

Briefing concerning proposals to legalise assisted suicide on the Isle of Man

December 2022

COMPLETE THE BRIEFING AT [CONSULT.GOV.IM](https://consult.gov.im) BEFORE 26TH JANUARY

Background, and what is proposed

The Isle of Man's Criminal Law Act 1981¹ instructs that:

“A person who aids, abets, counsels or procures the suicide of another, or an attempt by another to commit suicide, shall be guilty of an offence and shall be liable, on conviction on information, to imprisonment for a term not exceeding fourteen years.”

At the sitting of the House of Keys on 14 June 2022, Dr Alex Allinson (MHK for Ramsey) was given leave to introduce a Private Member's Bill:

“To enable adults who are terminally ill to be provided at their request with specified assistance to end their own life; and for connected purposes”.

That vote did not involve acceptance of the principle, and Tynwald is under no obligation regarding assisted suicide. Dr Allinson hopes to bring draft legislation before the House of Keys by May 2023: this consultation is an opportunity to demonstrate that it is impossible to craft a safe assisted suicide law.

The proposals being consulted on now envisage assisted suicide for:

“mentally competent adults who are terminally ill... A person is deemed to be terminally ill if a registered medical practitioner has diagnosed them as having a progressive disease, which can reasonably be expected to cause their death. The person must be 18 years of age or over and is a permanent resident on the Isle of Man.”

“The following... safeguards have been suggested and would apply before someone ends their life.

- *Two doctors independently confirm the person is terminally ill... [and] establish that the person has the mental capacity to request an assisted death.*
- *If either doctor is unsure about the person's capacity to request an assisted death, the person is referred to a psychiatrist or other appropriate specialist for a further opinion.*
- *Two doctors assess that the person is making an informed decision without pressure or coercion... [and] ensure the person has been fully informed of palliative, hospice, and other care options.*
- *The person signs a written declaration of their request, which is witnessed and signed by both doctors and an independent witness.*
- *A suggested waiting period of 14 days allows the person time to reflect on their decision. This timeframe could be shortened if the person is expected to die within 30 days.*
- *The life-ending medication is stored at a pharmacy and is delivered to the person in a secure manner.*
- *The person must administer the life-ending medication themselves.”*

¹ https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/1981/1981-0020/CriminalLawAct1981_4.pdf

The consultation process

- The consultation opened on 1 December 2022, and closes on 26 January 2023
- You can respond via the online portal²; paper copies of the consultation can be collected at, and returned via post to, the Tynwald Legislative Buildings.³
- The consultation permits responses from non-islanders, and professional medical bodies have been asked to respond. The UK-based campaigners Dr Allinson is supported by speak of his proposals (and those in Jersey and Scotland) “piling on the pressure for MPs in Westminster”: it is not only legitimate but important that all who would be affected by law change be heard.
- The consultation poses 28 questions, but only four are required and 22 are tick-box-only, so responding need not be time-consuming.
- The single most important question is Q8, asking your opinion on the principle of legalisation. Q28 allows you to make further comments including concerns prompted by the preceding yes/no questions.
- Look out for our suggested answers to tick-box questions (“**Yes**”), and our comments (in this font) below; you may wish to reflect some of these comments in your answer to Q28. We sometimes use “E&AS” to refer to euthanasia and assisted suicide, in place of the euphemistic “assisted dying.”
- Some tick-box questions may best be left blank:
 - several because the wording means any answer implies support for the principle (you may, on this basis, prefer to skip some questions where we have suggested answers)
 - others because it is not our responsibility to help assisted suicide advocates give their proposals the false appearance of safety

Guide to the consultation questions

Introduction

1. What is your name?

Name _____

You are not required to disclose this.

2. What is your email address?

Email _____

You are not required to disclose this.

² <https://consult.gov.im/private-members/assisted-dying/consultation/intro/>

³ <https://consult.gov.im/private-members/assisted-dying/>

3. Are you responding on behalf of an organisation?

Yes / No

A required question.

4. If you answered "yes" to the previous question please state which organisation

Organisation _____

5. Are you responding as an individual or a group?

Individual / Group

A required question.

6. Are you resident on the Isle of Man?

Yes / No

A required question. You are not required to be a Manx resident.

7. May we publish your response?

Yes, you can publish my response in full

Yes, you may publish my response anonymously

No, please do not publish my response

A required question.

Support for Proposal

8. In principle, do you agree or disagree that assisted dying should be permitted for terminally ill adults on the Isle of Man?

Agree / **Disagree** / Not Sure

This is probably the most important question in the consultation.

Please explain the reasons for your response

Spend some time thinking about *your* reasons for your opinion – perhaps especially concerning personal experience – and list as many as you can think of. It may help to remember that objections to legalising assisted suicide often fall under three headings: that law change is uncontrollable (e.g. the ongoing extension of Canada's euthanasia law, from terminally ill, to chronically ill and disabled, to mentally ill...), unethical (e.g. doctors' conscience rights and the doctor-patient relationship) and unnecessary (e.g. world-leading palliative care, to which too many have inadequate access.)

9. Do you think that there should be a limit on their life expectancy?

6 months / 12 months / Longer / Not Sure

We advise skipping this question, both because any answer implies support for the principle, and because even six months would be too unreliable a prognosis. Predicting life expectancy is notoriously difficult, as repeated studies have shown. Oregon regularly sees patients who have been confirmed as likely to die within six months far outliving that (even by several years) before taking the lethal drugs.

10. Do you support the provision of assisted dying for someone who has a condition which causes unbearable suffering that cannot be alleviated by other means but which may not give a terminal diagnosis?

Yes / **No** / Not Sure

While we do not support providing assisted suicide in response to *any* diagnosis, answering “no” here will help reinforce concerns over the arbitrary nature of this criterion: “unbearable suffering” is an entirely subjective term and with patients of course free to refuse treatment, this would cover a vast range of chronic conditions, disabilities and even potentially mental illnesses.

11. If they are unable to take oral medication should a health care professional be permitted to administer medication intravenously to achieve death?

Yes / **No** / Not Sure

The definition of the term “unable” could clearly be reinterpreted: physically incapable, physically difficult, emotionally difficult, nervous... If the principle of physician administration is accepted, it would be hard to justify denying the option to anyone deemed eligible, which would place a still greater demand on doctors. Canada’s MAiD (“medical assistance in dying”) regime offers both E&AS, with 99% of participants opting for euthanasia. We are also aware of “combination” deaths in the Netherlands: euthanasia where assisted suicide has failed, a reminder of the complications which can arise.⁴

Eligibility

12. Do you agree that assisted dying should be available only to people over the age of 18 Years?

Yes / No / Not Sure

We recommend either skipping the question or answering “yes”. We oppose inclusion of minors in euthanasia and assisted suicide legislation (as seen in the Netherlands and Belgium, and being considered in Canada), but the wording of the question means that “yes” could be taken to indicate support for adult assisted suicide.

⁴ www.carenotkilling.org.uk/articles/assisted-dying-inhumane/

13. Should they have to be permanent residents of the Isle of Man?

Yes / No / Not Sure

While legislators must guard against “suicide tourism”, it should be noted that in Oregon, the same activists who co-wrote the supposedly tightly controlled assisted suicide law recently backed a successful court challenge to its residency requirement. Those same activists are now challenging Vermont’s law in the same way.

14. If you agree they should be permanent residents please state for how long.

For over 1 year / For over 5 years / Other

If you have ticked "Other", please provide some details _____

You may wish to skip this question, or else consider what length of residence would serve to deter both suicide tourism and suicide migration.

Process

15. Do you agree with the proposal that two different doctors should meet with the person independently and establish they are mentally competent to make an informed decision without pressure or coercion?

Yes / No / Not Sure

Given question marks over how “independent” the doctors can be from each other in reality, and also concerns over doctor-shopping (seeking out doctors pre-disposed to accede to a request without longstanding knowledge of the patient as seen every year in places like Oregon), you may wish to skip this question.

16. Should any health professional be able to conscientiously object to being part of an assisted dying programme?

Yes / No / Not Sure

All proposals brought forward pay lip service to rights of conscience, but Canada and Belgium (in particular) have seen doctors required to make “effective referrals” (to doctors willing to process E&AS requests), judges opining that doctors should consider leaving their professions if they don’t want any contact with the practice, institutions being forced to allow E&AS on their premises, those which refuse losing funding and increasingly, pressure being placed on doctors to raise the “option” in consultations.

17. Do you agree that if either doctor is unsure about the person’s capacity to request an assisted death, the person should be referred to a psychiatrist for a further capacity assessment?

Yes / No / Not Sure

You may prefer to skip this question, but either way, consider arguing under Q28 that *all* applicants should undergo such an assessment.

18. Do you agree that the two doctors should ensure that the person has been fully informed of palliative, hospice and other treatment and care options?

Yes / No / Not Sure

Without wishing to indicate support for this requirement as a meaningful safeguard, we nonetheless advise ticking “yes”. There is merit in considering whether doctors should be required to see evidence of patients having *experienced* that care and support. More than that, before the advancement of *any* assisted suicide proposal, the Isle of Man’s healthcare community should consider whether all care and support that *can* be offered *is* available, without prejudice regarding patients’ means.

19. Do you support the proposal that the person signs a written declaration of their request, which is witnessed and signed by both doctors?

Yes / No / Not Sure

Without wishing to indicate reassurance by anything less formal, we advise skipping this question to minimise acceptance of the underlying principle.

20. Do you agree that there should be a waiting period of 14 days from this time to the provision of life ending medication to allow the person to reconsider their decision?

Yes / No / Not Sure

You may wish to skip this question so as not to endorse legalisation of assisted suicide.

21. Do you feel that this period should be shortened to 7 days if the person is expected to die within 30 days?

Yes / No / Not Sure

You may, alternatively, wish to skip this question so as not to endorse legalisation of assisted suicide.

22. Should the person themselves or a relative be able to collect the relevant medication from a designated pharmacist?

Yes / No / Not Sure

Allowing lethal unregulated doses of drugs to circulate in the community unmonitored and without being certain of the destination would be dangerous, and so you may wish to answer “no”, although further questions arise over conscience rights for pharmacists. Alternatively, you may wish to skip the question, not wishing to endorse the principle, but do consider reflecting these difficulties under Q28.

23. Should this be able to be stored securely in the person's home until they decide whether they want to take it or not?

Yes / No / Not Sure

You may wish to skip this question so as not to endorse legalisation of assisted suicide, but consider noting in your answer to Q28 that the presence of lethal unregulated doses of drugs in people's homes is dangerous.

24. If they change their mind should the medication be returned to the pharmacy immediately?

Yes / No / Not Sure

You may wish to skip this question so as not to endorse legalisation of assisted suicide, but consider noting in your answer to Q28 that the presence of lethal unregulated doses of drugs in people's homes is dangerous.

25. Should a health care professional be required to be with the patient once they have taken the medication until they are certified to have died?

Yes / No / Not Sure

You may wish to skip this question so as not to endorse legalisation of assisted suicide, or else consider choosing "no", bearing in mind the moral, ethical and practical burden this would place on healthcare professionals.

26. Should an annual report be produced regarding the number of people who have taken advantage of assisted dying, and be published?

Yes / No / Not Sure

You may alternatively wish to skip this question so as not to endorse legalisation of assisted suicide. In your answer to Q28, consider arguing that advocates must not be allowed to leave the details of review procedures and the intended contents of annual reports to later regulations: the plans must be open to scrutiny before any further legislative steps are taken.

27. Should it be possible to include the provision of assisted dying in a "living will" or advanced directive?

Yes / No / Not Sure

Given the openness of proponents, as demonstrated by Q10, to E&AS for broader categories of people, it is important to remember the significance of dementia as a terminal illness. The question raises the example of a Dutch woman with dementia whose family restrained her to allow a doctor to euthanise her in line with an advance directive.⁵ When the doctor and the family sought to conduct the euthanasia procedure, the patient resisted and said no three times. The doctor put a sedative in the patient's coffee and she was held down by her son-in-law whilst the doctor administered the lethal drugs to end her life. At a subsequent trial, the doctor was acquitted and later the Supreme Court of the Netherlands confirmed that doctors acting in this

⁵ bbc.co.uk/news/world-europe-52367644

way is compatible with the Dutch euthanasia law. The courts ruled that the doctor “did not have to verify the current desire to die.”⁶

28. Do you have any comments on the process to provide Assisted Dying which will be included in the draft Bill

Any other comments _____

You can reflect here on some of the issues we have noted above as well as concerns of your own, especially as these relate to issues such as coercion, conscience rights, the euphemistic language of “assisted dying”, and the difficulty (but also life-changing effects) of accessing palliative care and social care. It is OK to repeat some of your arguments from Q8. What problems do you foresee if these proposals become law? What worries you from the experiences of other countries? Why do you support the present laws? Who do you think might be vulnerable if this became law? How might financial considerations come to affect the process?

⁶ apnews.com/article/europe-health-courts-dementia-euthanasia-1ed45f0819e788708da51d161b48e9f8
apnews.com/article/a041563e55204279bfb8e335a19c2802