

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 Drugs Forum is a membership organisation registered as a charity. The organisation supports and represents the drugs field and promotes evidence-based policy and practice in the development of Scotland's response to problem substance use

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 Drugs Forum

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.

This Bill cannot be supported on three counts.

Firstly, as explained below, the proposals are based in false premises about the aims of treatment and a narrowly focussed recovery, about abstinence rather than quality of life, which has been so damaging to Scotland in the past and beyond which the drugs field and the wider policy context has now moved.

Secondly, for reasons described below, it would further disempower and potentially further marginalise people with a drug problem seeking treatment. This would potentially damage the establishment and development of a therapeutic relationship on which all drug treatment depends.

Thirdly, it is simply neither sufficiently radical nor bold enough to achieve its aims. People with a drug problem will have the rights they need and deserve, only when they are fully recognised under the Equalities Act – an act which currently enshrines in law their stigmatisation and marginalisation by explicitly excluding them.

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.

Wider Context and Issues with the proposed approach

a The Bill and The National Mission to Reduce Drug Deaths

Treatment of all kinds need to be expanded to deliver the National Mission to Reduce Drug-related Deaths. There are significant challenges in increasing the proportion of the approximately 58000 people who have a drug problem involving opiates or benzodiazepines who are in treatment from the current rate of 35-40% even to something more like 60-70% and ensuring that people stay in treatment for as long as they need it – current retention rates are not good in many areas. Scotland also needs to develop treatment services for people who have problems with other substances.

The Government recently published statistics on the capacity of residential rehabilitation services and the low numbers of places available each year in Scotland for people with drug and alcohol problems. Projected funding investment of £100 million over 5 years may, perhaps, double this capacity. So, residential treatment will remain a small though of course crucial part of the treatment system in Scotland as it is elsewhere across Europe.

In terms of community-based treatment, there are around 20 -25 thousand people in drug treatment at any one time. Most of these are in medication assisted treatment (MAT) involving methadone or one of the formulations of buprenorphine. There are very few people in MAT involving benzodiazepines only and fewer than 20 people in heroin assisted treatment at present. There is no one in treatment involving stimulant based MAT for the treatment of people with a cocaine or other stimulant problem. To deliver the National Mission this treatment system needs expanded and to do that it has to be transformed to become more attractive and accessible to people with a drug problem who are currently not engaging with the treatment system; better at retaining and supporting people in their treatment and more effective in delivering wider quality of life recovery outcomes around mental and physical health, housing, meaningful activity incl.

In this context, we have to ask whether if enacted the proposed Bill would make any difference or would help deliver these outcomes?

b The Bill's Narrow Focus on Treatment

The Bill has an unhelpfully narrow focus on treatment and on a narrow definition of recovery.

'The key aim of treatment must be to wean those who suffer from addiction off the substance which they are dependent on.' (p11)

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.

The aim of treatment should be to promote and support recovery in the widest sense. In terms of drug strategy this has been the understanding since 2008. A consensus remains on this. To narrow this focus now to 'weaning' people 'off substances' is unhelpful and a retrograde step. Scotland's current drug strategy allows people to define and articulate their own aspirations and aims in terms of recovery.

... that people's recovery must be focused on their aspirations.
Rights, Respect and Recovery (2018) p26

Recovery cannot be supported on the basis of 'treatment and then recovery'. Broader supports and progress in terms of improving mental and physical health and well-being, having a home, having a social network and support, having something to do in terms of meaningful occupation and having an income are all legitimate aspects of treatment and may constitute recovery as defined by the person themselves.

Focusing narrowly on an outcome of abstinence rather than improvements in an individual's quality of life, as was Scotland's drug strategy under The Road To Recovery 2008 - 2018, is unhelpful and indeed harmful. It creates a climate where people delivering and receiving treatment may take a narrow view that abstinence is the goal of treatment and that abstinence at all costs is to be valued – rather than wider quality of life outcomes. This even means that people in MAT treatment feel they are making progress by reducing their dose of medication which is simply untrue and in fact potentially lethally dangerous. It brings stigma not only people with a drug problem, which is bad enough, but on treatment and the treatment system itself. It may be perceived that this stigma is reflected in the terms in which the proposed Bill is framed.

Perhaps no single bill could encompass all aspects of the treatment, care and support that may be required to promote and support an individual's recovery. However, this is not a defence of the Bill's narrow focus that would if enacted, consolidate the present situation where treatment services are too often narrowly focussed and legitimise That situation by enshrining it in law.

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.

It is difficult to answer given the limited response options provided.
Based on the paper proposing a Bill, it is difficult to envisage the effective implementation of a right to treatment.

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

Please explain the reasons for your response. We would welcome comments on any experience you have had with the existing NHS complaints procedure.

It has not been possible to form a view on this given the limited detail in the consultation.

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

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.

Issue One - The need for assessment

This implies that there is no need for any professional to make an assessment as to whether the person requires treatment; the treatment they may require or the professional judgement of the treatment that may best suit them.

As it stands, a person who was perhaps using drugs or alcohol heavily but did not have a dependency and was facing other issues could present and demand, for example, a residential service. So for example, a person whose relationship was ending and who was threatened with homelessness or a person recently released from a prison or a hospital could present and demand months of residential treatment.

The provider of the treatment for which a person opts may feel the need to assess the person and then may decide not to work with them. Who would be responsible for denying the person their right to the treatment of their choice?

Issue Two – Selecting a preferred treatment option

As it stands, the proposal implies that there is no need for any professional to make an assessment as to which treatment may be most suitable.

People who present for drug treatment are often in desperate circumstances – they are almost always facing some form of mental and physical health crisis and often face other issues. So, at presentation to a treatment service, a person may well also be facing a crisis in their personal relationships, for example fleeing violence, homelessness or the threat of homelessness, involvement with the courts and criminal justice system. They may have been traumatised recently by, perhaps for example, having witnessed the fatal overdose of a friend or partner. These types of crises are often the motivation to seek help and treatment.

Making informed decision in these desperate circumstances can be a challenge. People can be, and often are, supported in this circumstance by family, friends and partners as well by professional advocates. But in all cases, treatment professionals support informed decision making and consent. Often treatment professionals are the only people who are available to offer this support.

Will treatment professionals be willing and able to have these conversations with someone who presents and demands a particular form of treatment? Will this be interpreted as seeking to deny a person their right to access their preferred option? Will the treatment professional or the service be liable?

A person may change their preferred treatment option. How would this be recorded?

Issue Three – The definition of quick access

The text does not define quick access. From April 2022 MAT Standards are to be implemented which mean that medically assisted treatment should be available on the day the person presents to a treatment service for help. Is it proposed that all treatment to be equally accessible? If not, are people being denied the right to access their preferred treatment option?

Issue Four – The power imbalance between the medical professional and the person seeking treatment

As drafted the Bill allows medical professionals to veto a person's choice of treatment on the grounds that they 'deem it would be harmful to the individual'.

Problem drug use is both caused by, and results in, disempowerment. Treatment services should aim to support and empower the people they work with. This proposal would enshrine in law the discrepancy in power between the service provider and the person seeking treatment. It could simply result in many cases of the first engagement with a treatment service being a denial of the person's right based on an opinion that their personal decisions are harmful to themselves. This is not the way to initiate and build a therapeutic relationship and evidence shows that the therapeutic relationship is a key predictor of treatment outcome.

Issue Five – Risk of harm as a veto of a person's preferred treatment option

All treatment options have associated risks. Would this be used to deny people their treatment option? If a

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person received their preferred treatment option and subsequently experienced a harm associated with that treatment option who would be liable? For example, if a person completed and left residential rehabilitation abstinent and then quickly relapsed, overdosed and died due to their lowered tolerance to opiates, should this predictable risk have been used to veto their opting for that treatment?

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

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

See answer to 5. above

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.

Knowledge and accountability are key aspects in planning, designing and delivering effective services. Communities and local agencies hold the local knowledge and can support local accountability crucial in this area.

As multi-agency groups involving statutory and voluntary sector organisations as well as local community members including families and people with lived and living experience of problem substance use, ADPs may be well placed to plan, design and deliver effective local services. Not all agencies and partnerships will always work efficiently and effectively. Indeed the Care Inspectorate report of 2017 and work by Audit Scotland has given an insight into the variability of ADPs in Scotland but the description of local structures as broken and the justification of national funding based on this is poorly argued, if it is argued at all.

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:

a significant increase in costs

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.

Numerous audits, in Scotland and elsewhere, have shown that the public expenditure on treatment represents a saving when compared with the alternative of public expenditure on services for people with a drug problem who are not in treatment. This will continue to be the case but the budget for treatment must be expanded.

To deliver the National Mission to Reduce Drug-related Deaths, and to improve Scotland's response to problem drug use more generally, Scotland needs to

- develop the broad range of evidenced treatment and rehabilitation options by expanding our existing provision
- increase the capacity of each of the elements of this provision

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:

- improve the quality of each of the elements of this provision
- integrate each of the elements of the provision with each other and with other services including criminal justice services, mental and physical health and well-being services, housing services, education, training and employability services

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?

Negative

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.

In terms of empowering people with a drug problem to engage with treatment and other services to address the issues they face, legislation should be amended or, in a Scottish context, legislation should be introduced to effect the desired changes in terms set out by the Scottish Affairs Select Committee:

"It is unacceptable that drug dependence is excluded from the Equality Act 2010,

...

This can have damaging real-life consequences for many people who use drugs—often by preventing them fully accessing recovery services. The UK Government must immediately review the exemption of substance dependence from equality legislation and assess the impact it has on people who use drugs."

(Scottish Affairs Select Committee, Problem Drug Use in Scotland October 2019 Para 154)

This would bring profound changes in empowering people who have a drug problem and bring change to services and the delivery of services to people who have a drug problem. The changes that have been envisaged as a consequence of this change include:

- ensuring that everyone with a drug problem has the right to advocacy so they can be effectively supported to get the treatment and services they need and want
- expanding the Public Sector Equality Duty to people with a drug problem
- ensuring public authorities properly consider the impact policy may have on people with a drug problem
- increasing the protection of funding for drug treatment services
- ensuring greater consideration to the suitability of public sector housing for people with a drug problem
- addressing the stigma of people with a drug problem enshrined in law through the specific exemption of people with a drug problem from the terms of The Equality Act (The Equality Act 2010 (Disability) Regulations 2010 (SI 2010/2128))

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)?

It is a sign of broad progress in terms of the improvement in understanding of the issues involved in problem drug use; the challenges involved in delivering The National Mission on Reducing Drug-related Deaths; and the challenges in addressing the stigma that is borne by people with a drug problem that this Bill has been proposed and discussed positively in public discussion and in media coverage. This is a welcome indication of progress.

The fact that this is a private bill raised by the leader of the party of Opposition is taken as being indicative of a desire to build on an existing consensus and is encouraging.

However, this Bill would not, if implemented, achieve the aims of those who have drafted and promoted it.