Tackling Drugs Deaths and Drug Harm
Joint Committee Parliamentary Debate
Tuesday 31 May 2022

Introduction

This briefing has been prepared in advance of the joint committee debate on tackling Scotland's drug deaths and drug harm which is due to take place on Tuesday 31 May.

The debate follows two meetings of the joint committee which was set up to explore this issue and which comprised Members of the Criminal Justice Committee, the Health, Social Care and Sport Committee and the Social Justice and Social Security Committee. The debate will be wider in scope and will also be likely to cover issues in addition to the original remit for the joint committee which was focussed on the implementation and work of the Scottish Drug Deaths Taskforce.

This briefing paper includes background information on drug deaths in Scotland; the establishment and work of the Scottish Drug Deaths Taskforce and the recently established National Collaborative; drug misuse legislation, and criminal justice, health, and social justice issues associated with problem drug use and drug deaths.

The briefing also highlights some key issues raised in oral and written evidence provided to the joint committee.

Background

Drug deaths

It goes without saying that every single death brought about by the misuse of drugs is a tragedy, not only for the victim, but for their families, friends and loved ones. However, this aspect of drug deaths can sometimes be lost as attention tends, in some quarters, to be heavily focussed on the raw statistics and very rarely on the circumstances of a human tragedy which led to such an event. The following paragraphs draw on the official statistics to provide a snapshot of drug-related deaths in Scotland.

In July 2021, the National Records of Scotland published Drug-related deaths in Scotland in 2020.

The bulletin reported that there were 1,339 drug-related deaths in 2020. This is a 5 per cent increase on the previous year and the largest number ever recorded since records began in 1996. The bulletin goes on to note that:

> "Drug-related deaths have been increasing since 1996 but since 2013 the upward trend has been steeper".

Drug-related deaths have increased substantially over the last 20 years – the bulletin shows that there were 4.6 times as many deaths in 2020 compared with 2000.

With regard to the age of victims, the average age of drug-related deaths has increased from 32 to 43 over the last twenty years, and in 2020, the bulletin reports that 63% of all drug-related deaths were of people aged between 35 and 54.

In 2020, after adjusting for age, people in the most deprived areas were 18 times as likely to have a drug-related death as those in the least deprived areas. That ratio has almost doubled in 20 years, from around 10 times in the early 2000s.

With regard to the types of drugs involved in drug-related deaths, the bulletin shows that in 93% of all drug-related deaths, more than one drug was found to be present in the body.

Of all drug-related deaths in 2020, the following substances were implicated:

- opiates/opioids (such as heroin/morphine and methadone) - 1,192 deaths (89% of the total)
- benzodiazepines (such as diazepam and etizolam) - 974 (73%)
- gabapentin and/or pregabalin[1] - 502 (37%)
- cocaine - 459 (34%)

In recent years there have been large increases in the numbers of deaths where the following substances were implicated:

- 'street' benzodiazepines (such as etizolam), from 58 in 2015, to 879 in 2020
- methadone, from 251 in 2015, to 708 in 2020
- heroin/morphine, from 345 in 2015, to 605 in 2020
- gabapentin and/or pregabalin, from 131 in 2015, to 502 in 2020
- cocaine, from 93 in 2015, to 459 in 2020

The bulletin states that Scotland's drug death rate was 3.5 times that for the UK as a whole, and higher than that of any European country.

Drug misuse

Legislative context

The principle piece of legislation on drugs misuse is the Misuse of Drugs Act 1971 ("the 1971 Act"). For all intents and purposes, drugs misuse is reserved to Westminster.

[1] Gabapentin and Pregabalin, collectively gabapentinoids, are primarily anticonvulsant drugs. Over the past decade, they have been increasingly prescribed for pain.

The 1971 Act regulates the production, supply and possession of "controlled drugs" and provides the legislative basis for the UK's response to illicit drugs. The 1971 Act is complemented by the Misuse of Drugs Regulations 2001 which allow for the lawful possession of controlled drugs for medicinal or therapeutic uses.

A separate piece of legislation, the Psychoactive Substances Act 2016, regulates the production and supply of psychoactive substances not otherwise controlled under the 1971 Act. It also prohibits the possession of psychoactive substances in prison. The Home Office is the lead department on the misuse of drugs in the UK Government.

Controlled drugs are listed in Schedule 2 of the 1971 Act. Controlled drugs are categorised into three classes (Class A, B and C) dependent on how harmful they are. The Advisory Council on the Misuse of Drugs (an independent expert advisory body), recommends how drugs should be classified under the MDA and provides advice to UK governments on drug related issues.

In recent years, there have been numerous calls for a change in the law with regard to the misuse of drugs.

The House of Commons Health and Social Care Committee undertook an Inquiry on UK drugs policy and published its report in October 2019. This made a number of recommendations including calling for:

> "A radical change in approach to UK drugs policy, moving from the current criminal justice approach to a health approach, with responsibility for drugs policy moving from the Home Office to the Department of Health and Social Care".

The Committee also expressed support for "a consultation on decriminalisation of drug possession for personal use, by changing it from a criminal offence to a civil matter".

The UK Government published its response to the report in January 2021. It said that whilst it supported an evidence based approach to drugs policy and increasing investment in treatment, it said that it:

> "….has no intention of decriminalising drugs. Drugs are illegal because scientific and medical analysis has shown they are harmful to human health. We are aware of decriminalisation approaches being taken overseas, but it is overly simplistic to say that decriminalisation works. Historical patterns of drug use, cultural attitudes, and the policy and operational responses to drug misuse in a country will all affect levels of use and harm".

A number of drugs policy and treatment charities are campaigning for a change in the law on the 50th anniversary of the 1971 Act. More than 60 MPs and Peers, alongside ex-police officers, scientists and bereaved families have signed a statement organised by the Transform Drug Policy Foundation to the UK Government calling for an urgent review of the 1971 Act. It states that the legislation is not fit for purpose, and that there is a need for "reform and new legislation to ensure that future drug policy protects human rights, promotes public health and ensures social justice." In a debate in the House of Commons on 22 March 2021, the UK Government stated that it has no current plans to review the MDA.

As outlined above, misuse of drugs legislation is reserved and applies across the UK. From a criminal justice viewpoint, the present Scottish Government has consistently voiced its frustration that it is constrained in much of its efforts to tackle the problem of drug

misuse in Scotland as the main piece of legislation which governs drug misuse is currently reserved.

The Scottish Drugs Minister, Angela Constance MSP has stated that the Scottish Government supports a public health approach to drug harms, but the system is "constrained by the current UK law."[2] One example of where the 1971 Act has restricted policy in Scotland, is in the introduction of drug consumption rooms. The Scottish Government supports the use of these facilities, but these are not permitted under the 1971 Act.

In November 2019, the House of Commons Select Committee on Scottish Affairs published a report of its inquiry into problem drug use in Scotland. The report stated that:

> "The UK Government currently treats drugs as a criminal justice matter. However, recent evidence which was presented to the House of Commons Select Committee on Scottish Affairs ("the Committee") in 2019, overwhelmingly shows that the current approach is counter-productive. The Committee therefore recommend that the UK Government adopts a public health approach to drugs, and transfers lead responsibility for drugs policy from the Home Office to the Department for Health and Social Care. The Committee also recommended, in line with this approach, that there should be full protection for people with problem drug use in key equality legislation".

With regard to safe drug consumption facilities, the report stated that evidence received by the Committee suggested that these facilities, where people can take drugs in safe and supervised conditions, were proven to reduce overdoses, drug deaths, blood-borne virus infection rates, and public injecting, and witnesses told the Committee that the case for such a facility in Glasgow is amongst the most compelling in Europe.

The Committee expressed its disappointment that the Home Office had blocked the proposal despite the overwhelming evidence that they work and has not made the legal changes necessary to allow such a facility to be opened. The Committee recommended that the UK Government brings forward the legislation necessary to allow for the lawful establishment of a pilot safe drug consumption facility in Scotland. The Committee went on to say that if the UK Government was unwilling to do this, then it should devolve the necessary powers to allow the Scottish Parliament to do so.

It has recently been reported that the development of a proposal on how a safe drug consumption facility may work within existing legislation has been put forward by Glasgow Social Care and Health Partnership. The Scottish government, working closely with Police Scotland and the Crown Office, and in line with the recent statement from the Lord Advocate (discussed further below), is examining this proposal to consider how any such facility would operate and be policed. Once this work is completed, a final proposal will be put to the Lord Advocate for consideration.

In May 2021, the UK Government stated that it has no plans to devolve the powers in the 1971 Act to Scotland.

Scottish Drug Deaths Taskforce

The Scottish Drug Deaths Taskforce (SDDT) was established in July 2019 by the then Minister for Public Health and Sport, Joe Fitzpatrick MSP, supported by the then Cabinet

[2] Scottish Legal News, Drug reform paper hints at enlightened approach in Scotland's future, March 2021.

Secretary for Justice, to tackle the rising number of drug deaths in Scotland. The Scottish Government website states that the primary focus of the SDDT is to co-ordinate and drive action to improve the health outcomes for people who use drugs, reducing the risk of harm and death.

The SDDT's mission, terms of reference and remit was published in August 2021. The SDDT's remit reiterates that the Taskforce will provide independent advice and recommendations to Scottish Government Ministers and the wider drug and alcohol sector to develop an evidence-based strategy which will improve the health outcomes for people who use drugs, reducing the risk of harm and death.

The remit set out that the recommendations brought forward by the SDDT would centre around three high-level areas of focus:

- Emergency response: Maximising capacity and capability of emergency services, families and friends, and agencies to deal with a potentially fatal overdose by being properly equipped and trained.

- Reducing risk: Maximising the support, access, and range of practical and appropriate choices of pathways for anyone with high risk drug use.

- Reducing vulnerability: Addressing issues that can pre-dispose the vulnerable to move into higher risk use of drugs through relevant key agencies and reducing the associated impact on wider communities.

Amongst other things, the SDDT was tasked with examining and publishing evidence of the root causes of drug deaths, the unique Scottish experience and how they can be prevented. It was also tasked with collating and publishing good practice about what has worked in other parts of the UK and internationally to prevent death and harm arising from drug use.

In addition, the SDDT was asked to review whether the Misuse of Drugs Act 1971 ("the 1971 Act") affects the provision of a strengthened and consistent public health approach to drug use, recognising that this is reserved to the UK Parliament and any changes would require the agreement of the UK Parliament. The Review would consider whether the 1971 Act has an impact on proposals to provide public health harm reduction services or on the availability of diversion from arrest or court.

Since the SDDT was formed in 2019, a number of recommendations have been made to a range of stakeholders, from Government, to the First Minister and the Lord Advocate. These recommendations relate to a wide range of topics that the SDDT believe would have a positive impact on tackling the drug problem faced in Scotland and ultimately save lives. Amongst other things, the recommendations touch upon issues relating to health, such as prescribing and dispensing drugs; social justice, such as the accommodation and prioritisation of rough sleepers during the Covid-19 outbreak; and criminal justice issues, such as diversion from prosecution and policing of those who use drugs.

The SDDT has also recommended that there should be "a root and branch" review of the Misuse of Drugs Act 1971, taking a public health approach and reforming the law to support harm reduction measures. The SDDT also recommended that if the UK Government was not willing to reform the 1971 Act, then it should commit to exploring all available options openly with the Scottish Government to enable Scotland to take a public health approach.

On 6 September 2021, the SDDT published its Drug Law Reform Report. The report looks at how changes in three key areas could enable a more effective national response in Scotland:

- Changes within the law – changes to the process and implementation of the existing legal framework, which is the Misuse of Drugs Act 1971, currently reserved to the UK Government;

- Changes to the culture surrounding the law – how the recalibration of the outcomes Scotland wants from the implementation of drug laws and moving toward a public health approach (reducing risk and vulnerability), away from crime and punishment could transform their effect; and

- Changes to the law and regulation - the Report lists specific areas where current legislation should be amended to better fit the realities and evolving nature of Scotland's drug and drug deaths challenge. This includes examples such as regulations regarding the prescription and supply of controlled drugs, the control of the supply of pill presses, and the introduction of safer consumption facilities. These examples, amongst others, highlight where current law acts as a barrier to the implementation of a public health approach which the Taskforce believes is a necessity.

When he was giving evidence to the Criminal Justice Committee on 27 October 2021, the former Vice-Chair of the SDDT, Neil Richardson OBE, commented on his view of what the SDDT was set up to do:

> "We are very aware of the fact that a task force is not the solution. Our job is not to provide the ultimate endgame solution. The solution is within the system. Our job is to put a spotlight on things that can be accelerated or done better, to challenge existing thinking and ways of working and to bring about that stimulus for improvement.

We have a timeframe, and we hope that some of that work will be concluded by the time we come to write our final report. It might well be that evidence is still being gathered in some areas, but we hope that, if there is sufficient evidence, we do not wait. When we consider some of the things that we have discussed this morning, we can see that there is compelling international and, indeed, national evidence of very positive outcomes of measures—consumption rooms are a case in point. I guess that the question that we wish to ask is how much is enough. How much evidence do you require before you can take a decision on such issues? Given the scale of the drug deaths challenge that Scotland faces right now, we think that there is scope to be more ambitious by moving quickly, and we are keen to encourage that".

However, Members will be aware that in December 2021, Mr Richardson, and the then Chair of the SDDT, Professor Catriona Matheson, resigned from the Taskforce. They stated that the Scottish Government's "demand for speed" over a report on reforms which were needed to tackle the drug deaths crisis:

> "We have always understood the need for urgency, but we feel the current demand for speed is counterproductive and driven by other factors such as meeting targets, rather than achieving the sustainable change evidence shows is more effective."

In response, the Drugs Policy Minister, Angela Constance MSP said she regretted their decision but thanked them both for their work and stated:

> "The taskforce has undertaken wide-ranging and very important work to help inform us on how best to turn the tide on rising drug deaths in Scotland. But I am clear that as we come to the end of the first year of the national mission and look ahead to what's next, we need to have an increased focus on implementation and delivery on the ground."

She said that was why she had asked the taskforce "to make its recommendations earlier than anticipated".

Policing and prosecuting offences under the 1971 Act

As outlined above, the Misuse of Drugs Act 1971 is reserved to Westminster and as such, the police, the prosecution service and the courts in Scotland will act in accordance with the offences contained within it. However, as has been seen recently with the Lord Advocate's announcement on the policing of drug misuse in Scotland, there is scope for a nuanced approach to be taken with regard to how offences within the 1971 Act are dealt with. The following paragraphs touch briefly on the Lord Advocate's statement, and also set out some considerations which may be pertinent with regard to the prosecution of drug misuse offences.

In September 2021, the Lord Advocate announced an extension of the Recorded Police Warning Guidelines to include possession for Class A drugs. The extension, which allows police officers to issue a Recorded Police Warning for simple possession offences for all classes of drugs, was a key recommendation of the Drug Deaths Taskforce report on drug law reform (see above). In her statement, the Lord Advocate emphasised a number of points to provide clarity.

Firstly, that the recorded warning scheme extends to possession offences only and does not apply to supply offences as set out in the 1971 Act. The Lord Advocate stated that "robust prosecutorial action" would continue to be taken in relation to the supply of controlled drugs. Secondly, that recorded police warnings do not represent the decriminalisation of an offence, but instead represent "a proportionate criminal justice response to a level of offending and are an enforcement of the law". Thirdly, that neither offering nor accepting a recorded police warning is mandatory. Police officers retain the ability to report appropriate cases to the Procurator Fiscal, and accused persons retain the right to reject the offer of a warning. And finally, neither offering a Recorded Police Warning nor reporting a case to the Procurator Fiscal prevents an officer referring a vulnerable person to support services.

There was a mixed reaction to the Lord Advocate's statement with some stakeholders viewing it as an appropriate response to a certain level of offending, while others claimed that although it was not in itself decriminalising possession of drugs, it would certainly be viewed by some as doing just that.

The Lord Advocate has also commented on the introduction of safe drug consumption rooms. Appearing before the Criminal Justice Committee on 3 November 2021, Dorothy Bain QC stated:

> "The potential offences which may be committed in any particular consumption facility will depend on the individual scheme envisaged, the policies and processes

within the individual scheme, and the actual behaviours of both the operators and the users.

And so, the Lord Advocate couldn't actually, as a matter of law, whether through policy, or otherwise, decriminalise conduct which was by law criminal. Nor could immunity from prosecution be granted in advance."

But she then said the question of “prosecution in the public interest" is "something different” and spoke about a hypothetical proposal that was “precise, detailed, specific and underpinned by evidence”, as well as supported by Police Scotland.

The Lord Advocate went on:

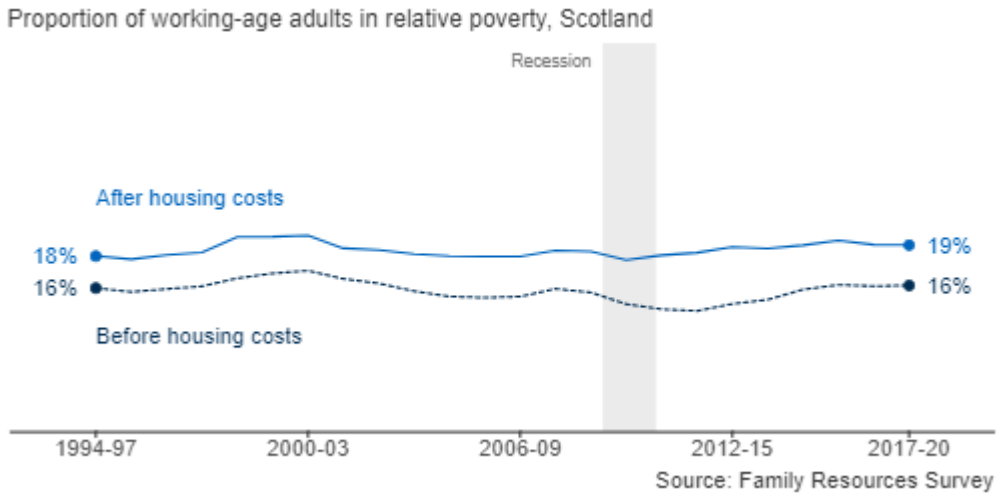
> “If that sort of planned use of drug consumption rooms is brought to the Lord Advocate as a very well set out proposal, then in terms of the undoubted crisis that we face in relation to the number of drugs deaths in Scotland, if it is in the public interest that there should be no prosecutions for those using drug consumption facilities with all these safeguards that require to be in place, then that would require a fresh consideration by me as Lord Advocate.”

Issues associated with problem drug use

The SDDT has also made a number of recommendations which touch upon issues involving social justice and health. The following paragraphs outline some of those key issues and associated recommendations.

Poverty

It is well established that problem drug use and drug deaths are higher in more deprived areas. However, Scotland’s very high number of drug deaths is not adequately explained by current levels of poverty – which are slightly lower than in England and have remained relatively stable of the last 20 years.



It has been argued (Parkinson, 2018) that the particularly high rate of drug deaths reflects historical patterns resulting from economic policies in the 1980’s. The cohort with the highest death rate are men living in deprived areas born between 1970 and 1975.

A literature review on poverty and drugs from 2007 describes the complexity:

> "There are strong links between poverty, deprivation, widening inequalities and problem drug use but the picture is complex. It may involve fragile family bonds, psychological discomfort, low job opportunities and few community resources. […] Not all marginalised people will develop a drug problem, but those at the margins of society, such as the homeless and those in care, are most at risk." (SDF and Scottish Poverty Information Unit, 2007)

The Scottish Government's anti-poverty work is clearly focused on child poverty – the flagship policy is the Scottish Child Payment, which, by the end of 2022, will provide £25 per week to families on low income benefits who have children under 16.

The Child Poverty Delivery Plan 2018-22 recognised that children are in families and tackling child poverty means tackling poverty in adults. Measures ranged across many government departments and policy areas. For example, there was a focus on tackling ACEs (adverse childhood experiences), increasing focus on mental health, on care leavers and community led regeneration. The second Child Poverty Delivery Plan 2022-26 was published in March.

Stigma, family support and children's services

The Taskforce recommendations included:

> "Scotland should have a national and local mission statements on addressing stigmatisation – including self-stigma, stigma by association, structural stigma and public stigma." (July 2020)

The issues around stigma come into sharp focus for mothers. A Task Force report on women (December 2021) noted that stigma; "was particularly salient for women." The task force report on women commented that:

> "Fear of children being taken into care was recognised to be a significant barrier to accessing services. The group strongly feel that women should be supported to feel safe to access services without unnecessary fracturing of families. They should be actively supported to keep their children and thrive as parents wherever possible. The group very much advocate for keeping families together and recognised that women who use drugs can be good mothers."

The Scottish Government will respond "in due course as part of the Women's Action Plan, due in summer 2022".

The 'organising framework' for children's services policy is Getting it right for every child' – (GRIFEC). This has a focus on the child's wellbeing and puts the child at the centre. This does involve considering the whole family, including the parents' needs but the central focus is the needs of the child.

In order to support families, adult services need to work in tandem with children's services. This is discussed by the Taskforce and has been recognised in government policy for many years. For example, 'Getting our priorities right' in 2012, sets out the approach to children affected by problem drug and alcohol use. It focused on:

> "ensuring that child protection, recovery and wider family support concerns are brought together as part of a coordinated approach to giving children, young people and families the best support possible."

The 'whole family' approach has been given even greater emphasis recently. The Scottish Government published 'Drug and alcohol services – improving holistic family support' in December 2021:

> "We will enable the building of universal, holistic support services across communities in Scotland through our commitment to investing £500 million in a Whole Family Wellbeing Fund over the course of this Parliament, giving families access to the help they need, where and when they need it"

Homelessness

In November 2021, the BBC reported that 'more than half of homeless deaths are drug-related.'

The Scottish Government's drugs strategy "Rights, respect recovery" referred to the Ending Homelessness Together High Level Action Plan, published in partnership between local and national Government on 27th November 2018, (and updated in 2020) saying:

> "This strategy will support the delivery of this [*ending homelessness]* Action Plan by developing more joined up approaches across homelessness services and alcohol and drug treatment services. Initially, this will be through a joint investment in Housing First."(para 31, Rights, Respect, Recovery)

The most recent annual report on "Ending homelessness together" (October 2021) noted that:

> "Scotland's three-year Housing First pathfinder programme – the largest of its kind in the UK – passed the 500 tenancy milestone in May 2021."

It gives the following example:

> "Highland Council launched its Housing First project last year. The project brings together a small multidisciplinary team of partners from NHS Highland Drug and Alcohol Recovery Service, the Salvation Army and Highland Council and aims to support homeless people at the highest risk of harm or death as a result of drug and/or alcohol use. So far, the partners have helped 12 people at high risk of drug-related harm or death to secure and sustain tenancies."

Branching Out, the national framework for housing first describes the approach as follows.

- Housing First should be the first response for people whose homelessness is made harder by experiences with trauma, addictions and mental health. Housing First provides ordinary housing in an ordinary community because this, for most of us, is the best base to build and live our lives the way we want to.

- Housing First combines settled housing with person-centred, strengths-based and flexible support – as much and for as long as someone wants it.
- Housing First actively rejects the idea that many people are not 'ready' for housing and aims to prevent rough sleeping and divert people away from temporary homeless accommodation.

Other relevant homelessness policy includes the Scottish Government and COSLA consultation on a statutory duty to prevent homelessness. One of the reasons for proposing a new duty is that the 'Prevention Review Group "identified that there is evidence of a lack of co-operation between health and social care services and homelessness services to prevent homelessness." It proposes a 'case co-ordination' approach for those with complex needs:

> "There has been increased recognition across the homelessness sector of the need for better joined-up person centred and trauma-informed services to address the range of needs and severe and multiple disadvantage which some people experience. The intention of this proposal is to ensure this approach is consistent across Scotland, through providing a statutory basis for the involvement of a range of appropriate partners needed to help prevent homelessness."

The integration of health, housing and drugs policy is also seen in Healthcare Improvement Scotland's work with ADPs. The submission from Healthcare Improvement Scotland for today's meeting provides an update on the ADP and Homeless Programme.

> "Across four areas of Scotland (North and South Lanarkshire, Edinburgh and North Ayrshire), we are improving outcomes for homeless people by ensuring access to services is equitable" […] The legacy of this work will deliver a new data set for ADPs to understand the service usage of homeless people to allow better strategic planning, joined up thinking and integrated care planning."

The following paragraphs set out a number of health issues associated with problem drug use.

Understanding the drug deaths problem

The higher level of drug-deaths in Scotland has been the subject of much debate. Contributing factors such as poverty may be higher in Scotland, but some believe this does not entirely explain the level of drug-related deaths we experience in comparison to the rest of the UK.

Treatment services

In relation to treatment services, one of the recommendations of the interim report of the taskforce was around identifying those not in treatment and instigating same day access to opiate substitution and maintaining therapeutic support through phone and texts.

However, according to the most recent prevalence report, there are an estimated 55,800 to 58,900 problem drug users in Scotland. The estimate is only for those using opiates and benzodiazepines. and the interim report of the taskforce stated that at least 24,721 individuals were prescribed methadone in 2019/20.

The most recent waiting times publication from Public Health Scotland showed that:

> "At the end of the quarter, 2,032 people were waiting to start their first drug or alcohol treatment. Of those waiting 18.3% had waited more than 5 weeks, an increase from 12.9% waiting more than 5 weeks at the end of the same quarter a year ago."

The Scottish Government set a standard that 90% of people referred for help with their drug or alcohol problem will wait no longer than three weeks for treatment.

Preventing overdose

One of the key issues considered by the Taskforce was preventing overdose.

In August 2021, the Scottish Government launched a national marketing campaign to prevent overdose. The campaign consists of TV, radio and billboard adverts to educate people on recognising the signs of an overdose and raising awareness of naloxone.

Naloxone is an emergency antidote for overdoses caused by heroin and other opioids such as methadone, morphine and fentanyl.

In 2005 naloxone was added to a list of medicines that anyone can legally administer in an emergency to save a life.

Since 2015, individuals employed or engaged in the provision of commissioned drug treatment services can, as part of their role, supply naloxone to others for use in an emergency to save a life

During the COVID-19 pandemic, this supply was disrupted, and it was recognised that other services may be required to distribute it to others. As a result - for the duration of the crisis - the Lord Advocate issued guidance confirming that it would not be in the public interest to prosecute any individual working for a service registered with the Scottish Government Population Health Directorate who supplies naloxone to another person for use in an emergency to save a life.

Consequently, Scottish Drugs Forum in conjunction with Scottish Families Affected by Alcohol and Drugs established a 'Click and Deliver Naloxone Service'.

A four nations consultation was also launched to amend current legislation to permanently widen access to naloxone to all those who come into contact with people who use drugs. The Scottish Government wants all those affected by drug use to have access to naloxone without fear of prosecution, including families of those at risk and a wide range of professionals.

Cocaine

The vast majority of drug deaths involve more than one substance. Historically, these substances have tended to be opiates, benzodiazepines and alcohol. However, in recent years, there has been a noticeable increase in the proportion of deaths involving cocaine.

In 2015, the proportion of deaths involving cocaine was 7%. By 2020, this had increased to 34% of deaths.

A key strand of treatment services and harm reduction includes the provision of opiate substitutes such as methadone and the roll out of opiate antidotes such as naloxone. Similar options are not available for cocaine.

National Collaborative

On 27 January, the Drugs Policy Minister, Angela Constance MSP, announced a new National Collaborative.

The National Collaborative will be led by Professor Alan Miller and has been set up to ensure that the views of people with lived and living experience (LLE) are reflected in all aspects of the National Mission on drug deaths.

The collaborative will bring together people who have been affected by drugs to make recommendations to the Scottish Government about changes to services which could improve and save lives.

This will see the rights of people affected by substance use being recognised in all relevant policy and practice in accordance with the new human rights framework for Scotland. Regular forums involving people with lived experience and representatives from third sector and public sector partners will be led by the Chair and supported by a secretariat from within the Scottish Government Drugs Policy Division.

Announcing the collaborative, the Minister stated:

> "I am pleased Professor Alan Miller has agreed to chair the National Collaborative. Successful delivery of the national mission requires a better way of listening to, and acting on, the voices of those with lived and living experience.
>
> The people we need to be able to reach and support are some of our most marginalised and excluded citizens and ministers have been clear that it is for those people that the national mission aims to make rights a reality. Delivering on such an important strand of the national mission requires someone with a successful track record on delivering change on behalf of these groups of people and Professor Miller has been a leading voice in human rights through his work as Independent Co-Chair of the National Taskforce for Human Rights Leadership and now on the Human Rights Bill Advisory Board".

Evidence

The following sections of the briefing highlight key issues raised in both oral and written evidence received by the joint committee.

Oral evidence

The joint committee met on two occasions on 1 and 2 February. At its meeting on 1 February, the joint committee took evidence from Kit Malthouse MP, Minister of State for Crime and Policing, UK Government.

In his opening remarks, Mr Malthouse stated that tackling drugs was a key objective for the UK Government. He also said that the UK Government had recently launched a national drugs plan for England Wales, From harm to hope, a 10-year plan which had three broad strands: restricting the supply of drugs; building a world-class treatment and rehabilitation system; and reducing demand more widely.

Mr Malthouse stated that despite certain differences in some areas, he had constructive relationships with counterparts in the Scottish Government.

Mr Malthouse was asked a number of questions relating to his view on drug consumption rooms (DCRs) and whether he was still resistant to their introduction. As pointed out above, this is an issue which has been the subject of much debate in Scotland. He stated that this was one area where he disagreed with the Scottish Government:

> "I have been open to reviewing the evidence, particularly any new evidence, wherever and whenever it has become available and I remain so - but, having looked at the balance of that evidence, I have to say that much of it is about a small number of locations and is quite limited.
>
> Although it points to some benefits, it is hard to disassociate that from a wider health-led approach in which the facilities generally sit. When this debate was initiated in our first summit two years ago, my view was that the Scottish push - in particular, the Scottish National Party push - for DCRs missed the wider point that to truly solve the problem we needed a wider and much more extensive and assertive rehabilitation approach."

Mr Malthouse was also asked whether he thought that drug deaths and tackling drug harms should be considered to be a public health issue or more a matter for law enforcement. In response, Mr Malthouse stated that he thought it was both. Dealing with heroin and crack cocaine addicts in particular, Mr Malthouse stated:

> "When you are dealing with those individuals, my view is that you are fighting for them with one hand behind your back if you are using those therapeutic and medical interventions to assist them but you are doing nothing or very little about supply. Restricting supply through the smart use of policing is critical to success."

Mr Malthouse pointed to a number of projects which had been established in England and Wales which seek to bring together therapeutic interventions alongside policing of the drugs issue. ADDER projects – addiction, diversion, disruption, enforcement and recovery – currently operate in five areas. He stated that while he would be keen to see ADDER projects established in Scotland, the Scottish and UK Governments currently took a different view on certain aspects of how the overall issue of tackling drugs harm should be approached, but that the SDDT was part of the ADDER information network which looks at different models and approaches.

Mr Malthouse was also asked for his views on links between drug deaths and drug harm, and poverty, deprivation, and adverse childhood experiences, and the view that tackling the problem was a complex and multifaceted issue. In response, Mr Malthouse stated that with regard to poverty, he would be careful about the difference between correlation and causation:

> "….over the years, there have been lots of attempts to deal with the underlying problems of poverty and deprivation, in the hope that doing so would deal with the violence and drugs that were perceived at the time to be the product of those problems. In fact, more often than not, around the world, we have seen that it works the other way round. When authorities deal with the violence and drugs first, generally, people - in particular, young people - who live in those areas will fly."

On 2 February, the joint committee took evidence from David Strang, the newly appointed Chair of the Scottish Drug Deaths Taskforce (SDDT), and Angela Constance MSP, Minister for Drugs Policy.

Mr Strang was asked about criticism from some quarters that the SDDT had come to view itself as an advisory body only, and whether it should have more powers to press stakeholders on delivery of its recommendations. In response, Mr Strang stated:

> "I do not think that there needs to be more power for the task force, because change has to be delivered by existing institutions, organisations and structures. We give advice and make recommendations - we are advisory. I imagine that the Government would not have set up a task force with a view to not listening to or taking on board its advice.
>
> I am not arguing that the task force should have more power, nor that it should be extended; I am just saying that one of the questions that I will be asking is how that work will be overseen. It might be by a different scrutiny body or it might be a role for the Government itself."

Mr Strang was also asked about the possibility of introducing drug consumption facilities which the SDDT had recommended. He stated that if such a radical proposal was to be developed, it would need a national approach to agreeing the proposal in principle and working out the practicalities and legal matters involved, while also engaging with local authorities, health boards and the police on implementation issues. He also stated that:

> "Whatever practical objections or challenges there are, it is entirely possible to overcome them. The point is that having such zones will save lives. It might reduce the number of people who are arrested but, if it saves lives, that is a win-win."

Mr Strang was asked why, in his view, Scotland had such a serious problem with regard to the number of drug deaths. In response, he stated that there was no simple answer to that question and that there would be differing views as to the precise nature of the problem. He stated that there were many contributing factors such as poverty and inequality, early abuse, trauma and mental ill health, and other common factors such as homelessness, offending, and violence.

During her evidence, the Minister for Drugs Policy, Angela Constance MSP, was asked whether the SDDT was on course to provide further recommendations by summer 2022 (the SDDT is due to provide further recommendations for action by the end of July). The Minister stated that she was confident, and that the SDDT was being supported by a team of civil servants in its work.

The Minister was also asked about the possibility of introducing DCRs in Scotland and whether she had any views on the evidence given previously by Kit Malthouse MP. In response, she stated:

> "It is a matter of public record that work is being done on a pilot for a safer drug consumption facility in Glasgow. A proposition for that pilot has been made by the health and social care partnership in Glasgow. Very extensive work is being done between the Crown Office, the police, us - the drugs policy division - and our local partners in Glasgow.
>
> Mr Malthouse and I come from different positions on this. I am strongly of the view that there is no disputing the evidence that safer drug consumption facilities can save lives. […] He sees more problems than I see. There are undoubtedly issues that need to be resolved, and that is what we are actively engaged in doing."

One of the avenues that has been suggested for exploration and perhaps bringing DCRs and other responses to the drug deaths and drug harm crisis to fruition, would be a review of the Drugs Misuse Act 1971. The Minister was asked for her views on whether reform of the 1971 Act was necessary. In response the Minister stated:

> "My view is that the Misuse of Drugs Act 1971 is old - it is nearly as old as me - and that it was written for another time. A lot of the evidence that the task force gathered showed that people feel that it is rooted in drug use being all about personal failings and in the need for punishment. A root-and-branch review is therefore needed because, in my view, the act impedes our taking a public health approach. Other people might argue that it is completely contradictory to a public health approach. It impedes not only work around safe drug consumption facilities, but other harm reduction work."

The Minister was also asked about prisoners and how difficult it is for many of them to break their addictions due to the high levels of drugs finding their way into prisons and whether it would ever be possible to eradicate drug misuse in prisons.

The Minister stated that the safety and wellbeing of prison staff and prisoners was of the utmost importance and that access to treatment and support in prison is crucial when it comes to healthcare. She also stated that it was reflective of what is known about the wider community that "we cannot arrest our way out of a drug deaths crisis. It has to be about addressing the root causes of people's substance use and the bigger and broader agenda of homelessness and poverty."

Written evidence

The following paragraphs provide a summary of key issues raised in evidence by some stakeholders.

Following the cross-committee meetings of 1 and 2 February, it was agreed to write to stakeholders to seek written evidence on the following issues:

- Actions they had taken to implement the Taskforce's recommendations;
- Any gaps in the recommendations and how these should be addressed;
- Any barriers to implementing the recommendations and how these could be addressed; and
- Whether there is consistent delivery of services throughout Scotland, in particular rehabilitation services and the services provided by health boards and alcohol and drug partnerships (ADPs).

Due to the large volume of evidence received, it has not been possible to cover every issue raised here. Members have received full copies of all the written evidence provided. The submissions can also be accessed here. This includes responses to requests for follow-up information from Kit Malthouse, Angela Constance and David Strang.

Alcohol and Drug Partnerships

A number of Alcohol and Drug Partnerships (ADPs) provided written evidence setting out their approach to implementing some of the SDDT's recommendations.

Fife ADP (in conjunction with the Fife Health and Social Care Partnership and the local authority) stated that it had undertaken considerable work on evidence-based interventions as outlined in the SDDT's six emergency themes published in 2020. Most of this work has placed Fife ADP at an advantage for the implementation of the new Medication Assisted Treatment (MAT) Framework published in June 2021. With regard to the SDDT's recommendations on Optimising Medication Assisted Treatment (MAT) and Targeting the People Most at Risk, FIFE ADP has implemented the Rapid Access project. NHS Addictions Services have developed in partnership with the ADP Support Team a test of change pilot for next day prescribing – where it is clinically safe to do so - for every new patient requiring opiate replacement therapy in the Kirkcaldy area. This project is critical to reducing drug related deaths and other harms to the individual, their family and community, given the well-established evidence base for opiate replacement therapy delivered safely and rapidly to people who require and request this intervention.

This approach - which is largely aimed at removing barriers to treatment - will reduce attrition rates from referral to treatment start and in the longer term will attract larger numbers of people into the service and the overall system of care. It has formed the basis of how Fife ADP will implement MAT Standard 1 over the next two years.

One of the key actions undertaken by Renfrewshire ADP has been the targeted distribution of Naloxone through a local multi-agency delivery group. The group has created a work plan focussing on reducing barriers, improving education on overdose and naloxone, and expanding supply networks across Renfrewshire. As part of this work, Renfrewshire ADP are about to launch a Renfrewshire Naloxone training calendar, aimed at health and social care workers, and other key stakeholders.

The SDDT stated that more need to be done to engage those who do not currently access services and recommended that a network of people with living experience should be established. East Ayrshire ADP has established at a locality level a network of peers with *lived* experience who are known within their locality to engage those not in touch with services. The ADP recognises the work of the Scottish Drugs Forum (SDF) in establishing a network of *living* experience in Glasgow. East Ayrshire ADP states that given the stigma that exists surrounding drug use in more rural communities and the lack of street drug users, there would be in its opinion significant challenges inherent in recruiting people with *living* experience. Locally, East Ayrshire ADP as part of its engagement processes seeks to consult those with *living* experience in order to fully inform policy and direction.

The issues of poverty and deprivation as contributing factors to drug harms featured in a number of responses. Inverclyde ADP pointed out that there was a significant overlap with its most deprived communities and the long reach of poverty in people's lives and the impact this has in other related public health and inequalities issues including alcohol suspected deaths, mental health and suicides and deaths in homelessness.

NHS stakeholders

NHS Greater Glasgow and Clyde (NHSGGC) states that there has been substantial progress toward the implementation of SDDT recommendations both nationally and locally, even though the work of implementing them all is not yet complete. Overall, the recommendations provide a useful mechanism for driving progress as well generating focus on key actions to undertake. The recommendations of the SDDT – including the recommendation for renewed leadership at national and local levels – have enhanced the extent to which drug deaths are seen as a high priority at both of those levels and have added momentum to fulfilling the commitments set out in Rights, Respect and Recovery, the Scottish Government's strategy to improve health by preventing and reducing alcohol and drug use, harm and related deaths.

On specific actions, amongst other things, NHSGGC and Glasgow City Council remain committed to the introduction and evaluation of a pilot overdose prevention facility in the city centre, as this has the potential to minimise the risks of public injecting and help engage people with health and social care, including drug treatment and wider care needs. In light of the difficulty in changing existing legislation, Glasgow City HSCP colleagues are working with Government and Police Scotland to develop a proposal that may be feasible within the current legal framework.

NHS Western Isles (NHSWE) points out that with regard to emergency responses, locally there has been a programme of naloxone training and a significant increase in the availability and distribution of naloxone. This has been supported by the introduction of the national postal scheme offered through Scottish families Affected by Alcohol and Drugs. The postal scheme can be a useful additional choice to those in more remote and rural locations.

In the Outer Hebrides, NHSWE has implemented shared data arrangements with the Scottish Ambulance Service which provides valuable information on risk patterns. To support and develop this work an Early Identification Pathway has been developed involving the Integrated Mental Health Team, A&E and the Ambulance Service.

In the Outer Hebrides there is a low referral rate for people who are opiate dependant. However, there has been an increase in people presenting to A& E and accessing the Ambulance service through chaotic binge use of substances, including stimulants/poly drug use. This presents an increased risk of drug related harm, either by overdose or the adverse effects of drug taking/alcohol, with the commensurate risks of increased criminality or poor mental health. NHSWE is offering a wraparound support service, harm reduction and signposting, in a timely manner (within 72 hrs of referral) to anyone who has presented, experiencing substance related issues to A & E or from contact with the Ambulance service.

NHSWE also use an early intervention model of "planting the seed" and providing harm reduction advice, targeted also to the younger age groups, at an earlier stage. This is intended to ensure there are seamless pathways of care so that local services meet the needs of those most at risk of harm through early identification , focusing on early intervention rather than waiting for people to become physically dependant on substances prior to referrals being made for treatment/support.

Developments

The following paragraphs provide a snapshot of some recent, relevant developments.

Naloxone

A recently published report[3] on the evaluation of a pilot carried out by Police Scotland made a number of recommendations with regard to the increased use of Naloxone by police officers.

The report recommended that Police carriage of naloxone programme should be rolled out Scotland-wide. In addition to personal issue, it should also be placed within police cars and custody facilities to widen access and ensure resilience. The report also recommended that Naloxone training should be made compulsory for all Police Scotland officers and staff, including police custody and security officers (PCSOs). Consideration should be given to expanding and adapting the existing training content to incorporate simulation of naloxone administration, the routine inclusion of testimony from a person in recovery and specific guidance and information for follow up support.

The report also recommended that consideration should be given to issuing a written statement by Police Scotland, the Crown Office and the PIRC with unambiguous information about any legal liability officers might (or might not) assume should they administer naloxone. For example, this could be a general statement on first aid and liability, since naloxone carries the same liability as first aid interventions such as giving CPR, i.e. if performed in good faith and in accordance with training, no claim will be investigated by PIRC or the Crown Office.

The Criminal Justice Committee wrote to the Lord Advocate to ask whether she agreed with the recommendation for such a written statement. The Lord Advocate responded (paper 1) as follows:

> The Criminal Justice Committee have asked if the Crown Office and Procurator Fiscal Service agrees with the recommendation from the independent evaluation on the Police Service of Scotland's naloxone pilot that:
>
> "Consideration should be given to issuing a written statement by Police Scotland, the Crown Office and PIRC with unambiguous information about any legal liability officers might (or might not) assume should they administer naloxone. For example, this could be a general statement on first aid and liability, since naloxone carries the same liability as first aid interventions such as giving CPR, i.e., if performed in good faith and in accordance with training, no claim will be investigated by PIRC or the Crown Office.
>
> With respect to the authors of the report I do not agree with this recommendation as I do not consider that such a statement is necessary. It is for the Police Service of Scotland through training and policies to provide comfort and confidence to officers in relation to their legal liability whether that is in relation to naloxone or the provision of CPR I do not understand that the Police Service of Scotland intend to approach the Crown Office and Procurator Fiscal Service in relation to this recommendation either in relation to naloxone or a broader statement in relation to the provision of first aid in general".

[3] Naloxone in Police Scotland: Pilot Evaluation: February 2022.

Drug and alcohol services

In March 2022, Audit Scotland published Drug and alcohol services: an update. The report pointed to the record number of drug deaths in Scotland and also highlighted the fact that although the number of people dying from alcohol had started decreasing in the early 2000s, it began increasing again around ten years ago and there were 1,190 deaths in 2020. Problem alcohol use also causes wider harm from other related health conditions, crime and economic costs. Longstanding inequalities remain, with people living in the most deprived areas most affected by drug and alcohol use.

Audit Scotland points out that progress addressing these challenges has been slow since it first reported on drug and alcohol services in 2009, with a lack of drive and leadership by the Scottish Government. Delivery of drug and alcohol services is complex, with many organisations working across different sectors, and clearer accountability across all partners is needed. Audit Scotland also states that overall funding to alcohol and drug partnerships reduced over several years, but by April 2021 it returned to around the level it was six years ago in cash terms, but with no real terms increase in funding.

The report points out that work is under way to evaluate new initiatives and improve data, but there are still gaps. More focus is needed on addressing the root causes of drug and alcohol dependency and breaking the cycle of harm affecting multiple generations across communities. The report states that the Scottish Government needs to set out a clear integrated plan on how additional investment can be used most effectively and demonstrate how it is improving outcomes. Good quality, frequent and timely data will be crucial in supporting clear performance measurement and public reporting.

Photocopying of prisoners' mail

In December 2021, a change was made to Prison Rules which provided SPS with the power to photocopy prisoner's general correspondence as an operational mitigation against the risk of the introduction of illicit substances through contaminated paper entering prisons.

The SPS wrote to the Criminal Justice Committee on 19 May to provide an update on the positive impact this change has made. The letter indicated that:

> "There has been a steady and sustained reduction in 'drug takes incidents' throughout the estate which has reduced SPS need to call upon external support from NHS and Scottish Ambulance Service colleagues".

The data provided showed average reduction of 44% of 'drug takes' incidents since the implementation, the need for an emergency ambulance also reduced by an average of 39% over the same period.

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SPICe
23 May 2022