

STATES OF JERSEY



ASSISTED DYING – UNBEARABLE SUFFERING (P.46/2026): COMMENTS

Presented to the States on 20th February 2026
by the Minister for Health and Social Services

STATES GREFFE

COMMENTS

Background

1. P46/2026 as lodged by Deputy Southern proposes that:
 - a. Draft Assisted Dying (Jersey) Law 202-, if adopted, should be extended to include persons suffering from an incurable physical medical condition (which is not terminal) that is giving rise to unbearable suffering that cannot be alleviated in a manner the person deems to be tolerable, and that
 - b. the Minister for Health and Social Services (“the Minister”) should undertake the necessary changes to the assisted dying law (“draft law”).
2. P.46/2026 is not scheduled for debate until 10 March 2026 at the earliest, however, the Minister is lodging comments to P.46/2026 ahead of the scheduled date on the draft law (P.65/2025) in the event the comment is helpful to Assembly members in debating P.65/2025.

Minister’s response to P.46/2026

3. The Minister does not support P.46/2026 at this point.
4. In May 2024, the Minister voted in favour of the “Route 2” proposals presented as part of P.18/2024 (i.e. voted in favour of permitting assisted dying for persons with a non-terminal incurable physical medical condition who are experiencing unbearable suffering) on the grounds that he believes it is a humane and compassionate response, subject to all necessary safeguards.
5. However, the Minister recognises the following:
 - a. the Assembly rejected the proposed Route 2 option in May 2024, and he does not think that, at this juncture, there are compelling grounds to revisit that decision, and
 - b. having overseen the development of the draft law, including associated consultation with key professional stakeholders and clinicians, he acknowledges the complexity associated with the development of the extended safeguards that would be required if the assisted dying eligibility criteria were to include people with a non-terminal condition. Whilst of the view that it would be possible to develop those safeguards, he recognises the advantages of this being done after the existing safeguards in the draft law have been subject to real-world examination
6. The Minister notes that Amendment 8 to the P.65/2025, as lodged by the Assisted Dying Scrutiny Panel, proposes that:
 - a. the draft assisted dying law, if adopted, should be reviewed by the Assisted Dying Assisted Dying Assurance and Delivery Committee within three years of the law coming into force and,

- b. the review process must include consultation with appropriate representatives which would including people with disabilities
- 7. Amendment 8 is supported by the Minister and, in the event the amendment is adopted, the Minister is of the view that three-years post implementation of the Assisted Dying Service is the appropriate point at which to consider whether the assisted dying eligibility criteria should be extended to include people with a non-terminal condition.
- 8. The proposed three-year period provides sufficient time to:
 - a. allow the currently proposed laws to be implemented, unaffected by any further and additional requirements and consultations.
 - b. evaluate the operation of the assisted dying service and the effectiveness of the existing safeguards provided for in the draft law, and
 - c. assure the public as to the effectiveness of the current proposed safeguards, ahead of any decision by the Assembly to extend the eligibility criteria (as set out in the draft law) noting that, any extension of the criteria to people with a non-terminal condition would require extensive consultation with people with disabilities (as per Amendment 8).
- 9. The Minister notes Deputy Southern's concerns that the draft law, as lodged, runs the risk of being subject to challenge under Articles 8 and 14 for the European Convention on Human Rights but is assured, based on advice received, that the draft law is ECHR compliant (see P.65/2025 Appendix 6) noting that the ECHR permits Member States a wide margin of appreciation on matters related to assisted dying. It may be helpful to further note that the Scottish Human Rights Commission has not determined the Assisted Dying for Terminally Ill Adults (Scotland) Bill UK to be non-ECHR / potentially non-ECHR compliant on basis that assisted dying is restricted to terminally ill adults only. Similarly, the Equality and Human Rights Commission does not raise human rights concerns in relation to the draft Assisted Dying for Terminally Ill Adults (End of Life) Bill based on it being restricted to the terminally ill adults only.
- 10. The Minister notes that, as referenced in P.46/2026, there are arguments and counter-arguments related to the application of Articles 8 and 14 to assisted dying legislation however, it is nevertheless the case that it cannot be asserted that the draft law is non-human rights compliant because it only provides for persons with a terminal illness, nor should a decision be made to extend the eligibility criteria on the basis of a speculative ECHR challenge.
- 11. Whilst, as stated above, the Minister supports extending the criteria to non-terminally ill people on the basis of compassion, he does not support any proposal to extend the criteria at this particular juncture it will only serve to confuse and may well undermine the integrity of all the work done to date.