

Citizen Participation and Public Petitions Committee
Wednesday 21 January 2026
2nd Meeting, 2026 (Session 6)

PE2194: Amend the Adults with Incapacity (Scotland) Act to prevent abuse of power of attorney

Introduction

Petitioner Lesley E Roberts

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to amend the Adults with Incapacity (Scotland) Act 2000 in line with recommendations of the Scott Review, to make it fit for purpose and to protect vulnerable adults from abuse of the use of powers of attorney.

Webpage <https://petitions.parliament.scot/petitions/PE2194>

1. This is a new petition that was lodged on 16 October 2025.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. Every petition collects signatures while it remains under consideration. At the time of writing, 317 signatures have been received on this petition.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered.
6. The Committee has received written submissions from the Scottish Government and the Petitioner, which are set out in **Annexe C** of this paper.

Action

7. The Committee is invited to consider what action it wishes to take.

Clerks to the Committee
January 2026

Annexe A: Summary of petition

PE2194: Amend the Adults with Incapacity (Scotland) Act to prevent abuse of power of attorney

Petitioner

Lesley E Roberts

Date Lodged

16 October 2025

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to amend the Adults with Incapacity (Scotland) Act 2000 in line with recommendations of the Scott Review, to make it fit for purpose and to protect vulnerable adults from abuse of the use of powers of attorney.

Background information

During COVID it became evident that vulnerable adults were at risk of being abused. My mother Letty was one of those adults. In trying to improve things for her, I found myself at odds with her Power of Attorney.

I approached organisations including the Office of the Public Guardian and the Mental Welfare Commission. They advised me that the Adults with Incapacity (Scotland) Act 2000 was not fit for purpose - the gaps within it did not adequately allow for thorough oversight of the Power of Attorney role. This remains the case.

In my quest for those most vulnerable adults to be protected I continue to call for a "Letty's Law", in remembrance of my late mother, and for the Act to be amended in line with recommendations of the Scott Review, to prevent abuse of Powers of Attorney.

Annexe B: SPICe briefing on PE2194

Brief overview of issues raised by the petition

The current legal framework: an overview

A power of attorney (PoA) is a written document that gives legal authority to someone ('the attorney') to make decisions on someone else's behalf ('the granter'). The current legal framework is set out in Part 2 of the [Adults with Incapacity \(Scotland\) Act 2000](#) ('the 2000 Act'), as amended.

Under Part 2, the PoA must be made by the granter while that person still has capacity to make this decision. An attorney may exercise powers over property and finances (a 'continuing attorney'), welfare decisions (a 'welfare attorney'), or a combination of these.

The [Office of the Public Guardian \(Scotland\)](#) ('OPG') has a statutory role in relation to continuing attorneys and local authorities (and sometimes [the Mental Welfare Commission for Scotland](#) ('MWC')) have a role in relation to welfare attorneys. In addition, [the sheriff courts](#) have a range of statutory powers in relation to both types of attorneys.

However, [in contrast to the regulatory position with financial guardians under Part 6 of the 2000 Act](#), neither the OPG nor local authorities/the MWC carry out routine supervision of attorneys.

The OPG (for continuing attorneys) and local authorities (for welfare attorneys) can "receive and investigate complaints" relating to attorneys (sections 6(2)(a) and 10(1)(c)). However, in practice, [local authorities regularly receive complaints about financial issues](#), despite the distinct roles for the local authorities and the OPG set out in the 2000 Act.

Currently, a continuing attorney can only be supervised by the OPG, or a welfare attorney by a local authority, by order of the court (2000 Act, section 20(2)). Separately, [there are some attorneys who voluntarily agree to supervision, where complaints have arisen and been investigated](#).

Proposals for reform (including timescales)

Following an independent review of mental health legislation, [the final report of the Scottish Mental Health Law Review](#), commonly referred to as the 'Scott Review' after its chair, John Scott KC, was published in September 2022. This piece of work included elements that cover the 2000 Act.

Recommendation 13.3 of the Scott Review's [final report](#) is particularly relevant to the subject matter of the petition. For attorneys, it recommended that:

13.3.5: A comprehensive investigatory framework should be developed with OPG, Local authorities, the MWC [that is, [the Mental Welfare Commission for Scotland](#)] and Police Scotland and full and equal participation with persons with lived experience including unpaid carers.

13.3.6: Provision should be made in law for an attorney to be subject to supervision should an investigation determine this is required.

The Scottish Government published their [response to this final report](#) in June 2023, indicating its intention to take a staged approach to legislative reform. In September 2024's [Programme for Government](#), the Scottish Government announced new legislation to amend the 2000 Act.

On 2 May 2025, [the Scottish Government confirmed that the legislative proposals in this area had been delayed](#). Furthermore, the Government were planning to undertake further work, with “a view to bringing forward a future Bill early in the next parliamentary term.”

In April 2025, Paul O’Kane MSP lodged several parliamentary questions relating to continuing attorneys. One ([S6W-36453](#)) asked when the powers associated with PoAs were last reviewed. Two others ([S6W-36455](#) and [S6W-36456](#)) asked what assessment the Scottish Government has made of the adequacy of current rules for challenging potential abuses of PoAs.

Sarah Harvie-Clark
Senior Researcher
05/11/2025

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

Published by the Scottish Parliament Information Centre (SPICe), an office of the Scottish Parliamentary Corporate Body, The Scottish Parliament, Edinburgh, EH99 1SP

Annexe C: Written submissions

Scottish Government written submission, 12 November 2025

PE2194/A: Amend the Adults with Incapacity (Scotland) Act to prevent abuse of power of attorney

Does the Scottish Government consider the specific ask of the petition to be practical or achievable?

The Scottish Government is currently undertaking the work required to support future reform of the Adults with Incapacity (Scotland) Act 2000 (AWI Act), with an amendment Bill expected to be taken forward in the next parliamentary term. Future legislative change in this area will provide the opportunity to take forward relevant recommendations of the Scottish Mental Health Law Review (Scott Review), including, amongst a range of proposals, improvements to the power of attorney process.

We have established an Expert Working Group and Ministerial Oversight Group to progress and oversee AWI reform activity.

What, if any, action the Scottish Government is currently taking to address the issues raised by this petition, and is any further action being considered that will achieve the ask of this petition?

In September 2022 the Scott Review published its final report, setting out over 200 recommendations for mental health law reform to better protect and fulfil international human rights obligations. The Scott Review recommended that as a high priority, the Scottish Government bring forward legislation to reform the AWI Act, prior to any wider reforms of the Mental Health (Care and Treatment) (Scotland) Act 2003. This recommendation has been overwhelmingly supported by a wide range of stakeholders.

The Scottish Government consulted between July and October 2024 on proposed changes to the AWI Act with more than 160 responses received. While it was clear from responses that there is strong support to modernise the AWI Act, we also heard concerns on system resourcing and the need for a further level of detail to be developed to support consideration by partners. As already noted, this work is now underway and is supported by an Expert Working Group and Ministerial Oversight Group.

Is there any further information the Scottish Government wish to bring to the Committee's attention, which would assist it in considering this petition?

The Scottish Government is fully committed to ensuring full and equal participation of people with lived experience and key practitioners including with unpaid carers in developing the legislation in line with the Scott Review recommendation

Tribunals Policy, Civil Law and Legal System Division

Petitioner written submission, 3 January 2026

PE2194/B: Amend the Adults with Incapacity (Scotland) Act to prevent abuse of power of attorney

I believe my mother was put at risk due to her POA and the legislation as it presently stands. I don't believe the POA worked in line with the processes that he should have been governed by, and there was no recourse to challenge the situation.

I am also of the view that it should always be someone medically trained who makes the decision as to whether the vulnerable person has capacity. I was astounded to witness that a lawyer can make this decision without any medical knowledge or training. This led to many problems that would have been outlined had a medical professional been able to become involved. It also led to a number of financial issues and I still find it incredulous that any professional lawyer would act as he did.

My mother would never have wanted me removed from her life and yet I found myself in the dark completely. At no point would she had wanted to be placed into a care home and have her daughter removed from that decision and not even told where she was going to be living. Many of my relatives and even mum's friends wrote to the local authority to advise them of the situation as to how they saw it, and yet they were also removed from her life. She was denied cards, letters, flowers, gifts and phone calls when at her worse. Even the care home questioned the decision making of the POA and yet no one challenged him. The local authority simply ignored all concerns no matter who raised them.

In my quest to be listened to I tried to focus on other organisations who may have been in a position to assist. I found the Mental Welfare Commission to be unable to do anything. The OPG told me that the POA role was not overseen and they had no jurisdiction to intervene as it was a private agreement. The Care Commission were unable to assist and whilst telling me that the Adults with Incapacity Act was unfit for purpose they offered no real solutions. The MWC and the OPG then advised me to write to the Scott Commission who were overseeing the Act and putting together findings to improve the situation. I duly did so. To that end the findings included in the Scott report noted a lot that I had brought to their attention.

It is obvious that the Act is now unfit for purpose and that is no doubt leaving many people in the same position as I found myself in. No one should be removed from someone's life because the POA wants full control and in his quest to do so, removed everyone who could have had a positive input in my late mother's life. Serious changes need to be made in order to protect the vulnerable and I call for the changes to be made in my late mother's name. I call for a "Letty's law" within the new legislation.