

BIHR Briefing Human Rights & Assisted Dying / Suicide 7 Summary Points

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Full briefing: [Human Rights Law & Assisted Dying/Suicide](#)

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1. WHICH HUMAN RIGHTS ARE RELEVANT?

At least 4.

Issues around assisted dying / suicide engage a number of human rights which are part of UK law through the Human Rights Act. These include the **right to life** (Article 2), the right to be **free from inhuman or degrading treatment** (Article 3), the **right to autonomy to make decisions and issues of consent and mental capacity** (Article 8), and the right to **non-discrimination** (Article 14) on a range of grounds including **disability, age, health, and belief**.

2. CAN THE RIGHTS BE INTERFERED WITH BY THE STATE?

Sometimes, legal tests apply.

The **right to life and to be free from inhuman or degrading treatment** are absolute; the State (and its public authorities like the NHS and courts) can never legally restrict these rights. **The rights to autonomy, choice, etc. are non-absolute, which means the State can restrict them** where it is (1) lawful, (2) for a legitimate aim (usually to protect the person or others), and (3) proportionate (i.e. the least restrictive of the right possible).

3. DO HUMAN RIGHTS LEGAL DUTIES REQUIRE A SYSTEM OF ASSISTED DYING/SUICIDE?

No.

The **right to life** does not include a right to die ([Pretty v UK](#)). States have a **positive duty to protect people from taking their own lives** if the decision is not made freely and with full understanding. The positive duty to protect people from inhuman and degrading treatment does not reach as far as to “sanction actions intended to terminate life.”

4. DO HUMAN RIGHTS LEGAL DUTIES PROHIBIT A SYSTEM OF ASSISTED DYING/SUICIDE?

No.

The **right to life** does not prohibit conditional decriminalisation of euthanasia ([Mortier v Belgium](#)) – but it does **require appropriate and adequate safeguards** be in place to ensure any such system is not open to abuse. This includes ensuring protections are in place for people in vulnerable positions or who may be subject to external pressure.

5. **HOW DO YOU RECONCILE (POTENTIALLY) CONFLICTING RIGHTS?**

A non-absolute right CAN be restricted to uphold an absolute right, but an absolute right CANNOT be restricted to uphold a non-absolute right.

The State can restrict rights to autonomy and choice (non-absolute) to uphold the right to life (absolute). The State cannot restrict the right to life (absolute) to uphold the right to autonomy or choice (non-absolute).

6. **IF AN ASSISTED DYING/SUICIDE LAW PASSES, CAN HUMAN RIGHTS BE USED TO CHALLENGE AND DEVELOP IT?**

Yes.

Any public authority must apply the law in line with the Human Rights Act (sections 6 & 3). This includes the Secretary of State and Department for Health and Social Care, the NHS, and others involved in decision-making, e.g. courts, social workers, etc. UK human rights law means both decisions under any law, and the law itself, will be open to challenge (and potentially wider application) based on human rights arguments. The ECtHR has been clear; if a country chooses to legislate for assisted dying/suicide there must be “appropriate and adequate safeguards to prevent abuse and thus ensure respect for the right to life.” ([Mortier v Belgium](#)).

7. **IS THERE A STATEMENT OF HUMAN RIGHTS COMPATIBILITY & ACCOMPANYING MEMO?**

No.

Human rights compatibility statements (section 19 HRA) only apply to Government Bills, not Private Members Bills. This important human rights scrutiny in law-making is absent in this process.