



**CONSULTATION RESPONSE:
RIGHT TO ADDICTION RECOVERY (SCOTLAND) BILL
Scottish Families Affected by Alcohol and Drugs
12/01/2022**

Foreword

Scottish Families Affected by Alcohol and Drugs (Scottish Families) welcomes the discussion of new ideas to improve treatment, support and recovery for people using alcohol and drugs, and the intent of the proposals put forward within the Right to Recovery Bill consultation paper. In preparing this consultation we have engaged with our Family Reference Group (which includes family members who are affected by a loved one's substance use) as well as Scottish Families' team members who work directly with family members on a daily basis.

Upon first glance, the Right to Recovery Bill makes a number of valid points, many of which chime with the views and experiences of families. We know that people across Scotland continue to face barriers and discrimination when seeking support for alcohol and drug use (including their own and someone else's), with persistent challenges around quality, access and choice, so we welcome any advancement on rectifying this.

The principle of the Bill recognises the importance of a rights-based approach regarding treatment, which Scottish Families fully supports. However, we have some concerns on how this would translate into real change on the ground for individuals and families, and importantly we note there is no mention of rights for families. We return to this critical point below.

Firstly, the language within the document can be confusing and interchanges often. For example, the term 'addiction' can be interpreted differently and may exclude those who would identify as otherwise. Terms such as 'drug user' can be stigmatising, and we would alternatively propose the use of 'people first' language throughout. It is important that when proposing change, inclusive language is used.

There is also the matter of current developments and wider implications for policy across Scotland, such as the emerging human rights legislation. This could transform the landscape in Scotland and has the potential to secure stronger and more far-reaching rights for those accessing support than what is currently proposed in the Right to Recovery Bill.

Also, the Scottish Government released a framework for holistic whole family approaches and family inclusive practice in Scotland last December. In the document, the Scottish Government outlines the need to improve culture within services – *“people can expect a service that is*

welcoming and treats them with dignity and respect.”¹ The document continues to say this sentiment extends to family members if they are invited by the person in treatment.

The omission of rights for families within the Bill proposals is very disappointing and we strongly urge that this is rectified if the Bill progresses. Scottish Families is happy to advise on this issue, in collaboration with family members. In ‘Rights, Respect and Recovery’, Scotland’s national alcohol and drug strategy (2018²), family members were granted all of the same rights as individuals using alcohol and drugs for the first time, and we must not diminish this commitment. Families have a right to support in their own right (regardless of the treatment or other status of their loved one); the right to involvement in their loved one’s care and treatment (being recognised as partners in care, as with any other long-term, chronic health condition); and the right to their own recovery. Our ‘Ask the Family’ research (2021³) found that family members were affected by substance use for an average of 16 years, yet it took an average of 8 years to reach family support for the first time, as well as identifying an average of 11 people harmed for each individual using alcohol or drugs. This indicates there is significant room for improvement in supporting families affected by others’ substance use, and if the Bill is to progress this could act as an important vehicle for this.

Introduction

Scottish Families is a national, third sector organisation that supports anyone impacted or concerned about someone else’s alcohol or drug use in Scotland. Our interest in the Right to Recovery Bill stems from the impact a change in legislation would have on the families we support and their loved ones. We are content for this response to be published and attributed to our organisation.

Full Response

- 1. Which of the following best expresses your view of the proposed bill?
Fully supportive, partially supportive, neutral, partially opposed, fully opposed, unsure.**

¹ The Scottish Government, ‘Families Affected by Drug and Alcohol in Scotland: A Framework for Holistic Whole Family Approaches and Family Inclusive Practice’, December 2021, <https://www.gov.scot/publications/improving-holistic-family-support-towards-whole-family-approach-family-inclusive-practice-drug-alcohol-services/>.

² The Scottish Government, ‘Rights, Respect and Recovery: alcohol and drug treatment strategy’, November 2018, <https://www.gov.scot/publications/rights-respect-recovery/>

³ Scottish Families Affected by Alcohol and Drugs, ‘Ask the Family: Family Perspectives on Whole Family Support and Family Inclusive Practice’, June 2021, <https://www.sfad.org.uk/ask-the-family>

Please explain the reason for your response. Any experience of accessing or trying to access treatment.

Partially supportive. Although we are supportive of the Bill in sentiment, we are not supportive of the legislative approach. There are concerns that adding a further layer of legislation to an already complicated landscape of treatment, support and recovery provision could potentially cause greater difficulties for those engaging with services and their families.

Family members and stakeholders we have spoken to have raised concerns that the Right to Recovery Bill is politicising a public health crisis, and is diverting attention and resources which could effect greater change elsewhere. Although we understand this Bill has been created and raised with good intentions, it is our duty to highlight these concerns. However, we do understand that any proposals made by a political party are inherently political, no matter which party is involved, and we recognise the passion and commitment repeatedly expressed right across the Scottish Parliament chamber to reduce Scotland's high rates of alcohol- and drug-related deaths and levels of harm to individuals, families and communities.

Furthermore, families tell us constantly that they are excluded from their loved one's treatment and that they are often not kept in the loop. We understand there are restrictions regarding GDPR rules (which are often used as an excuse to exclude families entirely), however, could the proposed legislation make this worse for families, providing another layer of bureaucracy and administrative blockages?

Following conversations with our partner organisations, we have outstanding questions as to whether the Bill is proposing what would be a fully justiciable right, a right to be progressively realised, or a codification of a right without any enforceable legal effect. If the proposed legislation were enforceable by law, there are questions as to how this would be done and who would be responsible. It is also unclear what this will mean for services themselves. Across Scotland, a major issue with services relates to their accessibility and availability. It is unclear what positive impact the Bill will have on services' current capacity regarding accessibility and availability. As previously mentioned, the language used within the bill could be improved. Furthermore, the links made to crime could be deemed insensitive when discussing a health issue.

We know there are already multiple issues experienced by families whose loved ones also have mental health issues. As mentioned earlier, change is essential here, and including a legal process may make these challenges worse for family members who share this experience. There is no specific mention or proposal surrounding co-occurring mental health issues within the Bill, despite the high prevalence of dual diagnosis concerns and challenges.

Furthermore, it is unclear what type of action this legislation would allow for. Could individuals take services to court, or is it a symbolic statement without action? We cannot help but feel the proposed Bill misses the meaning of human rights, despite its best intentions. Overall, the main

issue is that the Bill is lacking important details and much of how it would work in practice remains unclear.

2. Do you think legislation is required, or are there other ways in which the proposed bills aims could be achieved more effectively? Explain your reasons.

In addition to our points above under (1), it is evident that something needs to be done to improve the quality, access and choice of treatment, support and recovery (including harm reduction) across Scotland. However, it must be noted we are still waiting for full implementation of the Medication Assisted Treatment (MAT) standards and evidence of their impact. As previously stated, Scottish Families is interested in the potential for developments regarding Human Rights legislation in Scotland. This could effectively achieve the aims of the bill and keep everything under the same umbrella as opposed to separate legislation.

We understand there is also the potential to challenge the UK Equality Act 2010 which applies in Scotland but which (somewhat unbelievably) includes a specific exclusion from disability discrimination provisions for those with alcohol or drug issues. Regardless of what happens with the Right to Recovery Bill, we would like the Scottish Parliament to discuss this exclusion and advocate for its removal.

**3. How do you think the right to treatment established in the bill would be most effectively implemented and enforced? Tick all options that apply.
Duty on Scottish ministers, duty on health boards, duty on integration joint boards, established targets/standards, requirement for the Scottish government to report progress on duty, other such as local authorities. Explain your response.**

Other. Despite the 'Right to Recovery' name, the Bill consultation paper focuses primarily on medical, clinical 'treatment' delivered by NHS or Integrated Joint Boards and the role of clinicians in determining treatment plans. However, if the Bill is to effect change for all those who need it, it must apply equally across treatment, support and recovery options (including harm reduction), and across all sectors (public, private, third sector, community-based). Quality, access and choice will only be achieved in full if this Recovery Oriented System of Care (ROSC) is actually working as a system, with clear pathways in, through, out and between, and with adequate resourcing for each part. Alcohol and Drug Partnerships (ADPs) have the best overview of their local ROSC, and would be best placed to report on progress.

- 4. Which of the following best expresses your view of creating a specific complaints procedure, in addition to the existing NHS complaints procedure?
Fully supportive, partially supportive, neutral, partially opposed, fully opposed, unsure. Please explain your response including any experience you have had with existing NHS complaints procedure.**

Fully opposed. Families often tell us it's difficult to complain, know who to complain to, and for a complaint to actually be acknowledged and resolved. For families, this feels like it's a constant cycle of not being listened to, with their real concerns about treatment and care not being heard, acknowledged or acted on. Processes are incredibly slow and cumbersome (for example depending on written correspondence in hard copy, rather than online, telephone or face to face options). Improvements to existing complaints procedures, including more straightforward, streamlined and user-friendly arrangements direct to whoever is responsible for each distinct service, would be welcome. However a completely new and separate complaints procedure for this proposed Bill could increase confusion, and would not resolve the issues with existing processes.

- 5. Which of the following best expresses your view of allowing those suffering from addiction to choose a preferred treatment option and for them to receive that option unless deemed harmful by a medical professional?
Fully supportive, partially supportive, neutral, partially opposed, fully opposed, unsure.
Please explain your reasons – we would welcome suggestions about how this could work in practice.**

Partially supportive. It is unclear what the circumstances would be for a medical professional to deem the option chosen by the individual as not suitable. This may lead to little to no change, as the final decision still remains with a medical professional. Would there be allowance for family involvement? The absence of families in the document leaves many gaps and questions as to where they would fit into the mechanics of the Bill.

The Bill focuses quite heavily on residential rehabilitation, which is not the best treatment option for everyone. There is little detail about other treatment options, or any mention of standards within residential rehabilitation facilities or support frameworks for before or after a residential stay. There are significant risks in separating out residential rehabilitation as somehow 'better' or the 'ultimate' response to substance use. Residential options should be fully integrated into local Recovery Oriented Systems of Care (ROSCs), along with all other options for treatment, support and recovery (including harm reduction). Recovery can look vastly different depending on the individual, therefore it is essential other routes are acknowledged and given equal focus.

6. Which of the following best expresses your view of the proposed bill seeking to prevent treatment being refused?

Fully supportive, partially supportive, neutral, partially opposed, fully opposed, unsure.

Please explain your reasons – we would welcome suggestions about how this could work in practice.

Partially supportive. No one in Scotland should be refused treatment when seeking help. We already have the right to healthcare in Scotland, but there is an existing accountability gap. However, the bill is proposing a right to a service, as opposed to the right to a desired outcome. A more human-rights based approach would focus on the outcome (e.g. highest attainable health), with the government then responsible to ensure services are capable of meeting these outcomes. Of course, everyone should have the right to access a service, but we would argue that a human-rights based approach would increase accountability for the performance of services and ensure better outcomes for individuals. Although this could be achieved by demanding the Scottish Government commits to the Human Rights Bill, which states that the ‘right to health’ includes those who need access to alcohol and drug services.

7. Which of the following best expresses your view of requiring the Scottish government to establish a national funding scheme?

Fully supportive, partially supportive, neutral, partially opposed, fully opposed, unsure.

Please explain your reasons.

Partially opposed. It is acknowledged that the ADP system is somewhat ‘broken’ (as stated in the document), which is mostly due to the ‘postcode lottery’ that people experience when accessing services. Families tell us their experience can differ drastically depending on which ADP area they live in. We believe that no matter where you live in Scotland, everyone should be entitled to equal access and quality of services. However, it is unclear why or how a national funding scheme would bypass ADPs, and if this would further complicate matters for services. It may be more efficient to use ADPs as intended, assist to improve them, and continue to fund services through them. As stated in the answer to question 3, if the Bill was to be passed, Alcohol and Drug Partnerships would in our view be best placed to monitor, report progress and ensure the Bill was being enforced. Therefore, it would make sense for funding to remain with Alcohol and Drug Partnerships if this were to be the case.

8. Taking into account all those likely to be affected (including public sector bodies, businesses and individuals etc.) is the proposed bill likely to lead to:

A significant increase in costs, some increase in costs, no overall change in costs, some reduction in costs, a significant reduction in costs, don’t know.

Please indicate where you would expect the impact identified to fall (including public sector bodies, businesses, and individuals etc.). You may also wish to suggest ways in which the aims of the bill could be delivered more cost effectively.

Don't know. The Bill does not set out any sort of financial strategy or detail what resources or funds would be needed to realise the proposals. It is therefore difficult to comment on what the impact of the Bill would be on public sector bodies, businesses, and individuals financially. If the Bill is to progress it should be accompanied by a detailed financial memorandum.

9. What overall impact is the proposed bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation?

Positive, slightly positive, neutral, slightly negative, negative, unsure.

Please explain the reasons for your response. Where any negative impacts are identified, you may also wish to suggest ways in which these could be minimized or avoided.

It is a concern that the bill could have a **negative** impact on equality. By singling out those who use alcohol and drugs by using separate legislation, it may 'other' them from other protected groups. It is a concern that this could perpetuate stigma, especially during a time where much effort has been made to eradicate it in Scotland.

10. In terms of assessing the proposed bills potential impact on sustainable development, you may wish to consider how it relates to the following principles: Living within environmental limits, ensuring a strong, healthy, and just society, achieving a sustainable economy, promoting a sustainable economy, promoting effective, participative systems of governments, ensuring policy is developed on the basis of strong scientific evidence.

With these principles in mind, do you consider that the bill can be delivered sustainable? Yes, no, unsure. Please explain.

In terms of ensuring a strong, healthy, and just society, points made previously highlight concern regarding this. It is concerning that adding a separate set of rights/legislative powers for people who use alcohol and drugs may cause an 'othering' effect and cause stigma to deepen. It may be more just, as mentioned previously, to ensure those using alcohol and drugs are not deliberately excluded from existing protected characteristics. It could also be argued that the bill would not promote effective, participative systems of government by its call to bypass ADPs with a national funding scheme.

11. Do you have any other additional comments or suggestions on the proposed bill (which have not already been covered in any of your responses to earlier questions)?

No.

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