

Family Council

Consultation Report on End-of-life Care: Legislative Proposals on Advance Directives and Dying in Place – Moving Forward

PURPOSE

This paper informs Members of the outcome and way forward of the Food and Health Bureau (FHB) public consultation on end-of-life care legislative proposals regarding advance directives (ADs) and dying in place.

BACKGROUND

2. ADs and dying in place are important arrangements for respecting the choice of a person who is approaching end-of-life. To gauge public views on legislative proposals in this regard, a public consultation was conducted between 6 September 2019 and 16 December 2019. The legislative proposals seek to –

- (a) codify the current common law position in respect of an AD and to increase safeguards attached to it;
- (b) remove legislative impediments to implementation of ADs by emergency rescue personnel; and
- (c) amend the relevant provisions of the Coroners Ordinance (Cap. 504) to facilitate dying in place in residential care homes for the elderly (RCHEs).

3. The consultation was publicised through Announcement in the Public Interest, advertisements in print media and distribution of leaflets and the consultation document. Representatives of FHB and the Hospital Authority also appeared on television and radio programmes to explain the issues under consultation to the public.

4. We co-organised public forums in collaboration with the Jockey Club End-of-life Care Community Project, and attended briefings and seminars organised by professional organisations, healthcare staff consultative bodies, patients groups and other non-governmental organisations to explain our proposals and listened to the views expressed by the community.

5. Upon the close of the consultation, we received 607 submissions from individuals and organisations. There is a clear support from most respondents for the initial proposals on execution details in respect of ADs and amendments to the Coroners Ordinance. Alternative views, such as witness requirements for AD making and revocation, validity proof for AD, statutory prescribed form for Do-Not-Attempt Cardiopulmonary Resuscitation (DNACPR), and safeguards for RCHE deaths were raised.

REFINED PROPOSALS AND WAY FORWARD

6. Taking account of the views of the respondents, four major refinements are made to the original proposals –

- (a) the role expected of the medical practitioner witness, who should be satisfied that the person making the AD has been informed of the nature and effect of the AD and the consequences of refusing the relevant treatments, would be expressly spelt out;
- (b) a second witness would be required for a verbal revocation of an AD reported by a family member or carer;
- (c) a statutory prescribed DNACPR form would be used, instead of a non-statutory model form; and
- (d) the proposed exemption to the reporting requirement under the Coroners Ordinance in respect of natural deaths in RCHEs in which the deceased was attended to by a medical practitioner within 14 days of death will only be applicable for persons who have been previously diagnosed as having a terminal illness.

7. Details and justifications of the refined proposals are set out in Chapter 4 of the consultation report.

8. The full consultation report, published on 24 July 2020, is available at https://www.fhb.gov.hk/en/press_and_publications/consultation/190900_eolcare/index.html. The Government would proceed with drafting the relevant legislation, to be supplemented by stepped up efforts on public education on end-of-life care and life and death issues, and training and development of the healthcare, elderly care and emergency rescue workforce.

ADVICE SOUGHT

9. Members are invited to note the content of FHB's presentation and provide views as appropriate.

**Food and Health Bureau
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