



Subject:	Overdose Prevention Facilities
Date:	19 th January 2024
Reporting Officer:	Nora Largey, Interim City Solicitor and Director of Legal and Civic Services David Sales, Director of City & Neighbourhood Services
Contact Officer:	Nora Largey, Interim City Solicitor and Director of Legal and Civic Services David Sales, Director of City & Neighbourhood Services

Is this report restricted? Yes No

Please indicate the description, as listed in Schedule 6, of the exempt information by virtue of which the council has deemed this report restricted.

Insert number

1. Information relating to any individual
2. Information likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the council holding that information)
4. Information in connection with any labour relations matter
5. Information in relation to which a claim to legal professional privilege could be maintained
6. Information showing that the council proposes to (a) to give a notice imposing restrictions on a person; or (b) to make an order or direction
7. Information on any action in relation to the prevention, investigation or prosecution of crime

If Yes, when will the report become unrestricted?

After Committee Decision

After Council Decision

Some time in the future

Never

Call-in

Is the decision eligible for Call-in? Yes No

1.0	Purpose of Report or Summary of main Issues
1.1	The purpose of this report is to advise the Committee on the legal considerations in relation to the overdose prevention facilities.
2.0	Recommendations
2.1	The Committee is requested to: Note the contents of the report.
3.0	Main report
3.1	<p><u>Background</u></p> <p>At its meeting on March 2023, the Council adopted the following Notice of Motion:</p> <p><i>“This Council supports the establishment of an Overdose Prevention Facility in Belfast. This Council will work with key partners in the community, voluntary and statutory sector to bring together a partnership to advocate for the establishment of an Overdose Prevention Facility (OPC) for the city. With almost 350 drug related deaths in the city from 2017-2021 and over 1,000 needles recovered each month, a facility like this will save lives and reduce the amount of discarded drug debris. There are over 200 Overdose Prevention Facilities in 14 countries across the world.</i></p> <p><i>While we are conscious that the Misuse of Drugs Act 1971 is an inhibitor to the establishment of this service and that it would require some form of special legal dispensation from the Act for the facility to be lawful, it is clear that current policy is not saving lives. In the absence of a local Assembly to deliver reform and innovation that can save vulnerable lives, this Council will act as a civic leader by requesting our City Solicitor and Chief Executive to engage with partners and to lobby Belfast Trust, PSNI, the Departments of Health and Justice and the Attorney General to make the case for special dispensation.</i></p> <p><i>“That this Council facilitates an open call to organisations who wish to be involved in the setting up of such a facility to work together to draft a proposal on what this service would include, centred on providing overdose prevention facilities and wrap around support services for those in need, and to write to the relevant agencies to urge them to provide multi-year funding for the Complex Lives strategy.”</i></p>

3.2	<p>Further, at its meeting on 14th November 2023, the Committee asked for an update on progress in respect of this Notice of Motion with specific reference to meetings held, legal advice sought and partners engaged with in relation to the Notice of Motion.</p>
3.3	<p>Legal position</p> <p>Overdose Prevention Facilities are supervised facilities where individuals can go to safely consume drugs under supervision of trained staff who can intervene to prevent overdose. At present no such facility exists in Northern Ireland and the Misuse of Drugs Act 1971 ('the 1971 Act') is the legislation which governs controlled drugs.</p>
3.4	<p>The 1971 Act and has the effect of prohibiting such a facility from operating as those operating the premises would be at risk of prosecution. The following are criminal offences under the 1971 Act:</p> <ul style="list-style-type: none">• To be in possession of a controlled drug• For an individual as either an occupier or being concerned in the management of premises from knowingly permitting activities of production, supply, and use of controlled drugs;• An occupier or manager of premises must do everything they can reasonably do to prevent the production, supply and use of controlled drugs on said premises; and• To supply any article, other than a hypodermic syringe, to a user for them to administer the drug.
3.5	<p>It is clear having regard to these offences that currently the operating of an Overdose Prevention Facility would lead to a number of criminal offences on the part of the occupier and any staff.</p>
3.6	<p>Any individual found to be in possession of a controlled drug or operating an Overdose Prevention Facility is liable to prosecution if the Public Prosecution Service for Northern Ireland determine that the two-tier test for prosecution is met.</p> <p>The two-tier test for prosecution is:</p> <ol style="list-style-type: none">1. Evidential Test – the evidence which can be adduced in court is sufficient to provide a reasonable prospect of conviction.2. Public Interest Test – prosecution is required in the public interest.
3.7	<p>In order for an Overdose Prevention Facility to be operated lawfully, there would have to be legislative change. However the overall drug policy is a retained matter and the Government</p>

3.8	has confirmed that it does not intend to amend the 1971 Act to enable Overdose Prevention Facilities to open.
3.9	In Scotland however the Lord Advocate, who is the equivalent of the Attorney General, has recently advised that she will introduce policy for prosecutors in Scotland to the effect that it would not be in the public interest to prosecute drug users for simple possession offences within a pilot safer drugs consumption facility.
3.10	This policy is caveated to the pilot scheme of safer drugs consumptions facilities only and does not extend to any criminal offences other than possession of controlled substances.
3.11	In Northern Ireland there has been no indication from the Attorney General that such a policy will be introduced in this jurisdiction. A meeting has been arranged between the Attorney General and the Chief Executive, together with other senior officers, on 15 th January 2024 and a verbal update will be provided at the Committee meeting.
3.12	Members will be aware of the work being taken forward through community planning (Belfast Agenda) to help vulnerable people who may be homeless and have complex needs due to the use of drugs and alcohol. The Complex Lives project seeks to build a one vulnerability model which helps the most vulnerable people to get access to necessary support in holistic and integrated way including housing, addiction support, mental health support and healthcare. Complex Lives seeks to help those most vulnerable who have very challenging needs and many live chaotic lives. They are amongst the hardest to reach, with many not engaging with services that are available to them. Complex Lives improves collaborative working between statutory bodies, voluntary sector organisations and service providers so as to provide the right support to people who need it at the right time and in the right place.
	<u>Financial and Resource Implications</u>
3.13	None at this stage
	<u>Equality or Good Relations Implications/Rural Needs Assessment</u>
3.14	None
4.0	Appendices – Documents Attached
	None