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Copy: Rt Hon Nicola Sturgeon MSP, First Minister of Scotland; Keith Brown MSP, Cabinet Secretary for Justice and Veterans.

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**Drug Deaths Taskforce: Report on Drug Law Reform**

Available at: <https://drugdeathstaskforce.scot/>

Dear Angela,

We are writing to share our latest report on Drug Law Reform that was published on the 6 September 2021. This work explores how the existing drug legislation and its use impacts on Scotland's unique drug deaths challenge.

The report is a result of an extensive engagement exercise and consideration of a wide range of evidence. It summarises consensus views of over one hundred organisations and individuals on the legal framework and its implementation. We heard from experts in the field from the Drug Deaths Taskforce, Alcohol and Drug Partnerships, Community Justice Partnerships, lived experience representatives, family members and third sector organisations.

Members of the Drug Deaths Taskforce have reviewed this evidence and we believe the conclusions build on the work undertaken by others in this area, including the Scottish Affairs Select Committee, the Westminster Health and Social Care Committee and, more recently, the Royal College of Physicians of Edinburgh.

In a similar manner to these preceding reports and inquiries into current UK drug laws our report concludes that a root and branch review of the Misuse of Drugs Act 1971 is urgently required. It asks for a range of specific legislative changes, in particular the introduction of safer drug consumption facilities, the reclassification of naloxone and a widening of provision of drug paraphernalia to enable safer drug consumption. There is also a need for changes to regulations controlling the dispensing, prescribing and supply of controlled drugs and controlling of the supply of pill presses that are linked to the mass production of dangerous cheap pills. These examples, amongst others, highlight where the current law acts as a barrier to the implementation of a real public health approach that is sorely needed.

The engagement exercise was broadly supportive of decriminalisation and legalisation. It was however highlighted that this is a complex issue that raises complicated challenges and careful consideration, engagement and consultation on a wider scale is required.

We are writing to the UK Government separately on this matter and we would encourage the Scottish Government to continue press and work with the UK Government on necessary changes to the current legislative challenges. Both of these letters will be published on the Drug Deaths Taskforce website.

Professor Dame Carole Black's independent review of drugs highlighted that many areas need reformed within the constraints of the current law. Our report also drew out what can be done without changes to the current legislation. These include how existing services can be improved such as support and treatment in prisons, the reintroduction of throughcare support officers and the expansion of Recorded Police Warnings. Changes to practice to support family inclusive practice, holistic support and the removal of stigma are also recommended.

There is a requirement for national support, funding and leadership to help with widespread implementation of evidence based initiatives such as heroin assisted treatment and drug checking facilities that can operate under current legislation. Further work to progress new initiatives such as tolerance zones could help people access treatment without fear of prosecution, and new alternatives to remand and imprisonment should be considered.

The Scottish Government's renewed focus through the National Mission and additional investment are welcome. This report should be seen as a platform to further action and the Drug Deaths Taskforce feel that it can provide part of the solution and a real opportunity to think about how we direct resources to where they are needed most.

A cultural change surrounding the law is also required in Scotland and it is time to consider what the outcomes would be from the implementation of new drug laws including consideration of the principles on which they should be based. Scotland has one of the highest prison populations in Western Europe and although the numbers in the UK and much of Europe continue to rise, Scotland is particularly affected by drug-related deaths. There is an overarching question around why we are criminalising people with multiple complex needs who experience serious disadvantage. It is vital that we can move toward a public health approach and away from crime and punishment and treat people who use drugs with respect, helping them to not only survive but to thrive. If we are serious about change it is critical that we tackle the underlying causes of drug use including poverty and inequality.

The thirty proposals from the report are attached to this letter. We feel that the recommendations for Scottish Government and its partners are realistic, actionable and necessary to help tackle Scotland's drug deaths emergency. We would encourage you to explore all options to deliver these interventions that are supported by our extensive evidence. We would be very happy to discuss any of these, alongside how to take the second phase of this work on drug law reform in Scotland forward in more detail, should that be helpful. This work begins a national conversation on drug law reform in Scotland and we would be keen to work with and develop an action plan alongside the Scottish Government and its partners to develop a response to these proposals.

We look forward to your response.

Yours sincerely

**Catriona Matheson:** Chair of the Drug Deaths Taskforce

**Neil Richardson:** Vice Chair of the Drug Deaths Taskforce and Chair of the Criminal Justice and the Law Sub Group.

## Drug Deaths Taskforce: Drug Law Reform Conclusions Table

<b>Prisons:</b> <i>Many people in Scotland's prisons are repeat offenders and many also have substance use problems</i>	<b>Lead Organisations</b>	<b>Timescale</b>
1. Further work is needed to ensure holistic support is provided for people with multiple complex needs, including exploring the reintroduction of throughcare support officers. The Taskforce asks that options for sustainably funding a reinstated throughcare service are explored.	Scottish Government and Partners	Medium
2. Scottish Government should work with the Scottish Prison Service to end Friday liberations from custody, implementing a blanket policy of no liberations on a Friday or in advance of a public holiday. It should also explore ways to support individuals released directly from custody.	Scottish Government and Partners	Medium
3. Further exploration of alternatives to remand and imprisonment should be considered, including bail supervision and residential rehabilitation.	Scottish Government and Partners	Medium
<b>Pill Presses:</b> <i>The production of illicit pills, including atypical benzodiazepines, cause significant harm</i>	<b>Lead Organisations</b>	<b>Timescale</b>
4. Progress is required to ensure the regulation of pill presses, including a suitable licensing system to reduce related harm.	UK Government	Medium
<b>Tolerance Zones:</b> <i>Practical policing decisions, such as physical patrols can significantly influence people's perceptions and decisions about drug use and service engagement.</i>	<b>Lead Organisations</b>	<b>Timescale</b>
5. The possibility of tolerance zones should be explored where police agree not to make active patrols or use stop-and-frisk powers in the vicinity of certain services.	Scottish Government and Partners	Long
<b>Recorded Police Warnings:</b> <i>The Lord Advocate issues Guidelines to the police in relation to the operation of the scheme and in particular which offences may be considered as eligible for a Recorded Police Warning.</i>	<b>Lead Organisations</b>	<b>Timescale</b>
6. The Drug Deaths Taskforce would support consideration of the extension of Recorded Police Warnings in relation to drug possession offences to cover all classifications of drugs and concludes that there would be value in work by the Scottish Government, Police Scotland and COPFS to increase understanding of the scheme.	Scottish Government and Partners	Short
<b>Drug Testing and Treatment Orders:</b> <i>People subject to a Drug Testing and Treatment Order may engage relatively well with support but may still test positive for illicit substances.</i>	<b>Lead Organisations</b>	<b>Timescale</b>
7. Scottish Government should review DTTOs to assess how they have been used, their outcomes and whether they are the most effective mechanism to support an individual's recovery and reduce recidivism rates.	Scottish Government and Partners	Medium
8. Scottish Government should also work with the Judicial Institute to improve understanding of how to best support an individual's recovery journey.	Scottish Government and Partners	Medium
<b>Diversion from Prosecution:</b> <i>If successful, diversion avoids a person receiving a criminal sanction, and could provide a route to targeted person-centred support if sufficient resources are made available.</i>	<b>Lead Organisations</b>	<b>Timescale</b>

9. Scottish Government should work with partners to ensure that all people have access to well resourced, high quality services following diversion, taking a multi-disciplinary, holistic approach to support. Increased funding should be provided to support this.	Scottish Government and Partners	Medium
10. Training should be given to ensure that those who work in this area understand the challenges of engagement for people with dependency issues and give individuals multiple opportunities for recovery.	Scottish Government and Partners	Medium
<b>Navigators and Peer Support:</b> <i>The wider literature points to the significance of peer support in strengthening connections to communities and highlights the importance of human connections.</i>	<b>Lead Organisations</b>	<b>Timescale</b>
11. The Drug Deaths Taskforce will continue to explore the use of navigators and peer support workers and make a recommendation on the best model for a national navigator service.	Scottish Government and Partners	Medium
12. In the interim, the national expansion of the MAV hospital navigator programme should be pursued, taking a particular interest in substance use.	Scottish Government and Partners	Short
<b>Safer Drug Consumption Facilities:</b> <i>The evidence shows that these facilities are known to prevent overdose deaths, lead to safer drug use practices and promote engagement with wider services.</i>	<b>Lead Organisations</b>	<b>Timescale</b>
13. The Taskforce supports the introduction of safer consumption facilities in Scotland. The UK Government should consider a change to the legislative framework to support their introduction.	UK Government	Medium
14. In the interim, the Scottish Government should explore all options within the existing legal framework to support the delivery of safer consumption facilities. The Scottish Government should also take steps to increase public understanding of such facilities.	Scottish Government and Partners	Short
<b>Heroin Assisted Treatment:</b> <i>Prescribing heroin is legal and operational in Glasgow but this needs to be expanded.</i>	<b>Lead Organisations</b>	<b>Timescale</b>
15. The Taskforce supports the devolution of licensing for HAT premises to allow the single-office co-ordination of premises and prescriber licensing and the Scottish Government should support and promote a national roll out for HAT.	UK Government/ Scottish Government	Medium
<b>Drug Checking Facilities:</b> <i>More should be done to make these facilities widely available to those working with people who use drugs and address challenges with accessing licensing for these services.</i>	<b>Lead Organisations</b>	<b>Timescale</b>
16. Licensing of drug checking facilities should be reviewed to ensure that the licensing of drug checking services is open, transparent and accessible, and in line with a health based approach.	UK Government/ Scottish Government	Medium
17. The Scottish Government should support drug testing nationally and work with local services to ensure it is available.	Scottish Government and Partners	Medium
<b>Drug Paraphernalia:</b> <i>Drug treatment services including Injecting Equipment Provision should be allowed to supply all</i>	<b>Lead Organisations</b>	<b>Timescale</b>

<i>items necessary for safe injecting and related drugs paraphernalia.</i>		
18. The UK Government should amend the Misuse of Drugs Act 1971 or Misuse of Drugs Regulations 2000 to allow for the legal provision of a wider range of drug paraphernalia through harm reduction and treatment services, to enable safer drug consumption.	UK Government	Medium
19. In the interim, the Scottish Government should explore all options to support this provision.	Scottish Government and Partners	Short
<b>Naloxone:</b> <i>Scotland has led the way in developing local and national naloxone supply schemes that have made a significant contribution to reducing harm.</i>	<b>Lead Organisations</b>	<b>Timescale</b>
20. The UK Government should support permanent reclassification of naloxone to make it easier to provide supply.	UK Government	Medium
21. In the absence of a full reclassification, the Scottish Government should work closely with the UK Government to ensure that the changes planned reflect the breadth of the existing statement of prosecution policy in Scotland.	Scottish Government and Partners/ UK Government	Medium
22. In the interim, the Scottish Government should also engage with the Lord Advocate in relation to the extension of the current statement of prosecution advice.	Scottish Government and Partners	Short
<b>Families:</b> <i>Engagement from the family members is welcome and we will continue to learn as its work reflect strongly the direction and ambition of the Taskforce.</i>	<b>Lead Organisations</b>	<b>Timescale</b>
23. Justice partners should support the adoption of the Stigma Strategy, trauma informed and family inclusive practice and the adoption of distress based interventions.	Scottish Government and Partners	Medium
<b>Dispensing and Prescription Forms:</b> <i>There are concerns over the Misuse of Drugs Regulations 2001 lack of flexibility and the impact on patient care and additional burdens for prescribers.</i>	<b>Lead Organisations</b>	<b>Timescale</b>
24. The Taskforce supports prescribers call for a review of the regulations on dispensing and prescription forms to take account of clinical and technological advances since implementation in 2001.	UK Government	Long
<b>Supply Disruption for Controlled Drugs:</b> <i>It was highlighted that temporary measures had been introduced to ensure continuity of treatment if supplies are disrupted.</i>	<b>Lead Organisations</b>	<b>Timescale</b>
25. The UK Government should extend the temporary COVID-19 measures put in place to support the resilience of medicine supplies and treatment continuity to cover a wide range of public health and other emergencies.	UK Government	Short
<b>Equality Act 2010:</b> <i>The Equality Act 2010, in keeping with the Disability Discrimination Act 1995, excludes those identified as drug and alcohol 'addicted' from the scope of provisions prohibiting discrimination against disabled people.</i>	<b>Lead Organisations</b>	<b>Timescale</b>
26. A transparent review is needed of the exemption set out in S3.1 of the Equality Act 2010, (Disability) Regulations 2010 to explore the impact of this exemption and whether it best serves people suffering from addiction, what the implications of removing it and making addiction a protected characteristic would be.	UK Government	Medium

<b>Misuse of Drugs Act 1971:</b> <i>The Misuse of Drugs Act 1971 is incompatible with a public health response to problematic drug use.</i>	<b>Lead Organisations</b>	<b>Timescale</b>
27. A root and branch review of the Misuse of Drugs Act is needed, taking a public health approach, and reforming the law to support harm reduction measures.	UK Government	Long
28. If the UK Government are not willing to reform the Misuse of Drugs Act, it should commit to exploring all available options openly with the Scottish Government to enable Scotland to take a public health approach.	UK Government/ Scottish Government	Medium
29. Meanwhile the Scottish Government should do more to maximise flexibility under the current legislation.	Scottish Government	Short
<b>Further Engagement:</b> <i>This engagement exercise is the first phase of two phased Drug Law Reform review.</i>	<b>Lead Organisations</b>	<b>Timescale</b>
30. Further consultation should be undertaken in the second phase of the engagement exercise, exploring: <ul style="list-style-type: none"> <li>• The public’s perceptions of drug policy and opinions on what our guiding principles should be when developing policy and legislation.</li> <li>• People’s thoughts on relaxing the laws around drug possession offences, such as decriminalisation or legalisation and regulation.</li> <li>• Gauging public support for the harm reduction measures currently restricted by the Misuse of Drugs Act or related regulations.</li> <li>• User engagement to understand how the law impacts people’s willingness to access services.</li> </ul>	Scottish Government	Long