [15](#), clause [16](#), and clause [17](#)*)
  - b. they actively seek and consent to it (*referenced in clause [11](#), clause [12](#), clause [18](#), clause [23](#), clause [33](#), and clause [34](#)*)
  - c. they are competent to consent to it (*referenced in clause [5](#), clause [6](#), and clause [15](#)*)
  - d. this consent is provided without pressure from others (*referenced in clause [11](#) and clause [24](#)*).
4. Do you consider that any changes are needed to safeguards provided through the Act?

#### Process to receive assisted dying

5. Do you consider that any changes are needed to the process to apply for and receive assisted dying? If so, what changes would you like to see made and why?

*Under the Act the process to apply for and receive assisted dying includes:*

- a. [making a request](#) and [confirming a request](#),
- b. [receiving a first assessment by the attending medical practitioner](#),
- c. [receiving a second assessment by the independent medical practitioner](#),
- d. [a third opinion to be provided by a psychiatrist \(if required\)](#),
- e. [choosing the date and time for administration of medication](#),
- f. [making provisional arrangements for administration of medication](#),
- g. [the administration of medication](#) for the assisted death, and
- h. [the death being reported](#).

#### Practitioners providing assisted dying

6. Do you consider that changes should be made to the requirements for medical practitioners and nurse practitioners to provide parts of the assisted dying process? If so, what changes would you like to see made and why?
  - a. *An attending medical practitioner is a medical practitioner who is registered with the Medical Council of New Zealand as a practitioner of the profession of medicine and holds a current practising certificate.*

- b. *An independent medical practitioner is required to meet the same requirements as an attending medical practitioner, but must have held their practising certificate, or the equivalent certification, for at least five years consecutively. They must be independent of the person and of the person's attending medical practitioner.*
- c. *An attending nurse practitioner is a nurse practitioner who is registered with the Nursing Council of New Zealand, whose scope of practice permits the performance of nurse practitioner functions and holds a current practising certificate.*

#### Oversight of assisted dying

- 7. Do you consider that changes are required to the roles and responsibilities of the entities that are established under the Act to oversee assisted dying? If so, what changes do you think should be made and why?

*The three entities set out in the Act are the [SCENZ Group](#), the [Review Committee](#), and the [Registrar \(assisted dying\)](#).*

#### Alignment with the wider health system

- 8. How well does the assisted dying process align with other parts of the health system? Are there any changes that you consider could improve this alignment?

#### Other feedback

- 9. Do you have any other feedback related to the Act?

## Minister's Notes

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