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Kenneth Gibson MSP
Convener
Finance and Public Administration Committee
Scottish Parliament
Edinburgh
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7 January 2025

Dear Kenneth

Please find attached a memorandum setting out the Scottish Government's position on the Right to Addiction Recovery (Scotland) Bill, introduced by Douglas Ross MSP on 14 May 2024.

I hope the Committee finds this helpful in undertaking their scrutiny of the Bill.

Your sincerely

NEIL GRAY

RIGHT TO ADDICTION RECOVERY (SCOTLAND) BILL

MEMORANDUM FROM THE SCOTTISH GOVERNMENT TO THE HEALTH, SOCIAL CARE & SPORT COMMITTEE and THE PUBLIC FINANCE AND ADMINISTRATION COMMITTEE

Introduction

1. This memorandum has been prepared by the Scottish Government to assist the Health, Social Care and Sport, and the Public Finance and Administration Committees in their consideration of the Right to Addiction Recovery (Scotland) Bill, introduced by Douglas Ross MSP on 14 May 2024 (the "Bill"; the "R2R Bill").

2. We wish to be consistent in our memoranda to both committees, therefore both policy and financial considerations are outlined below.

3. The Scottish Government is committed to supporting people affected by substance use by reducing deaths and improving lives and are keen to consider any interventions which could support this. As such we have conducted an analysis of the Bill within the context of the current drugs and alcohol policy landscape. We have outlined below context regarding current practise of relevance to the provisions in the Bill that we hope will support the Committee's consideration through Stage One.

Consultation

4. A consultation was lodged along with Mr Ross's draft proposal and ran from 6 October 2021 to 12 January 2022 with 194 responses. The consultation included an outline of the general aims of the Bill, but no draft Bill was provided at this point to consider.

5. The consultation summary indicated that 64% of respondents were fully supportive of the proposed Bill, and 14% partially supportive. Meanwhile only 11% were fully opposed and 6% were partially opposed.

6. There were a range of views expressed, some relating to aspects of the proposal that are not included in the Bill as introduced. Although the responses are relevant to discussions, we invite the Committee to ensure that there is broad engagement on the content of the Bill as introduced. We have suggested stakeholders who the Committee may wish to engage with through their call for evidence at **Annex A.**

The Scottish Government's Position

7. The Scottish Government supports the intended outcomes of the Bill as introduced and we welcome the committee's call for evidence and will engage fully with the committee's consideration of the Bill.

8. The Scottish Government is committed to addressing the harms caused by substance use in Scotland, and to designing and delivering services in a rights-based way. We would note the wide range of actions being taken nationally and locally through our National Mission that deliver across areas highlighted in the Bill, as well as our public commitments already made or now being implemented.

9. In December 2024 the Scottish Government supported the launch of the National Collaborative Charter of Rights for people affected by substance use. The Charter seeks to

support individuals to understand their rights and the support they can expect to receive, and to support service providers to adopt a human rights-based approach.

10. In early 2025 the Scottish Government will publish a national service specification for substance use support services. This will set out what service users are entitled to expect and will set out for service providers what should be available for people affected by substance use – this covers alcohol and drugs. Both the Charter and the specification have been developed with a range of stakeholders, including people with lived and living experience.

11. The rights-based approach of the Charter and the specification have been developed to work alongside existing professional codes of conduct, and to take account of existing and developing clinical guidelines for alcohol and drugs which ensure that people enter appropriate forms of support.

12. The Scottish Government's commitment to improvement clearly recognises that more needs to be done to ensure people affected by substance use are aware of treatment and recovery services, and that more and clearer information should be available for people, families, communities, service providers and the public.

13. We consider that care and support for individuals must be at the point of need, which evidence suggests takes many forms, including medical, Community Pharmacy, Occupational Therapists, Social Workers, social care, families, third sector support including recovery communities.

14. This range of support requires professional and clinical input from a wide group of professions and services, and these are recognised in the Charter of Rights and intended to be covered in the national specification. The range of services that will be covered by the national specification emphasises that health professionals play an important role but that many non-medical services also play a key role in supporting people.

15. The Health and Social Care, and Public Finance and Public Administration Committees have asked a number of questions as part of the call for evidence on the Bill and these are responded to below.

Financial consideration

16. The financial memorandum estimates Year 1 costs of between £29.0m-£38.5m and ongoing costs of between £28.6m-£38.2m per year.

17. These costs are to be met by the Scottish Government (up to £9.6m), and key bodies such as Health Boards (up to £15.4m) and Alcohol and Drug Partnerships (ADPs) (up to £13.4m). The most significant component of the estimate relates to additional costs should treatment completion rates increase from 69% to either 89.3% (high estimate) or 85.4% (low estimate). This is based on stopping between 50% and 66% of early discharges and on the current Drugs and Alcohol baseline as a baseline of the total cost of treatment.

18. The financial memorandum applies a broad pro-rata increase (20% increase for the high estimate and 16% increase for the low estimate) to the entire existing drugs and alcohol budget to estimate this cost.

19. The current budget for Alcohol and Drugs encompasses non-clinical as well as clinical support, with varying costs depending on type of treatment and routes to payment. In addition to this there are costs to health boards and social services for providing the wider range of services for people affected by substance use that are not paid for by the drugs and alcohol

policy budget, but which are needed to ensure full support. The Committee may wish to examine if the financial memorandum takes account of these factors.

20. To more fully understand the financial implications, a modelled estimate might start with estimating how many more people are likely to require support and care and of what kind. Within this, consideration might be given to both the capital costs associated with increasing capacity and variety of the overarching support offer, as well as the ongoing costs of meeting treatment, recovery and care needs, in addition to staff capacity and training requirements.

21. We recognise however that it is extremely challenging to estimate demand and unmet need given the stigmatised nature of substance use – recognising that this cohort is impacted by wider societal and systemic needs beyond treatment services. For example, PHS has developed a new model for estimating the number of people in Scotland with opioid dependence - however, estimates are not currently available for populations impacted by other types of drugs, and alcohol in particular.

22. In the longer term, the Bill 'anticipates significant savings including from reduced demands on health, prison, law enforcement and emergency services and from numerous other wider societal benefits.' We would invite the Committee to consider the extent to which a reduction in substance dependence would relieve system pressure rather than realise financial savings.

23. The committee may wish to consider if the absolute nature of the right to provision within three weeks may prove challenging to the establishment and management of drug and alcohol budgets. In order to meet this provision there may be a requirement to always ensure there is available service provision in excess of need, with attendant costs prioritised over other areas of health and social care pressure and services where currently local decisions on resource allocation will be taken to reflect the full needs of the local population.

Purpose and extent of the Bill

24. The Bill highlights issues including:

- People not being involved or empowered in decisions about their care.
- Lack of funding for drug and alcohol services, including residential rehabilitation
- Challenges and barriers people face in accessing services.
- A lack of clear publicly available information on the types of treatment available to people affected by drug and/or alcohol.

25. As noted above the Scottish Government is supportive of the intended outcomes of the Bill and will want to hear and contribute to Stage One discussion around the Bill.

26. Through our National Mission, the Scottish Government is working with stakeholders to help improve delivery and support for a wide range of activity to address the harms caused by substance use.

27. In designing and delivering services we are committed to ensuring people are involved or empowered in decisions about their care/preferred treatment, for example through:

- The Medication Assisted Treatment (MAT) Standards, (benchmarking report published July 2024) supported by an investment of £10m a year, aims to promote choice and agency so people can be involved in their care plans.

- Supporting the National Collaborative's Charter of Rights for people affected by substance use (published Dec 2024) which aims to empower people to understand their rights and how to identify and seek better care and support services to plan and deliver services under a human-rights based approach.

- Realistic Medicine and the Value Based Health and Care Action Plan (published October 2023) aims to support meaningful conversations between health and care professionals and the people they care for in a way which focuses on outcomes that matter to the individual. The outcomes that matter to people are not always clinical outcomes.

28. Funding for drug and alcohol services, including residential rehabilitation:

- We have made record levels of funding available to support our National Mission with a 67% increase from 2014 funding levels, through our commitment of an additional £250m over the course of the Mission.

- One of the core pillars of the National Mission is to increase access to and the provision of residential rehab. We have significantly increased the number of people being supported to access rehab. In a report published in December 2024, PHS concluded that, based on the available data, the Scottish Government reached its target of 1,000 individuals publicly funded to go to residential rehabilitation per year in the financial year 2022/23.

- To expand capacity, we have made £38m available to eight projects across Scotland. This investment increases the number of bed spaces available and widens access to specific groups and addresses geographic barriers to accessing rehab.

- As of September 2024, there was a maximum capacity of 513 residential rehabilitation beds in Scotland across 25 facilities. This is an increase of 88 beds (21%) compared to August 2021 (425 beds)[1].

- Coupled with significantly increased funding for the sector, this means we are making progress towards our commitment of increasing residential rehabilitation capacity from 425 to 650 by 2026.

29. Tackling challenges and barriers people face in accessing services, including waiting times for services:

- We have funded Healthcare Improvement Scotland to lead on the creation and implementation of a "gold-standard" joint working protocol for mental health and substance use services to ensure that people with co-occurring mental health and substance use conditions can access high quality care.

- The Dual Housing Support Fund was set up to prevent people having to choose between rehab and maintaining their tenancies.

[1] Residential rehabilitation bed capacity in Scotland, September 2024 - gov.scot (www.gov.scot)

- We have committed funding for the development of several projects which will support women and their families through recovery in Scotland and have set up an expert working group to improve pathways for women to access support during pregnancy.

- As part of the Proactive and Preventative Care Programme, there have been a series of local pathfinders - co-designed with people with lived experience - to support the development of the Getting it Right for Everyone practice model (GIRFE- which builds on GIRFEC, but for adult services).

- We are exploring expansion of the Scottish Recovery Consortium's Prison Recovery Project. This work has increased the reach of drug and alcohol recovery activities in the prison estate and provides recovery pathways as people return to their community.

30. Ensuring clear publicly available information on the treatment available to people affected by drug and/or alcohol:

- The Scottish Government publishes the National Mission Annual Report. This outlines the activity, developments and achievements made towards the National Mission by national government, local government and third sector partners. The Annual Report also provides transparency regarding financial accounts for the National Mission.

- Public Health Scotland maintain the Drug and Alcohol Information System (DAISy), a national database that holds data about drug and alcohol services, including Prisons data, across Scotland delivering specialist tier three and four interventions. Data from DAISy provides (1) quarterly performance reporting against the Standard that 90% of people referred for help with problematic drug or alcohol use will wait no longer than three weeks for specialist treatment that supports their recovery; (2) annual statistics providing insights into drug and alcohol treatment needs and the social circumstances and behaviours of people at the point when they contact services for treatment. The DAISy system is currently under review to ensure we can record, monitor, and analyse the most relevant and robust data, which would help us to understand the uptake of, and improvement in, drug and alcohol services.

- Through the Medication Assisted Treatment Standards programme, all delivery partners were required to produce implementation plans and each area reports on progress to the Scottish Government on a quarterly basis; Public Health Scotland also publish an annual benchmarking report on the progress that Alcohol and Drug Partnerships (ADPs) in Scotland are making to implement all ten medication assisted treatment standards.

- Public Health Scotland produce a six-monthly report monitoring the number of statutory-funded residential rehab placements approved. On 17 December 2024, PHS published the first statistics reporting on the number of individuals starting a residential rehabilitation placement.

- PHS publish quarterly estimates of the number of people prescribed Opioid Substitution Therapy in Scotland (last published 3 December 2024).

- Public Health Scotland's Rapid Action Drug Alerts and Response (RADAR) is Scotland's drugs early warning surveillance system. Using innovative data collection methods, RADAR validates, assess and shares information to reduce the risk of drug-related harm. This includes publishing accessible, up to date information on services.

- Launch of National Residential Rehabilitation Service Directory to help individuals and workers understand the types of residential rehabilitation services available and includes personal testimonies from people who have accessed residential rehabilitation.

31. We recognise that despite all of this work and positive progress, change for people on the ground can feel slow. In addition, the emerging threat of synthetic substances and the potential for contamination of supply could affect an even greater number of people.

32. We are confident that taking a public health approach, coordinating efforts from across Government, Alcohol and Drug Partnerships, civil society and grassroots organisations is the right one because it is informed by the experiences of people affected by substance use as well as evidence of what works. The committee may wish to consider the provisions of the Bill within the context of the activity currently being delivered by the Scottish Government, which, as we have stated, shares the intended outcomes of the Bill.

33. We are committed to ensuring the best possible standards of care and support, and welcome feedback on how we take this approach forward.

Existing policy and practice context and Treatment determination process

34. The treatment determination process set out in the Bill where individuals presenting for drug or alcohol addiction treatment have an assessment of their needs, leading to a recommendation about appropriate services including their treatment options, is already accepted and promoted as good practice. In existing clinical practice, determinations are reached in accordance with professional codes and through UK-wide clinical treatment guidance which puts the needs of the individual at the centre of assessments and determinations.

35. The General Medical Council (GMC) guidance "Good Medical Practice" ("GMP"), which came into effect on 30 January 2024, together with six pieces of more detailed guidance, represents core guidance for all registered doctors and covers a variety of professional issues/standards including good medical practice; prescribing; decision making and consent; and confidentiality. The GMP also states that in providing clinical care, a clinician must take account of a patient's "relevant psychological, spiritual, social, economic, and cultural factors".

36. There are a number of routes into treatment at present and while formal diagnosis of addiction is possible it is not required. Treatment and support are available through a variety of professions and services. Many people seek harm reduction interventions by choice, such as take-home naloxone or needle exchange, without formal diagnosis, as part of their own chosen care or recovery journey.

37. Others may also not wish to have a formal diagnosis noted on their health records, and thus may not seek the proposed treatment determination, or do not feel emotionally ready to seek formal support. Reasons for not wishing to have a formal diagnosis of addiction can include stigma, fear of losing children and family, especially among women, concern about having a diagnosis recorded on medical records. This may unintentionally exclude the most marginalised in communities of people affected by substance use.

38. Current care planning involves a wide range of professionals who are not considered health professionals. Implementation of the Bill as it stands would require a restructuring of how Integration Authorities and Alcohol and Drug Partnerships plan, commission and deliver service requirements, as well as how care plans are developed, and referrals are made. Much

of this work is undertaken by local authority social work and social care rather than by health professionals.

39. The committee may wish to consider how the proposals in the bill fit with the existing delivery framework for drug and alcohol services and what the effect of any changes may be on broader drug and alcohol support services; in addition to the extent to which section 3 of the Bill departs from existing GMC guidance and any unintended impacts for those accessing services.

Advantages and/or disadvantages of placing a right to receive treatment, for people with a drug or alcohol addiction, in law.

40. As noted, the Scottish Government supports a person centred and rights-based approach and welcomes the launch of the National Collaborative Charter of Rights for people affected by substance use. This will be reflected in the national service specification for substance use support services that we expect to public early in 2025. Both the Charter and the specification have been developed with a range of stakeholders, including people with lived and living experience.

41. We would invite the committee to consider the detail of how any proposed rights can be adequately enforced and how the process for recourse or remedy for people who feel their rights have not been met will operate, particularly for individuals not seeking a medical intervention.

42. The Scottish Government has responsibility for the overall functioning of the NHS in its delivery of healthcare. Delivery of health services and social care services which are devolved to local authorities and integration authorities, who deliver the overall approach to healthcare, social care and social work. Local commissioning is in place to support provision of services appropriate to local need. Whilst Ministers would have the power to place functions and duties on other bodies, it might be helpful for the Committee to explore how this is intended to operate in practice and what the scope and effect of any Regulations might be.

43. As a more technical point, Section 4(2) is framed as a duty for the Scottish Ministers to lay draft regulations setting out arrangements which are in place or are to be put in place to comply with the duty to secure delivery of rights. However, there is no corresponding power for the Scottish Ministers to make regulations (and for those regulations to therefore become law) in the event that Parliament was to approve the draft.

44. We note that section 5 of the Bill requires Ministers to report to Parliament on a range of information. Where this would require additional collation of data by public bodies and from medical records of individuals, we would invite the Committee to consider if there are any considerations in relation to GDPR or the ICO that would impact the aim of the reporting requirements.

Definitions of 'treatment' and the range included within the Bill.

45. As set out above, estimating the levels of substance dependency across the population is challenging as many people do not seek support through formal services. Those who do engage with services often contact third sector providers.

46. In 2019/20 (the most recent data available), the estimated number of people aged 15 to 64 years with opioid dependence in Scotland was 47,100. In the 12 months to March 2024, Opioid Substitution Therapy (OST) was prescribed to an estimated minimum of 29,817 people

in Scotland. This suggests that around a third of the cohort of those affected by opioid dependence are not currently engaged with clinical services.

47. Support for people affected by substance use takes many forms, with a range of service providers and professions offering and defining treatment, including (but not limited to); specialist clinical treatment, psychosocial support, peer support, medication assisted treatment, counselling, mutual aid groups, recovery communities, residential rehabilitation, community-based support. This support can be offered in multiple ways via different sources including primary care, community pharmacies, mutual aid organisations, community recovery services, peer support, rehabilitation centres, national third sector organisations, faith-based organisations, and grassroots organisations.

Timescales for providing treatment.

48. We have noted above the wide range of treatment and support that are available for those who seek support for substance use. At present, MAT Standard 1 requires availability of same day prescribing for OST. In the last annual National Benchmarking Report for 2023/24 (published in July 2024), MAT Standard 1 was evidenced as being fully implemented by 23/29 (79%) of ADP areas and partially implemented in 6/29 (21%) of ADP areas.

49. Whilst we recognise that there are limitations to these statistics, we are working to ensure that everyone who requires MAT knows about it. We are also working to understand how people are experiencing MAT in order to implement improvements.

Conclusion

50. We thank the Committee for the opportunity to contribute to the consultation and hope that his analysis will contribute to constructive discussion on the specifics of the Bill through the Committee process.

Annex A

Suggested Stakeholders and Experts to engage with during the Call for Evidence (to be renamed ANNEX A for HSCSC)

We recommend that the Committee hears from a range of stakeholders during their call for evidence. We have included some suggestions under the following groups and would be happy to facilitate an introduction if necessary:

- Public Health Scotland
- Healthcare Improvement Scotland
- COSLA
- Integration Authorities
- Alcohol and Drug Partnership Coordinators
- Scottish Drugs Forum
- Scottish Recovery Consortium
- Scottish Families Affected by Drugs
- SHAAP
- Crew
- Recovering Justice

- **SG Advisory Groups**: National Mission Oversight Group, Workforce Expert Delivery Group, Residential Rehabilitation Development Working Group, National Collaborative, Whole Family Approach Framework Delivery Group, Children and Young People Working Group, MAT Implementation Support Team (MIST)

- **Service Providers**: NHS, Clinical Directors, SG Clinical Advisory Group, Turning Point Scotland, Simon Community, With You, Pharmacy & Community Pharmacy

- **Outside of Scotland**: Release, Cranstoun, Transform, International Drug Policy Consortium, Global Commission on Drug Policy.