

Draft Guidance on Human Rights, Duties and Principles

Contents:

Introduction	1
Section 1. Key Human Rights and Duties	2
(a) The new legal human rights framework for Scotland.....	2
(b) Limitations of devolution.....	4
Equality.....	4
Misuse of Drugs Act 1971.....	4
(c) The Charter rights.....	5
(d) International Guidance on Human Rights and Drug Policy.....	8
Section 2. Key human rights principles	8
(a) International human rights principles.....	8
(b) Principles applicable to economic, social, and cultural rights.....	10
(c) UN Panel Principles.....	11
Section 3. Resources	15
Endnotes	17

Introduction

This Guidance introduces the key human rights, duties and principles which underpin the Charter of Rights and its Implementation Framework.

The Charter is a tool to assist with understanding how human rights (including the Human Rights Act 1998 and the forthcoming Scottish Human Rights Bill) apply to people affected by substance use.

The Implementation Framework of the Charter applies a human rights-based approach to support people affected by substance use and help public bodies give effect to human rights.

Section 1 of this guidance outlines the key human rights and duties from the new legal human rights framework which will apply to people affected by substance use. The National Collaborative chose to focus on “key rights” but recognises the universality and interdependence of rights beyond what is set out in this guidance.

Section 1 also draws attention to the limitations of devolution and how they may be specifically addressed in relation to equality and the Misuse of Drugs Act 1971. Reference is also made to the International Guidance on Human Rights and Drug

Policy which explains the relevance of a broad range of human rights to the development of drug policy internationally.

Section 2 outlines the key human rights principles which guide the interpretation and implementation of the Charter. This includes international human rights principles which provide general guidance on the interpretation and application of all human rights. It also includes principles relevant to the interpretation and application of economic, social, and cultural rights which are proposed to be introduced by the Scottish Human Rights Bill. This section also outlines how the UN Panel Principles provide the guidance to the Charter's Implementation Framework and its Toolkit of checklists, outcome indicators, and model of good practice.

Section 3 provides links to resources for useful information.

This Guidance on Human Rights, Duties and Principles should be understood as a *"living document"* which can be updated to reflect future developments in law, policy, and practice.

Section 1. Key Human Rights and Duties

(a) The new legal human rights framework for Scotland

The work of the National Collaborative in development of the Charter of Rights is being undertaken in anticipation of the forthcoming Scottish Human Rights Bill.

It is anticipated that the Bill will incorporate the International Covenant on Economic, Social and Cultural Rights (ICESCR) which contains rights that are particularly relevant for people affected by substance use, including the right to the highest attainable standard of physical and mental health.

The proposals for the Bill are that people will be able to legally challenge Scottish public authorities if their human rights are not respected, protected, or fulfilled. It may also mean that organisations that provide public drug and alcohol services will need to adapt their service provision to ensure they are meeting their obligations to implement these rights.

If passed into law through the Human Rights Bill, this new overarching legal human rights framework, and particularly the right to health, will strengthen the accountability and implementation of existing processes related to substance use, such as the MAT Standards, and will be accompanied by campaigns of public awareness raising and capacity building of public authorities.

In addition to the human rights that will be incorporated through the Bill, people in Scotland affected by substance use also have civil and political rights under the European Convention on Human Rights which was brought into UK law through the Human Rights Act 1998.

The forthcoming Scottish Human Rights Bill

The Scottish Government has recently included the Bill in its Programme for Government 2023-2024 which means a Bill should be introduced by summer 2024 and has also published a consultation paper on the Bill. **(1)**

The government accepted all 30 of the recommendations of the National Taskforce for Human Rights Leadership whose Report provides a valuable context for the development of the Bill and the new legal human rights framework. **(2)** The government consultation paper committed to implementing those recommendations within the limitations of the current devolution settlement.

The Bill is therefore expected to include:

- the right to the highest attainable standard of physical and mental health,
- the right to a healthy environment,
- the right to an adequate standard of living including adequate housing, food, clothing, and the continuous improvement of living conditions,
- the right to social security,
- the right to take part in cultural life,
- the right to education,
- specific rights for women, disabled people, and people and groups who experience racial discrimination.

The Bill is still in development and must be subject to thorough parliamentary scrutiny. It is not yet clear exactly how these international rights and the considerations they will give rise to will be implemented in Scotland. The consultation paper on the Bill proposed a direct treaty text approach to incorporation to ensure alignment with international law. This would mean that the rights, and their domestic interpretation, will closely relate to the international understanding of rights.

Human Rights Act 1998

In addition to the rights that will be incorporated through the Scottish Human Rights Bill, there already are certain human rights of a civil and political nature incorporated into Scots law from the European Convention on Human Rights through the Human Rights Act 1998 and the Scotland Act 1998. Of particular relevance to people affected by substance use are:

- the right to life.
- private and family life.
- the right to liberty and security.
- freedom from torture and other cruel, inhuman, or degrading treatment or punishment as well as freedom from arbitrary arrest and detention.

Section 2 of the Human Rights Act 1998 requires courts or tribunals to 'take into account' any 'judgment, decision, declaration, or advisory opinion of the European

Court of Human Rights' in determining questions arising in connection with convention rights. The Council of Europe has developed guidance to aid understanding of human rights and drug policy (see Section 3).

(b) Limitations of Devolution

Incorporation of the international human rights referred to above into Scots law is achievable in the context of devolution, although complicated by the need to navigate reserved areas under the Scotland Act 1998, as amended.

All Scottish Parliament legislation must be within devolved competence. The Scotland Act, as amended, reserves a range of policy areas to the UK Parliament. The Scottish Parliament cannot pass legislation that relates to reserved areas or modify Scots law as it applies to reserved matters.

In the context of substance use this is significant in relation to, for example, equality and to the UK Misuse of Drugs Act 1971.

- *Equality*

The Scottish Government consultation paper on the Human Rights Bill states the intention is to provide an equality clause to ensure everyone enjoys equal access to all rights contained in the Scottish Human Rights Bill.

This will be carefully drafted to operate within the limits of the “equal opportunities” reservation in the Scotland Act 1998 and the need to be mindful of how it will operate within the wider Equality Act framework.

The consultation paper considers that one way of doing this would be to model the equality clause on Article 14, European Convention on Human Rights or Article 2, International Covenant on Economic, Social and Cultural Rights (ICESCR).

Article 2.2 of ICESCR states that the rights within that Covenant “will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth *or other status*.”

In this regard it should be noted that General Comment 20 of the UN Committee on Economic, Social and Cultural Rights has already recognised “health status” as an “other status”. **(3)** Additionally, the World Health Organisation has already recognised broad “categories of substance use disorders”. **(4)**

Accordingly, the equal protection of people affected by substance use could be provided through being included under “other status”.

- *The Misuse of Drugs Act, 1971*

The Scotland Act reserves to the UK Parliament certain matters, including the subject-matter of the Misuse of Drugs Act 1971 as well as laws related to drug trafficking and the proceeds of crime.

Therefore, the Scottish Parliament cannot pass laws that seek to change the provisions of the Misuse of Drugs Act. It cannot, for example, decriminalise the use or possession of drugs, as defined in the Misuse of Drugs Act, by removing these offences. The Misuse of Drugs Act contains a list of controlled drugs and classifies those substances into classes. The Scottish Parliament does not have the power to pass legislation to change the list of controlled substances, or to reclassify substances. The Scottish Government is pressing the UK Government to devolve this policy area or pass a Section 30 order under the Scotland Act, to give them and the Scottish Parliament greater flexibility in taking further steps towards approaching substance use as primarily a health matter rather than a criminal matter. **(5)**

The Scotland Act does not reserve policing, prosecution or sentencing in relation to drug-related offences. Nor does it reserve other policy areas relevant to the people affected by substance use including education, health, and social work.

Accordingly, it is possible to take a public health focussed and human rights-based approach to substance use in these policy areas despite the limitations of the Misuse of Drugs Act.

An example of this is the recent statement of the Lord Advocate in relation to a pilot safe drug consumption facility. **(6)**

(c) The Charter Rights

The National Collaborative Charter of Rights is being developed to provide guidance on how this new legal human rights framework can be implemented in practice for and by people affected by substance use. The notes in relation to each of the rights and principles below set out the kinds of actions states would be expected to take in the context of respecting, protecting and fulfilling rights:

1. Right to life (Article 2, ECHR incorporated by the HRA in 1998)

Duty bearers should take positive measures to increase the life expectancy of people who use substances, including adequate steps to provide a range of scientific, evidence-based and trauma informed support services on substance use prevention, overdose prevention and response, rehabilitation, harm reduction, HIV, viral hepatitis, and other infections and injuries sometimes associated with substance use.

2. Right to the highest attainable standard of physical and mental health (Article 12, ICESCR to be incorporated by the Human Rights Bill)

Duty bearers will be required to 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 shall eliminate discrimination, formal and substantive, in the provision of health and social care and should not discriminate against people affected by substance use and,

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.

3. Right to an adequate standard of living (Article 11, ICESCR to be incorporated by the Human Rights Bill)

This includes the rights to adequate food, clothing and housing and the continuous improvement of living conditions.

Duty bearers will be required to establish a basic minimum threshold for the enjoyment of these rights and take steps to use their maximum available resources to achieve progressively the full realisation of these rights over time.

Duty bearers should expand comprehensive social security systems that equally guarantee legal entitlements – including universal access to health care, housing, education, and basic income security - prioritising particularly marginalised groups.

Duty bearers should review laws, policies, and practices on housing to ensure adequate safeguards protecting against discriminatory eviction based on actual or suspected illicit drug use and providing access to timely recourse and commensurate reparation for victims of such eviction.

4. Right to private and family life (Article 8, ECHR incorporated by the HRA 1998)

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 and,

Duty bearers should adopt legislative, administrative, and other measures to prevent arbitrary and unlawful interference with the family life and home of people who use substances,

Duty bearers should adopt legislative and other 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.

Duty bearers should take steps to enable families to participate in decisions made about their loved ones who are affected by substance use.

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.

Duty bearers should ensure that a parent's substance use should not be the sole justification for removing a child from parental care or preventing reunification or contact.

5. Right to a healthy environment (to be incorporated by the Human Rights Bill)

This right recognises that a healthy environment is necessary for the enjoyment of all human rights, including the right to the highest attainable standard of physical and mental health.

Duty bearers will be required to establish a basic minimum threshold for the enjoyment of this right and take steps to use their maximum available resources to achieve progressively the full realisation of this right over time.

6. Freedom from torture and other cruel, inhuman, or degrading treatment or punishment (Article 3, ECHR incorporated by the HRA 1998)

Duty bearers should ensure access to essential medicines, including for substance dependence, pain treatment, and palliative care and,

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.

7. Freedom from arbitrary arrest or detention (Article 5, ECHR incorporated by the HRA 1998)

Duty bearers must ensure that people are not detained solely on the basis of substance use or substance dependence.

Duty bearers should prioritise diversion from prosecution for persons arrested for substance offences or substance-related offences of a minor nature and,

Duty bearers should prioritise non-custodial measures at the sentencing and post-sentencing stages for persons charged with or convicted of substance offences or substance-related offences of a minor nature.

(d) International Guidance on Human Rights and Drug Policy

Further useful guidance on the application of the Charter rights and other relevant human rights is provided by the International Guidelines on Human Rights and Drug Policy. (7)

This guidance was produced in March 2019 and comprehensively sets out the relevance of international human rights law to drug policy. The Guidelines cover a diverse set of issues, ranging from development to criminal justice to public health. Although specific to drugs, aspects of the Guidelines can be applied equally to alcohol.

They were developed by a coalition of UN Member States, the World Health Organisation, UNAIDS, the UN Development Programme and leading human rights and drug policy experts. They were developed through three years of research, with regional consultations in Colombia, Thailand, and South Africa.

The International Guidance offers independent and expert guidance which is helpful for policy makers working on substance use in both reserved and devolved policy areas.

Section 2. Key Human Rights Principles underpinning the Charter of Rights and its human rights-based Implementation Framework

(a) International Human Rights Principles

The following general principles provide important guidance in relation to all human rights and duties. They therefore apply to the Charter and its Implementation Framework.

Human dignity: all human rights derive from the inherent dignity, or self-worth, of the human person. No law, policy or practice should have the effect of undermining or violating the dignity of any person or group of persons.

This principle lends support to the demand of people affected by substance use to “see *me*” as a whole person – to see my humanity, my life experience, my needs, and my rights and not to stigmatise me.

Universality: everyone is equally entitled to all human rights. This principle stands against the idea that people affected by substance use are less “deserving” than other people and so, for example, should not enjoy the same right to the highest attainable standard of physical and mental health.

Interdependence: all human rights are indivisible and interdependent, as fulfilment of any human right will depend on fulfilment of other human rights. No right can be fully enjoyed if other rights are being breached or neglected.

This principle supports taking preventive actions and points to the need to recognise inequalities and that the social determinants of health such as an adequate standard of living are as important as healthcare services for people affected by substance use.

Non-discrimination: all people have the right to equality and freedom from discrimination. This means that all are equal before the law and are entitled to equal protection and benefit from the law, including the enjoyment of all human rights without discrimination on a range of grounds (such as health status, which includes substance use).

Discrimination involves treating people less favourably on account of a protected characteristic, such as health status - which includes substance use. Discriminatory practices can be made unlawful, and remedies can be provided to ensure accountability where those laws are breached.

Stigma involves viewing someone as lesser on account of their substance use. Stigma causes discrimination. Stigma itself cannot be outlawed as it consists of beliefs in people's minds. However, duty bearers and others should take steps to reduce stigma, promote culture change and prohibit discrimination.

Participation: everyone has the right to participate in public life. This includes the right of meaningful participation in the design, implementation and assessment of drug laws, policies, and practices, particularly by those directly affected.

Accountability and the right to an effective remedy: Everyone has the right to an effective remedy when their human rights are not fulfilled. An effective remedy is one that is accessible, affordable, timely and effective.

This principle supports the introduction by the Human Rights Bill of an enforceable right to the highest attainable standard of physical and mental health. This overarching right in turn strengthens the accountability of existing standards such as the MAT standards.

Respect, Protect and Fulfil: The general obligation on States to comply with human rights is generally seen as carrying three types of interconnected duties, summarised as the obligation to respect, protect, and fulfil. This means that the state ...

- must *respect* and not itself breach human rights,
- must *protect* people from breaches by non-state actors such as the private sector and
- must create conditions for the *fulfilment* of all human rights. For economic, social, cultural, and environmental rights, this is broken down further into the duties to fulfil the *minimum essential levels* of these rights and take steps to *progressively realise* the full substantive content of the rights, using *maximum available resources*. These important concepts are defined below.

Further guidance on this framework of state duties is provided by the Committee on Economic, Social and Cultural Rights in its General Comment No 12, Para 15, 1999.

(8). This General Comment also provides guidance on the state duties of meeting “minimum core obligations” and “progressive realisation” of economic, social, and cultural rights.

This “respect, protect and fulfil principle”, particularly the duty to *fulfil*, supports the need to ensure positive health outcomes for people affected by substance use. These outcomes therefore need to be monitored, evaluated and lessons learned to enable continuous improvement in the life experience of people affected by substance use. This is the purpose of the Charter of Right’s Implementation Framework checklists and outcomes indicators.

(b) Principles Applicable to Economic, Social and Cultural Rights

The following principles apply to economic, social, cultural and environmental rights.

These include among others the right to health, the right to an adequate standard of living, the right to social security, the right to take part in cultural life and the right to a healthy environment. All these rights are to be introduced by the Scottish Human Rights Bill and are at the heart of the Charter and its Implementation Framework.

Maximum Available Resources: States must use maximum available resources to satisfy the minimum essential levels of the rights, and to progressively realise fulfilment of the full content of those rights. This involves assessment of available means of ingathering resources, including through a fair and appropriate system of taxation, and the budgetary allocation of maximum available resources to achieving fulfilment of the rights.

Minimum Core Obligations: Each economic, social, and cultural right has an essential minimum level which should be always met. The Scottish Government has proposed the development of Scottish specific minimum core levels of economic, social, and cultural rights, through a participatory process as part of the implementation of the Human Rights Bill. These minimum core levels must enable everyone to lead a life in dignity.

Progressive Realisation: States must take immediate targeted steps and move as expeditiously and effectively as possible towards full realisation of the rights. The implementation of this duty under Art 2, International Covenant on Economic, Social and Cultural Rights requires monitoring and evaluation, including the development of outcomes indicators and accountability.

Further guidance on these principles is provided by the Committee on Economic, Social and Cultural Rights in its General Comment No 12, 1999. **(9)**

Taken together, the above three principles support the prioritisation of saving lives and improving health outcomes for people affected by substance use. Although the National Mission is currently doing this in recognition of a declared “public health emergency”, these principles support the sustainability of this prioritisation, i.e., that

effectively addressing substance use remains prioritised beyond any temporary National Mission and is integrated into the mainstream provision of health and social care.

Non-regression (also known as non-retrogression): this is a principle of a presumption against regression (backward steps) in the realisation of economic, social, and cultural rights and it is also applicable to civil and political rights.

Although it is recognised that regression may in certain circumstances, for example, an economic recession, be unavoidable it must nevertheless be justified. In such circumstances the regression must be temporary. Measures taken such as budget cuts must not be discriminatory and disproportionately impact on a vulnerable part of the community. The most disadvantaged in society should be prioritised. The government should ensure that minimum essential levels continue to be met.

This principle is clearly relevant in times of austerity cuts in public services and provides guidance as to how to take a human rights-based approach in such circumstances.

The “**triple AAAQ**” framework is a set of criteria used to assess the *availability, accessibility, acceptability, and quality* of services delivering economic, social, and cultural rights.

Useful guidance is provided by the UN Committee on Economic, Social and Cultural Rights on the application of the triple AAAQ in the context of the right to health. **(10)** This framework can also be helpfully applied more broadly across civil and political rights as well as the UN Panel Principles.

The “triple AAAQ” framework is more of a valuable tool rather than a principle as such. It is very relevant for the Charter and is integrated within the Charter’s Implementation Toolkit which includes checklists and indicators broadly based upon the AAAQ framework. An example of its practical application can be found in the Right to Health Starter Checklist.

(c) UN Panel Principles

The UN has developed a common understanding of the principles which underpin a human rights-based approach. **(11)**

As the Scottish Human Rights Commission has noted:

“A Human Rights Based Approach (“HRBA”) is about empowering people to know and claim their rights, and increasing the ability and accountability of individuals and institutions who are responsible for respecting, protecting, and fulfilling human rights.” **(12)**

The Panel Principles form the basis of the Implementation Framework for the Charter of Rights and its Toolkit which provides more practical and context-specific checklists, outcome indicators and model of good practice.

The principles underlying a HRBA, as developed by the UN and which have become known as the Panel Principles, can be summarised as the following,

- **P**articipation,
- **A**ccountability,
- **N**on-discrimination and equality
- **E**mpowerment and capacity-building
- **L**egality

The following table sets out the meaning of each of these principles and applies each principle to the subject area of substance use. They are inter-related and should be applied together.

PANEL principle	Application to people affected by substance use.
<p>Participation</p> <p>Everyone has the right to participate in decisions that affect them, and in the design, implementation and assessment of laws, policies and practices affecting fulfilment of their rights.</p> <p>Participation must be active, free, and meaningful and give attention to issues of accessibility, including access to information in a form and a language which can be understood.</p>	<p>People affected by substance use should have their views heard and acted upon in a meaningful way, in relation to:</p> <ul style="list-style-type: none"> (i) decisions affecting them, including their treatment, health and social care, and other support services; and (ii) laws, policies, and practices affecting fulfilment of their rights. <p>People affected by substance use include families, carers, and supporters of those directly affected. The state should ensure wider stakeholders are able to participate meaningfully in the design, implementation and assessment of laws, policies and practices affecting them.</p> <p>The state should ensure effective and accessible communication in all contexts in which decisions are being taken affecting the person affected by substance use and ensure meaningful opportunities to participate in the creation of laws, policies and practices affecting fulfilment of their rights.</p>

<p>Accountability</p> <p>Accountability requires that those who are responsible for respecting, protecting, and fulfilling people’s rights are held to account in relation to those obligations.</p> <p>This involves identifying who is accountable, for what, and how they will be held to account for their obligations.</p> <p>Accountability requires effective monitoring, through data collection and collation of qualitative evidence, for example through inspections and/or interviews with people affected.</p> <p>It requires that everyone has the right to an effective remedy when their rights are not fulfilled or are breached. This requires access to both administrative and judicial remedies, which must be accessible, affordable, timely and effective.</p>	<p>Laws, policies, and processes must be in place to monitor respect, protection, and fulfilment of the human rights of people affected by substance use. This applies to the central state, local authorities, other public authorities, and to private organisations and individuals carrying out public functions.</p> <p>People affected by substance use must have accessible, affordable, timely and effective routes to remedy when their rights are not adequately fulfilled.</p>
<p>Non-Discrimination and equality</p> <p>Everyone is entitled to fulfilment of their human rights without discrimination. All forms of discrimination must be prohibited, prevented, and eliminated.</p> <p>People who face the biggest barriers to realising their rights should be prioritised.</p>	<p>People affected by substance use must not be discriminated against in relation to respecting, protecting, and fulfilling their human rights, directly or indirectly, including on account of their health status, physical or mental, or perceived health status, including substance use.</p> <p>The state must take effective steps to counter stigmatisation of people affected by substance use.</p> <p>As people affected by substance use are marginalised compared to the general population and face barriers in accessing health and social care and other support the state must prioritise realising their rights, ensuring maximum available resources are applied to doing</p>

	so, using human rights-based budgeting.
<p>Empowerment and capacity-building</p> <p>Everyone should know and understand their rights, and be supported to claim their rights, seek an effective remedy for breach, and participate in development of laws, policies and practices affecting the fulfilment of those rights.</p> <p>Duty bearers should take steps, including policy development and practical training, to improve their ability to respect, protect and fulfil the rights of people affected by substance use.</p>	<p>The state should take effective steps to ensure that people affected by substance use know and understand their rights, and that they are supported to claim those rights and secure an effective remedy when necessary.</p> <p>In this context, empowerment is interrelated with non-discrimination and the taking of effective measures to address stigma and self-stigmatisation. People affected by substance use will not be empowered to claim their rights or participate meaningfully in decisions affecting them while they are self-stigmatising or considering themselves to be less deserving of rights than other people.</p>
<p>Legality</p> <p>Laws, policies, and practices must be in line with legal rights, including those set out in national law and international human rights law.</p> <p>The full range of legally protected human rights must be respected, protected, and fulfilled.</p>	<p>People affected by substance use have the same full range of rights as everyone else.</p>

Section 3. Resources

Scotland context

- National Mission on Drug Deaths
 - [National mission - Alcohol and drugs - gov.scot \(www.gov.scot\)](http://www.gov.scot) and
 - [National Mission on Drug Deaths: Plan 2022-2026 \(www.gov.scot\)](http://www.gov.scot)
- Scottish Government policy papers
 - [A caring, compassionate and human rights informed drug policy for Scotland - gov.scot \(www.gov.scot\)](http://www.gov.scot)
 - [Rights, respect and recovery: alcohol and drug treatment strategy - gov.scot \(www.gov.scot\)](http://www.gov.scot)
 - [Drugs Deaths Taskforce Homepage - Drug Deaths Taskforce \(knowthescore.info\)](http://knowthescore.info)
- National Collaborative including its Roadmap, Analysis Report on evidence gathering, draft outline Charter of Rights and list of contributing bodies.
 - [National Collaborative - Lived experience \(alliance-scotland.org.uk\)](http://alliance-scotland.org.uk)
- Scottish Human Rights Bill
 - [A Human Rights Bill for Scotland: consultation - gov.scot \(www.gov.scot\)](http://www.gov.scot)
 - [*The Meaning and Content of Duties to be Considered for Inclusion in the Bill*](#) by Professor Katie Boyle, 1st June 2020, paper for the Academic Advisory Panel to the National Taskforce for Human Rights Leadership

UK legislative context

- Human Rights Act available at [Human Rights Act 1998 \(legislation.gov.uk\)](http://legislation.gov.uk)
- Misuse of Drugs Act 1971 available at [Misuse of Drugs Act 1971 \(legislation.gov.uk\)](http://legislation.gov.uk)

European context

- European Convention on Human Rights
 - [European Convention on Human Rights \(coe.int\)](http://coe.int)
- Council of Europe Human Rights in Drug Policy: A Self-Assessment Tool
 - <https://rm.coe.int/human-rights-in-drug-policy-final-web/1680a8148d>

International context

- An overview is available at [UN Common Position on Drugs \(unodc.org\)](http://unodc.org)
- A critical overview perspective is available at [Converging universes: 20 years of human rights and drug policy at the United Nations - International Drug Policy Consortium \(IDPC\)](#)

- Authoritative guidance on the application of human rights in the context of substance use, provided by The International Guidelines on Human Rights and Drug Policy, March 2019 is available at [International Guidelines on Human Rights and Drug Policy \(humanrights-drugpolicy.org\)](https://www.humanrights-drugpolicy.org/)
- The short video at the top of this website gives a useful introduction to the *Guidelines* available at <https://www.humanrights-drugpolicy.org/>.
- Foundational treaty of the International Covenant on Economic, Social and Cultural Rights, including the right to health, available at [International Covenant on Economic, Social and Cultural Rights | OHCHR](https://www.ohchr.org/en/instruments-treaties/instruments-treaties.aspx?lang=en)

Guidance on interpretation

- Independent, expert, and authoritative guidance on interpretation of the Covenant from the General Comments of the UN Committee on Economic, Social and Cultural Rights, available at: tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11
- The most relevant sources are:
 - [UN Committee on Economic, Social and Cultural Rights \(CESCR\), General Comment No. 14: The Right to the Highest Attainable Standard of Health \(Art. 12 of the Covenant\), 11 August 2000, E/C.12/2000/4](https://www.unhcr.org/refugees/article/43696961.html)
 - [UN Committee on Economic, Social and Cultural Rights \(CESCR\), General Comment No. 19: The right to social security \(Art. 9 of the Covenant\) 4 February 2008, E/C.12/GC/19](https://www.unhcr.org/refugees/article/43696961.html)
 - [UN Committee on Economic, Social and Cultural Rights \(CESCR\), General Comment No. 4: The Right to Adequate Housing \(Art. 11\(1\) of the Covenant\), 13 December 1991, E/1992/23](https://www.unhcr.org/refugees/article/43696961.html)
 - [UN Committee on Economic, Social and Cultural Rights \(CESCR\), General Comment No. 3: The Nature of States Parties' Obligations \(Art. 2, Para. 1 of the Covenant\), 14 December 1990, E/1991/23](https://www.unhcr.org/refugees/article/43696961.html)
 - [UN Committee on Economic, Social and Cultural Rights \(CESCR\), General Comment No. 12: The Right to Adequate Food \(Art. 11 of the Covenant\), 12 May 1999, E/C.12/1999/5](https://www.unhcr.org/refugees/article/43696961.html)
 - [UN Committee on Economic, Social and Cultural Rights \(CESCR\), General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights \(Art. 2, para. 2 of the Covenant\), 10 June 2009, E/C.12/GC/20.](https://www.unhcr.org/refugees/article/43696961.html)
 - [UN Committee on Economic, Social and Cultural Rights \(CESCR\), Report on Evaluation of the Obligation to Take Steps to the “Maximum of Available Resources” Under an Optional Protocol to the Covenant, 21 September 2007](https://www.unhcr.org/refugees/article/43696961.html)
- Other helpful guidance includes:

- Report of the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/65/255 6 August 2010 available at [Etpu \(un.org\)](#)
- WHO ICD 11: <https://icd.who.int/en> The WHO ICD 11 classifies “substance use disorders” by substance and diagnostic categories.
- OHCHR Report on Indicators for monitoring compliance with international human rights instruments: a conceptual and methodological framework, 11 May 2006 available at [G0641960.pdf \(un.org\)](#)
- Using Indicators to Promote and Monitor the Implementation of Human Rights: Report on the Work of the Office of the United Nations High Commissioner for Human Rights on Indicators for the Treaty Bodies, HRI/MC/2008/3, 6 June 2008 available at [Report on Indicators for Promoting and Monitoring the Implementation of Human Rights \(HRI/MC/2008/3\) | OHCHR](#)

Endnotes

1. A Human Rights Bill for Scotland: consultation guide (July 2022) <https://www.gov.scot/publications/human-rights-bill-scotland-guide-consultation>
2. National Taskforce for Human Rights: Leadership Report (March 2021) [National Taskforce for Human Rights: leadership report - gov.scot \(www.gov.scot\)](#)
3. U.N. Committee on Economic, Social and Cultural Rights [CESCR], General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights, reference paragraphs 27 and 33, available at <http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.GC.20.doc>
4. WHO International Classification of Diseases 11th Revision: The WHO ICD 11 classifies “substance use disorders” by substance and diagnostic categories, available at <https://icd.who.int/en> and search for “substance use disorders”.
5. A caring, compassionate and human rights informed drug policy for Scotland (July 2023) [A caring, compassionate and human rights informed drug policy for Scotland - gov.scot \(www.gov.scot\)](#)
6. Lord Advocate’s statement on pilot safer drug consumption facility (September 2023) [Statement on pilot safer drug consumption facility | COPFS](#)
7. International Guidance on Human Rights and Drug Policy (March 2019) [int-guidelines-on-hhrr-and-drug-policy-201903.pdf \(ohchr.org\)](#)

8. Committee on Economic, Social and Cultural Rights General Comment No 12, Para 15, 1999, available at [G9942012.pdf](#).
9. Committee on Economic, Social and Cultural Rights General Comment No 3, 1990, Para 9-12, available at [General Comment 3 | ESCR-Net](#)
10. Committee on Economic, Social and Cultural Rights General Comment No 14, Para 12, available at [G0043934.pdf](#)
11. U.N. Common Understanding of a Human Rights Based Approach (September 2003) <https://unsdg.un.org/resources/human-rights-based-approach-development-cooperation-towards-common-understanding-among-un>
12. Scottish Human Rights Commission Human Rights Based Approach https://www.scottishhumanrights.com/media/1409/shrc_hrba_leaflet.pdf; https://www.scottishhumanrights.com/media/1814/shrc_panel_self-assessment_tool_vfinal.pdf