

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.

on behalf of an organisation

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".)

No Response

Please select the category which best describes your organisation

Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

Scottish Recovery Consortium supports, represents and connects recovery across Scotland. We achieve this by working with recovery in all its forms – from grassroots to government, from individuals to international organisations and we value lived and living experience throughout. We are a small team working nationally across Scotland to develop and provide a variety of offerings including events, training, representation and community development. Scottish Recovery Consortium adopts a rights-based approach and believes in collaborative working. As a result of this collaborative approach our response is based on consultation with people with Lived Experience and represents a collective 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).

Scottish Recovery Consortium

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.

Our response is based on consultation with people with Lived Experience, all of whom have had direct experience of addiction treatment and recovery. While we cannot support the bill, we do recognise the good intentions behind the proposals and that they have created a space for public debate. We do regret, however, that there was extremely limited engagement with people with Lived Experience in the formulation of the proposals, and that as a result, the full range of views of people with Lived Experience have not been sought and are therefore not represented. We are also concerned that the Independent Advocacy sector, which could find itself on the frontline of dealing with the impact of this bill, has also not been widely consulted. We would like to raise the fact that this is labelled as 'Right to Addiction Recovery Bill', however its focus is almost entirely on treatment and within that, residential rehabilitation. The unintended consequences of this are that it fails to recognise the role of Recovery Support Organisations (e.g. Lived Experience Recovery Organisations - LEROs) and Recovery Communities in initiating, sustaining and supporting recovery alongside more formal treatment approaches. This sector is already devalued and under funded and we believe that these proposals would further divert resources towards the medicalised approach to addiction recovery. We would argue that the current situation in Scotland (and across many other countries) reflects problems with the medical model itself and that, by failing to recognise community support and the need to fully implement Recovery Orientated Systems of Care, we would continue to fail to implement a 'gold standard' approach to addiction recovery. In addition, by focusing attention only on access to treatment, we feel that the proposals fail to recognise the intersectionality of addiction issues, the links to multiple disadvantage and the impact that criminalisation of people who use drugs has on the opportunity for people to recover. We agree there are treatment failures, but these failures are exacerbated by wider system failures that this bill does not address. We would also take issue with the statement that "The key aim of treatment must be to wean those who suffer from addiction off the substance which they are dependent on" - for us the key aim for treatment is to enable individuals to achieve the highest state of wellbeing possible in their circumstances, to take a salutogenic approach that focuses on factors that support health and wellbeing, beyond a more traditional, 'pathogenic' focus on risk and problems. We are uncomfortable that there is undue focus on residential rehabilitation throughout the consultation with limited reference to other treatment and non-treatment based recovery pathways. Residential rehab is an extremely valuable approach for some people - but not for everyone and may not be appropriate for many individuals who are unable to leave their family, community or employment for an extended period of time. We recognise that there are issues with access to rehab, but we would regard these both as systemic and also related to underfunding and the resulting lack of capacity. Work is underway to address these issues and we are unsure how legislation would add value. There is an assumption throughout that people are being denied treatment and we are unsure of the veracity of this analysis given that the example given is in relation to residential rehab which, as noted previously, has its own particular issues. A further unintended consequence of this focus could see residential rehab prioritised as an option when it may not be appropriate. Many rehabs are based on therapeutic community models and these can be destabilised by admitting individuals for whom this is not the best fit for their particular circumstances. There are other areas where we have concerns and these will be addressed later in this document.

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.

We understand that a legislative approach could be seen to have advantages. However, our experience has been that legislation in itself is not a driver for change and that conversely, it can stifle innovation and quality improvement by encouraging organisations to become legally compliant rather than responsive and innovative. As people facing multiple disadvantage the likelihood of, in reality, being able to seek legal redress is tiny. We believe that fully implementing the Rights Based Approach, where individuals regard and understand themselves as Rights Holders, and organisations and services fully realise their role as Duty Bearers would more effectively address the need for a major cultural shift that underlies many current issues. For us the danger of legislation is that it suggests that the problems exist at a legal level, where for us the issues are more systemic. We note that there is consultation underway on a National Care Services, a consultation process that has sought to involve people with Lived Experience from a wide range of sectors, and that the issues raised have not related to legislation, they have related to the need for whole system change, greater accountability, a cultural shift in the understanding of rights

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.

and greater involvement of people with Lived Experience in the design, delivery and assessment of the effectiveness of services. In addition issue around intersectionality, siloisation of services, defunding and workforce issues - and a lack of resilience highlighted by the impact of covid 19 - have all been identified as major issues. Having said that we also believe that political and civil society actors should focus energy on amending the Equalities Act 2010 which explicitly excludes people with addiction. The UK Government's Equality Office has stated "the exclusion of 'addictions' is because the provisions of the Act are intended to protect people with disabilities and conditions which are not self-induced. Addictions, unlike medical and neurological conditions, are self-induced". This creates or perpetuates a position of relative disadvantage for people with addictions and both fuels a toxic narrative and discriminates directly and practically. In effect this bill would create another layer when we feel it would be better to address the wider rights issue at its source i.e. amending the Equalities Act.

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.

Other (For example Local Authorities - please specify below).

Please explain the reasons for your response.

Our response is 'other' to this question because we are unclear how the proposal could be implemented and enforced and it is unclear in the consultation document how this would happen. The document states that "it would place an obligation on Scottish Ministers, Health Boards and others to provide treatment and set up reporting arrangements so that the quality and access of treatment provided can be monitored and reported to the Scottish Parliament". It would have been helpful for the proposal to outline in more details how this would occur in practice. We note that much of the reporting activity mentioned in the above statement already takes place and significant work is underway to improve the quality of information. We also note that the introduction of MAT standards and the creation of MIST to undertake quantitative and qualitative assessment of the impact of these standards (involving people with Lived Experience directly in the process), is an activity already in progress. This process seeks to go beyond access to treatment and to consider the quality and experience of the treatment (and other supports) that people receive.

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.

Without evidence of the efficacy, or otherwise, of current complaint procedures both within and outwith the NHS it is hard to be supportive of, and to comment on, whether an additional procedure would be appropriate. It would also be helpful to have additional data on complaints raised through Independent Advocacy and when and how these are resolved. We note that the example given i.e. "consideration of the current available complaint mechanisms to assess if they are likely to be fit for purpose to deal effectively with complaints about access to rehabilitation treatment", again appears to predicate one particular pathway. Is the intention for a new complaints procedure only to focus on rehab? If so this would seem to disadvantage those who seek other treatment or non-treatment options.

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?

Neutral (neither support nor oppose)

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?

Please explain the reasons for your response. We would welcome suggestions about how this could work in practice.

This is a difficult question to answer as of course we would support choice. However, the question makes no reference to the proposed bill and therefore we are not being asked whether the bill would support choice - and we do not believe that it will. As with previous questions we remain concerned that residential rehabilitation becomes the only (or most promoted choice) leading to disinvestment in other treatment and non treatment options. We are also aware that, beyond the shrinking number of addiction specialists, there is very little addiction expertise within the medical profession and the proposal does not state whether any medical professional - or a specialist - could and should make this decision. We would rather see a situation where investment is made in the full range of treatment and recovery support options (a ROSC) and a proposal that ensures that people are made fully aware of their choices and supported to access them. The reality on the ground is that the majority of people accessing services often have extremely limited knowledge of the options available and the suitability of these options to their individual circumstances and aspirations.

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

Unsure

Please explain the reasons for your response. We would welcome suggestions about how this could work in practice.

Again we have concerns on the lack of evidence in the proposal that treatment is being routinely refused. Is the suggestion here that one option i.e. residential rehabilitation, is being refused? That may be the case but without more evidence, and an understanding of the reasons why (i.e. is it a systemic problem, lack of capacity, lack of funding) then it is hard to see how legislation would have significant impact, other than to create more tension within the system.

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

Unsure

Please explain the reasons for your response.

Funding is of course a key issue but it is unclear from the proposal what this would mean in practice. We note that it is suggested that a "new right to recover approach would see a new national funding scheme created which is separate from the existing Alcohol and Drug Partnerships model" - does this mean a separate Residential Rehab budget and, if so, how would this work? A consequence of this could be to pull people into one treatment pathway that may not be appropriate and for disinvestment to occur in other pathways. What would happen if the full budget was not met or exceeded, how would people move between pathways, how would the fact that significant numbers of people do not complete residential rehab - or attend multiple times - be accommodated? We are unsure because we are unclear on what is actually being proposed.

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

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.

Given some of the questions we have already raised it did not feel possible for us to make an accurate assessment of cost in relation to the bill. Do costs in this question relate to increased legal costs as a result of legislation and potential legal activity as a result? Do the costs include an increase in rehab provision and associated costs of increasing access? Is the suggestion for an overall increase in funding to support more choice under a ROSC model which would include greater access to different treatment options alongside greater access to recovery support in communities? Is rehab aftercare being considered as part of these proposals? There are just too many questions that remain unresolved to estimate a realistic cost.

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.

As noted previously we feel that a much greater impact on equality would be the removal of the addiction exclusion from the Equalities Act 2010. We would also note that only approximately 40% of people in Scotland with addiction issues currently access treatment. We know that there are numerous reasons for this but a key factor is that many services are built around a white male opiate using population and are therefore not as responsive to other communities and types of drug use as they could be. A huge amount to work needs to be done to change this, but we are not clear how the bill would seek to address these issues. If there is evidence that people with protected characteristics are not accessing services because of lack of access to residential rehab then we could potentially see a minor impact, but we believe that this issue is one of adequate targeted provision across the board.

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

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?

Please explain the reasons for your response.

While we appreciate the sentiments expressed in the proposals to positively impact those that have drug and alcohol addictions we are concerned that this is based on an analysis of the current situation that states that "people seeking to get off drugs can't actually get the treatment they need". While we accept that this is a factor we would argue that the current situation is due to a much wider range of interrelated factors that will not be solved by legislation. In fact we feel that, by relying on legislation we could see this as 'job done' and therefore fail to address the principles of sustainable development above. It could be argued that is the failure of the principles to be achieved that is the underlying cause of the current situation, rather than addiction itself.

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)?

As noted previously we recognise that there are good intentions behind this proposal, however we remain seriously concerned about the bill's ability to achieve its stated intentions and to deliver the improvements that it seeks. The current situation has arisen from a wide range of factors - some related directly to addiction, but many beyond this. It is complex and therefore requires a multi-faceted approach. Legislation may be one tool to address these issues, but we do not believe it provides a comprehensive solution or a roadmap to achieving the outcomes that the bill aspires to. We feel that, had there been much wider involvement of Lived Experience and other stakeholders in the formulation of the proposals, then there would have been a different outcome. In that sense we feel there has been a missed opportunity to build consensus and effect change.