

Hon. Claire Christian, MHK
Minister for the Department of Health
and Social Care
1st Floor Belgravia House
Circular Road
Douglas
Isle of Man
IM1 1AE

Our ref: MCC24-1/OH/MC
Your ref:

Date: 11 June 2026

By Email - Minister.DHSC@gov.im

Dear Minister

Re: Advance notice of potential legal challenge to the Assisted Dying Bill 2023 (the "Bill")

We are instructed to write on behalf of our client, Dr. Graham McAll, founding member of the group, Manx Duty of Care (**MDOC**), to put the Department on advance notice of legal proceedings that our client / MDOC intend(s) to pursue should the Bill, now back with Tynwald (having had Royal Assent withheld by the UK's Ministry of Justice (**MOJ**)), receive Royal Assent on further amendment, and proceed to enactment, notwithstanding the very clear deficiencies both in relation to: (a) its compliance with the ECHR and (b) the limited time and resources, consultative input and mandate accorded such a monumental change for Manx society (by virtue of the Bill being a private member's bill, as opposed to one that was part of the government's legislative programme).

Whilst our client, and the Manx public more generally, have not had access to the Human Rights memorandum that accompanied the Bill to the MOJ, itself a situation that, on its face, appears incompatible with the principles of open and transparent government (the equivalent memoranda are published both in England & Wales and in Jersey), the deficiencies in the Bill, a mere 14 page public document (2 pages of which are a Form of Declaration contained in a Schedule), from a human rights perspective, ought, it is submitted, to have been obvious.

Additionally, it appears that none of the communications passing between the MOJ and the Isle of Man Government, setting out the MOJ's issues with the Bill, have (though some have been requested) been released to our client / the public more widely, whereas (presumably) the promoters of this private member's bill, will have had the benefit of these communications, on which (it is further presumed) Mr. Allinson, MHK, will have formulated his proposed amendments to the Bill, due to be debated in Tynwald on 16-18 June (**Allinson Amendments**). We would be grateful if you could confirm whether this is the case, and, if it is, reconsider the decision not to release the relevant communications.

In addition to the relevant communications (see preceding paragraph) our client seeks disclosure of all relevant documents relating to the decision-making process, including any human rights impact assessment(s) and legal advice received regarding ECHR compliance. These documents are essential to understanding the basis upon which the decisions were made to proceed with the Bill and what our client sees as a flawed legislative approach.

Since the return of the Bill from the MOJ, the Isle of Man Medical Society (**IOMMS**), the officially recognised representative and negotiating body for doctors working on the Island, has reportedly renewed its calls for a referendum¹ to decide on the potential introduction of assisted dying laws on the Isle of Man, having previously undertaken research which found that 74% of responding IOM doctors are opposed to the legislation on compelling ethical and practical grounds.

Prior to the MOJ declining to recommend the Bill for Royal Assent, the IOMMS had reached the conclusion that the Bill, which it considers “manifestly unworkable in practice” ... [was being] ... “rapidly forced through with the sole aim of being the first British Isles jurisdiction to legalise assisted dying, with scant regard to the damaging effects on Manx society and despite an unwilling Manx population.”² .

Our client / MDOC shares the well-publicised concerns of the IOMMS around, *inter alia*, the dangers of erosion of public trust in the medical profession as a sanctuary for the vulnerable if assisted dying is integrated into healthcare; the promotion of suicide as a treatment; the risk of deterring or losing good medical and social care staff from the Island; the major risks to individuals around prognostic uncertainty; the lack of robust oversight; the lack of satisfactory capacity assessment; the lack of robust safeguards against coercion; and, the priority of reinforcing palliative care to ensure real choice and excellence.

Whilst the MOJ has written to the Isle of Man Government to draw to its attention the issues it has with the Bill³, it is our client’s position that the Bill is fundamentally flawed and incapable of satisfactory rectification (whether by way of the Allinson Amendments or otherwise), especially in the short time now available to initiate and implement such changes as may be deemed necessary in light of the issues raised by the MOJ.

In the circumstances, our client would urge the Department and members of Tynwald to take careful stock and not rush through any amendments to the Bill that would risk compounding the very clear deficiencies to date. Given the complex and highly controversial matters at stake, this is patently not a Bill that it would be appropriate to rush through and “wash-up” in the last couple of months of the present administration.

¹ <https://www.iomms.org/assisted-dying-bill/referendum-iomms-statement> and <https://www.bbc.co.uk/news/articles/cr5p27vvr83o>

² <https://www.iomms.org/assisted-dying-bill/response-to-the-clauses-committee>

³ <https://www.gov.im/news/2026/apr/17/uk-lord-chancellor-advises-on-assisted-dying-bill/>

The legal proceedings that our client anticipates he may need to take, very much depends on what happens over the next couple of months; that written, amongst the options that may be available to him, would be to instigate a legal challenge in respect of the enactment of legislation that continues to leave critical substantive matters required for compliance with the ECHR to secondary legislation, thereby failing to provide adequate safeguards in the primary legislation itself.

Briefly, the facts which it is anticipated may underpin such a challenge are as follows. The Department is seeking to enact assisted dying legislation that purports to legalise the termination of life, whilst deferring essential safeguards and procedural protections required for compliance with Articles 2 and 8 of the ECHR to secondary legislation. Such approach would fundamentally undermine the legislative scrutiny necessary to ensure that any interference with the right to life under Article 2 and the right to respect for private and family life under Article 8 is lawful, necessary, and proportionate.

The legal basis for such a challenge would rest on the principle that legislation affecting fundamental human rights (Article 2, arguably the most fundamental of all the ECHR rights) must contain adequate primary safeguards, rather than relegating such critical matters to secondary legislation that will receive less parliamentary scrutiny, whilst offending basic constitutional fundamentals, including side-stepping entirely the transparent and open scrutiny by the UK, which bears ultimate responsibility for ensuring the Island's compliance with and adherence to its international human rights standards, including the ECHR.

The ECHR has established that Article 2 imposes on states positive obligations to protect life, negative obligations not to take life, and implied procedural obligations to investigate the loss of life, whilst Article 8 encompasses personal autonomy in end-of-life decisions. Any legislative framework that fails to adequately balance these competing rights in the primary legislation itself is susceptible to challenge for incompatibility with the ECHR.

A legislative approach that fails to comprehensively address the foregoing, creates a significant risk that the resulting legal framework will fail to provide sufficient protection for vulnerable individuals whilst simultaneously failing to respect individual autonomy in a manner that is clearly defined and subject to appropriate parliamentary and UK oversight. By leaving substantive compliance matters to secondary legislation, the Bill / Act fails to meet the standards of legal certainty and proportionality required under the Convention.

We would appreciate a response to this letter at your earliest convenience and would ask that in it you address the substantive concerns raised, provide the requested documentation and indicate whether you intend to take any remedial action to address the incompatibility identified.



HUMPHREY & HELFRICH

ADVOCATES & NOTARIES PUBLIC

We trust that you will give this matter the urgent attention it deserves given the fundamental human rights implications involved.

In view of the significant constitutional and public interest elements engaged, our client intends to send/provide a copy of this letter to the MOJ and to the Honourable Members of Tynwald.

Yours faithfully

HUMPHREY & HELFRICH

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