

A Human Rights Bill for Scotland: SHAAP consultation response

Scottish Health Action on Alcohol Problems (SHAAP) is a partnership of the Medical Royal Colleges in Scotland and the Faculty of Public Health and is based at the Royal College of Physicians of Edinburgh (RCPE). SHAAP provides the authoritative medical and clinical voice on the need to reduce the impact of alcohol-related harm on the health and wellbeing of people in Scotland and the evidence-based approaches to achieve this.

This consultation response will relate only to alcohol and alcohol-related harms and therefore we have provided our response as a series of general comments on the issues raised in the consultation proposal.

General comments

We are pleased that the Scottish Government is committed to creating a new human rights framework for Scotland which will build a stronger human rights culture and strive towards fair and equal treatment of Scottish Citizens. This framework is a much needed opportunity to protect individuals in Scotland from the devastating effects of alcohol and alcohol-related harms by ensuring that relevant human rights are protected in policy development and decision making.

Alcohol harms are one of Scotland's most pressing public health and social issues, evidenced by the latest alcohol death figures from the National Records for Scotland (NRS). The figures show an increase from 1,245 alcohol-specific deaths in 2021 to 1,276 in 2022.ⁱ Additionally, in 2021/22, there were 35,187 alcohol-related hospital stays.ⁱⁱ This means that every day in Scotland, more than 3 people lose their lives and almost 100 more are hospitalised because of alcohol. All of these devastating harms are avoidable.

Alcohol contributes to Scotland's major health inequalities, as those living in the most deprived communities are worst affected: there are 4.3 times as many deaths from alcohol-specific causes in the most deprived communities as in the least deprivedⁱ and anyone living in one of our most deprived areas are six times more likely to be hospitalised because of alcohol-related conditions.ⁱⁱ

While these figures convey the scale of harm caused by alcohol in Scotland, they mask the damage and pain caused in the lives of people who are living with an alcohol problem, as well as that in the lives of their loved ones and in wider communities. This harm is immeasurable.

Alcohol harm also has major impacts on public services and the Scottish economy. Alcohol consumption is a causal factor for more than 200 disease and injury conditions and puts an immense strain on our overstretched NHS. Alcohol harm is estimated to cost the Scottish economy £5-10 billion every year.ⁱⁱⁱ

Alcohol harms are rising year on year in Scotland and undermine our human rights. It is also important to note that, whilst harms are rising, access to alcohol treatment services in Scotland has fallen by 40% in the last decade^{iv} - and this must be remedied. A wide package of measures are required to tackle this crisis. The Human Rights Bill should act as a key

component of addressing this. Individuals have a right to health and to be protected from the devastating harms which alcohol brings – particularly children and young people.

People with alcohol problems are at high risk of being marginalised, unfairly treated and of facing discrimination. They are also at a higher risk of not receiving the levels of care they require and therefore face major issues in gaining treatment and recovering from alcohol problems. Minimum standards must be put in place in order to protect and support such individuals, and the Human Rights Bill is an avenue to achieve this.

The Bill should act as a measure to bring the right to protection from alcohol harms into Scots law. The Bill will also offer the opportunity for public bodies and private organisations delivering services related to alcohol or alcohol harms to be held to account if they are found to have taken actions which fail to uphold individuals' right to a life protected from alcohol harms (or fail to meet minimum core obligations). These requirements to protect individuals should also apply to private bodies such as the alcohol industry and should extend to licensing boards and their decision making processes.

SHAAP understands that the Human Rights Bill will bring four international rights treaties into law in Scotland, including the *right to a healthy environment* and the *covenant on economic, social and cultural rights*. These are the two areas which we feel are best purposed to address protection from alcohol harms.

We are pleased to see that the proposal includes the right to a healthy environment, and an environment which is not harmful to individuals' health and wellbeing. There are references in the proposal to the effect which lived environments have on the mental wellbeing of individuals, with particular reference to children and young people. We understand that, in its current format, the 'right to a healthy environment' presently refers primarily to ecosystems and the biosphere, however SHAAP strongly encourage the adoption of a wider definition of a healthy environment, to include other environmental factors which have a major impact on the health and wellbeing of Scottish citizens. The proposal references whether to expand this definition to include the right to healthy and sustainable food – we would encourage this, alongside the essential inclusion of environmental exposure to alcohol, alcohol outlets and the branding and marketing of alcohol.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) also includes the 'right to an adequate standard of living' and 'the right to the highest attainable standard of physical and mental health'. In the current environment of Scottish society, individuals are constantly exposed to reminders of alcohol without consenting – be it through outlets selling alcohol or exposure to branding and marketing of alcohol. Alcohol prompts are pervasive and inescapable in the Scottish environment, and this has major impacts on our physical and mental health. Exposure to alcohol marketing and nudges to drink are present in our outdoor and public spaces, on TV and radio, near schools, in our sporting stadia, at events, in print media, etc. The effect which this current environment has upon our health and decision making cannot be underestimated.

It is well established that exposure to alcohol marketing is causally associated with the initiation of drinking, an increase in alcohol consumption (including binge drinking), and also

an increased risk of relapse (for those in recovery).^{v,vi,vii,viii,ix,x} Alcohol companies invest billions of pounds every year in marketing, aiming to increase the consumption of their products, often through the targeting of heavy drinkers and recruitment of new drinkers.^{xi}

The current environment in Scotland is designed as such to nudge individuals to drink through reminders in their daily lives. Non-consensual exposure to alcohol marketing in our daily lives is a human rights issue and is particularly problematic for children – as we know this influences drinking behaviours.

People have a need and the right to be protected from the aggressive marketing of alcohol. Exposure to alcohol and its marketing is majorly compromising to the right of individuals to a healthy environment and the right to the highest attainable standard of physical and mental health. Alcohol marketing and exposure to alcohol-related content also undermines people's rights to privacy and to be free from exploitation.

Comprehensive restrictions on alcohol marketing/promotion and availability are upheld as some of the World Health Organization's 'best buys' to reduce alcohol harms. Scottish citizens have a right to be protected from this in their daily environment.

We know that Scotland is facing a crisis with alcohol and that marketing is contributing to this. SHAAP would like to see the introduction of a comprehensive set of marketing restrictions around alcohol promotion in sporting events, in public spaces, in the retail environment, online and through TV, radio and print advertising. Scotland should continue to uphold their reputation as a world-leader in alcohol policy. The implementation of a new human rights strategy is a real opportunity for us to change the Scottish narrative around alcohol and put the wellbeing of our nation first. It is also important to note that SHAAP strongly recommend that the alcohol industry – who have a vested interest in maintaining consumption of their alcohol products – should be given no place in decision making or policy development in public health matters.

The consultation makes many references to dignity. SHAAP agrees with the proposal for dignity to be a key threshold for defining Minimum Core Obligations. People with alcohol problems and individuals in recovery are often faced with stigma and discrimination which can compromise their dignity. This acts as a major barrier in seeking help for alcohol problems and perpetuates societal issues. SHAAP agrees that courts should consider dignity when interpreting the rights in the Bill.

The consultation also asks about embedding participation in the framework of the Bill. In order to protect the rights of those affected by alcohol problems, SHAAP recommends that individuals with lived experience are involved in every stage of development of the Bill, including in the development board. It is essential for a lived experience voice to be present in order to fully understand how to best address the human rights of this particular group of individuals.

SHAAP believes that public and private bodies should be required to report on their compliance with the Bill and action they are planning to take/have taken to meet the duties as set out in the Bill – including the alcohol industry and licensing boards.

The consultation also asks about defining groups of individuals to be protected by the equality provision. SHAAP agrees that an equality provision should exist in the Bill and would like to see individuals with alcohol problems being named as a group with specific needs within the Bill. This would go a long way in ensuring that this vulnerable and marginalised group receive adequate treatment and support, and will also help to reduce the stigma associated with alcohol problems. Equality and equity of the right to good health and quality of life is essential for this group of individuals and they should be named as a specific group protected by this Bill – which will uphold their human rights. This would mitigate against issues such as those which have arisen in response to the implementation of the Equality Act 2010 – where the UK Government have specifically exempted addiction to alcohol from the definition of disability in this Act. This has contributed to the discrimination of individuals suffering with alcohol problems and leaves them legally unprotected and open to discrimination in, for example, employment and housing law. Failing to highlight this group as a population with specific needs in the Bill leaves open the possibility of creating further discrimination and marginalisation of this group and increasing legal inequalities for people with alcohol problems.

This proposal also covers ensuring access to justice for Rights-Holders and court routes under the Bill. SHAAP recommends that defining people with alcohol problems as a group with specific and complex needs/rights in the Bill is also essential in order to allow them to navigate the justice system in the fairest and most appropriate manner. The Bill should account for the fact that alcohol problems can significantly contribute to criminal offending and that individuals with alcohol problems require specialised support and treatment throughout the criminal justice process. It is essential that this is upheld as a basic human right.

One case study of an approach to understanding alcohol problems in the justice system is through Alcohol Problem Solving Courts – such as that established in Glasgow Sheriff Courts. These courts are dedicated to dealing with people convicted on summary complaint where alcohol has significantly contributed to their offending. The aim of these courts is to deliver sentences which are tailored to influence an individual's behaviour, holding them accountable whilst understanding that their alcohol problem significantly contributed to their offending. Sheriff Fleming, who presides over the court, notes that if you help individuals to address their alcohol issues, then you can often address their criminality as well a range of other issues that they may be experiencing.

Once accepted into the Alcohol Court, participants receive intensive support from their Criminal Justice Social Worker (CJSW) and a substance misuse worker. They must engage in alcohol counselling treatment, regular supervision, and attend monthly review hearings before the Sheriff. It is essential the individuals with alcohol problems are recognised as a group with specific needs and rights to be upheld.

ⁱ National Records of Scotland (2023). [Alcohol-specific deaths 2022](#).

ⁱⁱ Public Health Scotland (2023). [Alcohol related hospital statistics](#).

ⁱⁱⁱ Bhattacharya, A. (2023). [Getting in the spirit? Alcohol and the Scottish Economy](#).

^{iv} Data can be found here: <https://www.parliament.scot/chamber-and-committees/questions-and-answers/question?ref=S6W-19111>

^v Booth, A., Meier, P., Stockwell, T., Sutton, A., Wilkinson, A., Wong, R., Brennan, A., O'Reilly, R., Purhouse, R. & Taylor, K. (2008). *Independent review of the effects of alcohol pricing and promotion. Part A: systematic reviews*. Sheffield: University of Sheffield.

^{vi} Anderson, P., De Bruijn, A., Angus, K., Gordon, R., & Hastings, G. (2009). Impact of alcohol advertising and media exposure on adolescent alcohol use: a systematic review of longitudinal studies. *Alcohol and Alcoholism*, 44(3), 229-243.

^{vii} Smith, L. A., & Foxcroft, D. R. (2009). The effect of alcohol advertising, marketing and portrayal on drinking behaviour in young people: systematic review of prospective cohort studies. *BMC Public Health*, 9(1), 51.

^{viii} Jernigan, D., Noel, J., Landon, J., Thornton, N., & Lobstein, T. (2017). Alcohol marketing and youth alcohol consumption: a systematic review of longitudinal studies published since 2008. *Addiction*, 112, 7-20.

^{ix} Scott, S., Muirhead, C., Shucksmith, J., Tyrrell, R., & Kaner, E. (2017). Does industry-driven alcohol marketing influence adolescent drinking behaviour? A systematic review. *Alcohol and Alcoholism*, 52(1), 84-94.

^x Shortt, N. K., Rhynas, S. J., & Holloway, A. (2017). Place and recovery from alcohol dependence: A journey through photovoice. *Health & Place*, 47, 147-155.

^{xi} Hastings, G., Brooks, O., Stead, M., Angus, K., Anker, T., & Farrell, T. (2010). *"They'll drink bucket loads of the stuff": An analysis of internal alcohol industry advertising documents*. London, UK: Alcohol Education Research Council.

Booth, A., Meier, P., Stockwell, T., Sutton, A., Wilkinson, A., Wong, R., Brennan, A., O'Reilly, R., Purhouse, R. & Taylor, K. (2008). *Independent review of the effects of alcohol pricing and promotion. Part A: systematic reviews*. Sheffield: University of Sheffield. https://www.sheffield.ac.uk/polopoly_fs/1.95617!/file/PartA.pdf