



Law Society
of Scotland

Consultation Response

Draft Respiratory Care Action Plan for Scotland

July 2020



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors. With our overarching objective of leading legal excellence, we strive to excel and to be a world-class professional body, understanding and serving the needs of our members and the public. We set and uphold standards to ensure the provision of excellent legal services and ensure the public can have confidence in Scotland's solicitor profession.

We have a statutory duty to work in the public interest, a duty which we are strongly committed to achieving through our work to promote a strong, varied and effective solicitor profession working in the interests of the public and protecting and promoting the rule of law. We seek to influence the creation of a fairer and more just society through our active engagement with the Scottish and United Kingdom Governments, Parliaments, wider stakeholders and our membership.

Our Health and Medical Law sub-committee welcomes the opportunity to consider and respond to the Scottish Government's consultation: *Draft Respiratory Care Action Plan for Scotland*.¹ The sub-committee has the following comments to put forward for consideration.

General Comments

We note that this consultation, and the draft plan to which it refers, were prepared prior to the COVID-19 pandemic. Whilst the long-term impact of the pandemic remains to be seen, we note initial concerns regarding permanent lung damage sustained by many of those who have survived the virus.² The needs of these patients and the potential additional pressures on services will need to be taken in to account in planning for the future of respiratory care in Scotland.

¹ <https://consult.gov.scot/healthcare-quality-and-improvement/respiratory-care-action-plan/>

² <https://www.bbc.co.uk/news/health-53065340>

Consultation Questions

1. Do you agree with the overall vision and aims of this draft Plan?

Yes.

Respiratory conditions are diseases of the airways and other structures of the lung and are a major contributor to ill-health, disability and premature mortality. The most common conditions are Asthma and Chronic Obstructive Pulmonary Disease (COPD).

Although most long term respiratory conditions are not curable various forms of pharmacological and non-pharmacological treatment have been shown to help control symptoms, increase the quality of life and reduce premature mortality.

The figures released from the National Records of Scotland reveal that a total number of 114 people in Scotland died from an asthma attack in 2018. This death rate is one the top five highest recorded levels since 2002. The levels also show that twice as many women as men are dying from asthma.³

The National Records of Scotland also show that whilst the burden of COPD has historically been greater in males, over the last 25 years females in Scotland have had a dramatic increase in the rate of deaths attributed to COPD, compared with a decrease in males.⁴

Asthma attacks kill 3 people in the UK each day. But many of these deaths could be avoided. Every 10 seconds someone has a potentially life threatening asthma attack.⁵ Many asthma attacks could be avoided if those with the condition understood the warning signs for an asthma attack and sought help sooner. According to Asthma UK, 368,000 people in Scotland (1 in 14) are currently receiving treatment for asthma. This includes 72,000 children and 296,000 adults.⁶

In light of the number of deaths relating to the most common respiratory conditions we consider that a greater increase of public awareness is required to alert people to the seriousness of poorly controlled respiratory conditions. If the vision and aims of the care plan were fulfilled this would increase access to appropriate care, and provide support to patients living with respiratory conditions.

3 <https://www.scotpho.org.uk/health-wellbeing-and-disease/asthma/data/mortality-data>

4 <https://www.scotpho.org.uk/health-wellbeing-and-disease/chronic-obstructive-pulmonary-disease-copd/data/mortality-data>

5 <https://www.nhs.uk/conditions/asthma/asthma-attack/>

6 <https://www.asthma.org.uk/about/media/facts-and-statistics/>

2. Do you think we have included the most important priorities in this draft Plan?

Yes.

Respiratory conditions pose pressures on the healthcare systems and there is a need to improve management of the conditions in order to prevent avoidable deaths.

We agree that the diagnosis, management and care of respiratory conditions should be of high priority. Research carried out between 2008 and 2012 indicated that up to two thirds of people in the UK with COPD remained undiagnosed, although we acknowledge new research is required to assess whether these figures remain accurate.⁷

We consider that prioritising the improvement of the current diagnosis, management and care of respiratory conditions in Scotland is likely to increase the current pressure on the healthcare system, and the financial implications of this should be considered. The benefits from early diagnosis and management of respiratory conditions would include increase of both quality and length of life for patients. Once appropriate diagnosis and management has been put in place this can allow patients to self-manage their conditions and make positive choices. Thereafter patients will also be better placed to identify and deal with any worsening of their conditions which may significantly reduce the mortality rate.

The long-term respiratory effects of COVID-19 are not yet known but this may also add to the increased pressures on the healthcare system.

3. Early and correct diagnosis of respiratory conditions are a priority- Do you agree with commitments 1, 2 and 3?

Yes.

See answer to Question 2.

4. Increase access to pulmonary rehabilitation- Do you agree with commitment 4?

Yes.

⁷ <https://statistics.bf.org.uk/copd>

We would agree that increased access to pulmonary rehabilitation would have benefits of improving exercise capability or increased quality of life.⁸

The financial implications of increasing access to pulmonary rehabilitation, especially to wider and more remote areas, will have to be considered to enable NHS to provide equal access throughout Scotland. Currently there are vast variations of treatment available to people living with respiratory conditions such as COPD. Research currently shows that access to vital pulmonary rehabilitation depends on where you live in Scotland and waiting times for programmes range from 4 to 29 weeks.⁹ We would agree that increased access to pulmonary rehabilitation is something that should be prioritised as it is proven to improve patients' health, help them regain their lives and stay out of hospital.¹⁰

5. Mental health support- Do you agree with commitment 5?

Yes.

For people with respiratory conditions breathlessness and anxiety are common and they are at risk of poor mental health and isolation. According to the British Lung Foundation, symptoms such as coughing and breathlessness may cause people to stay at home and avoid physical activity. They may not sleep well and lose interest in their usual activities. They may feel that their respiratory conditions has stopped them doing things which they love and this can leave them feeling angry disheartened and hopeless. These emotions can be symptoms of depression.¹¹

Benefits of improved mental health support for people with respiratory conditions are improved quality of life, improved relationships, increased confidence and decision making skills.

People with respiratory conditions have been identified as at higher risk of developing complications from COVID-19 and therefore many have been asked to shield themselves and self-isolate for many months.¹² It is likely this will have increased the need for mental health support for people with respiratory conditions. Better access and improvement of services on a remote basis must be considered for those shielding. In the context of remote services, particular consideration will require to be given to issues around access to digital services. Access to remote services, or the lack thereof, is likely to have greater impacts on certain

8 http://www.healthcareimprovementscotland.org/our_work/long_term_conditions/copd_implementation.aspx

9 <http://www.knowledge.scot.nhs.uk/sprag.aspx>

10 <http://www.knowledge.scot.nhs.uk/sprag.aspx>

11 <https://www.blf.org.uk/support-for-you/dealing-with-your-mental-health/your-mental-health>

12 <https://www.nhs.uk/conditions/coronavirus-covid-19/people-at-higher-risk/whos-at-higher-risk-from-coronavirus/>

groups, including those living and/or working in rural areas where digital connectivity can be particularly challenging.¹³

Consideration should be given after lockdown restrictions are lifted to those who experience fear and deterioration of mental health as it may be the case that those in greatest need of support aren't able to access support that is available.

6. Transition from child and young people services to adult services- Do you agree with commitment 6?

Yes.

Young people who require continuing healthcare into adulthood are generally transferred from paediatric services between 16-19 years of age, depending on the condition and local healthcare service arrangements. During this time there can be significant changes in physical and mental health which can complicate and impede transition if not adequately addressed and managed.

Healthcare professionals would need access to clinical practice guidelines and care pathways for respiratory conditions in order to provide consistent and equal care throughout Scotland.

7. Palliative care- Do you agree with commitment 7?

Yes.

We understand that palliative care for people with serious respiratory conditions aims to optimise function and to enhance quality of life. We agree with the commitment regarding palliative care as towards the end of life, people with long term respiratory conditions may need extra support to deal with their symptoms of breathlessness, coughing, fatigue and flare ups.¹⁴

NHS Boards, Clinicians and the third sector would need access to clear care pathways for respiratory conditions in order to provide consistent and equal care throughout Scotland.

¹³ For example, Ofcom's Connected Nations 2019 Scotland report highlighted that it is estimated "that around 12,300 premises in Scotland cannot access either a decent fixed broadband service or get good 4G coverage indoors (from any operator)." It appears that improvements in this regard are being made, for example, Ofcom's report notes that "indoor 4G coverage from all four operators is available to 79% of premises in Scotland, up from 75% in 2018 and 57% in 2017", however, it is clear that there remain areas where basic levels of connectivity are not available.

¹⁴ <https://www.mariecurie.org.uk/professionals/palliative-care-knowledge-zone/condition-specific-short-guides/respiratory-diseases>

8. Person centred and self-management- Do you agree with commitment 8, 9 and 10?

Yes.

We agree with the commitment regarding person centred and self-management. However, this commitment goes hand in hand with the commitment for early and correct diagnosis of respiratory conditions.

People will be better placed to be able to self-care and self-manage their conditions once a diagnosis and appropriate initial advice/ treatment has been provided to them.

Increased community-based support will require to be consistent and equal throughout Scotland.

We have previously highlighted the importance of encouraging people to plan in advance, in an integrated matter, for meeting their own possible future care needs.¹⁵

9. Equal access- Do you agree with commitment 11?

Yes.

Equal access to support for respiratory conditions should be provided consistently throughout Scotland regardless of location. This commitment goes hand in hand with the commitment to reduce the variation in the quality of mental health support access across Scotland (see our comments in relation to question 5, above). People struggling with mental health issues as a result of their respiratory condition may not easily engage in increased support if they are experiencing anxiety or depression.

10. Data- Do you agree with commitment 12?

Yes.

Knowledge is power. Improved understanding and capturing of appropriate data can assist with improving and supporting care and support for people living with respiratory conditions.

11. Workforce- Do you agree with commitment 13?

We have no comments to make.

12. Wider workforce- Do you agree with commitment 14 and 15?

Don't know.

Medical professionals would be better placed to answer this question.

13. Do you think there are particular impacts or implications for any equalities groups from any of the commitments in this consultation, either positive or negative?

We note that initial research in relation to COVID-19 indicates a disproportionate impact on certain communities, including BAME communities.¹⁶ Given that the long-term impact of the virus may necessitate further respiratory care, it is important that the needs of these communities are taken in to account at all stages in the diagnosis, care, treatment and support of people living with respiratory conditions in Scotland.

We also note that the consultation document does not appear to consider the position of those with respiratory conditions and other health conditions or disabilities. Such health conditions or disabilities may impact on an individual's ability to access services, and this should be taken in to account in planning for respiratory care.

For further information, please contact:

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¹⁶ Beyond the date: understanding the impact of COVID-19 on BAME groups, Public Health England: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/892376/COVID_stakeholder_engagement_synthesis_beyond_the_data.pdf