

Citizen Participation and Public Petitions Committee

7th Meeting, 2021 (Session 6), Wednesday
17 November 2021

PE1900: Access to prescribed medication for
detainees in police custody

Note by the Clerk

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. This is a new petition that has been under consideration since 14 September 2021.
2. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe A**.
3. While not a formal requirement, petitioners have the option to collect signatures on their petition. On this occasion, the petitioner elected not to collect this information.
4. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government and is included at **Annexe B** of this paper.

Scottish Government submission

5. The Scottish Government states that it firmly believes that fast and appropriate access to treatment, including all forms of opiate substitution treatment is important.
6. The Scottish Government highlights its [new national mission to reduce drug deaths and harms](#) and [Medication Assisted Treatment Standards](#). Ministers have made a commitment to have these standards fully embedded by April 2022.
7. The submission confirms that currently, the delivery of healthcare in police custody is the responsibility of Integration Authorities working closely with Police Scotland and in line with the [Guidance for Police Scotland and Healthcare Professionals](#)
8. This guidance includes a section devoted to the care of those with problem drug use and states 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.”
9. The Scottish Government confirms that it has sought assurances from the Scottish Health in Custody Networks that opioid substitution therapy (OST) is being provided to people in custody across Scotland.
10. The submission ends by confirming that once local services embed the Medication Assisted Treatment Standards, the appropriate availability of opioid substitution therapy in custody will be assured and that the Scottish Government will monitor this provision within the NHS Grampian area.

Petitioner Submission

11. The petitioner suggests in his submission that there is a contradiction between what official guidance states must happen when providing prescribed medication to detainees in police custody and what he believes is actually happening.
12. 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.

Action

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

Clerk to the Committee

Annexe

The following submissions are circulated in connection with consideration of the petition at this meeting -

- [PE1900/A: Scottish Government submission of 12 October 2021](#)
- [PE1900/B: Petitioner submission dated 21 October 2021](#)

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.

SPICe

The Information Centre
An t-Ionad Fiosrachaidh

Briefing for the Citizen Participation and Public Petitions Committee on petition PE1900: Access to prescribed medication in police custody, lodged by Kevin John Lawson.

Background

The petitioner is 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.

The dispensing of medication, including methadone, for individuals who are to be detained by Police Scotland, is set out in Police Scotland's [Standard Operating Procedure for the Care and Welfare of Persons in Police Custody](#) ("the SOP").

The SOP sets out in detail, the risk assessments that Police Scotland must carry out when a person is to be held in police custody. Those assessments include identifying any vulnerabilities which an individual may have, including medical conditions requiring medication, and known drug abuse or dependencies. Where a prisoner is apprehended at their home address, the arresting officers should, when practicable, ask if the prisoner has any prescribed medication. If so, it should be included with the prisoner's property and brought to the attention of the Custody Supervisor when the prisoner arrives at custody.

The SOP also sets out the process where the provision of medication for an individual is required. Medical provision for prisoners is the responsibility of the National Health Service in Scotland. Should medical advice and/or assistance be required in

relation to any prisoner, it is the responsibility of the police Custody Supervisor to make contact directly with the relevant Health Care Professional (HCP). HCPs can be doctors, nurses or paramedics.

The management of all medication given to an individual whilst in police custody is the responsibility of the HCP. Police officers and Police Custody Security Officers may assist in the administration of medication to prisoners whilst in custody, only when the HCP is satisfied that it is appropriate for them to exercise this function. However, the administering of methadone to prisoners is strictly governed and must only be done by healthcare staff.

The petitioner is concerned that police detainees are not being treated in accordance with official guidance or with regard to the Mandela Rules and believes that this actually breaks Article 3 of the Human Rights Act – freedom from torture and inhuman or degrading treatment.

[The Mandela Rules](#) have been published by the United Nations Office on Drugs and Crime and are concerned with the treatment of prisoners. The rules are not binding on states and simply set out what is generally accepted as being good principles and practice in the treatment of prisoners.

With regard to a breach of Article 3 of the Human Rights Act, the petitioner has not provided any examples of where this may have occurred. The Police Scotland Standard Operating Procedure referenced above was subject to an Equality and Human Rights Impact Assessment.

Scottish Government Action

The Scottish Government has not taken any specific action on this issue.

Scottish Parliament Action

The Scottish Parliament has not taken any specific action on this issue.

Graham Ross
Senior Researcher
20/09/2021

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Scottish Government submission of 12 October 2021

PE1900/A: Access to prescribed medication for detainees in police custody

I refer to your email of 16 September asking for the Scottish Government's views on the action called for in the above petition.

The petition calls for action to ensure people in police custody can access their prescribed medication, including methadone. Fast and appropriate access to treatment, including all forms of opiate substitution treatment, is something the Scottish Government firmly believes is important. As part of the new [national mission on drug deaths](https://www.gov.scot/policies/alcohol-and-drugs/national-mission/) (<https://www.gov.scot/policies/alcohol-and-drugs/national-mission/>) this is something which will be ensured through the implementation of new [Medication Assisted Treatment Standards](https://www.gov.scot/publications/medication-assisted-treatment-mat-standards-scotland-access-choice-support/) (<https://www.gov.scot/publications/medication-assisted-treatment-mat-standards-scotland-access-choice-support/>) which Ministers have made a commitment to have fully embedded by April 2022.

At present the delivery of healthcare in police custody is the responsibility of Integration Authorities working closely with Police Scotland. There is an expectation at the moment that they will work together locally to provide services in accordance with the [Guidance for Police Scotland and Healthcare Professionals](https://www.policecare.scot.nhs.uk/wp-content/uploads/2017/06/Alcohol-Drugs-and-Tobacco-Healthcare-Services-in-Police-Custody-Guidance-v1.pdf) (<https://www.policecare.scot.nhs.uk/wp-content/uploads/2017/06/Alcohol-Drugs-and-Tobacco-Healthcare-Services-in-Police-Custody-Guidance-v1.pdf>) published jointly by Police Scotland and NHS Scotland in April 2017. The guidance suggests a best practice model of care which includes a section devoted to care for those with problem drug use. In the guidance at 4.4.4.4 it is recommended 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 Scottish Government supports the use of the guidance and this recommendation, with local, clinical decision making on what is safe and appropriate and on the basis of individual health assessments.

The Government has sought assurance from the Scottish Health in Custody Networks that OST is being provided to people in custody across Scotland and has sought assurance from NHS Grampian that Integration Authorities in the NHS Grampian area are making arrangements to be able to provide OST in custody in all cases where it is safe and appropriate to do so.

As local services move to embed the Medication Assisted Treatment Standards, which they have already agreed to implement, the appropriate availability of OST in custody will be assured in any case. The Scottish Government will monitor progress on the provision of OST to people in custody in the NHS Grampian area.

Petitioner submission of 21 October 2021

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

Firstly, the healthcare of detainees has to be firmly enforced by law, because I find it worrying in the extreme that in my opinion over the last 7 years over 70,000 detainees have had their human rights abused by NHS Grampian with apparently the consent of Police Scotland.

An inquiry has to look into the death in custody of detainees who in my opinion were medically triaged by unqualified police staff without even seeing a clinician this despite [Police Scotland own Standard Operating Procedures\(Welfare and Care of Persons in Police Custody.\)](#) states how detainees with a drug marker should be treated. (Risk Assessment and Management 9-9:19:2.).

This segment of Welfare and Care of Persons in Police Custody must and should be enforced by law. Page 54: Medical Examination explains what should happen, including rules on prescribe medications like methadone. I believe Methadone is denied to detainees in Grampian!

In my opinion, Police Scotland is complacent with NHS Grampian in breaching detainees Human Rights, the Istanbul Protocol and the Mandela Rules 24-25. Ironically the Police who uphold the law are breaking it and NHS Grampian purposely cause harm to the detainees. This is discrimination on a major level.

I also note that this seems to be in defiance of *Wenner v Germany* in the Court of Human Rights. The European Court of Human Rights found Germany guilty of breaching Article 3 of the Human Rights Act in September 2016 by denying a prisoner *Wenner* methadone. In Law, Article 3 is an absolute. The excuse that NHS Grampian as I understand are thinking to incorporate it into their unwritten policy is untenable and that Police allowed them to unbelievable.

The fact that pregnant detainees receive methadone in custody is discrimination, both members of the local community and prisoners in HMP Grampian receive methadone and NHS Grampian in a document about prisoners state it is a duty under the Mandela Rules to provide methadone. I believe the phrase what sauce for the goose, is sauce for the gander.

The medical triage of detainees by, in my opinion, unqualified police staff who report to doctors or nurses at a remote custody suite is doubtful in law combined with the police supervision being remote is also dubious. The combination of both is obscene.

If the Petition Committee clarify and enforce the Official Guidance, Scotland will become a more civilised country and more importantly drug death and suicides will drop.

To quote 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.”