Thank you for your letter of 5 July and email of 21 July seeking the Health and Safety Executive’s (HSE) view on this petition.

The Committee will be aware of written submissions from other organisations, which explain that existing common law and statutory offences already provide for the prosecution – with unlimited penalties on indictment - of assaults committed against any NHS employee; and that this is regardless of whether their particular employment status is defined in the Emergency Workers (Scotland) Act 2005.

In addition, under the Health and Safety at Work etc Act (HSWA)1974, employers have a duty to ensure so far as is reasonably practicable the health, safety and welfare of their employees including from the risks of assaults on staff by patients and other members of the public. HSWA is a criminal statute and convictions can lead to unlimited fines and, in some cases, imprisonment for up to two years.

Furthermore, injuries resulting from assault by a patient on a member of NHS staff are reportable under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013. If the incident meets our published criteria, HSE will investigate whether there is a breach of health and safety legislation and if appropriate make a report to COPFS.

Overall, HSE considers that existing legislation, to require prevention of assault of any person in the course of any employment (and to secure justice if it occurs) is sufficiently comprehensive.

However, HSE is an independent regulator and a reserved body and we would not wish to advise on the powers and policy choices of the Scottish government.