

Right to Recovery (Scotland) Bill Proposal

June 2021

1. The general principles of the Bill are:

- a) Any individual seeking addiction and/or substance misuse treatment is able to quickly access their preferred treatment option, unless a medical professional deems it would be harmful to the individual.
- b) No individual shall be denied access to their preferred addiction and/or substance misuse treatment option, unless a medical professional deems it would be harmful to the individual.
- c) Should an individual request an addiction and/or substance misuse treatment option and be refused immediate access to that treatment, a medical professional will be required to provide a written explanation detailing the grounds of refusal within 24 hours.

2. The Bill would seek to provide a statutory right to addiction and recovery treatment services including, but not limited to, the following:

- a) Short-term residential rehabilitation.
- b) Long-term residential rehabilitation.
- c) Community-based rehabilitation.
- d) Residential detoxification.
- e) Community-based detoxification.
- f) Stabilisation services.
- g) Substitute prescribing services.
- h) Any other forms of treatment as a health professional may deem appropriate, in line with guidance from the Scottish Ministers.

3. The Bill would seek to prevent individuals seeking drug and alcohol treatment services from being refused access for reasons including, but not limited to, the following:

- a) A medical history of substance misuse.
- b) A criminal history involving substance misuse.
- c) The outcome of a mental health assessment.
- d) The individual currently being in receipt of substitute prescribing services, regardless of the volume of prescription.
- e) The individual currently still undertaking alcohol and/or drug misuse.

Implementation

4. Section 1 of The National Health Service (Scotland) Act 1978 places a general duty on the Scottish Ministers to continue to promote a free, comprehensive and integrated health service to secure:

- a) improvement in the physical and mental health of the people of Scotland and
- b) the prevention, diagnosis and treatment of illness.

Section 1A(1) of the Act permits the Scottish Ministers to do anything they consider is likely to assist in the duty to promote the improvement of the physical and mental health of the people of Scotland. 1A(2) permits Scottish Ministers to do anything which they consider is likely to assist in discharging that duty including, in particular:

- a) giving financial assistance to any person,
- b) entering into arrangements or agreements with any person,
- c) co-operating with, or facilitating or co-ordinating the activities of, any person.

These provisions contain what are called “target duties”. These duties are expressed at a high level of generality, with an aim only to secure the provision of public services.

We propose an insert of a new section to the 1978 Act to require the Scottish Ministers to enshrine the rights of people with substance misuse issues and to transfer these rights from a general duty to a statutory duty.



5. In performing the duty under the new section, the Scottish Ministers will be required to introduce a scheme to enable a person access to an individual holistic 'care plan' in line with the "Orange Book - Drug misuse and Dependence: UK guidelines on clinical management". This will be a 'plan agreed with, and offered to, an individual to treat that person's addiction issues.

This should include the options of residential or community-based detoxification, stabilisation services, residential and community-based rehabilitation, substitute prescribing (of choice) and such other forms of treatment as the Scottish Ministers may deem appropriate.

A plan may also include support, aftercare or throughcare measures including housing/accommodation, employability support, training, community-based support, voluntary work experience and any other psychosocial support to enable someone to fulfil the desired outcome discussed in their plan.

6. This plan should also include services for the children and families of the person. This should ensure that parental rights are protected when someone seeks treatment and ensure that the family remain as a unit and that at no time should a person fear losing their family at a time of need.
7. That the Scottish Ministers make regulations to provide a person with a right to be assessed for a care plan within a reasonable period of approaching the relevant services and asking for assistance. The person will only have services offered and provided under a care plan if they choose this and are eligible for that treatment. Scottish Ministers must make provision for the timeframe under which particular care plans must be implemented. This should also require the Scottish Ministers to set out which professionals can carry out a care plan assessment and what their role will be during that process.
8. Additional to the changes in legislation it should be required that the Scottish Ministers must provide a Code of Guidance of Drug Treatment in Scotland, following the guidance and recommendations in the UK guidelines on clinical management, giving guidance to any person doing a care plan. Anyone carrying out these plans and assessments must adhere to the Code and in terms of the law would be expected to follow the guidance unless there is a reason not to (residential rehabilitation waiting times or other practical reasons for example). The Code should be available to be reviewed and amended when the occasions is required.
9. That the Scottish Ministers commission an independent regulatory body to monitor the performance of the duties and guidance, to ensure that all partners, statutory and third sector are held equally accountable.

Financial

10. The Bill should amend the Proceeds of Crime Act 2002 Act to require that money raised from the proceeds of drug crime in Scotland will be applied to fund care plans.
11. The Bill should require that the Scottish Minister's deliver core funding to the optimal level required to meet the duties outlined in the Bill.
12. The Bill should expect to result in overall benefits to Scotland by:
 - Reducing the number of people using drugs and increasing the number of people contributing positively to society.
 - Reducing the amount of crime and direct effects of crime on the people of Scotland.
13. The Bill is expected to result in overall savings to the costs to Scotland by:
 - Reducing the cost to the police, criminal justice and prison system of drug related crime.
 - Reducing the time and costs to drugs related service providers of chasing funding by providing a more uniform funding framework.
 - To ensure that there is a standard way of assessing the effectiveness across Scotland of the services it offers.
14. The Bill would place a duty on Ministers to promote all treatment types. It compels the Minister, by regulatory frameworks, to make provision for:
 - A scheme to assess the needs of the person to determine an appropriate package of services to treat their addiction within a reasonable timeframe.
 - A timeframe in which a care plan shall be implemented.
 - The identification of professionals designated to carry out a care plan and assessment and their roles.
 - The delivery of such services as may be necessary to treat and rehabilitate alcohol and drug users.
 - A complaints procedure for drug users, worker and/or their families.

