

**Homeless
Network
Scotland**
we are all in

**Right to Addiction
Recovery (Scotland) Bill**
Briefing and Consultation

**Save
the
Date**

14 December 2021 - 10am to 12pm - online



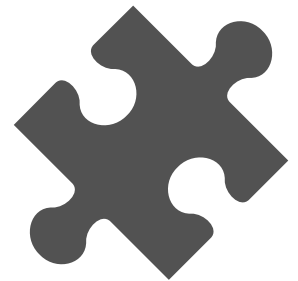
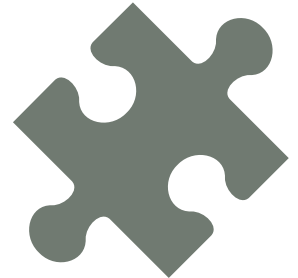
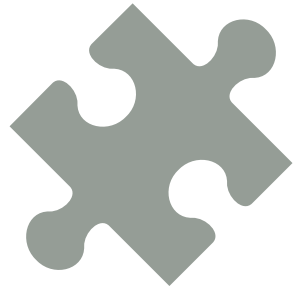
1,339 people lost their lives to a preventable drug overdose in Scotland 2020.

Highest in Europe and **3.5x** higher than the rate for the UK as a whole.

At least **256** people died while homeless in Scotland 2020.

59% were drugs-related deaths.

[National Records of Scotland]



Range of work elsewhere...

Drugs Deaths Taskforce... Minister for Drug Policy...
Scottish Government National Mission and new £250m
investment... Residential Rehabilitation Working Groups...
Naloxone Awareness... MAT standards... #StoptheDeaths...
#YouKeepTalking... NHS Inform Stigma Campaign...

Task in hand today:

- Learn more about and explore the **proposal to legislate** for a right to recovery treatment.



Running Order 1/2

- 10:00** **Welcome and Outline of Today's Session**
Maggie Brunjes, Homeless Network Scotland
- 10:10** **Process of Members' Bill**
Ruth Whatling, HNS/Scottish Government
- 10:20** **Questions or Comments**
- 10:30** **The Right to Addiction Recovery (Scotland) Bill**
Stephen Wishart, Advisor and Activist



Running Order 2/2

- 10:55** **Reflections on Ending Homelessness Together**
Janine Kellett, Scottish Government
- 11:00** **Questions or Comments**
- 11:15** **Breakout Rooms - discussion questions**
- 11:45** **Full Room - swap notes**
- 12:00** **CLOSE**



Members' Bills



What is a Bill?

- A Bill is a proposal for a new law or a major change to an existing one.
- Most Bills are introduced to the Scottish Parliament by the Scottish Government.
- A Bill becomes law once it is agreed by the Scottish Parliament and then by the Queen. From then on it becomes known as an Act.
- Once an Act is in place, subordinate legislation is needed to start it working.





What kind of Bills are there?

- Public Bills:
 - Government Bills
 - Members' Bills
 - Committee Bills
- Private Bills
- Hybrid Bills
- Emergency Bills





Members' Bills (1)

- Introduced by Members of the Scottish Parliament who are not Scottish Government Ministers.
- Before a Members' Bill can be introduced, the MSP must first submit, or “lodge” a proposal. A proposal is a short outline of what the Bill would do.
- The MSP must consult with the public on the proposal for at least 12 weeks.



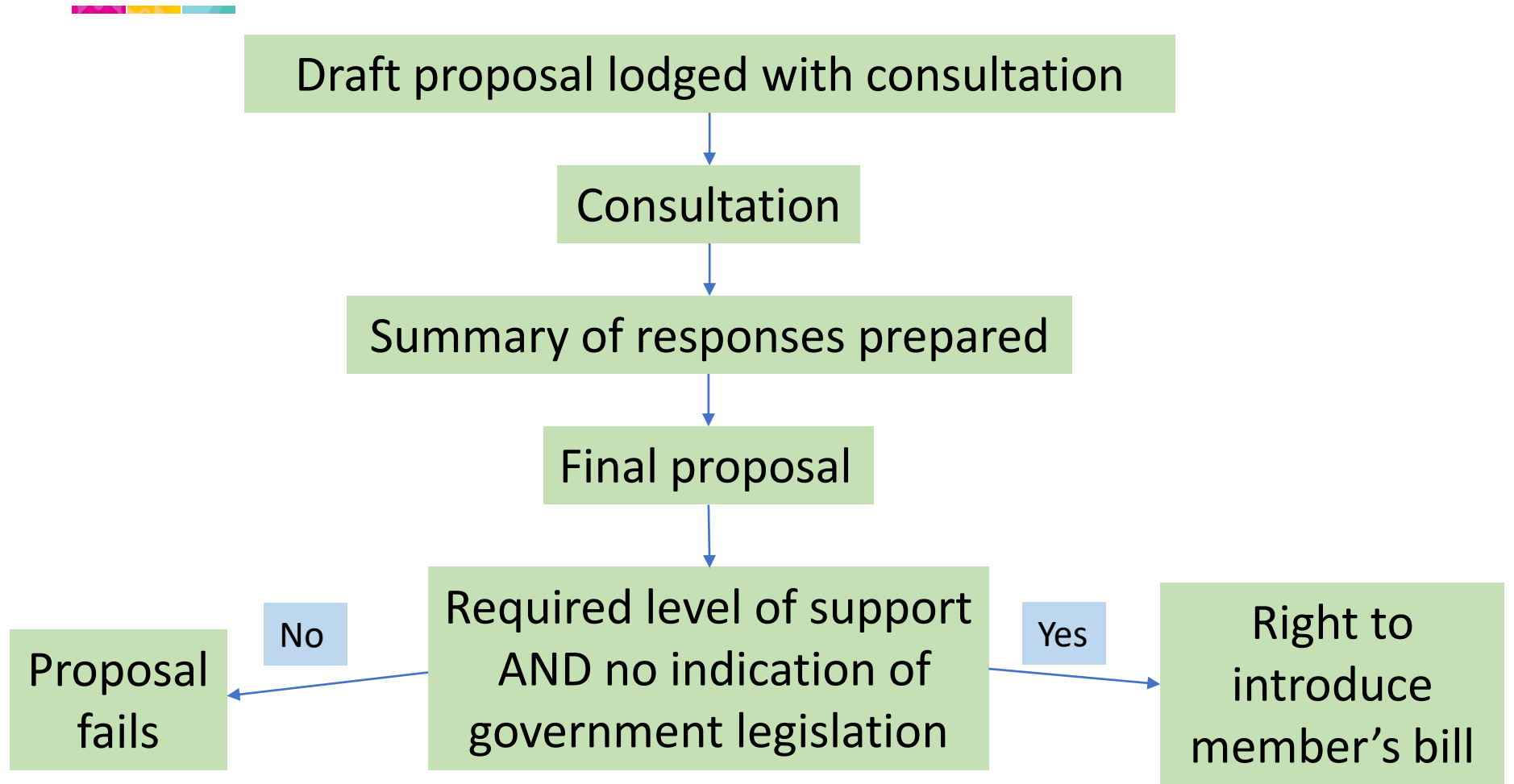


Members' Bills (2)


- All responses are considered, and a final proposal submitted.
- The final proposal includes a summary of responses and the actual responses.
- Final proposal is in the Business Bulletin for a month, then Member can formally introduce the Bill provided two conditions are met:
 - Sufficient cross-party support, *and*
 - The Government have not indicated that they are planning to introduce legislation giving effect to proposals.



Members' Bills Process



Subsequent process



Stage 1: the bill is sent to a Parliamentary Committee for consideration, witnesses are invited and the committee writes a report. Parliament considers the general principles and the report and votes.

Stage 2: detailed line-by-line scrutiny, witnesses, evidence and amendments.

Stage 3: considered by whole Parliament, amendments can be made. Can refer back to stage 2. Parliament votes on bill. Four-week period for possible challenge.

Royal assent – signed by monarch before becomes law.





Q&A

The Drug and Alcohol Treatment (Scotland) “Bill”

**AKA: The Right to
Addiction
Recovery
(Scotland) “Bill”**

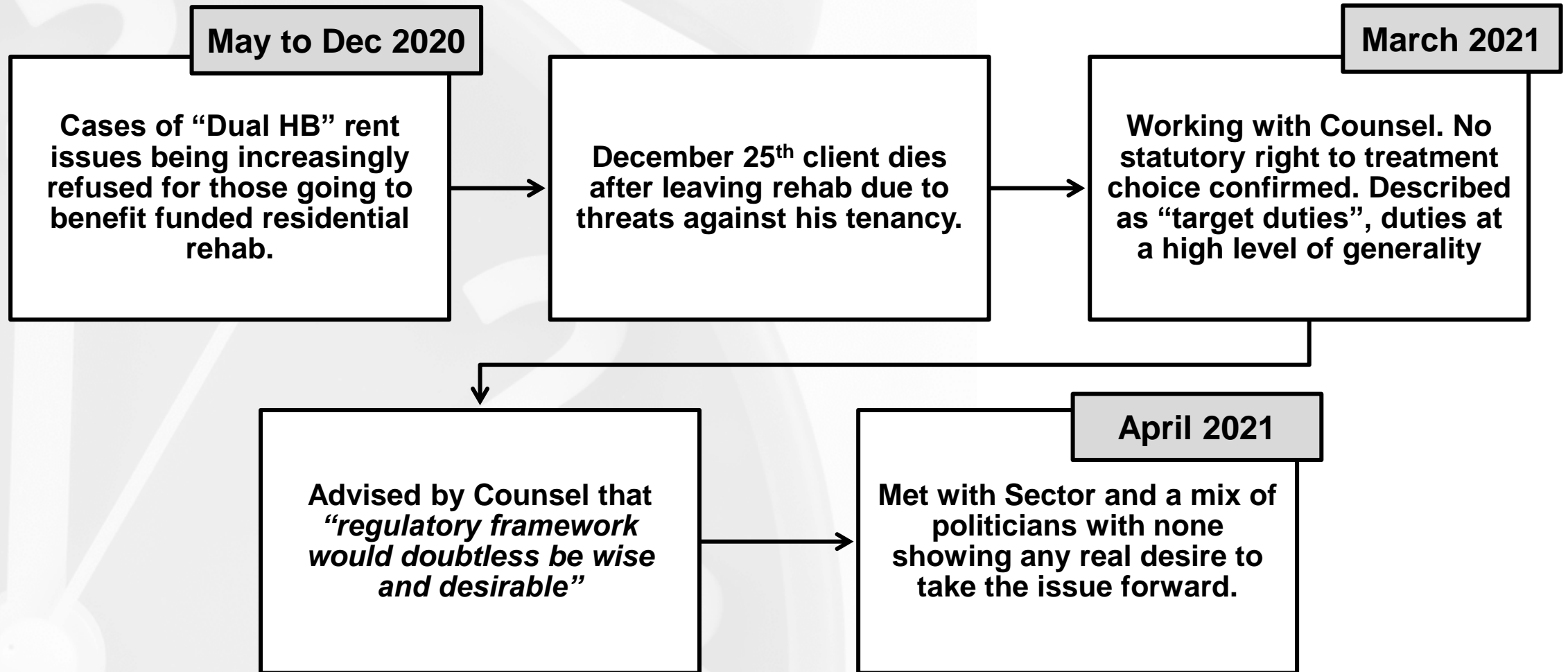


A faded, light-colored background image of a person, likely a woman, holding a pair of scales of justice. The person is wearing a crown and a long, flowing garment. The scales are held in their right hand, and the person's left hand is raised, holding a scroll or document. The overall tone is light and ethereal.

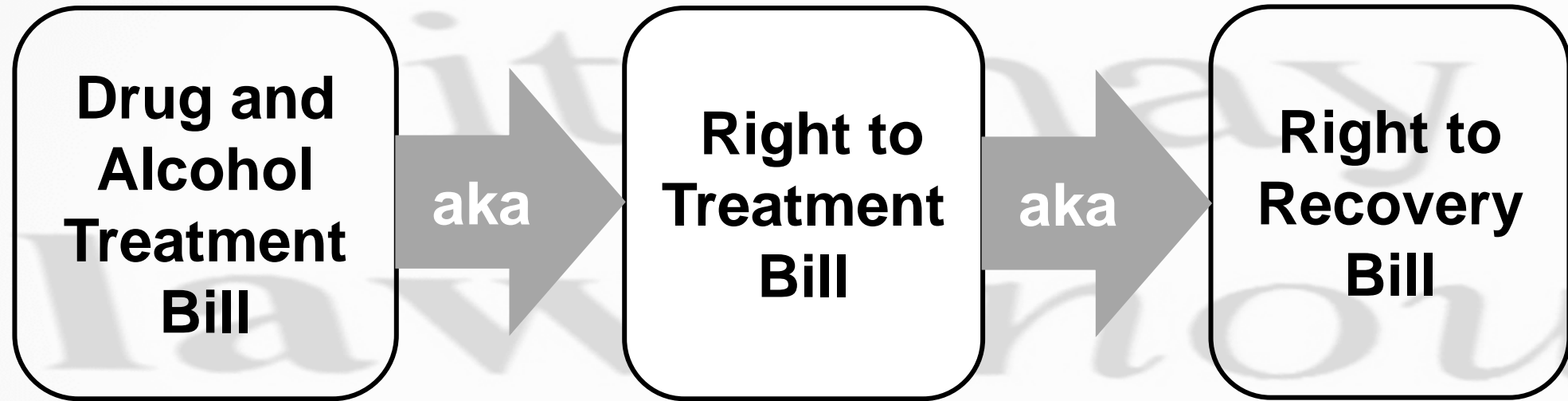
***“It is never wrong
to fight for what is
right, never!”***



Timeline



So, in April 2021.....



.....and so on







“What rights will it bring”?



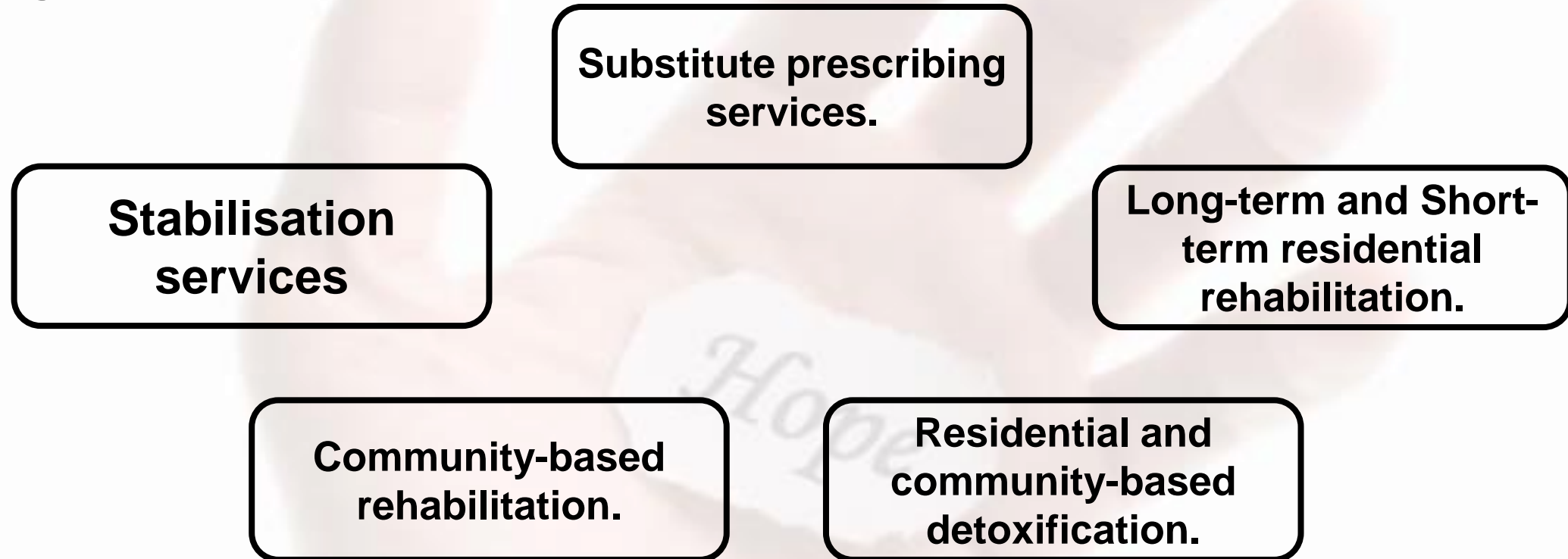
General Principles

1. Any individual seeking addiction and/or substance misuse treatment is able to quickly access their preferred, and suitable, treatment option.
2. No individual shall be denied access to their preferred addiction and/or substance misuse treatment option, unless a medical professional deems it would be harmful to the individual.
3. Should an individual request an addiction and/or substance misuse treatment option and be refused, they are entitled to a written explanation detailing why it would be harmful or ineffective.



Access to?

All agreed treatment options, so subject to change, but currently all options listed under the following:



...and importantly

'Any other forms of treatment as a health professional may deem appropriate, in line with guidance from the Scottish Ministers'.

Hope



What decisions can't be based on

The Bill would seek to prevent individuals seeking drug and alcohol treatment services from being refused access for reasons including, but not limited to:

A medical history of substance misuse.

A criminal history involving substance misuse.

The outcome of a mental health assessment.

The individual currently being in receipt of substitute prescribing services

The individual currently still undertaking alcohol and/or drug misuse.





***“So, why legislate if people in addiction
already have some rights?”***



Some that have been mentioned:

Article 2 of the European Convention on Human Rights “Right to Life”

Equality Act 2010

Patient Rights (Scotland) Act 2011



Are they possibilities?

A Human Rights challenge - Would need to look at multiple angles, including potential risk of life issues.

Equality Act 2010 challenge – Addiction is a condition not to be regarded as impairment, unless it's a consequence of a medically prescribed drug.

Summary - both of the above would be on a case by case basis and not applicable to everyone.



Are they possibilities?

Patient Rights (Scotland) Act 2011 – Section 20 “*Protections and limitations*” mean that nothing in there gives rise to liability to pay damages, right of action for specific implement, right of action for specific performance of a statutory duty, right of action for interdict or right of action for suspension.

Basically no accountability made which breach this “Act”.



Examples.....

J – taken off his prescription benzo's by his new GP despite advising he was addicted and begging not to. Struggled and bought some "off the street". Found dead, his dog sitting on his chest crying.

S – diverted onto a DTTO. Begged for rehab, as she wanted to "be clean", and instead told to stabilise on 50ml of methadone. She was found dead a few weeks later.

...neither had the legal right to challenge the decision making above



Case studies.....

J – was on 40ml of methadone and a prescription diazepam reduction. Suffered from the impairment PTSD due to historic childhood trauma. Begged to be allocated rehab and his wishes were ignored despite stating he was unable to reduce further in the community. PSED challenge raised with his addiction team and ignored 3 times. Advising his worker to go down a complaints route if they didn't like it.

...he didn't have the legal right to challenge this with a direct judicial challenge



Looking elsewhere at “rights”

We must look at similar pieces of domestic legislation where even though people had “*some*” rights we had to amend them.

The most obvious, to us in Housing:

The Housing (Scotland) Act 1987 prescribes homeless rights.

- In 2012 we had to remove “*priority need*” from the Housing (Scotland) Act 1987, so all homeless people had the same rights and the only requirement was to be homeless.
- Under Section 29 homeless people have the right to interim accommodation, yet we applied the Unsuitable Accommodation Order 2014.
- 2019 we made “*Intentionally homeless*” a discretionary decision alongside “local connection”. Both now a power and not a duty. .

Each of these done so as to ensure vulnerable people got the help they needed, when they needed it.



If it was like housing.....

Imagine a Housing (Scotland) Act where you were entitled to a house in a general sense, with no other legally enforceable provision on what that needed to be.

Imagine there is no:

**Tolerable
Standard**

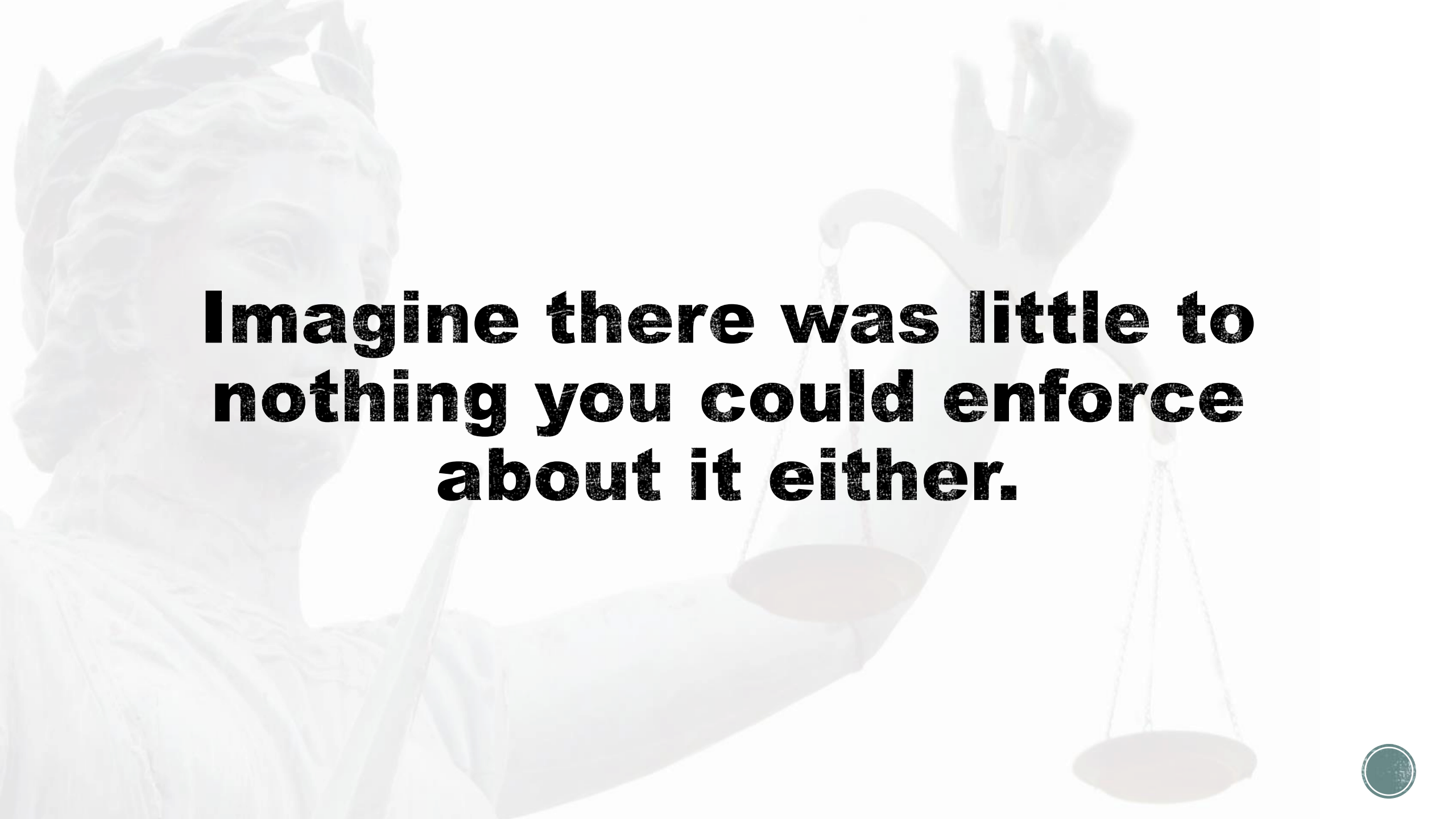
**Repairing
Standard**

Space Standard

Room Standard

....back to the slums it is.





**Imagine there was little to
nothing you could enforce
about it either.**



The Consultation



So, what's important?

General Principles

That people accessing or in need of services can do so with hope and confidence of what they are entitled to.

That people seeking treatment have enforceable rights. Without the current rights that are optional or overlooked.

That people can choose their preferred treatment option and that's not dependent on factors such as your post code or "having a decent worker".

That access to this treatment is not denied unless there is a strong medical case to do so.

That people can be held to account for their decision making.



What's missing?

The original was changed by the Non-Governmental Bills Department due to it being “*too wide a scope for a members bill*”.

S5: “A plan may also include support, aftercare or throughcare measures including suitable housing/accommodation, employability support, training, community-based support, voluntary work experience and any other psychosocial support.....”.

S6: “This plan should also include services for the children and families of the person. This should ensure that parental rights are protected when someone seeks treatment and ensure that the family remain as a unit and that at no time should a person fear losing their family at a time of need”.



What's missing?

The original was changed by the Non-Governmental Bills Department due to it being *“too wide a scope for a members bill”*.

S8: “..... the Scottish Ministers must provide a Code of Guidance of Drug Treatment in Scotland”

S9: “.... the Scottish Ministers commission an independent regulatory body to monitor the performance of the duties and guidance”.



What's Next (apart from the Bill)?

Westminster – conversations with an MP around a submission to the Westminster Bills department

Equality Act – looking to carefully amend the term addictions as an exemption. Possibly alongside a diagnosis of SUD (example).

DWP – inserting HB funded rehabilitation services into the regulations to allow “dual HB”.



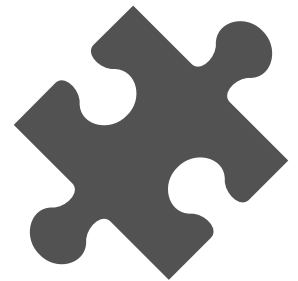
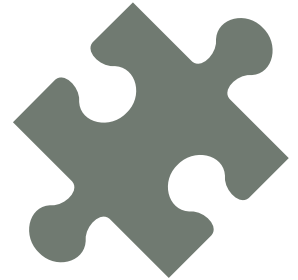
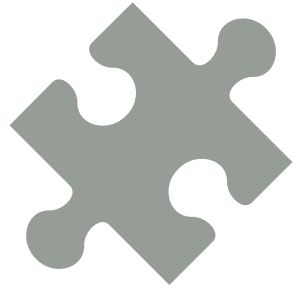
A 3D white figure stands on the left, scratching its head with its right hand. To its right is a large, light gray question mark. The scene is set against a white background with a subtle gradient.

Any Questions?





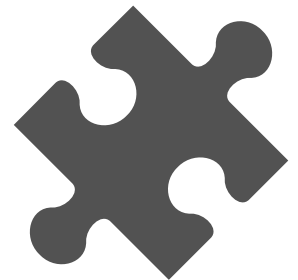
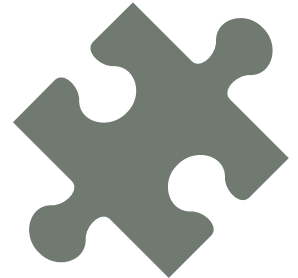
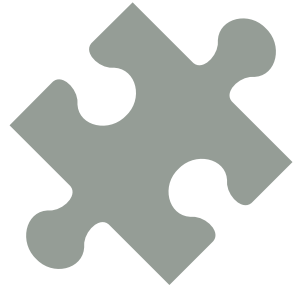
Breakout Room Topics



Room 1: legal considerations

What do you think in general of the **proposal to legislate** for a right to recovery treatment?

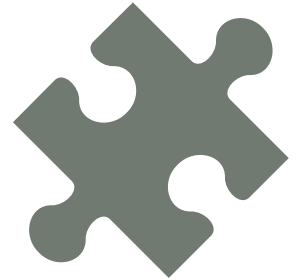
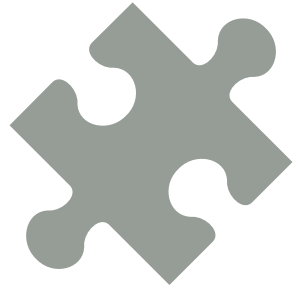
- what difference do you think the legislation will make?
- Are there other ways the aims could be achieved more effectively?
- Who should the duty be on – Ministers, health boards, IJBs, other?
- Are there any unintended consequences or risks?



Room 2: choice considerations

What do you think of the proposal to enable people to **choose their preferred treatment option**?

- Are people aware of the different treatment options to make an informed choice? If not, who should be responsible for addressing this?
- What impact do you think this will have on the availability of services - will some be more in demand than others?
- Are there any exceptions when people should not access their preferred treatment option (e.g. deemed harmful by a medical professional)?



Room 3: enabling factors

What do you think are the key things that need to happen to ensure people's rights to recovery treatment can be realised?

For example:

- making sure people are aware of their rights.
- effective enforcement.

What other factors could help, or get in the way?



More Information:

[Proposed Right to Addiction Recovery \(Scotland\) Bill](#)

[Survey: Proposed Bill consultation](#)

Respond by 12 January 2022

[NRS: Homeless Deaths 2020](#)

[NRS: Drug-Related Deaths 2020](#)