INTRODUCTION

1. This document relates to the Treatment of Drug Users (Scotland) Bill introduced in the Scottish Parliament on 29 September 2006. It has been prepared by Rosemary Byrne MSP, the Member in Charge of the Bill, in accordance with Rule 9.3.3A of the Parliament’s Standing Orders. The contents are entirely the responsibility of the Member and have not been endorsed by the Parliament. Explanatory notes and other accompanying documents are published separately as SP Bill 79-EN.

POLICY OBJECTIVES OF THE BILL

2. The objective of the Bill is to provide for all drug users to be assessed for an individual holistic care plan within seven days of requesting such assistance, and for this care to be financed in part from a percentage of the monies seized under the Proceeds of Crime Act (2002).

3. The aim of the Bill is to provide a range of treatment and rehabilitation options to drug users to support them and their families. This range of options would be based on the needs of the drug users and their families and would include physical, psychological and emotional care, housing and social care issues including child protection and education and employability options. This range of options would lead to a reduction in numbers using drugs and reduce the burden of care on local health and social care services whilst reducing crime and the costs associated with criminal justice proceedings.

4. The secondary aim of the Bill is to use a percentage of monies seized under the Proceeds of Crime Act 2002 to provide an additional income stream to fund the treatment and rehabilitation services.

5. This approach will address the inequality in service provision and availability across the country particularly for those who need a range of treatment options and yet fail to meet current criteria to receive assistance.

6. This Bill should contribute to the overall health and well-being of the people of Scotland.
Practicalities

7. This Bill will require a designated professional, “the care worker”, to assess the drug user and help integrate the service provision that the drug user and their family might need.

8. The care package will be based on clinical need and may need input from various professionals from amongst others health, social care, education and housing. The care worker would be able to access such help from their agencies on behalf of the drug user and their families.

9. All of these services currently exist, some provided by Local Authorities some by Health Boards and the care worker would integrate these services as determined by clinical need.

BACKGROUND

The drugs problem

10. At the present time Scotland’s communities are blighted by drugs, from the actual physical and psychological harm done to users and their families to the effects on the wider community through the strain on health and social services and the criminal justice system.

11. This Bill seeks to address this by offering a range of treatment options to be determined by clinical need and by integrating services to ensure equality of treatment across the country.

12. There were 336 drug-related deaths in Scotland in 2005. Deaths involving cocaine accounted for 13% while those from heroin totalled 58%. The number of deaths involving methadone was 21%. Deaths from ecstasy totalled 3%. Of those who died, 14% (47) were aged under 25, while 83% (278) were less than 45 years of age. 23% were female and 77% were male. There is some anecdotal evidence that some drug related deaths may not be recorded as such. This is due to a variety of factors including the actual cause of death being a complex combination of several conditions and the reluctance of some families to inform medical staff of any drug use. This may lead to an underestimation of drug deaths.

13. According to a study by Glasgow University and Scottish Centre for Infection and Environmental Health in 2003 there were 51,582 people in Scotland misusing Opiates and/or Benzodiazepines. This is generally accepted to be the best indication of national prevalence. However, it does not include people who have problems with other types of drugs (e.g. cocaine, cannabis) and therefore could be considered an underestimate of the total number of drug misusers.¹

14. There were 41,823 drugs crimes recorded by the police in 2004/05.

¹ National Study of Prevalence in Problematic Drug Misuse in 2003 by Glasgow University & SCIEH
http://www.drugmisuse.isdscotland.org/publications/04dmss/prev.htm
The current legal position

15. There is currently no statutory duty on Ministers to provide care for drug users or their families. The National Health Service (Scotland) Act 1975 places a general duty on Ministers in relation to all patients while the NHS Reform (Scotland) Act 2004 added a duty for Ministers to promote health improvement.

Problems with the current system

16. The current provision of drug treatment and rehabilitation services is inconsistent, and poorly funded. While there are very many excellent projects and professionals working in the field and many pockets of good practice, the lack of co-ordination between agencies means that service users can receive different treatment services in different areas while service providers have to spend considerable amounts of time chasing funding rather than providing a service.

17. The services offered to drug users can vary from area to area especially in rural areas. This can result in the treatment being offered not being based on clinical need but merely on what is available in that region.

18. The criteria for accessing treatment options also varies between areas such that those seeking treatment may not be offered the best treatment as determined by clinical need but whether or not they fit the locally set criteria. This is especially true for access to methadone programmes.

Funding Issues

19. In 2005-6 £66.7 million was allocated by the Scottish Executive to tackle drugs. This money was allocated for “drug treatment”.\(^2\) £32 million of that was allocated to NHS health boards for the treatment and rehabilitation of drug users. It is left to the Health Boards to determine the best use of that money.\(^3\)

20. The current funding mechanisms are short term in their outlook and thus prevent long term strategic planning and delivery of services by groups working in the field of drug treatment.

21. The current funding mechanisms can result in organisations and projects spending time chasing funding rather than on service delivery.

22. Studies of potential savings to the criminal justice system from treatment and rehabilitation services currently give an estimate that for every £1 spent on treatment services £9.50 is saved in the criminal justice system.\(^4\)

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\(^2\) www.scotland.gov.uk/News/Releases/2006/08/31142714

\(^3\) Parliamentary Question S2W-25931 15/05/06

\(^4\) Godfrey C., Stewart D., Gossop M. Economic analysis of costs and consequences of the treatment of drug misuse: 2 year outcome data from the National Treatment Outcome Research study (2004).
ALTERNATIVE APPROACHES

23. The objectives set out in this Bill can only be achieved via the Bill. The situation of excessive demand and inadequate supply in the NHS and Social Services for example, the cap on methadone prescribing in a number of Health Board areas and the shortage of Child and Family social workers in Local Authorities, means that if a specific time requirement is not imposed in a treatment package, or a range of treatment options is not available, then treatment will either be inadequate or drug users will have to wait an excessive time for treatment. In both instances this exacerbates the problems experienced by users and their families.

24. Current policy on drug misuse has been centred on Criminal Justice; prison sentences for drug crime do not provide rehabilitation but only serve to act as a revolving door whereby drug addicts move in and out without the addiction being addressed. Drug testing and treatment orders can be effective where there are effective services, however there are limited services in some areas resulting in testing rather than treatment being the case.

25. Education on drug misuse and prevention is crucially important, particularly in schools. It is vital that the message put out to young people is meaningful and consistent. However education on prevention will not impact on those currently addicted other than through important harm reduction policies which should be part of any treatment and support package.

26. The requirements in the Bill are that the Minister would have a specific duty thus enabling careful monitoring. A specific duty rather than a general duty would ensure access to appropriate assessment and services and integrated service provision equally across Scotland.

27. The time requirement and duty of care will concentrate resources and address the current post code lottery.

28. Despite years of reported concern about inadequate supply of drug treatment and rehabilitation places the gap between demand and supply remains unacceptably wide and only this Bill will force a significant narrowing of the gap.

CONSULTATION

29. The draft proposal for the Bill was lodged on 21 April 2006. The final proposal was lodged on 24 August 2006. The following 18 MSPs supported the Bill; Carolyn Leckie, Margo MacDonald, Frances Curran, John Farquhar Munro, Jean Turner, Colin Fox, Denis Canavan, Rosie Kane, Tommy Sheridan, John Swinburne, Elaine Smith, Campbell Martin, Patrick Harvie, Mark Ballard, Chris Balance, Robin Harper, Eleanor Scott and Shiona Baird.

30. The Member undertook a wide ranging consultation on the general principles of the proposed Bill between April and August 2006. Respondents were invited to address 7 set questions which also provided an opportunity for additional comments.
The Responses

31. Copies of the Consultation were widely circulated amongst individuals and groups working in the field of drug use, health professionals, Local Authorities and individuals. In total 85 responses were received. These included responses from Health Boards, charities, organisations representing those with drug problems, professional bodies representing nurses, doctors and pharmacist and many individuals including current and ex drug users.

32. The first question put in the consultation document was on the general principles of the Bill. “The main proposal of the Drug Treatment and Rehabilitation (Scotland) Bill is to provide an individual holistic care plan for drug users within seven days of requesting such assistance. Do you agree with this proposal?”

33. 93% percent of those who responded to the consultation were in favour of the general principles of the Bill. 28% raised the issue of timescale and whether adequate resources were in place to offer such a tight time scale. Only 3.5% of respondents were not in favour of the proposed legislation.

34. While some respondents had raised concerns about the ability to meet the proposed timescale several felt that the idea of a set timescale was a good idea as the nature of drug abuse is not conducive to clients remaining stable and motivated when on a waiting list.

The range of options

35. The consultees were then asked about the care plan options. “The Bill proposes to offer a range of options within the care plan, to drug users. Which do you think should be offered?”

36. The respondents gave overall support for the options offered. Almost all of those who responded to the question about the care plan voiced their approval of the need to offer a range of options. However a few also raised concerns about how the offer of treatment options could be delivered within the declared timescale with some stating that the current resources in their areas made it impossible to currently offer all of those services.

37. Several respondents stressed that clinical need should obviously determine the actual options within any care plan and that there should also be client input. Some members of the Scottish Drugs Forum stressed that, “whatever you offer has to be needs led – client should determine what service is needed”.

Alternative prescribing

38. The consultees were asked about substitute prescribing. “The Bill proposes to offer substitute prescribing such as Methadone, Heroin, Buprenorphine and Subutex as part of the care plan. Do you agree with this proposal?”

39. One of the treatment options that is proposed within the draft Bill is substitute prescribing. This could include the prescribing of substances such as methadone or subutex or in some cases heroin under clinical conditions.
40. While some respondents were either unsure about this issue or felt that it did not apply to them only 14% of respondents were totally opposed to the idea of any form of substitute prescribing and some 66% were in favour.

41. Of those who supported the idea of substitute prescribing almost 70% did so on the understanding that the prescribing was based on clinical need and was carried out under strict medical supervision.

Provision of a home risk assessment

42. The consultation asked – “The Bill proposes to offer child care as part of the care plan. Do you think this should include a home risk assessment?”.

43. The Bill recognises that drug use does not only affect the user but also their family and that can include children. The Bill does not in any way aim to penalise the vast majority of drug using parents who care for their children in an excellent and loving manner. What the Bill does offer however is the option of a home risk assessment to help those drug users who are struggling with parenting. The Bill would propose undertaking a risk assessment to identify what support could be offered to parents.

44. The establishment of a risk assessment was supported by 76% of respondents with 11% of respondents not supporting this.

45. Some concerns were raised however, that child risk assessments might be perceived by drug users as a means by which their children might be taken into care and as a result those drug users, especially mothers, might not access treatment and rehabilitation services as a result.

Determination of care worker

46. The consultees were asked – “The Bill proposes that a single care worker should co-ordinate the care plan. Who do you think the care worker should be?”. 

47. The holistic care package will be delivered by an identified professional care worker and the consultation process sought opinions as to who that professional should be.

48. The issue as to who the professional care worker should be was an important element of the care plan and the respondents recognised that importance.

49. 29% thought it should be a drugs worker, 5% thought it should be a social worker, 2% wanted a psychiatric nurse, and a further 6% wanted some combination of drugs worker, social worker, and psychiatric nurse. However 40% of respondents were unsure as to who the care worker should be.

50. Several respondents stated that the drug user should be involved in the appointment of the care worker; several thought that the worker should be an ex-addict and some wanted a combined approach from several agencies.
Responsibility for overall care

51. The consultation asked, “The Bill proposes that Ministers should ensure that existing service provision is integrated between disciplines such as health and social care and that equal service provision is provided across the country. Who do you think should have overall responsibility for implementing this?”.

52. The delivery of the services contained in the Bill will require coordination between several service providers and the Bill asked which Minister or department should have overall responsibility for this role.

53. Support for which Minister should be responsible for the measures in the bill varied with 36% favouring the Health Minister, 14% wanting the Communities Minister and 25% wanting some other Minister to be in charge. 11.5% of respondents were unsure as to who should have overall control while a further 13.5% did not feel it applied to them.

54. The majority of respondents did not want the Justice Minister to have overall responsibility and some raised the suggestion of creating a dedicated “addictions” Minister.

55. Several stated that whichever Minister had control there had to be integration of services. Several examples were given as to the current lack of integration between agencies - “…what matters is that there is an integration of purpose and action at governmental and operational level” (NHS National Services Scotland).

Use of monies seized under the Proceeds of Crime Act (2002)

56. Consultees were asked - “The Bill proposes should that a percentage of money seized from drug dealers under the Proceeds of Crime Act (2002) should be used for the treatment and rehabilitation of drug users. Do you agree with this proposal?”.

57. It is recognised that the provision of drug treatment and rehabilitation services will cost money and while the vast majority of that funding is already in place and should under the provisions of this Bill merely be better targeted, the Bill also provides for a percentage of monies seized under the Proceeds of Crime Act (2002) to be ring fenced for drug treatment and rehabilitation services.

58. All of the respondents to the consultation understood that the proposals in the Bill would need core funding however the proposal to use a percentage of the money seized from drug dealers under the Proceeds of Crime Act (2002) to help pay for the care plan was strongly supported with some 79% of respondents in favour.

59. Concerns were raised however by the Association of Scottish Police Superintendents who felt that the amount of money seized under the Proceeds of Crime Act was relatively small and would not go very far.
EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, SUSTAINABLE DEVELOPMENT ETC.

60. The Bill will have no negative effect on equal opportunities. In fact the Bill will increase the availability and standardise the services provided to drug users so will enhance the equal opportunities of the people of Scotland.

61. On a very fundamental level the Bill removes two types of discrimination. Those who currently seek help with drug abuse in rural areas often find that the services they require are unavailable in their home areas such that they receive a second class service for their problems. In some areas of Scotland due to finances and the way services are organised not all treatment options are available. The proposed Bill would remove this level of discrimination by ensuring that all services were made available on the basis of clinical need rather than financial constraint.

62. The Bill does not affect rights under the European Convention on Human Rights and there is no distinction made by the Bill between island and rural communities and any other communities. In fact the Bill enhances the provision of drug treatment services in rural areas.

63. The Bill will have no negative effect on sustainable development.

LOCAL GOVERNMENT

64. The Bill will impact on the provision of services of Local Government. The Bill requires Local Authorities to integrate drug treatment and rehabilitation services within their area.

65. The accompanying Financial Memorandum assesses the financial impact of the Bill on local authorities in detail. In general it is not expected there will be a significant additional cost on local authorities. The current funding for drug treatment and rehabilitation services from central Government will not decrease but will be better targeted. The Bill will also provide an additional income stream as it provides for a percentage of the money seized under the Proceeds of Crime Act 2002 to be utilised for drug treatment and rehabilitation. The requirement is that money seized must be spent on drug treatment and rehabilitation services within the area of seizure.

66. The Member in charge of this Bill endorses the comments in this document and believes that the provisions of this Bill will enable an integrated delivery of drug treatment and rehabilitation services to be effected across the country for the benefit of drug users, their families and the wider community.
This document relates to the Treatment of Drug Users (Scotland) Bill (SP Bill 79) as introduced in the Scottish Parliament on 29 September 2006

TREATMENT OF DRUG USERS (SCOTLAND) BILL

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