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1. Introduction

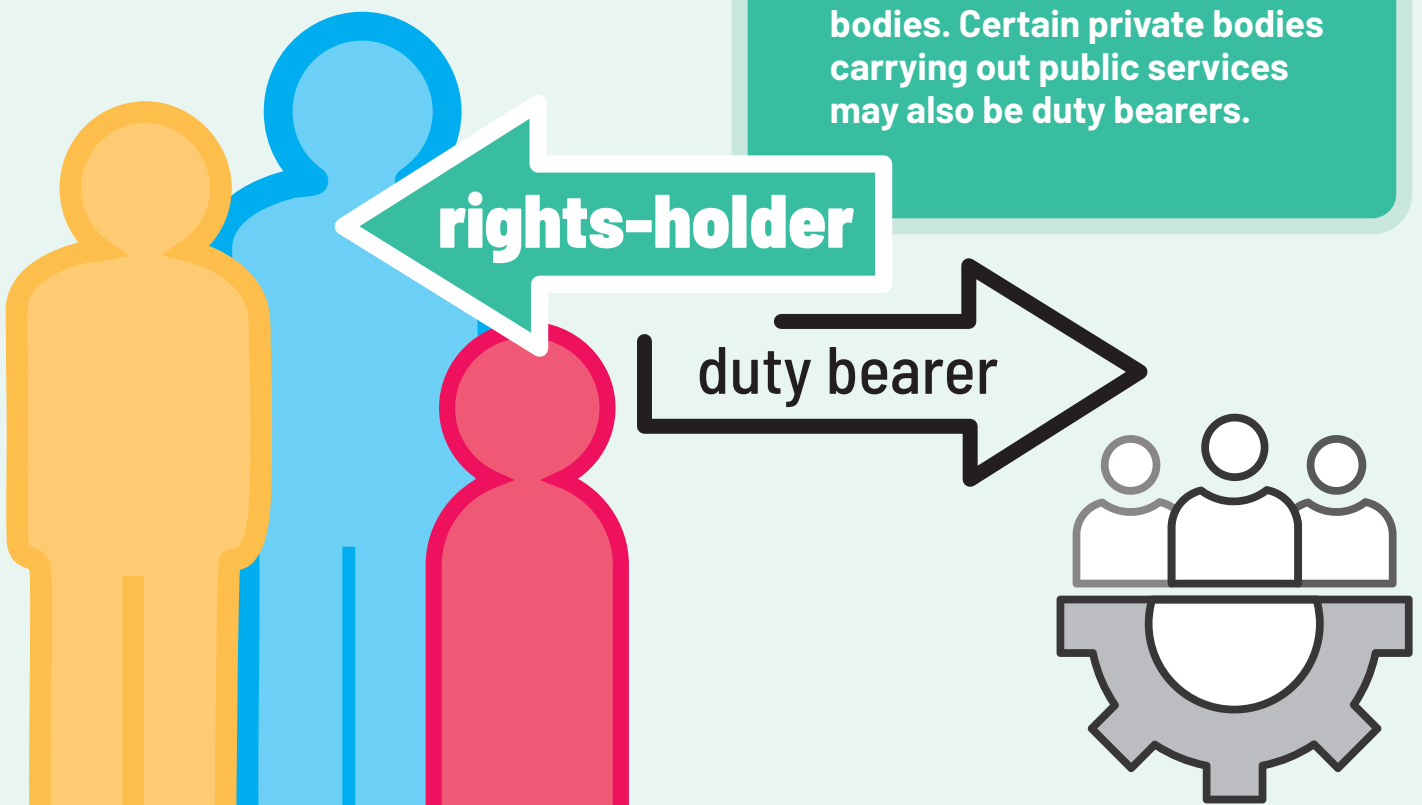
Purpose of the Charter of Rights

The purpose is to:

- Support people affected by substance use to realise the human rights which belong to them
- Support service providers to understand how to implement the human rights which belong to people affected by substance use
- Shift the power and change the culture from criminalisation and stigma towards public health and human rights... the so-called "undeserving" coming to see themselves as "rights-holders" and the service providers better understanding what their role may be as "duty bearers".

The Charter draws from the International Guidelines on Human Rights and Drug Policy which sets out best practice as identified by the UN. It is intended to provide a guide to adopting a human rights-based approach in decision making.

- **"Rights-holders"** are people affected by substance use who identify and claim their human rights under a legal framework.
- The primary **"duty bearer"** is the government. In the context of substance use this may also include local government, health and social care providers, scrutiny bodies, police, prisons, tribunals, courts and other relevant bodies. Certain private bodies carrying out public services may also be duty bearers.



Status of the Charter

The Key Rights described by the Charter come from national and international human rights law.

Some exist in the Human Rights Act 1998 and can be enforced now in our tribunals and courts. Others exist in international human rights law which requires the UK – and Scotland – to put them into practice. Once the proposed Scottish Human Rights Bill becomes law these internationally recognised rights will also become enforceable in our tribunals and courts.

Where the Charter refers to an action which “should” be undertaken, this is a reference to steps that are recommended measures for taking a human rights compliant approach to drugs policy and service delivery. The Charter itself is not legally binding, although the international instruments referred to in the Charter are.

How the Charter has been developed

The Charter has been developed through extensive consultation with people affected by substance use and with people responsible for design, delivery and monitoring of substance related support services. For further information, see the [video](#)¹ from the launch of the Draft Charter in 2023.

This process has been led by the National Collaborative and its Change Team made up of people with different life experiences of substance use. For further information, go to [Change Team](#).²

The National Collaborative is independent from, but supported by the Scottish Government. For further information, go to [National Collaborative](#).³

Implementation of the Charter

Effective use of the Charter is necessary to make the rights real in everyday life.

- This requires that all “rights-holders” need to be aware of their rights, can access independent advocacy and can hold service providers to account when needed.

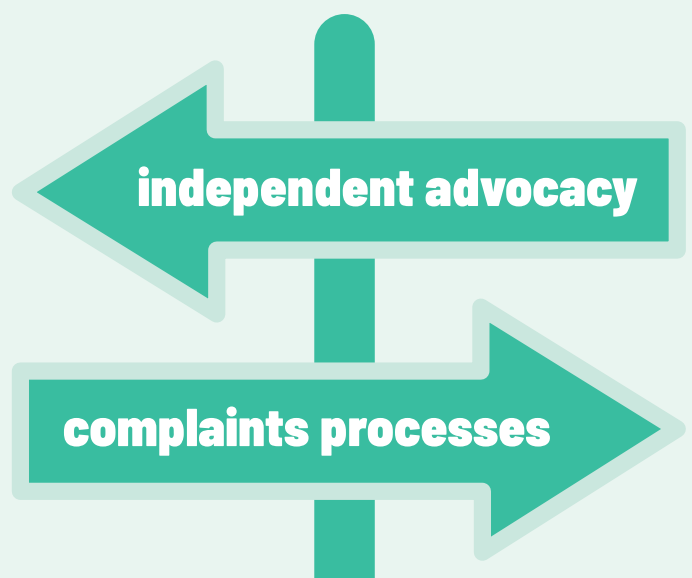
The Human Rights Act 1998 already provides legal accountability for some of the Key Rights and the proposed Scottish Human Rights Bill will provide accountability for the remaining Key Rights, including, most significantly, the “right to the highest attainable standard of physical and mental health”.

The Charter provides signposts to access independent advocacy and complaints processes.

- Effective implementation also requires that the Charter is supported and adopted by all relevant “duty-bearers”.

This means that the Charter needs to be fully embedded in how services are designed, delivered and monitored as well as how service providers can be held to account where needed. It needs to effect change across a wide range of services, including housing, mental health and social security.

To support the practical and effective implementation of the Charter the National Collaborative is providing a Charter Toolkit to be used by “duty bearers” as well as “rights-holders”.



The Charter Toolkit

The Toolkit provides practical guidance to both “duty bearers” and “rights-holders”, including...

- How to put into practice the “right to the highest attainable standard of physical and mental health” with a checklist and practical examples
- How to apply the “FAIR” method – a recommended model for the application of a human rights-based approach – in a variety of relevant contexts including the following:
 - Improving the engagement between Alcohol and Drug Partnerships (ADPs) and Lived and Living Experience (LLE) organisations
 - Improving the engagement between front line service providers and individuals seeking support
 - Improving the prioritisation of services during public spending constraints
- Emerging practice examples of how the Charter is being applied in practice. This will become the space where a resource of experiences can be shared as the Charter and Toolkit begins to be applied and adapted to a diversity of contexts. In this way the “spine” provided by the Toolkit grows “arms and legs” and the Toolkit becomes a “living document” belonging to both “rights-holders” and “duty bearers”.

To access the Toolkit, go to [Charter Toolkit](#).⁴



2. The Charter

The following key rights are drawn from existing law - the UK Human Rights Act – and international law. The descriptions of the “duties” draw on International Guidance on Human Rights and Drug Policy which set out the international understanding of best practice as backed by the UN.

For each right the Charter provides a brief description of what this means for individuals and communities and what the duties of Government and the role of service providers are. It also highlights the legal status of each right.

The selection of the seven key rights was informed by a nationwide evidence-gathering process and the International Guidance on Human Rights and Drug Policy. There are other rights which may be relevant for people affected by substance use and all rights are recognised as interdependent and inter-related.

- A more accessible summary of the Charter is also available for everyday use as well as an Easy Read version - go to [Charter of Rights](#).⁵

Further information on the Key Rights of the Charter

More explanation of the Key Rights of the Charter is also available.

- For further background explanation of the Key Rights, other relevant human rights and human rights in times of public spending constraints look at the [“Guidance on Rights, Duties and Principles”](#)⁶
- For further background information on international human rights law and drug policy look at the UN backed [“International Guidance on Human Rights and Drug Policy”](#)⁷

1 Right to life

The Right to Life is protected by Article 2 of the Human Rights Act. It is already part of our law in Scotland.

- Duty Bearers should take steps to increase the life expectancy of people who use substances, including providing a range of evidence-based and trauma informed support services.
- Duty Bearers involved in the care of people affected by substances should take steps to reduce risk of premature death, including identifying and responding to the risks of overdose. Focus should be given to people who may have left residential, justice and inpatient settings, as well as those who have stopped attending treatment services and people who have just experienced a near-fatal overdose.
- All service providers should have clear information governance structures in place to facilitate the timely sharing of information about people at high-risk so that partner organisations can follow-up.
- Duty Bearers should carry out investigations when services might have been involved in a death or failed to act. There should be effective and timely drug and alcohol death review processes, involving family members where appropriate.

All guidance and standards need to be applied in line with the Right to Life.

- “The Orange Book” provides guidelines on clinical management of drug use and includes sections on minimising the risk of drug related deaths, ensuring appropriate communication and information sharing between key professionals to prevent deaths and reporting of serious incidents.
- UK clinical guidelines for alcohol treatment are in development.

- The Medication Assisted Treatment (MAT) Standard 3 requires that: ‘All people at high risk of drug-related harm are proactively identified and offered support to commence or continue MAT’.

- Duty bearers should ensure that access to health care for people who use or are dependent on substances and are in places of detention is equivalent to that available in the community.
- Duty bearers should address the social and economic determinants that support or hinder positive health outcomes including stigma and discrimination of various kinds against people who use substances.

There are lots of existing standards and guidance which say how health and care services should be delivered. These should be considered in line with the right to health.

- The purpose of the Medication Assisted Treatment standards is to improve access to treatment and enable people to make an informed choice about their care. The work that services are doing to embed the MAT standards is therefore part of realising the right to health.
- MAT standard 9 states that individuals have the right to request support for mental health problems and engage in mental health treatment while being supported as part of their drug treatment and care.

2 Right to the highest attainable standard of physical and mental health

The right to the highest attainable standard of physical and mental health is set out in Article 12 of the International Covenant on Economic, Social and Cultural Rights. The UK – including Scotland – is under an international legal obligation to implement this Covenant. The proposed Scottish Human Rights Bill would bring this into our law in Scotland.

The right to health, as understood in international law, means that you should have access to support for your physical and mental health. This is relevant to all health and care services – including psychosocial support, peer support, access to recovery support services, detox and crisis care, assertive outreach, recovery hubs, opioid substitution therapy, overdose prevention, residential rehabilitation and community outreach programmes. It also means you should be able to access help with other aspects of your life which affects your health and wellbeing. For example, you should be able to access social services, housing and adequate food.

- Duty bearers should take deliberate, concrete, and targeted steps to ensure that substance use support services are available in sufficient quantity, geographically and financially accessible, acceptable to and known about by all people they serve and of sufficient quality including evidence base and independent oversight.
- Duty bearers should eliminate discrimination, formal and substantive, in the provision of health and social care and should not discriminate against people affected by substance use.

3 Right to an adequate standard of living

The right to an adequate standard of living is set out in Article 11 of the International Covenant on Economic, Social and Cultural Rights. The UK – including Scotland – is under an international legal obligation to implement this Covenant. The proposed Scottish Human Rights Bill would bring this into our law in Scotland.

This right, as understood in international law, means that you should have access to things which support you to live with dignity. This includes having enough food, clothing, housing and access to social security.

- Duty Bearers should establish a basic minimum standard for the enjoyment of this right, in other words “a floor beneath which nobody must fall.”

- Duty Bearers should take steps to use the maximum available resources to keep improving on this baseline over time.
- Duty Bearers should consider human rights of individuals when making decisions and ensure that they have a plan for how to improve things that is informed by communities.
- Duty Bearers should ensure that the right to an adequate standard of living is realised without discrimination. This includes developing safeguards to protect against discriminatory evictions based on actual or suspected substance use.

There are lots of other standards and guidance which guide how services should be delivered. These should be considered in line with the right to an adequate standard of living.

4 Right to private and family life

The right to respect for your private and family life is protected by the Human Rights Act. It is already part of our law in Scotland.

The right to private and family life protects your dignity and right to make decisions about your own life. This includes being able to determine your sexuality, having autonomy over yourself physically and psychologically, and being able to control information about your private life (including information about your substance use and/or treatment). It also includes your right to control who sees and touches your body.

This right ensures that you can have and maintain family relationships. It covers your right not to be separated from your family and to maintain contact if your family is split up.

These things can be restricted in certain situations. For example, to ensure the safety and wellbeing of a child. However, there must be good reasons for this that are set out in law and any restrictions should be both necessary and proportionate.

- Duty bearers must ensure all treatments, health and social care and other support are provided in a way that respects the privacy and inherent dignity of the person affected by substance use.

- Duty Bearers should take steps to prevent interference with private and family life of people affected by substance use. For example, duty bearers should adopt measures to prevent the disclosure of individuals' personal health data, including substance test results and substance dependence treatment histories, without their free and informed consent.
- Where the individual has given their consent, duty bearers should enable families to participate in decisions made about their loved ones.
- Duty bearers should take account of the needs of lone or primary caretakers of children and other family members. For example, avoiding treatment requirements - like daily pick-ups - that do not respect an individual's family routines without good reason.
- Duty bearers must ensure that the best interests of the child are a primary consideration in decisions regarding their care, including in the context of parental drug dependence. A parent's substance use should not be the sole justification for removing a child from parental care or preventing reunification or contact.

All guidance and standards need to be applied in line with the Right to Private and Family Life.

- "The Orange Book" provides guidelines on clinical management of drug use, including guidance on:
 - Providing accessible, private and confidential facilities for doing examinations in ways which respect people's dignity. For example, having private and discreet rooms in pharmacies.
 - Adapting service delivery for parents and creating child-friendly spaces.
 - Involving family members and carers with the consent of the individual.
- The MAT Standards state that 'People have the right to involve others, such as a family member or nominated person(s) to support them in their journey throughout their care'.

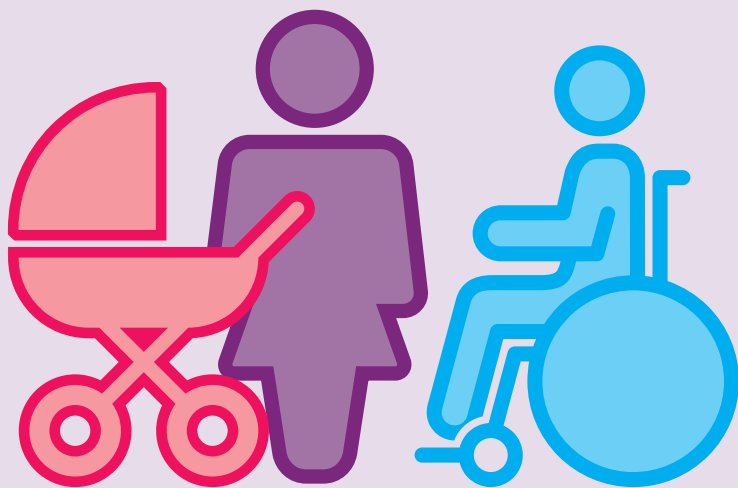
- National Guidance on Child Protection highlights that parental alcohol and drug use overlaps and intersects with factors which indicate the need for children to be looked after but does not include substance use as grounds for child removal.

5 Right to a healthy environment

The right to a healthy environment was recently recognised by the United Nations in response to a growing awareness of the importance of the environment to the enjoyment of a range of human rights, including physical and mental health, and the need to address the impacts of climate change. The proposed Scottish Human Rights Bill would bring this into our law in Scotland.

This right, as understood in international law, means that you should have access to clean, safe air, water, land and soil free from pollution. It also means the place you live should make you feel safe.

- Duty Bearers should establish a basic minimum standard for the enjoyment of this right, in other words “a floor beneath which nobody must fall.”
- Duty Bearers should take steps to use the maximum available resources to keep improving on this baseline over time.



6 Freedom from torture and other cruel, inhuman, or degrading treatment or punishment

The right to be free from torture and inhuman or degrading treatment is contained within the Human Rights Act and so is part of our law in Scotland.

This means that public authorities must not cause severe physical or mental suffering to you. This right is about the impact of the treatment on you and your sense of **dignity** – the treatment does not have to be caused deliberately for it to count. The threshold is high. This right protects against very serious harm that causes a lot of pain, physical or mental suffering and makes people feel worthless or hopeless.

- Public services must not treat people in an inhuman or degrading way. There must also be investigations when things go wrong and action taken to stop the same thing happening again.
- Duty bearers should ensure access to essential medicines, including for substance dependence, pain treatment, and palliative care.
- Duty bearers should take effective steps to prevent practices which use drug treatment to control, punish or discipline individuals whether in public or private facilities. For example, the Government should establish a national system to monitor and inspect drug treatment services, including in prisons, migrant detention centres and police stations.
- Duty bearers must take steps when someone is known to be at risk of serious harm from another person such as a family member.

All guidance and standards need to be applied in line with the right to be free from torture, inhuman and degrading treatment or punishment.

- “The Orange Book” provides guidelines on clinical management of drug use. It includes standards for conducting physical examinations in a way that respects people’s dignity. For example, it states that: “The principal reason for using supervision is to ensure the safety of the patient and to minimise the risk of toxicity. It should not be used or viewed as a punishment.”
- The MAT Standard 5 says that “Stigma, dose reduction or punitive actions due to ongoing substance use actively discourages engagement and retention in treatment.”

substance-related offences of a minor nature.

- Duty bearers should take steps to protect the rights of people who have been detained due to drug-related offences or who are under the influence of drugs or alcohol at the time of arrest or questioning. This relates to procedures for drug-testing, ensuring access to medical treatment and safeguarding.
- Drug or alcohol treatment as an alternative to prison should only be undertaken with informed consent and where medically appropriate. No penalties should be attached to failure to complete such a treatment.

All guidance and standards need to be applied in line with the right to be free from arbitrary arrest or detention.

7 Freedom from arbitrary arrest or detention

The right to be free from arbitrary arrest or detention is contained within the Human Rights Act and so is part of our law in Scotland.

This means that you must not be arrested or imprisoned without reasons which are set out in the law. If you are arrested, you must be made aware of the reasons and be given a fair trial to determine whether the arrest was lawful.

If a police officer has reasons to believe that you have been involved in a crime or that you are in possession of drugs they can search you. You shouldn’t be stopped and searched because of your race, age, gender, sexual orientation, disability, religion or faith, the way you dress, the language you speak, or because you have committed a crime in the past.

- Duty bearers must make sure that people are not detained solely based on substance use or dependence.
- Duty bearers should prioritise diversion from prosecution and non-custodial measures for people charged with or convicted of substance offences or



3. Feedback, Complaints and Signposts for Advocacy

You have rights to:

- give positive or negative feedback about your care and support and have this listened to
- complain about the service you received.

Anyone can give feedback or make a complaint for you with your consent.

Giving feedback

You can give feedback about your care and support. This feedback can be positive or negative.

Think about why you are giving feedback. The feedback will be used to improve how you and others experience support.

- Is it positive feedback about something that went well, and you want to highlight it so others may benefit from good practice, or to thank someone for great service, for example the way they communicated with you or supported you?
- Is it feedback for learning for the organisation? You can make suggestions about how things could be done better.

You can speak to someone informally, such as the person most involved in your care or their manager. You may also be able to give feedback using Care Opinion, which can be done anonymously. [Care Opinion](#)⁸ can also be contacted on Freephone 0800 122 3135.

Making a complaint

If you're unhappy with the service you received (or are receiving), speak to the manager in the first instance. Often things can be resolved quickly that way.

You can complain for any reason, including

- your support does not meet the national [Health and Social Care Standards](#)⁹
- your rights in the charter are not being respected

Here are a few tips to help you

- try to link your complaint to specific standards or rights, rather than simply saying the service did not meet standards or the charter
- explain or describe the service and why you think it did not meet standards or respect your rights
- explain what the impact was on you
- say what you would like the organisation to do to put things right
- provide your name and contact details if you would like feedback.

Where to go for help and advice

[Advocacy](#)¹⁰ services provide information, advice, support and representation. Advocacy can support you to get your voice, views and wishes heard and explain more about your rights. An advocate can often help to resolve an issue before it gets to the complaints stage. The [Scottish Independent Advocacy Advice Alliance](#)¹¹, (0131 510 9410) can help you to find an advocacy service.

Citizens Advice Scotland also provide free, impartial and confidential advice and can help you make a complaint. Further information can be found at: www.cas.org.uk¹² or on their helpline number 0800 028 1456.

For help and advice with NHS complaints, contact your local [Patient Advice & Support Service \(PASS\)](#)¹³, Advice Line: 0800 917 2127 (Mon – Fri 9am – 5pm). The service is free, independent and confidential.

If you are unsure about where to go and would like general advice about making a complaint contact the SPSO (Scottish Public Services Ombudsman). Their contact details are in the information below.

Concern about a care service

[The Care Inspectorate](#)¹⁴ regulates and inspects all care services in Scotland. If you've raised your concern directly with your service provider and you're not satisfied with the outcome, you can ask the Care Inspectorate to investigate your complaint.

The Care Inspectorate encourages people to raise a complaint directly with the service provider first, but if there are reasons why you would not wish to do this, you can raise the matter directly with the Care Inspectorate.

A complaint can be about:

- inadequate standards of care
- failure to uphold the rights of a person using a service, or their relatives or carers
- a care service's failure to follow appropriate safe care practices
- the practice of staff, including treatment by, or conduct of, a member of staff, fitness of staff, inadequate staff training and staff numbers or deployment

Contact the Care Inspectorate:

- **complete an [online form](#)**¹⁵
- **call: 0345 600 9527** between 9am and 4pm, Monday to Friday
- **email: concerns@careinspectorate.gov.scot**

It is important that you provide your contact details, otherwise there is no follow up. They will not provide your details to the service unless you agree to this.

For awareness, a **child or young person** can complain directly by sending a text to **07870 981785** to reach the Care Inspectorate.

Concern about a health service

Complaints about the NHS services should be made directly to

- the NHS Board (for hospital services) [Making a complaint about your NHS care or treatment](#)¹⁶
- GP practice (usually the practice manager)
- dental surgery (the dentist or the practice manager)
- pharmacy (usually the practice manager)

If you are not happy with the response you can complain to the SPSO about NHS health services.

If you are a prisoner, you still need to complain about NHS health services directly to the health provider. The Prison should be able to provide you with a form on which to do this. If not, you can contact the SPSO for advice.

Scottish Public Services Ombudsman

The **Scottish Public Services Ombudsman (SPSO)** is the final stage for complaints about councils, the National Health Service, housing associations, colleges and universities, prisons, most water providers, the Scottish Government and its agencies and departments and most Scottish authorities.

If you have gone through the NHS or Council complaints procedure but are still not happy, you can ask the SPSO to look at your complaint.

You can also get general advice about complaining.

Call Freephone 0800 377 7330 (see their website for opening hours.)

Contact the SPSO [online](#).¹⁷



How long do I have to make a complaint?

The best approach is to complain as soon as possible after the event you want to complain about.

- Complaints about Social Work or Council services must be made to the SPSO within 12 months of you knowing about an event or issue, or finding out that you have a reason to complain. You have to make your complaint to the Council or Health and Social Care Partnership first, so don't delay in complaining or seeking help.
- Complaints about the NHS, or complaints which have a health element to them, must be made to the NHS within six months of the event you want to complain about, or finding out that you have a reason to complain. In exceptional circumstances, the NHS can accept your complaint after the six month limit, but usually only up to 12 months after the event.
- You have 12 months to complain to the SPSO. Sometimes the SPSO can accept a complaint after 12 months, but there have to be very good reasons. It is possible that the NHS will accept a late complaint, but the SPSO won't, so don't delay.
- If your complaint is regarding the quality of a registered care service, you can contact the Care Inspectorate at any time. Normally you must make your complaint within six months of the event you want to complain about; but no longer than 12 months after the event itself.



Complaints Procedure Flowchart

This is a general outline of a complaints process, but the detail may vary depending on which organisation you are complaining about, so you may wish to seek support and advice.



* For unresolved complaints about social services and health, there is no regulator so these would go straight to the Ombudsman.

Further help

An example complaint letter is available at Appendix 1.

Legal challenges

If you think your rights are still not being upheld or you disagree with a public body's decision, you may have the option to apply to go to court and ask a judge to decide on your case. If you are thinking of taking legal action you should seek legal advice, see the [Help with a legal problem](#)¹⁸ advice on mygov.scot to:

- find out if you can get legal aid
- find a solicitor

The Charter of Rights for People Affected by Substance Use is a guide to good practice in taking a human rights-based approach in decision-making. It describes rights within our domestic law and international human rights law but does not provide legal guidance.



Appendix 1

Example complaint letter

Service Name

Service Address

Your Name

Your Address

Date

Dear _____ ,

I would like to complain about your service.

- Give details of what has gone wrong – what happened, who was involved, when and where it took place and how it has affected you. Tell them what you think would resolve the problem.
- Clearly explain what you would like to happen as a result of your complaint. Do you want an apology, a change in policy, a service that should have been provided?
- You can ask the organisation to explain how they made their decision.
- Include information about what you have already done to try to sort things.

Please contact me so that I know that you have received my complaint and that it is being investigated. I would also like to know when you will send me a full reply.

Yours sincerely,

Your name and signature

4. Glossary

ADP	Alcohol and Drug Partnership - these bring together local partners including health boards, local authorities, police and voluntary agencies. They are responsible for commissioning and developing local strategies for tackling alcohol and drug use and promoting recovery, based on an assessment of local needs.
Advocacy	Advocacy involves getting support from another person to help you express your views and wishes, and help you stand up for your rights. An advocate could be a friend or family member but there are also advocacy services to support with this.
Bill	A formal proposal for primary legislation to create a new law, or a change in the law, which is put forward for consideration by Parliament.
Duty bearers	The primary “duty bearer” is the government. In the context of substance use this also includes local government, health and social care providers, scrutiny bodies, police, prisons, tribunals, courts and other relevant bodies. Certain private bodies carrying out public services are also “duty bearers”.
FAIR	Facts, Analysis, Identification & Review - a recommended model for the application of a human rights-based approach.
Human rights	The basic rights and freedoms that belong to every person in the world. They can never be taken away, although they can, in specific circumstances, sometimes be restricted.
Human Rights-Based Approach	A human rights-based approach is a way of empowering people to know and claim their rights. It increases the ability and accountability of individuals, organisations and the relevant professionals who are responsible for respecting, protecting and fulfilling rights. This means giving people greater opportunities to participate in shaping the decisions that impact on their human rights.
LLE	Lived and living experience of substance use.
MAT Standards	Medication Assisted Treatment Standards - these standards are aimed at making treatment more accessible, providing choice over treatment decisions and offering people wider support such as psychological support and independent advocacy.

Recovery	Recovery is defined differently by people with different experiences but generally refers to people making changes to their alcohol and drug use to improve their health and wellbeing.
Rights holders	People who identify and claim their rights under a legal framework. In this context it refers to people affected by substance use.
Substance use	Dependency on alcohol and/or drugs, including legal, illegal and prescription drugs.
UK	United Kingdom
UN	United Nations

5. References

1. <https://youtu.be/m0n7Dg34es0>
2. <https://www.alliance-scotland.org.uk/lived-experience/engagement/national-collaborative/change-team/>
3. <https://www.alliance-scotland.org.uk/lived-experience/engagement/national-collaborative/>
4. <https://www.alliance-scotland.org.uk/lived-experience/engagement/national-collaborative/toolkit-charter-of-rights-for-people-affected-by-substance-use/>
5. <https://www.alliance-scotland.org.uk/blog/resources/final-charter-of-right-for-people-affected-by-substance-use/>
6. <https://www.alliance-scotland.org.uk/blog/resources/charter-toolkit-guidance-duties-and-principles/>
7. <https://www.humanrights-drugpolicy.org/>
8. <https://www.careopinion.org.uk/>
9. <https://www.gov.scot/publications/health-social-care-standards-support-life/>
10. <https://www.mygov.scot/advocacy>
11. <https://www.siaa.org.uk/>
12. <https://www.cas.org.uk/>
13. <https://pass-scotland.org.uk/>
14. <https://www.careinspectorate.com/index.php/complaints>
15. <https://careinspectorate.com/index.php/online-complaint-form>
16. <https://www.nhsinform.scot/care-support-and-rights/health-rights/feedback-and-complaints/making-a-complaint-about-your-nhs-care-or-treatment/>
17. <https://www.spsso.org.uk/making-complaint>
18. <https://www.mygov.scot/legal-advice>

Notes



A series of horizontal blue lines for writing notes, spaced evenly down the page.

Charter
(including other versions)



Guidance on Rights,
Duties and Principles



Toolkit



National Collaborative



NationalCollaborative@gov.scot

[www.alliance-scotland.org.uk/lived-experience/
engagement/national-collaborative/](http://www.alliance-scotland.org.uk/lived-experience/engagement/national-collaborative/)