

Citizen Participation and Public Petitions Committee

5th Meeting, 2022 (Session 6), Wednesday
23 March 2022

PE1900: Access to prescribed medication for detainees in police custody

Note by the Clerk

Lodged on 14 September 2021

Petitioner Kevin John Lawson

Petition summary Calling on the Scottish Parliament to urge the Scottish Government to ensure that all detainees in police custody can access their prescribed medication, including methadone, in line with existing relevant operational procedures and guidance.

Webpage <https://petitions.parliament.scot/petitions/PE1900>

Introduction

1. The Committee considered this petition at its meeting on [Wednesday 17 November 2021](#). The Committee agreed to write to the Scottish Government and relevant drug treatment charities.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received a response from the Scottish Drug Death Taskforce which is set out in **Annexe C**. A response has also been received from the Petitioner which is set out in **Annexe D**.
4. Written submissions received prior to the Committee's last consideration can be found on the petition's webpage <https://petitions.parliament.scot/petitions/PE1900>
5. Further background information about this petition can be found in the SPICe [briefing](#) for this petition.

6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).

Action

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

Clerk to the Committee

Annexe A

PE1900: Access to prescribed medication for detainees in police custody

Petitioner

Kevin John Lawson

Date Lodged

14/09/21

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to ensure that all detainees in police custody can access their prescribed medication, including methadone, in line with existing relevant operational procedures and guidance.

Previous action

I have written to Jamie Halco Johnston MSP who spoke to Humza Yousaf, who confirmed that detainees in police custody should have access to their prescribed methadone. I have also written to the Chief Executive of the local NHS Board who said it was not their policy to treat detainees in accordance with Official Guidance, and contrary to the Mandela Rules 24-25. I also wrote to the Chief Constable of Police Scotland who stated it wasn't his problem.

Background information

Police Scotland standing operating procedures says that, as long as it is safe and appropriate to do so, detainees should have prescribed medication continued whilst in police custody including the consideration of opiate substitution therapy such as methadone. The NHS delivers that care.

Humza Yousaf said that this is what should be happening, however, the Chief Executive of the local NHS Board confirmed that it was not their policy to treat detainees.

I am angry that detainees are not being treated in accordance with Official Guidance nor [The Mandela Rules](#), Rules 24 and 25. I believe that this actually breaks [Article 3 of the Human Rights Act](#).

I therefore want the Scottish Government to make sure that detainees are being given their prescribed methadone, as they would in the community, or in prison, in accordance with the Official Guidance.

Annexe B

Extract from Official Report of last consideration of PE1900 17 November 2021

The Convener: Item 2 is consideration of new petitions. For those who are watching, and for petitioners who might be following proceedings, before we consider these petitions for the first time orally at the committee, we have sought the views of the Scottish Government, and in some instances other submissions have also been received, which allows us to have informed discussions ahead of consideration of the petitions.

The first new petition, PE1900, which has been lodged by Kevin John Lawson, calls on the Scottish Parliament to urge the Scottish Government to ensure that all detainees in police custody can access their prescribed medication, including methadone, in line with existing relevant operational procedures and guidance.

In its submission, the Scottish Government confirms strongly that it considers that

“fast and appropriate access to treatment including all forms of opiate substitution is important.”

It highlights its new national mission to reduce drug deaths and harms and the medication-assisted treatment standards that ministers are committed to embed by April 2022. The Government confirms that it has sought assurances from the Scottish health in custody network that opioid substitution therapy is being provided to people in custody across Scotland, and it goes on to state that once the medication-assisted treatment standards are fully embedded, it will monitor provision in the NHS Grampian area.

In his submission, the petitioner suggests that there is a contradiction between what official guidance states must happen to detainees in custody in relation to prescribed medication and what is actually happening. He asks that an inquiry is launched to look into the death in custody of detainees who, in the petitioner’s opinion, were

“medically triaged by unqualified police staff.”

Do colleagues have any comments?

I read the petition with a great deal of concern, but I then read the Scottish Government’s submission. It was a strong response that sought to assure us that the practice in place is to the contrary. The weakness in it is that no register is kept that can substantiate the fact, so we do not know how many requests for prescribed medications have been received, nor do we have confirmation of how those requests were dealt with.

Although I am reassured by the Scottish Government's commitment that detainees should be able to access their medication, I am slightly unnerved by the fact that we are unable to demonstrate that that is the case. I wonder whether the absence of any formal record of requests received or prescriptions issued is entirely as it should be.

Do any colleagues have a view?

Alexander Stewart: You hit the nail on the head when you talked about the duty of care. There is a duty of care for individuals who are detained, and it is a concern that the Government has no data to show us that that duty has been exercised. You would assume that, if they are detained in police custody, individuals who required such support would receive it, but if we do not have any data to prove that that is the case, there is dubiety about the process. More clarity is required about what the Government intends to put in place if nothing is in place already.

Paul Sweeney: I share the concern that the monitoring processes are not sufficiently mature. The Government's submission might be sincere, but if the Government is not connected to what is going on in a custody suite in Scotland at any particular time, how would it know any different? The petition has highlighted a blind spot in its monitoring procedures and it is well worth further investigation.

The Convener: That is without casting aspersions on anybody. We simply cannot substantiate the point. Nobody can.

Are we minded to keep the petition open, to write to the Scottish Government further on monitoring—that is the key issue that arises from the petition—and to ask how, in the absence of monitoring, it can be assured that we have in place the provisions that are required?

Paul Sweeney: It might be worth seeking submissions from relevant charities that operate in drug treatment, such as Transform. I am sure that the clerks could come up with a potential list of charities from which it might be worth inviting responses.

The Convener: That might get us some further evidence one way or the other on what is actually happening. That is a good suggestion.

Are we content to do as suggested?

Members indicated agreement.

Annexe C

Scottish Drug Death Taskforce submission of 17 January 2022

PE1900/C - Access to prescribed medication for detainees in police custody

Thank you for providing the Drug Deaths Taskforce with the opportunity to respond to the Citizen Participation and Public Petitions Committee of the Scottish Parliament regarding PE1900: Access to prescribed medication for detainees in police custody: The petition calls on the Scottish Parliament to urge the Scottish Government to ensure that all detainees in police custody can access their prescribed medication, including methadone, in line with existing relevant operational procedures and guidance.

I am writing to you in the capacity of my recent appointment as Chair of the Drug Deaths Taskforce. I can confirm that the position of the Drug Deaths Taskforce is that all relevant individuals, including detainees in police custody, should have access to prescribed medication. This includes the consideration of opiate substitution therapy such as methadone. This should be in line with existing operational procedures and the Drug Deaths Taskforce notes that the relevant [Guidance for Police Scotland and Health Care Professionals](#) has been sent to the Committee in an earlier submission from the [Scottish Government](#) on this matter, outlining that; "As long as it is safe and appropriate to do so, people in custody should have prescribed medication continued, this includes opiate substitution therapy such as methadone." The Committee will also note that that Appendix F provides an algorithm for determining how to proceed when someone enters police custody and is on a methadone prescription.

[Police Standard Operating Procedure 18.4.3](#) also makes provision for providing access to methadone in custody and states that only NHS healthcare staff can administer methadone, although note that under 18.4.1, police can administer other medications. It may be helpful to learn more about the availability of healthcare staff to administer methadone in police custody as there may be some areas where healthcare staff have a significant geographical area to cover which

could impact on availability to administer methadone, resulting in some people going through withdrawal in custody.

The implementation of [Medication Assisted Standards \(MAT\)](#) in Scotland will enable consistent delivery of safe, accessible, high-quality drug treatment across Scotland. A Subgroup of the Drug Deaths Taskforce led the work to develop these evidence-based standards. This diverse group included those who will deliver care and those who will benefit from that care. The intense period of consultation was strengthened by the active contributions of individuals and families with experience of problematic drug use. These standards make clear that an individual should “have the option to start MAT from the same day of presentation”, “are proactively identified and offered support to commence or continue MAT” and “will receive support to remain in treatment for as long as requested”. These standards continue to apply in Police custody and therefore support of the MAT standards would equate to support for “all detainees in police custody accessing their prescribed medication, including methadone”.

In addition, the Drug Deaths Taskforce notes that the Minister for Drugs Policy has made a commitment in the Scottish Parliament to embed these evidence-based MAT Standards by April 2022 and active participation from people with experience of problematic drug use will be central to this phase. Demonstrable commitment from senior leaders in NHS boards, Local Authorities and Health and Social Care Partnerships will also be critical and we welcome Scottish Government leadership in this respect. Effective implementation of the MAT Standards will help to reduce drug related harm, including premature death, but this needs to be supported by sustained funding, workforce development, system change and culture change. A key way to measure success will be the experiences of people and families that use services.

The Committee should also note that the [Community Justice Annual Report on Community Justice Outcomes](#) was published for consultation on 20 December 2021 and is based on returns submitted by the local authority areas to Community Justice Scotland. On Page 48 it outlines that the covid pandemic impacted the number of services and the type of service delivery models available to individuals. Face to face restrictions meant that in many areas, drop-in services had to be closed and group work (e.g., smart recovery) had to be stood down. Initiatives which aim to improve referral and early access to treatment and support for those who come into contact with the justice system were also stood down in many areas. Of the areas who provided data regarding delivery of

Alcohol Brief Interventions, there seemed to be a general decline in the number of interventions delivered. A number of areas did some anticipatory planning for the MAT Standards for Scotland. Those who reference the new standard indicate that review and planning is already under way to ensure they meet and achieve compliance with the new standards. It should be noted that some rural areas have already highlighted concerns regarding their ability to meet same day treatment (standard one). Other areas highlight ongoing work to implement a Rapid Access to Drug and Alcohol Recovery (RADAR) service which aligns to the new MAT Standards for same day interventions and prescribing opportunities for those experiencing alcohol and drug issues.

If the committee would like any further information from the Drug Deaths Taskforce, please get in touch.

Annexe D

Petitioner submission of 14 March 2022 PE1900/D Access to prescribed medication for detainees in police custody

My final submission is that the Scottish Government make it an unlawful act to discriminate against detainees in Police custody in Scotland because of a physical, mental or addiction. That HNS Grampian be required not to force without consent a unlicensed drug dihydrocodeine En masse but allow them the methadone that they were prescribed.

NHS Grampian should recognise that detainees in Police custody have the right to informed consent as defined in Montgomery v Lanarkshire and send the Advanced Nurse Practitioner custody suite located at Dr Grays Hospital or a Doctor from GMED as per the agreement made.

In Elgin despite the agreement that was agreed by NHS Grampian and Police Scotland that nurses would provide 24/7 coverage for both centres from their base at local hospitals. It was intended that they would provide scheduled visits to custody centres to dispense medication **(like Methadone)** and also be available for phone advice and visits as and when required.

NHS Grampian must also make reasonable adjustments to enable detainees receive a reasonable treatment in Custody, the Scottish Government needs to recognise the Mandela Rules as a mandatory requirement for the civilised treatment of detainees.

Committee I thank you for listening to my petition, I leave you with the words of Nelson Mandela.

“It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.”