December 2024

Response to the Right to Addiction Recovery (Scotland) Bill – Call for Evidence

Alcohol Focus Scotland (AFS) submitted a response to the 2022 consultation on the Right to Addiction Recovery Bill. This response builds upon that previous submission and takes account of alcohol-related policy developments occurring since 2022.

A key factor influencing our response is the Scottish Government's failure to progress the long-awaited Scottish Human Rights Incorporation Bill in the Programme for Government 2024-25. AFS welcomed the Scottish Government's plan to align public service provision with international human rights law, enforceable by national courts, as outlined in our previous response. The proposed Bill offered a comprehensive and robust framework for embedding human rights into Scots law. Its key feature was the incorporation of four United Nations human rights treaties, including the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which guarantees the right to the highest attainable standard of physical and mental health. This would have created enforceable legal standards for rights that extend far beyond healthcare, embedding accountability and equity across a broad range of public services.

One of the Bill's most transformative features was its ability to foster a human rights-based approach, requiring policies, budgets, and services to be designed with human rights principles at their core. The Bill also emphasised progressive realisation, meaning that the fulfilment of human rights would gradually be strengthened over time, with clear protections to prevent regression. Additionally, the Bill sought to simplify pathways for rights holders to access justice, offering a clearer and more accessible means of challenging rights violations. Crucially, it would have created obligations for local and national governments to act as duty bearers, ensuring accountability mechanisms were firmly embedded into law. By emphasising universal applicability, enforceability, and transparency, we believe that the Bill would have represented a significant step toward establishing more accessible services and a more accountable system for **all** individuals seeking support for alcohol-related issues in Scotland.

AFS is deeply disappointed that, despite the Scottish Government reiterating ongoing support for the Bill, its introduction has been delayed. AFS is part of a coalition of over 100 civil society organisations actively advocating for the Scottish Government to honour its commitment to introduce this legislation as soon as possible. However, we would emphasise that Scotland nonetheless remains bound by international human

rights law, including the ICESCR, which enshrines the right to health - including access to healthcare services - as a fundamental obligation for states.

As such, we have highlighted within this response how we believe the Right to Addiction Recovery Bill could be strengthened in order to deliver meaningful change in the absence of the Human Rights Bill, and how it might provide a foundation for advancing rights-based approaches, even if it cannot fully achieve the scope and impact that the incorporation of international human rights law would have offered.

However, we firmly believe that the Human Rights Bill would have been a far more powerful and effective mechanism to secure systemic change. We urge politicians of all parties, alongside communities, to continue advocating for the Bill's introduction. Nothing in our response should be taken to suggest that the Right to Addiction Recovery Bill can achieve the level of change that the Human Rights Bill would have. Our approach has been pragmatic - identifying where there may be potential for the Right to Addiction Recovery Bill to drive improvements. Nevertheless, it is essential to avoid overstating the Bill's potential impacts or the rights it seeks to confer. Misrepresenting its scope risks creating false impressions which could lead to further disempowerment for those the legislation is intended to support. Clarity and realism are critical to ensuring that the Bill's actual contributions are meaningful and do not inadvertently undermine trust or momentum for broader systemic change.

At this stage, AFS also feels it is important to provide comment on the legal implications of the Right to Addiction Recovery Bill. This is particularly crucial as the Bill uses the language of rights, which carries specific expectations. For example, the use of "rights" implies enforceability, accountability, and the ability to seek legal redress if those rights are violated. As such, it is important to be transparent and realistic about what the Bill can and should deliver in law. Failing to do so risks disempowering already vulnerable and marginalised communities. It is also vital that the public are not led to believe they have legal rights at a time when domestic human rights protections have been, at best, delayed and, at worst, will not transpire.

Our response also considers the practical implications of the Bill, including the resources, costs, and infrastructure required to achieve the transformational change needed to meet the Bill's objectives. While the Bill has been helpful in highlighting the entirely unacceptable state of the current situation - where individuals are being denied essential and life-saving care, resulting in preventable deaths - we must also be realistic about what is achievable and ensure that meaningful mechanisms are put in place to address the reality of the situation. This should include a clear, tangible path to growth and the establishment of improved systems that can meet the needs of individuals and communities across Scotland.

Question 1: The Bill focuses on drugs and alcohol addiction. Do you agree or disagree with the purpose and extent of the Bill?

The policy memorandum for the Bill states that the intention is to deliver "*a rights-based system, providing appropriate treatment without delay, and where the person seeking treatment feels informed and involved in decisions on their treatment*." AFS wholeheartedly supports this approach but does not believe that the Bill, as currently drafted, would be sufficient to achieve these ends.

Explicit 'rights' in the Bill

Section 1(1) of the Bill establishes:

(1) It is the right of every person diagnosed as having a drug or alcohol addiction to —
(a) receive a treatment determination, and
(b) be provided with the treatment described in subsection (3).

While this right is stated, it lacks accompanying provisions for individuals to seek remedies if the right is denied. For example, there is no statutory mechanism for individuals to challenge the denial of treatment beyond seeking a second opinion, as outlined in Section 2(3)(b). Without provisions for justiciability, appeals, or compensation for breaches of the 'right', there is no clear way for individuals to hold public authorities accountable for failing to provide timely and appropriate treatment. Additionally, the Bill lacks direct accountability, as it does not impose specific obligations on public bodies, such as Health Boards, to deliver treatments (this issue is further addressed in the 'Duties in the Bill' subsection of our response below).

This contrasts with the approach taken to enshrining rights in law in other areas. For example, Scotland has some of the most progressive homelessness rights in the world. These rights are rooted in the Housing (Scotland) Act 1987, Part 2, which established the legal framework for homelessness duties. This legislation has been significantly strengthened through subsequent amendments to clarify local authorities' obligations and expand individual rights. Key milestones include the Housing (Scotland) Act 2001, which introduced legally enforceable rights to homelessness assistance, and the Homelessness etc. (Scotland) Act 2003, which abolished the priority need test, ensuring equal entitlement to housing support for all eligible individuals. By 2012, these changes helped ensure that all unintentionally homeless individuals in Scotland had the right to settled accommodation, creating a more equitable system.

The 1987 Act (as amended) also provides mechanisms for individuals to challenge decisions made by local authorities. For instance, Section 35A states:

"Where an applicant requests a review of a decision… the local authority concerned shall review the decision."

Additionally, certain decisions can be appealed to the Sheriff Court, offering further legal recourse:

"An applicant may by summary application appeal to the sheriff against any decision of a social landlord…" (s.20B (10) Housing (Scotland) Act 1987).

This framework demonstrates how enforceable rights within legislation can ensure accountability, providing individuals with legal mechanisms to secure their housing rights. However, even with this legislation in force, there remain gaps in current domestic legislation and Scotland still has a long way to go to realise people's human right to adequate housing.

In another example, the Human Rights Act 1998 enables individuals to bring claims against public bodies in courts or tribunals in Scotland by making the rights directly legally enforceable:

"It is unlawful for a public authority to act in a way which is incompatible with a Convention right" (Section 6).

"A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by section 6(1) may—

> *(a)bring proceedings against the authority under this Act in the appropriate court or tribunal, or*
> *(b)rely on the Convention right or rights concerned in any legal proceedings"*
> (Section 7)

The Human Rights Act has significantly enhanced the enforcement and accessibility of rights in the UK, both within legal settings and in broader societal contexts. It has served as a crucial mechanism for individuals seeking justice, empowering them to hold public bodies accountable for human rights violations. Through its incorporation of the European Convention on Human Rights into domestic law, the Act has provided individuals with direct access to their rights in UK courts, eliminating the need to take cases to the European Court of Human Rights in Strasbourg. This has not only improved legal recourse but has also fostered a broader culture of human rights awareness and respect.

AFS believes that accountability is the cornerstone of rights-based systems, and that meaningful change often depends on a foundation of legal protection and judicial enforcement. While AFS certainly does not advocate for a system that overburdens public bodies with costly legal challenges, the absence of any mechanism to enforce the rights outlined in the Bill would render these rights aspirational rather than actionable. Without such enforceability, the Bill is highly unlikely to deliver the step change necessary to bring about the desired improvements in services.

If there is reluctance to enshrine directly enforceable rights akin to those in the Human Rights Act 1998, the Bill could still provide a mechanism for individuals to appeal decisions - such as a denial of treatment or undue delays - on the merits of the case.

Explicit provisions could clarify critical elements of such an appeal system, including who may appeal, what decisions are appealable, the procedure for appeal, and the court or tribunal responsible for hearing these cases. Without these explicit provisions, courts are unlikely to interpret the Bill as establishing any new statutory appeal mechanism.

Absent such appeal mechanisms, judicial review could allow challenge to decisions (as would be the case with any comparable legislation). However, in practice, courts are often reticent to review the merits of professional determinations, such as whether or not to recommend a specific course of treatment, and unless there is a complete procedural failure, any challenge is unlikely to pass the judicial review proportionality test. Judicial review is also expensive, complex, and a barrier for the most vulnerable in society, of which those with drug and/or alcohol problems often form part.

As it stands, the Right to Addiction Recovery (Scotland) Bill lacks the robust legal protections and redress mechanisms necessary to ensure accountability. Without these safeguards, the Bill is highly unlikely to drive the meaningful change it seeks to deliver. As such, AFS urges the inclusion of enforceable rights or, at a minimum, clear appeal mechanisms to ensure that individuals can hold public bodies to account and secure their right to appropriate treatment. Without this, it is unclear how the Bill, if passed, could be described as creating a "*rights-based system"*.

Rights holders in the Bill

In addition to concerns about enforceability, AFS is also concerned about the scope of the "right" established in the Bill. Section 1 defines the right to treatment as applying to "every person diagnosed as having a drug or alcohol addiction," specifying:

"For the purposes of subsection (1), a person has been diagnosed as having a drug or alcohol addiction when that person has been diagnosed by a relevant health professional as having an illness that involves an addiction to, or dependency on, a drug or alcohol."

However, the terms "addiction" and "dependency" may not accurately reflect contemporary understandings of problematic alcohol use or the associated diagnostic criteria commonly used in Scotland. For example, the fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM–5) merges the previous categories of alcohol abuse and alcohol dependence into a single disorder: alcohol use disorder (AUD), with classifications of mild, moderate, and severe. Under DSM–5, individuals meeting any 2 of 11 criteria over a 12-month period would be diagnosed with AUD, and the severity is determined by the number of criteria met - none of which refer to either "addiction" or "dependency."

Another diagnostic tool relevant in Scotland is the *International Statistical Classification of Diseases and Related Health Problems* (ICD-11*),* developed by the World Health Organization (WHO). The ICD-11 does define 'alcohol dependence', with a diagnosis

requiring evidence of at least two of three core features - such as withdrawal symptoms - persisting for at least 12 months. The related Alcohol Use Disorders Identification Test (AUDIT), a harm screening tool developed by WHO and adapted for the UK, is widely employed across health and social care settings in Scotland. The AUDIT consists of 10 questions that evaluate alcohol consumption and related harm. Each response is assigned a score, with the total score ranging from 0 to 40. A score of 20 or higher indicates a potential for alcohol dependence.

The criteria used to diagnose alcohol 'dependence' can often seem arbitrary, highly specific, and influenced by subjective judgment, raising concerns about their consistency and inclusivity. As a result, accurately identifying the total number of people diagnosed with alcohol dependence in Scotland is challenging. In addition, many diagnoses are not systematically recorded, many individuals with alcohol dependence do not seek medical help, and not all healthcare providers use ICD-11 to diagnose alcohol use disorders.

The Scottish Health Survey 2023 estimated that only about 1% of the Scottish population would meet the criteria for alcohol dependence using the AUDIT tool criteria. However, the survey also found that 18% of adults scored eight or higher, indicating hazardous / harmful drinking (or possible dependence). These figures are likely to be a significant underestimate, as the survey relies on self-reported data, and individuals often underreport their alcohol consumption due to recall errors, social desirability bias, or a lack of awareness about actual quantities consumed.

It is evident that far more people experience problematic patterns of alcohol use requiring support than those who would fall within the scope of the Bill's definition. AFS is concerned that the current definition in the Bill risks excluding individuals who are not clinically diagnosed as being alcohol 'dependent' (presumably relying on ICD-11 as the identifiable criteria, though this is not explicitly stated in the Bill) but still need treatment and support. AFS strongly believes that all individuals experiencing alcohol problems should be afforded the same rights to treatment. Moreover, offering support earlier could significantly reduce negative impacts and improve recovery outcomes. The range of treatment options outlined in the Bill includes services that are already accessible to individuals who may not receive a specific diagnosis of dependence, underscoring the importance of broadening access to these services. There is an apparent risk that in the same way the 'drugs emergency' diverted resources from alcohol to drugs, the effect of this Bill would be to divert resources to those in the latter stage of addiction. In other words, to further embed an expensive reactive approach at the expense of prevention.

<u>Duties in the Bill</u>

Intrinsically interlinked with the 'rights' in the Bill, are the provisions placing requirements and/or duties upon public bodies and Scottish Ministers. The Bill sets out

the Duty to Secure the rights conferred by the Act in section 4. However, this is limited to noting that Scottish Ministers should lay draft regulations detailing the arrangements in place, or to be put in place to secure those rights. The Bill does not provide detail on how this would work in practice, beyond the possibility of conferring functions on a range of bodies responsible for the provision of drug and alcohol services at a local level. Rather, that detail is to be provided in the draft regulations, making it extremely difficult to understand and assess the practical implications of the Bill as detailed below.

Section 3(1) of the Bill requires that treatment be *"made available to the patient as soon as reasonably practicable and in any event no later than 3 weeks after the treatment determination is made."* However, the Bill does not specify which public body or authority is responsible for ensuring that treatment is provided. To make this requirement more robust and enforceable the Bill could clarify obligations by specifying measurable outcomes for the delivery of rights (e.g., adherence to the three-week treatment timeframe), and detailing the consequences for non-compliance by the stated body/authority. It could further mandate compliance by including explicit duties for Health Boards, local authorities, and other identified bodies, to ensure uniform delivery across Scotland, and outlining performance benchmarks for those bodies.

Section 4(1) of the Bill requires Scottish Ministers to "secure the delivery" of the rights, but this duty is general and lacks any criteria for determining success or failure. Without measurable outcomes or enforcement mechanisms, this provision could be interpreted broadly and lacks the force necessary to compel action. For example, while Section 4(2) obliges Ministers to present draft regulations before the Parliament within two months of the Bill's enactment, the duty is procedural (to draft regulations) rather than substantive (to guarantee outcomes), and there is no explicit timeline for implementing or achieving the rights in practice. While this approach might ensure Parliamentary oversight and transparency in the initial setup, there is no recourse if Ministers fail to meet obligations, and the only accountability mechanism is Parliamentary scrutiny, which is political rather than legal.

The Bill's approach to public bodies' duties within Section 4 is also problematic. While Section 4(3) allows Ministers to delegate functions to Health Boards, local authorities, and other bodies, there is no express obligation for these bodies to fulfil their roles effectively or within specific timeframes. The lack of clear accountability mechanisms also means there is no recourse for individuals if these bodies fail to deliver treatment. As noted above, this contrasts with housing legislation, which imposes enforceable duties on local authorities to provide housing assistance, and allows individuals to have decisions reviewed or appealed directly to the sheriff court. Similarly, under the Human Rights Act 1998, individuals can challenge public bodies in court for acting incompatibly with human rights obligations.

The duty to report to Parliament outlined in Section 5 would establish an important mechanism for transparency and accountability. However, while the requirements for reporting are commendable in scope, there are several considerations and potential limitations that should be considered. In particular, while the duty to report creates a layer of oversight, it is unclear what actions, if any, would follow if progress falls short or waiting times and service provision remains inadequate. Reporting alone does not necessarily lead to improvement unless linked to enforceable consequences or tangible support to address identified shortcomings. Similarly, the inclusion of a code of practice offers an opportunity to standardise expectations and processes across Health Boards. However, ensuring compliance with the code and periodically reviewing its relevance will be critical to maintaining its effectiveness.

Question 2: What are the key advantages and/or disadvantages of placing a right to receive treatment, for people with a drug or alcohol addiction, in law?

As outlined in our response to the Bill during the consultation stage, we wholeheartedly support its overarching aim. We agree that people experiencing problems with drug and/or alcohol continue to encounter unacceptable levels of discrimination, stigma, and barriers to accessing support, as well as poor-quality experiences when they do seek help. We believe that providing people in Scotland with enforceable rights, alongside clear guidance and standards, could go far to help address these challenges and ensure access to the treatment and support they need.

In April 2023, in response to evidence of increasing alcohol harm in Scotland, AFS along with 36 other organisations including health charities, Alcohol & Drug Partnerships (ADPs) and alcohol and drug service providers, called for the Scottish Government to urgently take action to prevent further deaths and reduce harm from alcohol. We noted that it was crucial that people experiencing alcohol problems and their families have quick, easy access to appropriate treatment and support, as well as effective prevention policies to reduce harm and protect future generations. We called for increased investment in recovery-oriented alcohol services, including the full range of harm reduction and abstinence-based options to meet individual needs, and clear pathways into and through treatment, care and support. This includes community-based and hospital-based specialist alcohol services; alcohol counselling, residential and community-based rehabilitation provision; and promotion of peer-led and mutual aid options. We called for a human rights-based approach to care and support so that people are empowered to access support relevant to their needs, can help shape policy and practice, and can hold services to account. It seems that the intention of the Right to Addiction Recovery (Scotland) Bill is to seek to create a framework which would support these calls.

However, we do not believe that the Bill, as currently drafted, would establish enforceable rights for individuals in Scotland. Consequently, it is unlikely to deliver the

transformative change that is so urgently needed. Furthermore, as noted earlier, there is a significant risk that the Bill could raise unrealistic expectations, leaving people feeling further disempowered and let down by public services when those expectations are not met.

Question 3: Section 1 of the Bill defines "treatment" as any service or combination of services that may be provided to individuals for or in connection with the prevention, diagnosis or treatment of illness including, but not limited to:

- **residential rehabilitation,**
- **community-based rehabilitation,**
- **residential detoxification,**
- **community-based detoxification,**
- **stabilisation services,**
- **substitute prescribing services, and**
- **any other treatment the relevant health professional deems appropriate.**

Do you have any comments on the range of treatments listed above?

No comments

Question 4: Section 2 of the Bill sets out the procedure for determining treatment. It states that:

A healthcare professional must explain treatment options and the suitability of each to the patient's needs;

that the patient is allowed and encouraged to participate as fully as possible in the treatment determination and;

will be provided with information and support.

The treatment determination is made following a meeting in person between the health professional and the patient and will take into account the patient's needs to provide the optimum benefit to the patient's health and wellbeing.

Do you have any comments on the procedure for determining treatment?

The procedure for determining treatment outlined in Section 2 of the Bill reflects good clinical practice and aligns closely with principles already enshrined in existing Scottish legislation, such as the Patient Rights (Scotland) Act 2011. The Patient Rights Act establishes that all patients are entitled to healthcare that considers their individual needs, encourages participation, and is delivered with respect and compassion. It emphasises the 'rights' of individuals to be informed about and involved in decisions about their treatment and care. It is worth noting, however, that the Patient Rights Act does not provide any enforceable legal rights, explicitly stating:

"Nothing in this Act gives rise to—

(a)any liability to pay damages,
(b)any right of action for specific implement,
(c)any right of action for specific performance of a statutory duty,
(d)any right of action for interdict,
(e)any right of action for suspension." (Section 20(3))

This lack of enforceable legal rights may partly explain why the Act has struggled to deliver meaningful change on the ground, and why persistent issues in healthcare access and delivery remain. AFS would therefore question how the Right to Addiction Recovery Bill proposes to go further than what is already provided under this framework? The Bill appears to formalise these expectations specifically for addiction treatment, which may be valuable given the significant stigma and barriers faced by individuals seeking support for drug and alcohol problems. Nevertheless, as outlined above, it is unclear whether the Bill introduces any additional enforceable rights or enhanced mechanisms to address the unique challenges experienced by this group.

If the Bill is to go further than the Patient Rights Act, it must not only reaffirm existing principles but also establish mechanisms to overcome the specific barriers faced by people seeking support and treatment. This could include clear accountability for delivery, enforceable rights to timely and appropriate care, and targeted measures to address systemic inequities in access to services. Without these elements, the Bill risks simply further codifying what should already be standard practice under existing law.

Question 5: Are there any issues with the timescales for providing treatment, i.e. no later than 3 weeks after the treatment determination is made?

The Bill's commitment to providing treatment within a three-week timeframe is a commendable recognition of the importance of timely intervention in supporting treatment and recovery outcomes. Access to treatment without undue delay can significantly improve an individual's chances of successful recovery and reduce harm.

The Policy Memorandum highlights that the three-week timescale mirrors the Scottish Government's Drug and Alcohol Treatment Waiting Times Standard, which specifies that 90% of individuals referred for problematic drug or alcohol use should begin specialist treatment within this period. However, it is essential to critically assess whether this standard is currently being met in practice and the extent to which it has delivered meaningful improvements for individuals requiring support.

In reality, significant barriers remain. The treatments covered by the Standard are diverse, including structured preparatory interventions, community-based support, prescribed drug treatments, community-based and residential detoxification, and rehabilitation. Despite these commitments, the availability of services - particularly residential options - is inconsistent across Scotland, with notable variation in waiting

times depending on location and type of treatment. For example, residential rehabilitation often faces considerable capacity constraints, and access to community-based detoxification may require additional preparatory steps that can delay initiation.

Moreover, while the Standard sets a 90% compliance target, it does not address what happens for those who fall outside this threshold or fail to receive treatment in time. It is unclear how the Bill intends to bridge these gaps or provide recourse for individuals who experience delays beyond three weeks.

In summary, while the three-week timescale is consistent with existing policy and reflects a clear understanding of the need for prompt access, there are serious questions about whether the current infrastructure and resources can realistically support its delivery across all treatment types. Without substantial investment and systemic reform, there is a risk that the Bill may reiterate an existing aspiration without addressing the structural issues that currently prevent its full realisation. There is a risk that without investment and resource, the type and extent of treatment will inevitably be tailored to what is available to meet a 3 week performance indicator, not necessarily better treatment for the person concerned.

Question 6: Is there anything you would amend, add to, or delete from the Bill and what are the reasons for this?

To strengthen the Bill, AFS recommends several amendments. First, the Bill should at a minimum include explicit provisions for statutory appeals to allow individuals to challenge decisions or delays in treatment. Second, duties on public bodies, including Health Boards and local authorities, should be clearly defined, with measurable outcomes to ensure accountability. Third, the Bill should include a more comprehensive definition of “diagnosis” to ensure that individuals with harmful patterns of alcohol use are not excluded from treatment. Finally, the Bill should be amended to impose clearer obligations on Ministers and delegated bodies to deliver treatment within specified timeframes, with explicit enforcement mechanisms in place.

In the absence of these enhancements, AFS believes that the Bill will struggle to translate its proposed ‘rights-based framework’ into tangible improvements for people seeking treatment and support for alcohol use. Without clear provisions for enforcement and accountability, individuals will likely find that that their ‘rights’ are not realised in practice.

Question 7: Do you have any comments on the estimated costs as set out in the Financial Memorandum?

The Financial Memorandum accompanying the Bill bases the estimation of required additional investment on closing the gap between those receiving a referral for treatment and those commencing said treatment. It focuses on the 24.6% of all

treatment referrals that do not commence treatment for reasons relating to the engagement of the individual or withdrawal of the service and seeks to improve this figure by up to two thirds with an additional investment of up to £38 million.

AFS acknowledges that based on the available data and evidence relating to numbers of people accessing treatment and care, and on levels of existing funding, this calculation is practical and sensible. However, we are concerned that estimates on the required level of investment to achieve improvement are based on limited data and evidence. The Bill's Financial Memorandum notes this limitation, pointing out that a preferable position would be to have research evidence in place to establish prevalence estimates for people with problem drug use and those drinking alcohol at harmful levels. AFS fully agrees that this would be a more thorough basis on which to plan investment. To respect, protect and fulfil human rights, government must take appropriate budgetary measures to facilitate access to services, promote rights and how to claim them, and provide services to people when they are unable to obtain them[i]. Budget decisions should reflect human rights standards and the process of formulating, approving, executing and auditing the budget should reflect human rights principles. As part of this obligation, governments have a duty to ensure the satisfaction of "minimum essential levels" of each right. Good practice in this regard would include a national discussion with genuine opportunities for rights-holders (in this case, people with lived or living experience of seeking treatment and support for alcohol or drug problems) to agree a consensus on the basic floor of provision.

In June 2023, AFS undertook analysis of published figures which revealed a 10-year decline in people accessing specialist alcohol treatment in Scotland of 40%. This is despite no corresponding reduction in measures of alcohol harm. In fact, in the past three years Scotland has seen an increase in alcohol-specific deaths of 25%, taking us to the highest level recorded in 8 years. Public Health Scotland (PHS) is currently investigating the decline in access to treatment and intend to report on this shortly. We know that nearly a quarter of adults in Scotland consume alcohol at levels likely to be hazardous or harmful to their health. A proportion of these people will require support to cut down their consumption, or need access to specialist alcohol treatment and support to address alcohol problems. We are therefore concerned that the estimates for additional investment in services contained in the Financial Memorandum to deliver the aims of the Bill fall short of what is required to ensure equitable access to all of those requiring support. This is not a criticism of the Bill or the financial working that has been done to support it. Rather, we believe that the financial working that has been done exposes a significant and worrying gap in the available data and information available to make an informed assessment of the need and justification for investment.

We would therefore urge the Scottish Government to undertake comprehensive research into the availability and demand for specialist alcohol treatment services

across Scotland. This research should include determining the Prevalence Service Utilisation Ratio (PSUR) to provide a clear understanding of service capacity and unmet needs. Such data is essential to develop a human rights-based approach to planning investment and ensuring equitable access to high-quality alcohol treatment and support. We note that similar work is already underway for drug services, and extending this to alcohol services would represent a crucial step towards addressing both areas comprehensively.

The 2024, Audit Scotland assessed how effectively alcohol and drug services, and the related funding arrangements, are delivering on the Scottish Government's strategies. It highlighted[ii] a critical imbalance in addressing alcohol and drug harm, noting that the National Mission has largely focused on drug-related harm, while fewer initiatives specifically address alcohol harm. This shift has drawn attention away from tackling alcohol harm comprehensively, even though alcohol-specific deaths reached their highest level in 15 years in 2023, with 1,277 deaths recorded.

While the Scottish Government has taken significant steps to address drug harm - such as appointing a Minister for Drug Policy, launching the National Mission with £250 million of additional funding, introducing standards for Medically Assisted Treatment (MAT), and establishing a Drug Deaths Taskforce - there have been no comparable initiatives targeting alcohol harm. This lack of parallel effort underlines the need for an equivalent level of attention and resources for alcohol-related harm. A key recommendation in the Audit Scotland report was that, by mid-2025, the Scottish Government must work with key stakeholders to identify and agree actions to increase focus and funding for tackling alcohol-related harm, while continuing to tackle drug-related harm

The report also revealed that funding tends to focus on NHS treatment services for people in crisis, leaving little investment for preventative, community-based, and recovery-oriented services. This approach limits opportunities to support longer-term recovery, such as improving employability and life skills, and presents barriers for people seeking support to prevent recurring substance use problems. Moreover, the alcohol treatment landscape suffers from a lack of comprehensive evaluation, as there is limited data on what services are most effective or whether funding is adequate to meet demand.

Several ongoing developments have the potential to help inform and shape the delivery and funding of alcohol services. UK-wide treatment guidelines for alcohol, consulted on in late 2023, are due to be published by the end of 2024. Additionally, the Scottish Government plans to release a national specification in early 2025 outlining the alcohol and drug treatment and recovery services that should be accessible. These measures will be crucial in addressing systemic gaps, but as Audit Scotland noted, there remains significant uncertainty about whether current funding arrangements are sufficient to uphold people's rights and meet service demands.

The Audit Scotland report also flagged challenges in service delivery, such as the third sector's critical role in providing services amid uncertain funding arrangements and limitations in sharing data. This complexity underscores the importance of systemic evaluation and strategic investment to ensure that services effectively deliver on people's rights in practice. Without addressing these challenges, any legislative efforts, including the Right to Addiction Recovery Bill, will fall short of their potential to effect meaningful change.

Question 8: Do you have any other comments to make on the Bill?

It is important to recognise that simply enshrining rights into Scots law will not automatically bring about meaningful change. Legal rights, no matter how well-intentioned, must be supported by adequate resources to ensure they are truly realised for everyone. This means investing in the quality of services and support systems needed, and ensuring that public bodies are sufficiently funded and equipped to uphold rights. Without the necessary funding and infrastructure, even the most robust legal frameworks will fall short of delivering real, on-the-ground change. It is crucial that we learn from past experiences and practices, particularly where legislation, though well-meaning, has failed to translate into tangible improvements for people in crisis. In short, legislation is only effective if it is well-implemented, resourced, and backed by the systems and institutions that can make the rights a reality for those who need them most.

For completeness it should be noted that, unlike illegal drugs, the recovery journey for those with alcohol problems is consistently undermined by alcohol marketing. Such marketing is pervasive, urges us to drink more, is deliberately targeted to heavy drinkers and sells the message that no occasion can be enjoyed without alcohol. A preventative approach must remain central to all health measures. It is not only vital for improving outcomes but also represents a clear cost-saving strategy for the public purse. Robust measures to deal with alcohol marketing and to give rights to people in recovery to be in a position to avoid alcohol marketing need to be part of any solution.

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[i] Scottish Human Rights Commission (2019). Human Rights Budget Work: What, Why and How?
[ii] Audit Scotland (2024). Publication: Alcohol and Drug Services.