Proposed Right to Addiction Recovery (Scotland) Bill

Introduction

A proposal for a Bill to enable people addicted to drugs and/or alcohol to access the necessary addiction treatment they require.

The consultation runs from 7 October 2021 to 12 January 2022.

All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document.

Questions marked with an asterisk (*) require an answer.

All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response.

Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded.

Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here:

Consultation document

Privacy Notice

I confirm that I have read and understood the Privacy Notice which explains how my personal data will be used.

On the previous page we asked you if you are UNDER 12 YEARS old, and you responded Yes to this question.

If this is the case, we will have to contact your parent or guardian for consent.

If you are under 12 years of age, please put your contact details into the textbox. This can be your email address or phone number. We will then contact you and your parents to receive consent.

Otherwise please confirm that you are or are not under 12 years old.

No Response

About you

Please choose whether you are responding as an individual or on behalf of an organisation.
Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Member of the public

Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:
1. Whilst working in The City (of London) I left my office at 5pm every Wednesday to volunteer in a street-homeless shelter in the
centre of Soho (Centrepoint managed). Over a five (5) year period I was "exposed" in this role to visitors to the shelter with many issues - childhood trauma, general trauma/PTSD, sexual abuse, myriad mental health conditions and more. At that time the hostel had 28 beds (dormitories, bunk beds), 18 designated as male and 10 for women. The age range was 18-25 (policy). Many (most?) of the young people had used in their short lives to date (up to 25) and many were drug dependent and/or engaged in problematic drug use. The young people had access to facilities from 7pm until 9am the next day when they had to leave. Volunteers cooked two hot meals - dinner and breakfast. Policy was that stays were restricted to 21 out of 28 days. Centrepoint provided excellent training to volunteers in the drugs space/issues and a significant amount of our time - volunteers, ideally 5, one employed social worker - was spent with the young people discussing their drug use and where appropriate involving the employed colleague in signposting, referrals etc. "Lights out" was midnight, anyone not in the shelter by then was excluded without exception. Street drugs were predominant although prescription drugs also to a lesser extent. Opiates at that time were predominant. The young people had to self declare they were not carrying drugs nor drugs paraphernalia; notwithstanding overdoses did occur and ambulances called - a short ban was then imposed from the facility. Purely for interest Carrie's contemporaneous story is a beacon of light and hope and fortunately many others at my time at the shelter followed a similar path. Regrettably a huge number of the young people did not and succumbed to drug misuse and consequences thereof: https://centrepoint.org.uk/youth-homelessness/real-stories/carries-story/
2. General:

- management experience as a director of several commercial businesses
- director/trustee of one charity (drugs/harm reduction, non opiates unless poly drug use)
- educated to postgraduate masters level

3. Service volunteer with Crew 2000 (www.crew.scot) for five (5) years. In this role I was involved in delivering Crew's award winning Outreach at clubs,
festivals and other night time economy spaces to keep people safe and well by offering welfare, drugs information/advice, harm reduction information and immediate crisis support. I was fortunate to work with highly trained staff and other volunteers delivering one to one support using active listening, brief interventions, violence reduction techniques - we worked collaboratively with security, paramedics and the police in our Outreach settings. The training provided to volunteers and subsequent supervision and support from a dedicated member of the team employed by Crew was outstanding,
better than anything I ever experienced in my professional life. Assisted in providing training to Police Scotland at The Police Scotland College. Jointly led arrangement of seminar (120 attendees) for defence solicitors and sheriffs under the tile "Drugs on the Bench".

4. personal lived experience of use of stimulants, empathogens, stimulants, psychedelics, depressants, dissociatives (www.thedrugswheel.com)

5. completed free OU courses: does prison work; how arguments are used and constructed in the social sciences; human rights and law; poverty in Scotland; the role of diagnosis in psychotherapy and counselling; the Scottish Parliament and law making; social psychology and politics; childhood in crisis; mindfulness in prison and mental health settings; all you need to know about drugs.

6. lay member of Holyrood APPG Drugs and Alcohol (poor attendance regrettably due to

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

disability/sickness)

7. Ambassador, Labour Campaign for Drug Policy Reform

Please select the category which best describes your organisation

No Response

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your Full Name or the name of your organisation. (Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

Douglas McBean

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number.

We will not publish these details.

Aim and Approach - Note: All answers to the questions in this section may be published (unless your response is "not for publication").

Q1. Which of the following best expresses your view of the proposed Bill?

Fully opposed

Please explain the reasons for your response. We would welcome comments on any experience you have had of accessing, or trying to access, addiction treatment.
I am opposed to the proposed Bill as presently outlined/summarised in the current consultation. I shall therefore mark each question (where appropriate) as "fully opposed". As those reading this response (if any) will/may have seen, two (2) responses have been issued in the public domain at this time (11 January 2022). I support this early publication and do not fear any open discussion in advance of the final publication by Douglas Ross MP MSP in due course, hopefully early course, post closing date. I cannot respond in light of the foregoing only to Mr Ross' paper and accordingly may touch on the aforementioned published responses. I believe this is consistent with the aims of the consultation.

Meantime in answer to the question posed, I have been fortunate personally not to have any difficulty accessing addiction treatment. My out patient,10 week in-patient treatment and aftercare was met by private health insurance arranged by my then employers - if I recall correctly I paid income tax and NIC on the premiums but I cannot be sure. I attended at https://www.nightingalehospital.co.uk/ I was diagnosed as

Q1. Which of the following best expresses your view of the proposed Bill?

suffering from rapid cycling bi-polar affective dis-order, generalised anxiety disorder, workplace stress (more properly described as workplace distress) and addiction to cocaine. My treating practitioners were a psychiatrist, CBT psychologist and addictions psychologist. Perhaps I was too greedy with too much support! The diagnoses were of course co-morbid. I massively believe in person centered treatment and am concerned that whilst the consultation may hint at this I am concerned about delivery in local areas.

Q2. Do you think legislation is required, or are there other ways in which the proposed Bill's aims could be achieved more effectively? Please explain the reasons for your response.

I support what Transform/Cranstoun/Release/EuroNPD say in the published response to the consultation (I do not support devolution of drug law reform to the Scottish Parliament) - it is headed "The Right to Recovery Bill Consultation: Response from Cranstoun, Transform Drug Policy Foundation and Release". There is no point reinventing the wheel and accordingly I quote what I believe is the main theme/thrust if I may:

"The consultation does not provide legal clarity on what remedies would be available where a breach of statutory
duty has occurred. It does not provide any detail on who would be held liable, when a breach would occur, and
what the standard of liability would be. There are already a number of legal routes someone could take against a
provider where harm has been caused, for example an action for negligent conduct or, in the case of concerns of
how a decision affecting a person has been reached, through an action for judicial review. The problem is not the
lack of legal protection, it is about people being empowered to take that action and fully supported throughout
that legal process. The devil is in the detail, and unfortunately, the detail is absent from this consultation".

A few additional comments though - my work/professional experience includes working in London as a (specialised) insurance broker. FAVOR/Faces and Voices of Recovery have issued a document under the title "FAVOR - Please Respond - The Right to Recovery Bill Consultation Response". In that document they ask for donations to their organisation that I found bewildering.

When working/living in London I worked in the insurance market where I was involved included (but not limited to) directors' and officers' liability, medical malpractice (UK and North America), employment practices liability. The following article albeit based on English law, English jurisdiction and acts (alleged) to have been committed in England I believe is very worthwhile reading (due to length not produced in full here) - it addresses the question:" Is a 'no fault' compensation scheme the answer to the eye-watering costs of clinical negligence claims in England"? This applies to the situation where a medical practitioner may advise against "treatment".

FAVOR UK et al in their published response (again I cannot find the date) at Q5 (of their response) state "There have been cases in Scotland where recovery organisations have had to seek senior legal counsel to bring cases to court where people were denied access to drug treatment.....". I regret I cannot find any such cases being adjudicated in the Court of Session and/or otherwise. It may be that I have just cannot find them and it would personally benefit the discussion I believe if any decisions/judgements could be pointed to - particularly in Scotland but further afield too.

Q3. How do you think the right to treatment established in the Bill would be most effectively implemented and enforced? Tick all options that apply.

Please explain the reasons for your response.
No comment at this stage

Q4. Which of the following best expresses your view of creating a specific complaints procedure, in addition to the existing NHS complaints procedure?

Fully opposed

Please explain the reasons for your response. We would welcome comments on any experience you have had with the existing NHS complaints procedure.
No comment at this time other than I do not support a separate complaints process as envisaged in the consultation and by FAVOR.

Q5. 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 opposed

Please explain the reasons for your response. We would welcome suggestions about how this could work in practice.
Too vague. Does Mr Ross envisage that if I prefer treatment at The Meadows in Arizona, the Dawn in Thailand and/or The Crossroads Centre in Antigua legislation would provide for same? I feel very strongly that treatment should be person centred with informed choices. I do have some concerns that many of the current facilities are based upon the 12 Steps of Narcotics Annonymous: https://ukna.org/content/literature-more (aka The Minnesota Method). This needs to be a huge informed debate (but short!)

Q6. Which of the following best expresses your view of the proposed Bill seeking to prevent treatment being refused?

Fully opposed

Please explain the reasons for your response. We would welcome suggestions about how this could work in practice.
Not enough space/time to respond fully.

Q7. Which of the following best expresses your view of requiring the Scottish Government to establish a national funding scheme?

Fully opposed

Financial Implications

Q8. 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:

don’t know

Equalities

Q9. 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?

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 minimised or avoided.
16 April 2020 - The Office of the High Commissioner (United Nations Human Rights) issued a statement under the heading "Statement by the UN expert on the right to health on the protection of people who use drugs during the COVID -19 pandemic". Paragraphs therein (4 pages) are headed: Access to Harm Reduction Services; Access to Controlled Medicines; Women who use Drugs; Homelessness and people who use drugs; Prisons and other detention settings, including compulsory drug rehabilitation Centres; Emergency Powers and the Right to Health; Information and Participation (found at https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25797&LangID=E) provides a useful overview in a short space - I recommend it. The Right to Health was of course (https://www.wma.net/what-we-do/human-rights/right-to-health/) enshrined in the World Health Organisation (1946) - the aforementioned link again provides a short and helpful (in my view/reading) under the heading "Right to Health: An Inclusive Right for All". Yet again a short paper helping to form my thoughts in this consultation process is found at https://www.ukdpc.org.uk/wp-content/uploads/Policy%20report%20-%20Drugs%20and%20diversity_%20LGBT%20groups%20(policy%20briefing).pdf - this is published under the heading "Drugs and Diversity: Lesbian, gay, bisexual and transgender (LGBT) communities Learning from the evidence" - my only concern from this was the phrase (assumedly innocent) was that "LGBT people can be found everywhere...."!!!https://www.drugabuse.gov/drug-topics/substance-use-suds-in-lgbtq-populations. A longer article (US) thaN those previously mentioned and that is very helpful can be found at https://www.drugabuse.gov/drug-topics/substance-use-suds-in-lgbtq-populations. Inter alia this identifies (that in the USA)

"People who identify as lesbian, gay, bisexual, transgender, or questioning (LGBTQ) often face social stigma, discrimination, and other challenges not encountered by people who identify as heterosexual. They also face a greater risk of harassment and violence. As a result of these and other stressors, sexual minorities are at increased risk for various behavioral health issues. Data from the 2018 National Survey on Drug Use and Health (NSDUH), suggests that substance use patterns reported by sexual minority adults (in this survey, sexual minority adults includes individuals who describe themselves as lesbian, gay, or bisexual) are higher compared to those reported by heterosexual adults. More than a third (37.6 percent) of sexual minority adults 18 and older reported past year marijuana use, compared to 16.2% reported by the overall adult population.1 Past year opioid use (including misuse of prescription opioids or heroin use) was also higher with 9% of sexual minority adults aged 18 or older reporting use compared to 3.8% among the overall adult population. Additionally, 9% of sexual minority adults aged 26 or older reported past year misuse of prescription opioids—an increase from the 6.4% who reported misuse in 2017. However, there was a significant decline in past year prescription opioid misuse among sexual minority adults aged 18-25 with 8.3% reporting use in 2018." I self-identify as a gay man (I came out at age 33 following a failed marriage to my female partner). This was also the same time that I experienced drug use in nightclubs such as the legendary Heaven and Trade. Apropos nothing but I took Howard Marks (reputedly having had 43 aliases including that of Mr Nice) to his first (and only) "gay" nightclub. I further worked with Howard and colleagues for a time developing a business case for Mr Nice branded head shops and an online betting/gaming vehicle. The case was not made.

Sustainability

Q10. In terms of assessing the proposed Bill's 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 effective, participative systems of governance
• 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 sustainably?

Unsure

General

Q11. 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)?

The Politics - A PERSONAL VIEW. Drug Policy and Drug Policy Reform are reserved matters to the Westminster Parliament. Whilst I and others use the term "policy" I would suggest it might better be replaced with "laws". The main three (3) UK wide laws that are specific in this area (unless I am missing something) are The Mis-use of Drugs Act 1971, the Misuse of Drugs Regulations 2001 and the Psychoactive Substances Act 2016. The terms legalisation, regulated legalisation and de-criminalisation are often confused in much of the media accordingly confusing us mere mortals. This consultation is being brought forward of course in contemplation of a potential Bill being proposed by Conservative Party MSP MP Douglas Ross. Mr Ross is a list member (MSP) for the Highlands and Islands Region and sits as an MP at Westminster for the Moray Constituency. He is seeking to introduce a member's bill. The Scottish Government website(s) show the stages such a bill would have to go through to become law. Previous bills that became law include but are not limited to: Domestic Abuse (Scotland) Act 2011.

I briefly turn to the matter of stigmatisation that often attaches to individuals who are problematic drug users. Reasonable people might be expected to respect those who seek help, including residential rehab. This is not always the case. Please see this for a fuller discussion on this topic: https://www.addictioncenter.com/rehab-questions/why-does-rehab-have-a-stigma/ Regrettably I feel compelled to express concerns about comments made by the Westminster minister at the Home Office and the Ministry of Justice, the Rt Hon Kit Malthouse MP in this arena. The minster (Mr Malthouse) has an extensive portfolio that "involves drugs" at several levels including: https://www.gov.uk/government/people/kit-malthouse. The minister in my personal view has shown no commitment to, indeed denying, peer reviewed evidence et al. He is not alone - Labour Home Secretary removed highly respected Professor David Nutt from his then position as Chair of the agency advising the UK Government - the ACMD. Mr Ross meantime does not feature in Hansard and/or theyworkforyou in Westminster reference drugs matters.