

Drug Death Prevention (Scotland) Bill

About You

Q1. Are you responding as:

On behalf of an organisation

Q2. 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

Q3. 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).

Release is the national centre of expertise on drugs and drugs law. The organisation, founded in 1967, is an independent and registered charity.

Through our services the team provides free non-judgmental, specialist advice and information to the public and professionals on issues related to drug use and to drug laws.

The organisation campaigns directly on issues that impact on our clients - it is their experiences that drive the policy work that Release does and why we advocate for evidence-based drug policies that are founded on principles of public health rather than a criminal justice approach.

Release believes in a just and fair society where drug policies should reduce the harms associated with drugs, and where those who use drugs are treated based on principles of human rights, dignity and equality.

The organisation is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations, as well as being part of the Vienna NGO Committee on Narcotic Drugs (VNGOC) and the New York NGO Committee on Drugs (NYNGOC).

The submission is the view of the organisation.

Q4. 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 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 (Note: The name will not be published if you have asked for the response to be anonymous or "not for publication".)

Release

Q5. Please provide 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. (Note: We will not publish these contact details.)

XXXXXXXXXX

Q6. Data protection declaration

In order to proceed, please confirm that you have read and understood the Privacy Notice contained on Page 1

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

Q7. If you are under 12 and making a submission, we will need to contact you to ask your parent or guardian to confirm to us that they are happy for you to send us your views.

No Response

Your Views On The Proposal

Q8. Which of the following best expresses your view of the proposed Bill? (please note this is a compulsory question)

Fully supportive

Please explain the reasons for your response.

The Conservative government in Westminster has repeatedly blocked the establishment of OPCs in Scotland, despite this being an evidence-based public health intervention. Release strongly favours any initiative that attempts to introduce these life-saving facilities in Scotland, where there is a pressing need to prevent hundreds of unnecessary deaths.

The Home Office has previously acknowledged evidence from the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) that supported safe consumption rooms, or Overdose Prevention Centres (OPCs). The EMCDDA's 2013 report reviewed evidence from a range of studies from across Europe, Canada and Australia, and considered there to be sufficient evidence to conclude that OPCs are generally successful in meeting their primary aims of providing an environment for safer drug use, improving the health status of the target group, and reducing public disorder, without incurring serious risk. This report found that OPCs provide a lower-risk, more hygienic environment for drug consumption than public spaces, and do not increase levels of use or risky patterns of consumption. People who use OPCs claim that they engage in risky injecting behaviour less when using an OPC, and OPCs were found to be successful in reaching their target population, principally street drug users and older long-term drug users who have never been in treatment. This engagement is of particular importance in terms of tackling drug deaths as opiate-related death rates are higher among people not in contact with drug treatment services. The EMCDDA report also found a corresponding increase in access to drug treatment services and a reduction in stigma around dependency.

The above evidence was presented within a 2014 Home Office report (Drugs: international comparators), and the proposal for drug consumption rooms was included in the government's independent advisory committee's (Advisory Council on the Misuse of Drugs) 2016 recommendations for reducing opioid-related deaths in the UK. The emergence of OPCs across Europe - and the opportunity to disseminate health advice and encourage entry into treatment that they present - were highlighted in the 2017 National (UK) guidelines on clinical management of drug misuse and dependence. Peer-reviewed evidence has also highlighted the demand for OPCs in the UK, including a high willingness to use OPCs among people who inject drugs in Scotland. Calls to introduce an OPC in Glasgow have been supported by the Scottish government, the Advisory Council on the Misuse of Drugs, and Police and Crime Commissioners. Despite this support, there is yet to be an authorised OPC in Scotland.

Recent evidence from France has shown that OPCs have been effective in reducing non-fatal overdoses and has reduced the incidents of people who inject drugs having to attend Accident & Emergency departments. Given the chronic problems in the NHS at the moment, this is a strong argument that speaks to benefit of OPCs for people who use drugs and the wider community.

Q9. Do you think legislation is required, or are there are other ways in which the Bill's aims could be achieved more effectively? Please explain the reasons for your response.

Release acknowledges that the Misuse of Drugs Act 1971 creates some problems for the operation of an OPC. Namely, and as identified in the consultation paper, that people accessing the centre would be in possession of a controlled drug contrary to s5(1) & (2) of the 1971 Act. However, we also agree that the Lord Advocate's decision to not prosecute people caught in possession of Class A drugs, but rather that they be given a police warning, enables the lawful operation of the OPC in Scotland in respect of those accessing these facilities.

There is some legal ambiguity as to whether an offence under s8(a) of the 1971 Act, that is being involved in the management of a premises and permitting the production of a controlled drug, would be committed. In these circumstances, the definition of production would be stretched to include preparation of heroin for injecting. To our knowledge, this activity has never been prosecuted as a production offence, although there is case law that would arguably define the act of preparing heroin for injection as one of production. In the absence of a judicial decision on this matter, all we can say is it is a risk that should be addressed. However, this could be done will clear advice from the Lord Advocate that in their view it would not amount to production or that it would not be in the public interest to bring proceedings in relation to such acts being committed by management/staff of an OPC. Given that drug related deaths in Scotland is a public health emergency, this would be a reasonable and, in our view, a correct assessment by the Lord Advocate. In addition, it is worth noting that Peter Krykant was never prosecuted for any offence related to the unsanctioned OPC.

We support the Bill as it addresses a number of regulatory issues outside the Misuse of Drugs Act 1971, and we agree that the 1971 Act does not necessarily need amending to allow the lawful operation of an OPC. However, there is clearly some concerns around the regulatory operation of an OPC that the Bill would help overcome, for example, acquiring insurance for the premises would be made easier and protecting professionals from possible disciplinary proceedings from their own professional bodies. It is worth noting that we do not think that these issues are insurmountable in the absence of primary legislation, but they would be easier to manage with legislation.

Q10. Which of the following best expresses your view of the proposal to establish overdose prevention centres?

Fully supportive

Please explain the reasons for your response.

As the consultation document highlights, many of those dying of drug-related deaths have not been in contact with treatment services for the last five years. This is in addition to the shockingly high rate of drug-related deaths amongst the homeless population, which has more than doubled over the last 6 years. OPCs are one way to overcome this problem. There are over 120 of these facilities operating in 12 countries across the world, providing a wealth of evidence for the effectiveness of OPCs in engaging with people who inject or smoke drugs. OPCs reduce the risk of overdose and BBV infections among people who use drugs and reduce public injecting and drug-related litter. These facilities can save lives and provide pathways to treatment and healthcare services.

Q11. Which of the following best expresses your view of the proposal for a licensing regime to enable the establishment of overdose prevention centres?

Fully supportive

Please provide reasons for your response, including on the proposed conditions for licensing (see pages 12 to 14 of the consultation document) and on the proposal that health and social care partnerships are responsible for licensing and scrutinising OPCs?

Please see our response to Q2 on regulatory issues which support the licensing proposal. We would recommend that people with lived and living experience are properly brought into the decision and oversight of licensing within Health and Social partnerships. This will ensure that the provision of OPCs are effective and responsive, meeting local needs.

Q12. Which of the following best expresses your view of the proposal for a new body, the Scottish Drugs Deaths Council?

Fully supportive

Financial Implications

Q13. Any new law can have a financial impact which would affect individuals, businesses, the public sector, or others. What financial impact do you think this proposal could have if it became law?

some reduction in costs

Please explain the reasons for your answer, including who you would expect to feel the financial impact of the proposal, and if there are any ways you think the proposal could be delivered more cost-effectively.

We believe that the introduction of this bill and therefore an OPC is likely to reduce the burden on police resources and savings to the public purse related to social costs. In addition, the establishment of these medically supervised facilities could fundamentally change the engagement of this community with formal services and would be an opportunity to address a range of health and social issues, including addressing homelessness and conditions, such as soft skin tissue infections lead to serious health consequences. The prevention of these bacterial infections can ease pressure on the NHS during a period of increased demand and financial strain.

Equalities

Q14. Any new law can have an impact on different individuals in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

What impact could this proposal have on particular people if it became law? If you do not have a view skip to next question.

Please explain the reasons for your answer and if there are any ways you think the proposal could avoid negative impacts on particular people.

Release believes there is potential for the Bill to positively impact those with a protected characteristic, including Men who have Sex with Men (MSM) and those with a mental health condition. In particular, MSM who have not traditionally received drug interventions have an increased propensity to engage in high-risk drug-taking behaviour, such as sharing injecting equipment and other risky sexual behaviours. A study by the Scottish Drugs Forum found men who partake in Chemsex are unlikely to engage in drug treatment due to a fear of stigma or judgement.

Likewise, drug use and mental health are strongly interlinked, with many people in community treatment for drug use experiencing mental health problems. According to Public Health Scotland, in 2020/21, approximately two-thirds (61%) of people assessed for specialist drug treatment reported co-occurring health issues. Of those who reported a co-occurring health condition, 66% reported mental health issues. This is also evidenced through our work as we commonly encounter clients with problematic substance use and mental health conditions.

We would also recommend exploring OPCs that could support specific groups, such a sex workers or migrant populations.

To meet the extant need, harm reduction and other services provided via the OPC must offer equitable and accessible information, targeted at groups that are at increased risk of drug-related harms. These groups should be represented at decision making bodies, such as the Health and Social Partnerships, that representation should be properly funded and supported.

Sustainability

Q15. Any new law can impact on work to protect and enhance the environment, achieve a sustainable economy, and create a strong, healthy, and just society for future generations.

Do you think the proposal could impact in any of these areas? If you do not have a view then skip to next question.

Please explain the reasons for your answer, including what you think the impact of the proposal could be, and if there are any ways you think the proposal could avoid negative impacts?

At the core of OPCs is meeting people where there are at, this speaks to a just society that recognises dignity and respect for all.