

Drug Death Taskforce - Drug Law Reform – Phase One Engagement Scottish Association of Social Work Response

11th February 2021

Social work is about life, treasuring humanity, building connections, sharing, and promoting fairness. It is about creativity, care, and love – being there to help people overcome obstacles and oppression that hold them back. For people using our services, a social worker should be someone to trust and believe in – someone who helps you believe in yourself. Sometimes we must hold boundaries, protect rights, advocate, and challenge. We are always in the midst of the messy stuff, finding ways forward.

Ruth Allen, CEO British Association of Social Workers, 2018

The Scottish Association of Social Work (SASW) is part of the British Association of Social Workers, the largest professional body for social workers in the UK. BASW UK has 21,000 members employed in frontline, management, academic and research positions in all care settings. There are over 10,000 registered social workers in Scotland around 1,500 of whom are SASW members. This comprises staff working in local government and the independent sector, across health and social care, education, children and families, justice services, as well as a growing number of independent practitioners.

SASW's key aims are:

- Improved professional support, recognition, and rights at work for social workers,
- Better social work for the benefit of people who need our services, and
- A fairer society

Key points:

Social workers support people who use drugs, their families, and communities across Scotland. They write background reports for the Courts and deliver community-based sentences for people convicted of drug offences. They work to protect children affected by parental substance use and people affected by domestic abuse including where drug use is a factor. The precursors that lead to substance use, include poverty, marginalisation, and trauma. Shifting away from a punitive approach to drug use and addressing these social factors will allow meaningful change to take place. SASW supports this conversation about potential alternatives to Scotland's very legalised response to the use of drugs, recognising that it is time for public policy and our legislation to set a new and more positive direction. We are not wedded to any specific framework or means – what is most important is for better outcomes for individuals, families and communities moving forward.

- 1) Drug use is a social issue. Once users are enabled to live as full citizens, with positive relationships, financial security and hope of a meaningful life, effective change will begin to take place. Health treatment is important, and vitally necessary, but only a small part of the picture.
- 2) Substance use and addiction is a response to environment, deprivation, poverty, adverse experience, trauma, and mental health needs.

- 3) Inequality and deprivation are precursors to drug use. Once we address these issues and ensure people are supported to engage meaningfully with employment and education, and have access to adequate housing, we will see a positive impact on prevention, and subsequent recovery.
- 4) No one has ever been punished out of addiction. Discourse around drugs as a “lifestyle choice” fails to address the impact of deprivation, trauma, and mental health and ignores the fact that punitive approaches to substance use do not work.
- 5) We must move away from a culture of stigma, which can lead to further marginalisation for those who experience addiction. Stigma reduces the likelihood that people seek treatment, affecting subsequent opportunities for employment and positive citizenship.
- 6) Treatment based on abstinence leads to an all or nothing approach to treatment and support. It does not recognise that relapses during recovery are not failures and support needs to be “sticky” when people struggle to turn up or engage.
- 7) The criminalisation of drug use builds in further trauma and disadvantage as well supporting a black economy linked to wider social harms.
- 8) The use of prison sentences (which do not break the cycle of substance use) has resulted in Scotland having the highest rate of incarceration in Western Europe. Public resource should be diverted to deliver more effective support services.

SURVEY RESPONSE

1 What interventions or approaches do you believe would reduce harm for people who use drugs, but are currently prevented by the law? For each intervention/approach, what is the legal barrier?

Intervention/approach that would reduce harm	Aspect of the law of justice system that causes the barrier
Drug consumption rooms	Law related to possession, charging of offences, prosecution
Safe testing of substances for users available in ways that do not stigmatise and are easy to reach. Should test strength, impurities, etc	Law related to possession, charging of offences, prosecution
Decriminalisation to reduce or remove the impact of criminal records, volume of community sentences and number of people in prison	Sentencing for drugs offences
Trauma informed responses to mental health and substance use. Separation of the health response to drug use from the justice response.	Law related to possession, charging of offences, prosecution. The attendance of police at A&E for instances involving drug use should stop

Recognition of the link between harmful drug use and poverty and deprivation	Amend the focus on the treatment following an offence and focus on the driver of inequality and lack of opportunity in communities hit hardest by harmful drug use.
Social model approach to understand the unique social circumstances and needs of an individual, their family and community.	Medicalisation of drug use and the responses to it.
Recognition that people who use drugs are very often living chaotic lives with unstable housing, lack of social support and limited financial means as a result of addiction.	Services that require people to attend promptly at certain times and are not open at times of day when people using drugs may be more able to engage. Services and sentences that expect people using drugs to be able to keep to time and manage bureaucracy effectively are designed to fail.

2) In your experience, what barriers do the current law, or the justice system create to achieving each of the following? For each barrier, what aspect of the law or justice system prevents better outcomes being achieved?

	Barriers	Aspect of the law or justice system that causes the barrier
Encouraging people who use drugs to do so as safely as possible	The law forces people to use drugs secretly and away from supports.	Drug legislation around possession and the classification system
Encouraging people with drug use problems into treatment	Treatment can be forced on a person when they may not be ready for the challenge – for example, the imposition of drug treatment and testing orders (DDTOs). Treatment is focused on abstinence so there is no legal or policy opportunity for meaningful harm reduction. The way that clinics are set up means that dealers and users who wish to reduce/abstain attend at the same service. This leads to complications: the clinic is not a safe space and the potential for coercion increases.	A realistic approach as to what arrest referral services or Court mandated services can achieve. People who use drugs should have a statutory right to support and treatment to reduce harm to themselves and to others. Public bodies should be resourced to deliver prevention and early intervention based on harm reduction rather than abstinence. Where participants in services are reluctant, flexibility and intensive services would be more effective.
Consistently providing the right support and treatment options at the right time to people	People can access services in the community or in prison in a range of ways, but if they are remanded or in custody, this can stop.	Give consideration to the process of remand and short sentences and a duty to provide support in custody, if it is needed and use more holistic,

	Barriers	Aspect of the law or justice system that causes the barrier
		community sentences rather than short prison sentences. Whether people are remanded or sentenced in the prison setting, treatment and support must be enabled to continue without interruption. Whilst there is good access to medical support in our prisons, the connections between poor mental health, trauma, and the impact of prison, and how people in prison spend their time each day needs serious consideration if we intend to be more effective.
Looking after the general physical and mental health of people who use drugs	Access to health supports and rescue medication to enable safer use of substances – clean equipment, safe spaces to use and access to health supports. A holistic approach must include access to nutritious food, good quality housing, development opportunities, education and employment.	Alterations to drug legislation and classification system. Mandatory rescue medication training for all health and social care staff, rolling programme within services to upskill service users and access to community food and health resources on a statutory basis.
Helping people who use drugs to live well in their communities	Promotion of recovery cafes and community businesses to offer a rehabilitation/ training element to recovery. Focus on harm reduction rather than abstinence only.	Statutory duties on local HSCPs to provide community resources.
Engage with people who use drugs in ways that are non-judgemental and do not perpetuate stigma	Mandatory training for all health, social care, police, justice services etc, on trauma, mental health, substance use etc. Impact of a criminal record on future work opportunities.	Resources. Legislation around possession and disclosure
Ensure communities and public spaces are safe, clean and support wellbeing	Safe spaces to use, needle exchanges, community cafes etc.	Statutory duty in legislation and resources

3) **What legislative change would enable you to provide better services? Why is this necessary and/or how will the change enable better services?**

Legislative Change	How will it enable you to provide better services
Not legislative as such but change the Heat Targets as they do not work in terms of engaging treatment.	Redesign services so that they are a one-stop shop for everyone to access a range of supports at the pace and time they need. Operate longer hours to cater for those that are chaotic and for those that 9-5 services do not reach. Make services a safe space where police will not come to serve warrants etc. Make services accessible and well designed so that there is the ability for people to come in and not everyone knows why they are there. Have community cafes and food hubs there as well as drop-in health clinics to boost health and nutrition
Not legislative change but make sure all food banks cater for alcohol and drug users	Boost nutrition and health of substances users. Include drug use as a mental health disability so that people cannot be refused supports only due to their drug use.
Mandatory training programme for health, social work, social care, police and justice services on substances and the ways that this can be made safer.	If this were part of all education and training programmes for these professions, there would be a common baseline for delivering a more supportive cohesive service.
Require and resource social services to ensure that families are supported to stay together where this can be achieved. This will need a change in the way risk is viewed; with the risk of staying together weighed against the risks to the children of being removed.	Reduce the child and adult protection issues and allow services to work with the whole family. Change the mind set of services to enablement/positive risk rather than punishment/risk aversion

- 4) What might the potential benefits or risks of: a) Decriminalising drug possession for personal use, i.e., possession for personal use is no longer a crime, and no sanction would apply; b) Decriminalising drug possession for personal use, i.e. possession is no longer a crime, but may receive a non-criminal sanction, such as a civil fine. In both a and b, production and supply remain crimes; c) legalising possession for personal use, and allowing regulated production and sale for certain drugs?

	Potential benefits to public health, recovery or justice outcomes	Potential risks to public health, recovery or justice outcomes
Decriminalising drug possession for personal use, removal of criminal sanctions, production and supply remain crimes	<p>Safer access to substances and less hidden use would lead to better access to emergency support and rescue services when needed.</p> <p>Reduction in criminal records, community and prison sentences for people who use would support redirection of public funds to recovery as well encouraging people into employment and positive citizenship.</p>	<p>People view substances as safer to use. This might increase use which might become harmful for some.</p>
Decriminalising drugs for personal use, replacing criminal with non-criminal sanctions, production and supply remain crimes	<p>People do not end up in the criminal justice system. There is no criminal record that impacts on future employment.</p>	<p>People do not comply with the non-criminal sanctions and this results in criminal sanctions. Sanctions might include fines which people will struggle to pay.</p> <p>We do not recommend this approach as such initiatives often end by up-tariffing people in the justice system when they default on sanctions.</p> <p>If we intend to treat drug use as a public health issue, non-criminal sanctions will continue to stigmatise and reduce the likelihood of people seeking support.</p>
Legalising and regulating the drugs market for certain drugs	<p>All of the above and: Improved substance quality reduces the risk of contaminated substances. The black economy would shrink.</p> <p>Standardised strength of substances would reduce overdose risk.</p>	<p>People view substances as safer to use. This might increase use which might become harmful for some.</p>

	Potential benefits to public health, recovery or justice outcomes	Potential risks to public health, recovery or justice outcomes
	The tax generated from legal supply supports services for people whose use becomes harmful.	

The Scottish Government is interested in the potential for further consultation with the general public on drug law reform issues. What topics do you think it would be important to recommend they include in such consultation?

The roll out of rescue medication, and community hubs/cafés.

It is important to us that people whose lives are affected by drugs have their views and experiences heard through the forthcoming public consultation. What suggestions would you make to help ensure we engage with this group effectively?

Roll out via needle exchanges, hep c clinics and homeless charities who engage with rough sleepers. Engage the voluntary and third sector in the discussions and get them on board as well as drug rehab services and statutory addiction services.

Do you have any additional comments you would like us to consider as part of this engagement exercise?

This consultation has focussed on the legislative changes needed to improve Scotland's effectiveness in reducing deaths from drug use. Whilst legislation is a hugely important element of the changes required across the system, it will not be enough, alone, to have the impact we all hope for.

Harmful drug use is most damaging to communities already struggling with disadvantage, poverty, and marginalisation. Social inequalities enable and maintain this. It is a political decision as to how much inequality our society decides to accept around the causes of harmful drug use. Drugs use impacts on individuals, their families, and communities. Historically social services (including social work) have often separated and categorised people who use drugs as a separate set of people rather than as parents, people with mental health needs, older people and so on. People who are leading chaotic lives and cannot engage with services have been effectively written off rather than services designing their offer around the person and their capacity to make healthy choices.

Problematic drug use arises from social circumstances and can only be supported properly when social supports and treatment services respond to individual needs and capacity and a holistic and intersectional approach. SASW supports the notion of a "public health" model of radical reform around our drugs laws, justice system and health and social care but stresses the risks of viewing drug use as a "health" rather than a social issue.

No one has ever been punished out of addiction. Our current legal and justice systems penalise and stigmatise for life. These must change but so must our language about the supposed "choices" made by people with harmful drug use and our unreasonable expectations of many who cannot commit to abstinence. Harm reduction is a road that

would lead to fewer deaths and less need for emergency and chronic health treatment and resource should be re-directed towards this.

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