
DRUG DEATH
PREVENTION
BILL

Drugs Death Prevention (Scotland) Bill

A proposal for a Bill to: enable the establishment of overdose prevention centres, including establishing a licensing framework for centres, in order to prevent death due to drug overdose; and to create a new body for the oversight of drug policy development and implementation, in order to improve health by preventing and reducing drug use, harm and related death.

Consultation by
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(Scottish Labour and Co-op)

25 May 2022

Contents

Foreword

Preventable death due to drug overdose has become one of the Scotland's major public health emergencies. Urgent practical action is required to address this health crisis and this bill is intended to be part of the solution; one contribution to a multi-faceted effort to tackle the problem.

Overdose Prevention Centres (OPCs) do just as the name suggests – they prevent overdoses and save lives. I would like to pay tribute to the pioneering and selfless work of Peter Krykant, who operated a pilot mobile OPC in Glasgow between September 2020 and September 2021. Peter's courageous pilot project demonstrated that lives could be saved and improved under current legislation; and he did so at the expense of his own career, personal life and health. I wish Peter and his family well as he embarks on a new career path in much improved health.

Other nations lead the way in providing legal supervised injection spaces for the most vulnerable to manage their addiction without fear of criminal sanction, indeed over 150 such facilities are in operation worldwide, and have proven to be an effective way to prevent and reverse overdoses. Those who do live with the fear of criminalisation should instead be supported to manage their addiction in sanitary, clinical conditions with the reassurance that they will receive immediate clinical intervention to survive an overdose if it should be necessary, along with ready access to a range of support services that can provide a pathway to recovery from addiction.

Thank you for taking the time to engage with, and for your consideration of this proposed bill. I believe passionately that overdose prevention centres will provide treatment and care that will prevent death and trauma in individuals and communities. Your expertise and lived/living experience will be valuable in helping this proposal for a bill succeed. I welcome views on this proposal whatever your perspective on the policy aims and the detail.

Paul Sweeney MSP
25 May 2022

How the Consultation Process works

This consultation relates to a draft proposal I have lodged as the first stage in the process of introducing a Member's Bill in the Scottish Parliament. The process is governed by Chapter 9, Rule 9.14, of the Parliament's Standing Orders which can be found on the Parliament's website at:
Standing Orders | Scottish Parliament Website

At the end of the consultation period, all the responses will be analysed. I then expect to lodge a final proposal in the Parliament along with a summary of those responses. If that final proposal secures the support of at least 18 other MSPs from at least half of the political parties or groups represented in the Parliamentary Bureau, and the Scottish Government does not indicate that it intends to legislate in the area in question, I will then have the right to introduce a Member's Bill. A number of months may be required to finalise the Bill and related documentation. Once introduced, a Member's Bill follows a 3-stage scrutiny process, during which it may be amended or rejected outright. If it is passed at the end of the process, it becomes an Act.

At this stage, therefore, there is no Bill, only a draft proposal for the legislation.

The purpose of this consultation is to provide a range of views on the subject matter of the proposed Bill, highlighting potential problems, suggesting improvements, and generally refining and developing the policy. Consultation, when done well, can play an important part in ensuring that legislation is fit for purpose.

Details on how to respond to this consultation are provided at the end of the document.

Additional copies of this paper can be requested by contacting me at:

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Enquiries about obtaining the consultation document in any language other than English or in alternative formats should also be sent to me.

An on-line copy is available on the Scottish Parliament's website:

www.parliament.scot/drugs-death-prevention-bill

Aim of the Proposed Bill

The number of people in Scotland who die from drug-related deaths has increased every year since 2013, culminating in 1339 deaths in 2020, a figure almost three times higher than a decade ago. That devastating trend means Scotland has the highest drug death rate in Europe, three and a half times higher than its closest comparators, Sweden, Norway and the rest of the United Kingdom.

With three people dying every day - one person every eight hours - this is a crisis that is intolerable, avoidable, and disproportionately impacts men from the most deprived areas of the country. Men are almost three times more likely than women to have a drug related death, whilst those living in the most deprived areas of the country are eighteen times more likely to have a drug related death than those in the least deprived.

No single solution will solve this crisis. It will require a multi-faceted public health approach encompassing legislative and non-legislative solutions. The Scottish Government has progressed non-legislative solutions such as the recently announced policy of diversion from prosecution for those found in possession of Class A substances for personal use.

The objectives of OPCs are simple – to reduce overdose deaths; to reduce the transmission of blood borne diseases; and to provide drug users with an opportunity to interact with health care professionals, social workers and others who can provide them with help. With 93% of drug related deaths recorded in Scotland in 2020 coming as a result of accidental overdose, 90% of hepatitis C infections diagnosed in the UK were acquired through injected drug use, and 89% of injecting drug users in the UK expressing a willingness to use overdose prevention facilities- the requirement for their introduction could not be clearer.[1,2,3]

OPCs operate in cities across the world, historically in mainland Europe with countries such as Canada and Australia introducing them as a harm reduction method in recent years. Their efficacy is clear – the Netherlands has the highest number of Overdose Prevention Centres per capita in Europe, and one of the lowest drug death rates per capita – around 1/15th the rate in Scotland. The most recent example of success comes from New York where two OPCs were opened on 30th November 2021. Operators, OnPoint NYC, recently announced that, in the intervening months to February 2022, over 110 overdoses have been reversed, meaning over 110 men and women are alive

1 https://www.bbc.co.uk/news/uk-scotland-58024296

2 Public Health England, Health Protection Scotland, Public Health Wales and Public Health Agency Northern Ireland (2016) Shooting Up Infections among people who injected drugs in the UK, 2015 An update: November 2016, Public Health England.

3 Butler, G Chapman, D and Terry, P (2018) Attitudes of intravenous drug users in London towards the provision of drug consumption rooms. Drugs: Education, Prevention and Policy, 25(1), pp. 31-37

who may otherwise have been dead.[4] In sharp contrast, Scotland has no Overdose Prevention Centres and the highest drug death rate per capita in Europe by an astronomical margin.

The precedent for establishing Overdose Prevention Centres in Scotland is clear. For a period of 12 months, commencing in September 2020, Peter Krykant operated an OPC in the city of Glasgow using a refurbished NHS ambulance. The mobile service was the first of its kind in the United Kingdom and received widespread media interest and praise from politicians, campaigners and stakeholders alike. Despite claims that the service was operating illegally, no prosecutions were ever brought against those operating or utilising the facility. This was not due to a lack of awareness on the part of the relevant authorities, it was because no criminal offences were being committed.

Currently, there is no legislation in Scots Law that would allow for the licensing of OPCs. The primary legislation governing the possession, supply and licensing of substances, illicit or otherwise, in the United Kingdom is the Misuse of Drugs Act 1971. To my knowledge, nothing contained or proposed in this consultation, or the subsequent proposed legislation, would be in contravention of the Misuse of Drugs Act.

Support for the establishment of OPCs is widespread, including from the Scottish Government and Glasgow City Council; political parties from across the political spectrum and drug reform campaigners including those organisations advocating for improved access to rehabilitation services. Each of these different public and private sector organisations recognises the public health impetus and harm reduction benefits. As recently as 2018, the UK Government has also accepted the public health benefits of OPCs with the Home Office stating in a letter to Glasgow City Council that “the government is well aware of the potential health benefits of DCRs (Drug Consumption Rooms)”.[5]

I acknowledge that OPCs are not the silver bullet in the battle against Scotland’s drug death crisis but they are a vital and irrefutably important tool in our arsenal. At the outset**,** the short-term primary function of these OPCs will be to prevent overdoses and maybe provide a hygienic and supervised environment for the personal consumption of illicit substances possessed by the user and brought to the centre.

Whilst this consultation focuses primarily on a bill for the short-term objective detailed above, in the medium to long term our ambition is to see these facilities become capable of testing the content and potency of substances and, when appropriate, prescribing safe substitutes of an assured dose from an on-site pharmacy, eventually resulting in a comprehensive public health interface with medical professionals

4 https://www.ny1.com/nyc/all-boroughs/news/2022/01/24/supervised-injection-sites-avert-over-100-overdoses--organization-says
5 https://www.glasgow.gov.uk/index.aspx?articleid=22874

accompanied by social workers, housing officers and job coaches. This holistic public health approach will provide people who use drugs with the opportunity to access the many strands of help that they will need to address their drug addictions and ultimately get their lives stabilised.

Detail of the Proposed Bill

The proposed legislation would enable the establishment and licensing of Overdose Prevention Centres (also known as Drug Consumption Rooms) in Scotland with a view to providing a safe, sanitised, supervised space for those who would otherwise engage in the intravenous self-administering of illicit substances of unknown potency in unsupervised, unsafe and often unclean environments in order to ensure interventions can be made to prevent or reverse overdoses.

My proposed Bill would:

- Provide a legal basis for the establishment of OPCs;

- Create a licensing framework for the governance of OPCs to be operated by Health and Social Care Partnerships or equivalent bodies;

- Create a Scottish Drug Deaths Council (SDDC) to replace the current Scottish Drugs Death Taskforce

- Give the SDDC responsibility for: scrutinising legislative and non-legislative proposals that impact on Scotland's drug death figures; reporting on the efficacy of Scottish Government policies in this area, including providing an assessment of the public health impact of implementation; sharing of best practice among professionals and to advise and recommend changes to Scottish Government policy to reflect the overarching objectives of the SDDC;

- Ensure fairness and balance in the functioning of the SDDC by providing a requirement for pre-approval by parliament pertaining to membership and minimum meeting requirements of the SDDC. I proposed that minimum membership and meetings will be legislated for in the bill with a requirement to include stakeholder organisations, people who use drugs, people in recovery, and medical professionals. Meetings will be held on a quarterly basis and minutes will be published.

Current Law and Practice

Misuse of Drugs Act 1971

The Misuse of Drugs Act 1971 makes *"provision with respect to dangerous or otherwise harmful drugs and related matters, and for purposes connected therewith."*[6]

Medicines Act 1968

The Medicines Act 1968 makes *"provision with respect to medicinal products and related matters, and for purposes connected therewith".* [7] Primarily, it is responsible for the governance of manufacturing and supplying of medicine.

Psychoactive Substances Act 2016

The Psychoactive Substances Act 2016 creates several offences relating to psychoactive substances, although possession for personal use is not criminalised within this legislation. For the purposes of this legislation, psychoactive substances are defined as substances *"capable of producing a psychoactive effect in a person who consumes it."* [8]

Scottish Drug Deaths Taskforce

The Scottish Drug Deaths Taskforce was established in 2019 by then Minister for Public Health and Sport, Joe FitzPatrick, with the support of the Cabinet Secretary for Justice. The central aim of the Taskforce is *"identifying measures to improve health by preventing and reducing drug use, harm and related deaths."*

Membership of the taskforce is currently at the invitation of Scottish Ministers; the Secretariat support is provided by the Scottish Government Public Health Directorate; and the taskforce reports directly to Ministers. There is also a requirement for taskforce members to *"ensure they and their organisations work with communications colleagues and the Secretariat to allow consistency and coordination of messaging around the Taskforce's work and support the successful engagement with the wider sector as well as the public."*

These requirements do raise a concern regarding the operational independence of the taskforce. For the taskforce, or any similar body, to provide entirely independent advice, it must have operational independence.

As there is also no legislative underpinning of the current taskforce, its existence is entirely at the behest of the Scottish Government. This means that should the

6 https://www.legislation.gov.uk/ukpga/1971/38/introduction
7 https://www.legislation.gov.uk/ukpga/1968/67/introduction
8 https://www.legislation.gov.uk/ukpga/2016/2/section/2

government unilaterally decide that it is no longer required, it would cease to exist. Given the endemic nature of the issues being examined by the taskforce, it should be placed on a statutory footing.

Providing a legal basis for establishing Overdose Prevention Centres

As previously identified, the primary function of the Overdose Prevention Centres (Scotland) Bill will be to provide a legal basis for the establishment and licensing of OPCs in Scotland.

The Crown Office and Procurator Fiscal Service (COPFS) is the sole prosecuting authority in Scotland. Responsible for deciding whether prosecution should be undertaken for possession, supply or other contraventions arising under the Misuse of Drugs Act 1971, the Lord Advocate (in their role as Ministerial head of the COPFS) issues guidance that details in what circumstances prosecution is the most appropriate course of action and where diversions from prosecution are more appropriate.

It is often stated that in order to establish OPCs, an amendment to the Misuse of Drugs Act 1971 is required. The Scottish Affairs Committee conducted an inquiry titled "Problem Drug Use in Scotland". During the inquiry, they examined a proposed pilot project that would allow users to bring street drugs purchased away from the premises and self-administer them in a supervised setting in a safe way. In response, the Law Society of Scotland stated that:

"For this to work, there would need to be a "tolerance zone" where there would not be any prosecution for the possession of drugs. That would either require a change in the 1971 Act or the use as highlighted above of prosecutorial discretion from COPFS not to prosecute in certain circumstances. The Lord Advocate has not supported that proposal other than to state that HAT can already be provided under the current law." [9] [10]

In September 2021, the Lord Advocate, Dorothy Bain QC, reviewed the position of the COPFS and in an address to the Scottish Parliament stated:

"I have decided that an extension of the recorded police warning guidelines to include possession offences for class A drugs is appropriate. Police officers may therefore choose to issue a recorded police warning for simple possession offences for all classes of drugs." [11]

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9 https://publications.parliament.uk/pa/cm201919/cmselect/cmscotaf/44/44.pdf
10 http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/scottish-affairs-committee/problem-drug-use-in-scotland/written/99678.html
11 https://archive2021.parliament.scot/parliamentarybusiness/report.aspx?r=13315&i=120787

On this basis, I would contest that the barriers which previously existed and prevented the establishing of OPCs, are no longer of concern.

As previously stated, the Misuse of Drugs Act 1971 provides the legislative authority for 'dangerous and otherwise harmful drugs and related matters' in the United Kingdom. There is an ongoing, continuous debate as to whether OPCs, or the activities undertaken within these sites, would breach any provisions contained within the Misuse of Drugs Act itself. [12] The sections of the Act that are in question are as follows: Section 4, Section 8 and Section 9A. Taking these in turn:

Section 4 relates to the restriction of production and supply of controlled drugs. [13] Section 4(1) stipulates that it shall not be lawful for a person to produce a controlled drug or to supply or offer to supply a controlled drug to another. I am confident that OPCs, of the kind being proposed, do not breach these provisions as at no point are controlled drugs or substances being produced, supplied or offered to anyone wishing to use the facility. Operationally, anyone who wishes to use the facility would present themselves, would already be in possession of the controlled drug that they wish to self-administer and would merely be using the facility to ensure their own safety.

Section 8 relates to occupiers of premises permitting certain activities to take place within said premises. This section states that "a person commits an offence if, being the occupier or concerned in the management of any premises, he knowingly permits or suffers any of the following activities to take place on those premises, that is to say:

a) producing or attempting to produce a controlled drug in contravention of section 4(1) of this Act;
b) supplying or attempting to supply a controlled drug to another in contravention of section 4(1) of this Act, or offering to supply a controlled drug to another in contravention of section 4(1);
c) preparing opium for smoking;
d) smoking cannabis, cannabis resin or prepared opium."

As has been stated previously, I am confident that Section 4 is not being breached by any of the proposed activities that would be permissible in OPCs of the kind being proposed. The primary focus of an overdose prevention site would be to treat a person who is having an overdose in the appropriate manner based on the information they have provided about the substances they are taking. This may include the administering of Naloxone in case of opiate overdose or the use of a defibrillator in case of cocaine overdose. On that basis, I would assert that Section 8(a) and 8(b) are not relevant and should be disregarded. Section 8(c) and Section 8(d) do require further explanation and clarity. These sections pertain to the preparation of opium for smoking and smoking cannabis, cannabis resin or the aforementioned prepared opium.

12 https://www.legislation.gov.uk/ukpga/1971/38/introduction
13 https://www.legislation.gov.uk/ukpga/1971/38/section/4

Statistics from the National Record of Scotland show that in 93% of drug-related deaths in Scotland, more than one drug was found to be present in the body, thus emphasising the point that a multifaceted approach will be needed to tackle this crisis. By far the most prevalent are opioids which were found in 89% of drug related deaths (1,189 in 20/21).[14] In relation to the legalities mentioned above, the reality of modern day substance misuse is that the smoking of opium is increasingly uncommon. Instead, opioids are ordinarily and routinely injected, often as part of a cocktail of drugs including cocaine. On that basis, I believe that the OPCs proposed as part of this consultation would not contravene Section 8(c) or Section 8(d). Prohibition of smoking opium, cannabis or cannabis resin within OPCs would be incorporated as part of any licensing framework detailed below.

Section 9A pertains to the "prohibition of supply etc. of articles for administering or preparing controlled drugs".[15] The section predominantly concerns the supply or offer to supply an article which could be used or adapted to be used in the act of administering a controlled substance in the knowledge that the article is to be used in an unlawful manner. These provisions are contained in Section 9A(1). However, Section 9A(2) makes provision for the exclusion of the supply or offer of supply of hypodermic syringes, either whole or in part, from being unlawful.

Creation of a Licensing Framework

I am proposing that my bill would legislate for the creation of statutory guidance to local Health and Social Care Partnerships. I am also proposing that the licensing regime will specify certain requirements and strategic objectives that must be satisfied prior to the relevant Health and Social Care Partnership granting a license to any facilities wishing to operate as OPCs. These requirements and objectives include, but are not limited to:

- Agreement to support the overarching objective of preventing and reversing overdoses;
- Commitment that no practices undertaken within the OPCs will contravene or interfere with any provisions contained within the Misuse of Drugs Act 1971 as described in the previous section;
- Observation and implementation of minimum entry requirements to access the OPC;
- Continuous and permanent presence of at least one formally qualified medical practitioner, accompanied by other staff, all of whom are trained and equipped to prevent and where necessary reverse overdoses;
- Consent and co-operation sought from local police to allow the facility to operate;
- Provision of sterile injecting equipment such as needles; and
- Safe disposal of all used injecting equipment.

14 https://www.nrscotland.gov.uk/files//statistics/drug-related-deaths/20/drug-related-deaths-20-pub.pdf
15 https://www.legislation.gov.uk/ukpga/1971/38/section/9A

This consultation document seeks respondents' views on the best approach to take with regards to such a licensing regime. For example, whether respondents feel that the proposed conditions above are adequate and sufficient to provide for a stringent and robust regime, or whether they require extension; what, if any, objections respondents may have to any licensing regime; and what requirements for community consultation they believe should exist, prior to full approval, if the relevant Health and Social Care Partnership is content that a license is appropriate.

In awarding any license, the relevant Health and Social Care Partnership must be content that a license would not increase criminal behaviour or cause undue obstructions to local businesses and residents in their daily lives.

It is my view that any licensing framework should be overseen by the relevant Health and Social Care Partnership responsible for the jurisdiction within which the OPC would operate. Ultimately answerable to NHS Scotland, who are in turn answerable to the Scottish Government, this approach would ensure reasonable oversight by Ministers while ensuring an element of independence prevents potentially unreasonable political interference.

In 2017, the Glasgow City Integration Joint Board's Health and Social Care Partnership developed a business case for establishing an OPC in the city.[16] The Partnership's data, gathered between 2014-2016, found that 350 people who use drugs who were routinely injecting in the city. These individuals were found to account for:

- Over £200,000 in costs resulting from 1,587 Accident and Emergency attendances;
- Over £1.5 million in costs resulting from 3,743 acute inpatient bed days;
- Approximately £9,600 in costs resulting from 19-day case admissions.

In total, the cost of acute medical treatment for those 350 people who inject drugs in the city equated to over £1.7 million in a two-year period. That figure does not include the estimated average lifetime cost of £360,000 per person who contracts HIV. If this cost were to be applied to the 78 new HIV cases in people who inject drugs in Glasgow between 2015-2016, this would result in a total lifetime cost to the health system of £28,080,000.

In concluding, the business case stated:

"By reducing the use of unscheduled care and crisis services, by contributing to reductions in blood borne virus spread, by reduced drug related offending and by improved effective engagement meeting complex needs, investment in the proposed

16 https://glasgowcity.hscp.scot/sites/default/files/publications/IJB_15_02_2017_ItemNo13_-_SCF_and_HAT.pdf

safer drug consumption facility and heroin assisted treatment service has the potential to contribute to savings in other services in Glasgow."

In a submission to the Scottish Affairs Committee's Inquiry, "Problem Drug Use in Scotland", the National AIDS Trust cite international evidence from Canada showing the efficacy of OPCs in preventing blood borne diseases such as HIV. They say:

"Their effectiveness in reducing sharing of injecting equipment and thus blood-borne viruses is clear: for example, predictive modelling research predicted that Insite (DCR in Vancouver, Canada) will prevent between 1191-1517 HIV infections over a 10-year period."[17]

On the issue of the potential for increased criminal activity, the European Monitoring Centre for Drugs and Drug Addiction are unequivocal in their position. They argue that DCRs (Drug Consumption Rooms) do not increase criminal behaviour or illicit drug taking, instead they "*facilitate rather than delay treatment entry and do not result in higher rates of local drug-related crime".*[18]

This is not exclusive to Europe. Regardless of where an OPCs has been established, the outcome is the same – there is no increase in criminal activity. After the introduction of OPCs in Sydney, the effect on drug related property crime and violent crime in its local area was examined using time series analysis of police-recorded theft and robbery incidents and found no evidence that OPCs increased local crime.[19] Similarly, in Vancouver, a comparative study of the year preceding and the year following the introduction of an OPC found that the facility was not associated with any marked increase in crime[20]

Creation of a Scottish Drug Deaths Council

My proposed bill would create a new body (the Scottish Drug Deaths Council (SDDC)) which will have full operational and strategic independence from the Scottish Government, and will be responsible for scrutinising legislative and non-legislative proposals that impact on Scotland's drug death figures; reporting on the efficacy of Scottish Government policies in this area, including providing an assessment of the

17http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/scottish-affairs-committee/problem-drug-use-in-scotland/written/99528.html
18 European Monitoring Centre on Drugs and Drug Addiction, 'Drug consumption rooms: an overview of provision and evidence', June 2018. Available at: http://www.emcdda.europa.eu/topics/pods/drug-consumption-rooms_en
19 Freeman, K., Jones, C. G., Weatherburn, D. J., et al. (2005), 'The impact of the Sydney Medically Supervised Injecting Centre (MSIC) on crime', Drug and Alcohol Review March, 24(2), pp. 173–84
20 Wood, E., Kerr, T., Small, W., et al. (2004), 'Changes in public order after the opening of a medically supervised safer injecting facility for illicit injection drug users', Canadian Medical Association Journal 28 September, 171(7)

public health impact of implementation; advising and recommending changes to Scottish Government policy to reflect the overarching objectives of the SDDC.

As a newly formed independent Non-Ministerial Department, the Council will set its own delivery policies with the Health and Social Care Department setting the strategic framework. The sponsoring Minister (Minister for Drugs Policy) will be accountable to the Parliament and will appoint Council members subject to pre-appointment scrutiny by Parliament. The Council will be funded from its own estimate with services provided externally from the Health and Social Care Department. This will provide for full operational and policy independence.

This approach stands in stark contrast to the oversight that is expected of the present Scottish Drug Death Taskforce. Currently**,** it is tasked with providing "independent advice" but with constituted terms of reference which include the statement that the taskforce must *"ensure they and their organisations work with communications colleagues and the Secretariat to allow consistency and coordination of messaging around the Taskforce's work and support the successful engagement with the wider sector as well as the public".*

It should not be expected that a body that is tasked with providing independent advice and scrutiny is required to liaise with the government it is advising to ensure "consistent and coordinated messaging."

Further, with membership of the SDDC being subject to parliamentary approval, it will ensure that the Council commands the support and confidence of parliament and is not viewed as a government quango. The inclusion of current and former drugs service users and those with lived experience alongside academics and medical professionals provides an opportunity for those impacted most by government policies to contribute to their formulation. There has been some criticism from the lived/living experience community that the Taskforce has failed to include those with lived experience in from its inception.[21]

Currently the Secretariat of the Scottish Drug Death Taskforce is provided by the Scottish Government Population Health Directorate. Under the new proposed structure, this would not be possible given the nature of the SDDC as a non-ministerial department, and as such the Secretariat appoint its own staff. The new, independent Secretariat will be responsible for co-ordinating a minimum of bi-monthly meetings of the Council, collating minutes, providing a quarterly written progress update to the Minister for Drugs Policy and publishing responses and recommendations to existing or new government policies.

Once established, the SDDC would be replace the existing Scottish Drug Death Taskforce, ensuring that there is no period where either body is incapable of exercising or performing its functions. To ensure financial prudence, I would envisage the budget

21 https://www.dailyrecord.co.uk/news/scottish-news/scotlands-drug-deaths-task-force-22463942

provided to the Scottish Drug Death Taskforce to be transferred to the newly established SDDC.

Implications of the proposed bill

Financial implications

Realistically, there are financial implications of licensing OPCs. There will be a requirement for Health and Social Care Partnerships to ensure best practice and enforcement of the stipulated requirements above, but it is anticipated that this would be negligible. Instead, it could be argued that the introduction of OPCs would have a positive impact financially (further detail on this is provided above at the end of the section on the creation of a licensing framework).

In 2017, the Glasgow City Integration Joint Board from Health and Social Care Partnership developed a business case for establishing an OPC in the city.[22] Their data, gathered between 2014-2016, found 350 regular drug users who were routinely injecting drugs in the city. These individuals, as set out in the table below, were found to account for A and E attendances, inpatient bed days and day admissions estimated to cost £28,080,000 (including HIV treatment) in 2014-6.

Year	Description	Quantity	Costs
2014-16	A&E Attendances	1587 Attendances	£ 200,000
2014-16	Acute Inpatient Bed Days	3743 Days	£ 1,500,000
2014-16	Day Admissions	19 Days	£ 9,600
		Total exc. HIV treatment	£ 1,700,600
		Total inc. HIV treatment	£ 28,080,000

A new Scottish Drug Deaths Council will be a body equivalent to public regulatory organisations such as the Scottish Social Services Council. They will support and regulate HSCPs who establish OPCs, scrutinise Government and Parliament activity and provide support and education to primary and secondary care providers. A comparative consideration of the running cost of this kind of body is as below:

Scottish Social Services Council (£000)[23]

Year	Revenue Expenditure	Fee income	Other income	Net expenditure
'18/'19	22,487	4,275	341	18,131

22https://glasgowcity.hscp.scot/sites/default/files/publications/IJB_15_02_2017_ItemNo13_-_SCF_and_HAT.pdf
23 Figures derived from information provided by SPICe on request

‘19/’20	22,600	5,387	418	16,795

Equalities

Drug related deaths occur in very complex circumstances though we can establish a clear picture the terrible inequalities that exacerbate an individual’s chances of dying of an overdose. A definition of what the National Records of Scotland consider to be a drug related death can be found here: https://www.nrscotland.gov.uk/files/statistics/drug-related-deaths/20/drug-related-deaths-20-pub.pdf (pg.7)

Gender

Drug deaths disproportionately impact men. Following age-standardisation, drug related deaths in men accounted for 37.3 deaths per 100,000 of the population in 2020 against 13.6 per 100,000 in women or 73% of all drug deaths. [24, 25]

Age

In 2019 the median age of a person who had died of a drug related death was 42and in 2020 it was 43.[26, 27] Comparing this to historic data, the average age has increased to 43 from 32 in 2000. The Royal College of Physicians Edinburgh has attributed this increase to the aging of post-industrial demographics who have been historical users of drugs which flooded deprived areas from the 1980s onwards.[28] Economic austerity has and continues to have an impact on the likelihood of a person dying of a drug related death.

Health

Persons who engage in problematic drug use have a very complex relationship with health services. Some reasons cited for not seeking out support from health services include concern about perceived stigma, negative experiences in the past, poor health literacy and apathy. [29] The ramifications of this can be very damaging if the associated health conditions are not dealt with until it becomes a health emergency (at great financial cost to the NHS). Furthermore, there are indications that the way problematic

24 https://www.nrscotland.gov.uk/files/statistics/drug-related-deaths/20/drug-related-deaths-20-pub.pdf, pg 9
25 https://www.nrscotland.gov.uk/files/statistics/drug-related-deaths/20/drug-related-deaths-20-pub.pdf, pg. 8
26 https://www.nrscotland.gov.uk/files/statistics/drug-related-deaths/2019/drug-related-deaths-19-pub.pdf, pg 7
27 https://www.nrscotland.gov.uk/files/statistics/drug-related-deaths/20/drug-related-deaths-20-pub.pdf,, pg 11
28 https://www.rcpe.ac.uk/sites/default/files/drugs_deaths_in_scotland_report_final_0.pdf, pg 5
29 https://www.rcpe.ac.uk/sites/default/files/drugs_deaths_in_scotland_report_final_0.pdf, pg 5

drug users take drugs has changed with those dying of overdoses in 2020 much more likely to have taken more than one drug when compared with historic data.

Multiple deprivation

Financial, educational and environmental deprivation puts a person at much higher risk of trauma and adverse childhood experience which then puts a person at high risk of becoming a problematic drug user. [30] The data shows that people who live in health board areas which have a high proportion of SIMD postcodes are at much greater risk of dying of a drug related death (in 2020 the health board area with the highest rate of Drug Deaths was Greater Glasgow and Clyde, followed by Ayrshire and Arran then Tayside). [31]

Questions

About you

(Note: Information entered in this "About You" section may be published with your response (unless it is "not for publication"), except where indicated in **bold**.)

1. Are you responding as:
   - ☐ an individual – in which case go to Q2A
   - ☐ on behalf of an organisation? – in which case go to Q2B

2A. Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)
   - ☐ Politician (MSP/MP/peer/MEP/Councillor)
   - ☐ Professional with experience in a relevant subject
   - ☐ Academic with expertise in a relevant subject
   - ☐ Member of the public

   Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:

2B. Please select the category which best describes your organisation:
   - ☐ Public sector body (Scottish/UK Government or agency, local authority, NDPB)

30 https://www.rcpe.ac.uk/sites/default/files/drugs_deaths_in_scotland_report_final_0.pdf, pg 5
31 https://www.nrscotland.gov.uk/files/statistics/drug-related-deaths/20/drug-related-deaths-20-pub.pdf, pg 4

□ Commercial organisation (company, business)
□ Representative organisation (trade union, professional association)
□ Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)
□ Other (e.g. clubs, local groups, groups of individuals, etc.)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

3. Please choose one of the following:
□ I am content for this response to be published and attributed to me or my organisation
□ I would like this response to be published anonymously
□ I would like this response to be considered, but not published ("not for publication")

If you have requested anonymity or asked for your response not to be published, please give a reason. **(Note: your reason will not be published.)**

4. Please provide your name or the name of your organisation. **(Note: The name will not be published if you have asked for the response to be anonymous or "not for publication".)**

Name:

Please provide a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. **(Note: We will not publish these contact details.)**

Contact details:

5. Data protection declaration

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

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

 Please tick this box if you are under 12 years of age.

Your views on the proposal

Note: All answers to the questions in this section may be published (unless your response is “not for publication”).

Aim and approach

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

 Fully supportive
 Partially supportive
 Neutral (neither support nor oppose)
 Partially opposed
 Fully opposed
 Do not wish to express a view

Please explain the reasons for your response.

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

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

 Fully supportive
 Partially supportive
 Neutral (neither support nor oppose)
 Partially opposed
 Fully opposed

 Do not wish to express a view

Please explain the reasons for your response.

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

 Fully supportive
 Partially supportive
 Neutral (neither support nor oppose)
 Partially opposed
 Fully opposed
 Do not wish to express a view

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

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

 Fully supportive
 Partially supportive
 Neutral (neither support nor oppose)
 Partially opposed
 Fully opposed
 Do not wish to express a view

Please provide reasons for your response, including views on the proposed functions of the SDDC (see pages 14 to 16 above) and on how it should operate in practice.

Financial implications

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

☐ a significant increase in costs
☐ some increase in costs
☐ no overall change in costs
☐ some reduction in costs
☐ a significant reduction in costs
☐ skip to next question

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

Equalities

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

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

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

Sustainability

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

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

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

How to respond to this consultation

You are invited to respond to this consultation by answering the questions in the consultation and by adding any other comments that you consider appropriate.

Format of responses

If possible, please submit your response using the online survey AlternativeIt please email an electronic response, preferably in a MS Word document. Please keep formatting of this document to a minimum.

Please make clear whether you are responding as an individual (in a personal capacity) or on behalf of a group or organisation. If you are responding as an individual, you may wish to explain briefly what relevant expertise or experience you have. If you are responding on behalf of an organisation, you may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

Please include with your response contact details (e-mail if possible, or telephone or postal address) so we can contact you if there is any query about your response.

Where to send responses

Responses prepared electronically should be sent by e-mail to:

paul.sweeney.msp@parliament.scot

Responses prepared in hard copy should be sent by post to:

Paul Sweeney MSP
Room MG.05
Scottish Parliament
Edinburgh
EH99 1SP

You may also contact my office by telephone on (0131) 348 6388

Deadline for responses

All responses should be received no later than **Wednesday 7 September**. Please let me know in advance of this deadline if you anticipate difficulties meeting it.

How responses are handled

To help inform debate on the matters covered by this consultation and in the interests of openness, please be aware that I would normally expect to publish all responses received (other than confidential responses) on my website **[pauljsweeney.com]**. Published, responses (other than anonymous responses) will include the name of the respondent, but other personal data sent with the response (including signatures, addresses and contact details) will not be published.

Where responses include content considered to be offensive, defamatory or irrelevant, my office may contact you to agree changes to the content, or may edit the content itself and publish a redacted version.

I expect to prepare a summary of responses that I may then lodge with a final proposal (the next stage in the process of securing the right to introduce a Member's Bill). The summary may cite, or quote from, your response (unless it is confidential) and may name you as a respondent to the consultation (unless your response is anonymous).

If I lodge a final proposal, I will be obliged to provide copies of responses (other than confidential responses) to the Scottish Parliament's Information Centre (SPICe). SPICe may make responses available to MSPs or staff on request.

Requests for anonymity or confidentiality

If you wish your response, or any part of it, to be treated as **anonymous,** please state this clearly. You still need to supply your name, but if the response is treated as anonymous, only an anonymised version will be published or provided to SPICe. If you request anonymity, it is your responsibility to ensure that the content of your response does not allow you to be identified.

If you wish your response, or any part of it, to be treated as **confidential,** please state this clearly. If the response is treated as confidential (in whole or in part), it (or the relevant part) will not be published or provided to SPICe. I may reflect the general content of a confidential response in the summary, but only if you are content that the way I propose to do so is consistent with the confidentiality involved.

Other exceptions to publication

Where a large number of submissions is received, particularly if they are in very similar terms, it may not be practical or appropriate to publish them all individually. One option may be to publish the text only once, together with a list of the names of those making that response.

There may also be legal reasons for not publishing some or all of a response – for example, if it contains irrelevant, offensive or defamatory content. If I think your response contains such content, it may be returned to you with an invitation to provide a justification for the content or to edit or remove it. Alternatively, I may publish it with the content edited or removed, or I may disregard the response and destroy it.

Data Protection

As an MSP, I must comply with the requirements of the General Data Protection Regulation (GDPR) and other data protection legislation which places certain obligations on me when I process personal data. As stated above, I will normally publish your response in full, together with your name, unless you request and I agree anonymity or confidentiality. I will not publish your signature or personal contact information.

The legal basis for collecting, storing and using the personal data that you provide with your consultation response can be found in Article 6(1)(e) of the GDPR. This Article permits the processing (using) of the personal data where it is necessary for the performance of a task carried out in the public interest.

Information on how I process your personal data is set out in my **privacy notice**, which can be found here **[https://www.pauljsweeney.com/privacy-membersbill].** Please confirm that you have read the privacy notice by ticking the box below.

☐ I confirm that I have read and understood the **privacy notice** (referred to above) to this consultation which explains how my personal data will be used.

If a respondent is under 12 years of age, I will need contact you to ask your parent or guardian to confirm to us that they are happy for you to send us your views.

☐ Please tick this box if you are under 12 years of age.

I may also edit any part of your response which I think could identify a third party, unless that person has provided consent for me to publish it. If you wish me to publish information that could identify a third party, you should obtain that person's consent in writing and include it with your submission.

If you consider that your response may raise any other issues under the GDPR or other data protection legislation and wish to discuss this further, please contact me before you submit your response.

Further information about data protection can be found at: www.ico.gov.uk.