Public Petitions Committee
Thursday 5 November 2026
5th Meeting, 2026 (Session 7)

PE2242: Repeal the Mental Health (Care and Treatment) (Scotland) Act 2003

Introduction

Petitioner	Andrew Joseph Muir
Petition Summary	Calling on the Scottish Parliament to urge the Scottish Government to repeal the Mental Health (Care and Treatment) (Scotland) Act 2003 ("the 2003 Act").
Website	https://petitions.parliament.scot/petitions/PE2242

1. This is a new petition that was published on 4 August 2026.

2. A full summary of this petition and its aims can be found at **Annexe A**.

3. Every petition collects signatures while it remains under consideration. At the time of writing, 25 signatures have been received on this petition.

4. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.

5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered.

6. The Committee has received 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
November 2026

Annexe A: Summary of petition

PE2242: Repeal the Mental Health (Care and Treatment) (Scotland) Act 2003

Petitioner:

Andrew Joseph Muir

Date published:

4 August 2026

Petition summary:

Calling on the Scottish Parliament to urge the Scottish Government to repeal the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”).

Background information:

On 4 March 2013 Juan Mendez, then UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, addressed the UN Human Rights Council and stated: “The UN Convention on the Rights of Persons with Disabilities offers the most comprehensive set of standards on the rights of persons with disabilities and it is important that states review the anti-torture framework in relation to persons with disabilities in line with the CRPD. States should impose an absolute ban on all forced and non-consensual medical interventions against persons with disabilities, including the non-consensual administration of psychosurgery, electroshock and mind-altering drugs for both long- and short-term application.”

In my opinion the 2003 Act is very similar to the Witchcraft Acts, the Inquisition and slavery.

It is easy to label someone mentally ill, a witch, a heretic or a slave and very hard to refute this allegation.

Annexe B: SPICe Briefing

Scottish Parliament Information Centre
Ionad Fiosrachaidh Pàrlamaid na h-Alba

Briefing for the Public Petitions Committee on petition PE2242: Repeal the Mental Health (Care and Treatment) (Scotland) Act 2003, lodged by Andrew Joseph Muir

Brief overview of issues raised by the petition

PE2242 calls on the Scottish Parliament to urge the Scottish Government to repeal the Mental Health (Care and Treatment) (Scotland) Act 2003 ("the 2003 Act").

The petition makes reference to the UN Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 2013. This outlined:

> "The mandate has previously declared that there can be no therapeutic justification for the use of solitary confinement and prolonged restraint of persons with disabilities in psychiatric institutions; both prolonged seclusion and restraint may constitute torture and ill-treatment"

It went on to say:

> "Moreover, any restraint on people with mental disabilities for even a short period of time may constitute torture and ill-treatment. It is essential that an absolute ban on all coercive and non-consensual measures, including restraint and solitary confinement of people with psychological or intellectual disabilities, should apply in all places of deprivation of liberty, including in psychiatric and social care institutions. The environment of patient powerlessness and abusive treatment of persons with disabilities in which restraint and seclusion is used can lead to other non-consensual treatment, such as forced medication and electroshock procedures"

The petition raises concerns that "It is easy to label someone mentally ill […]and very hard to refute this allegation".

Mental Health (Care and Treatment) (Scotland) Act 2003

The Mental Health (Care and Treatment) (Scotland) Act 2003 (as amended by the Mental Health (Scotland) Act 2015) is the main mental health legislation in Scotland. The 2003 Act followed the 2001 report of the Millan Committee which reviewed earlier legislation. It recommended that law and practice relating to mental health should be driven by ten principles, focused on minimising interference in people's liberty and maximising the involvement of service users in treatment.

The 2003 Act applies to people who have a "mental disorder". This is defined under section 328 of the 2003 Act and includes any mental illness, personality disorder or learning disability, however caused or manifested. It sets

out when and how people can be treated if they have a mental disorder, when people can be treated or taken into hospital against their will and what a person's rights are and the safeguards to ensure that these are protected.

The Act aims to be rights-based legislation which allows people to express their views about their care and treatment. It provides the right to:

- independent advocacy
- submit an advanced statement (stating an individual's wishes)
- choose a named person who can make decisions on an individual's behalf.

The Scottish Government has said in response to an earlier petition: Obtain a second medical opinion before detainment under the Mental Health (Care and Treatment) (Scotland) Act 2003 (PE2108):

> "Mental health legislation in Scotland is based on rights and principles and provides for rigorous safeguards in respect of individuals' human rights where compulsory treatment is necessary. Safeguards include a right to independent advocacy and an efficient and independent Mental Health Tribunal which grants and reviews orders for compulsory treatment."

Detention and compulsory treatment

Under the 2003 Act there are three types of orders: emergency detention certificates, short term detention certificates and compulsory treatment orders.

An emergency detention certificate allows for a person to be held in hospital, or transferred to a different hospital, and allows for their detention for up to 72 hours while their condition is assessed. Any registered medical practitioner can grant an emergency detention certificate. The doctor does not need to be an Approved Medical Practitioner, often an consultant psychiatrist with additional training, (AMP).

A short-term detention certificate allows for a person to be held in hospital, or transferred to a different hospital, and their detention for up to 28 days for assessment and/or treatment. A short-term detention certificate can only be granted by an AMP and a Mental Health Officer (HMO) must be consulted.

A compulsory treatment order (CTO) allows for a person to be treated for their mental illness. A CTO is granted by a Tribunal and authorises detention and treatment in hospital or the community for an initial period of six months, extended for six months and then reviewed annually. A CTO requires two medical reports, a report by the MHO making the application, and a proposed care plan. The CTO will set out a number of conditions that an individual will need to comply with. These conditions will depend on whether the individual has to stay in hospital or is in the community. The individual and their named person should be informed if an application for a CTO is to be made. The Tribunal decides whether a CTO is to be granted. The individual has the right to make their views known to the Tribunal. If a compulsory treatment order is made the individual or named person, can apply to the Tribunal for it to be removed once the order has been in force for three months.

Independent review of Learning Disability and Autism in the Mental Health Act (the Rome Review)

The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) was adopted by the UK in December 2006. In 2017, the UN Committee on the Rights of Persons with Disabilities concluded a review of the United Kingdom's compliance with the convention. The review identified a number of areas of concern, including that legislation, regulations and practices discriminate against people with disabilities.

Following this, the Scottish Government commissioned an Independent review of Learning Disability and Autism in the Mental Health Act. This made a number of recommendations focused on reducing or removing the discrimination of autistic people and people with intellectual disability in existing legislation.

The report made 107 recommendations, including that:

- Learning disability and autism should be removed from the definition of mental disorder in the 2003 Act. But new legislation and service improvements, should be in place before this happens.
- The law should be changed so that people are not detained and/or compulsory treated based on their disability.
- A new law should be created that supports access to positive rights (such as the right to independent living, family and private life, education employment, and freedom of expression).

The Scottish Government said, in December 2020, it was considering the recommendations of the report.

Scottish Mental Health Law Review (the Scott Review)

The Scottish Government also commissioned the Scottish Mental Health Law Review. This independent review aimed to:

> "Improve the rights and protections of persons who may be subject to the existing provisions of mental health, incapacity or adult support and protection legislation as a consequence of having a mental disorder, and remove barriers to those caring for their health and welfare."

The Review's final report was published on 30 September 2022. It set out 227 proposals for changes to the mental health system as well as broader areas including health and social care, justice and public sector scrutiny.

Audit Scotland and the Accounts Commission

On 13 September 2023, the Auditor General for Scotland and the Accounts Commission published Adult mental health. Following this, the Session 6 Public Audit Committee undertook an inquiry into Adult Mental Health. Its concluding report includes a brief reference to an increase in the use of detention, but the Committee did not recommend any changes in this area.

Scottish Government action

The Scottish Government published its response to the Scottish Mental Health Law Review on 28 June 2023. This committed to establishing a new Mental Health and Capacity Reform Programme to deliver on the ambitions of the Review.

An initial delivery plan for the Mental Health and Capacity Reform Programme was published on 4 June 2024. This set out a range of actions up to April 2025. The first strategic aim was around law reform, and said:

> "We will build on and enhance human rights protections in mental health and capacity law".

In relation to mental health law reform the following objectives were outlined:

- We will scope possible reforms to the Mental Health Act in line with developing human rights standards
- We will review the safeguards which accompany the named persons provision contained within the Mental Health Act
- We will explore the benefits of moving from the current Advance Statements to a model of Advance Choices
- We will consider making improvements to the 'recorded matters' process
- Consider issues around Emergency Detention Certificates (EDCs) under Mental Health Act

In response to a parliamentary question in 2024 the Scottish Government said:

> "We are taking staged approach to mental health law reform due to the scope, complexity, and inter-related nature of the SMHLR recommendations with other significant ongoing policy developments. This approach recognises the pressure on budgets and services and the challenges of delivering further change and reform at a time when there is significant wider transformation across the health and social care sectors."

However, a delivery plan from 2025 onwards has not been published.

The Scottish Government is currently consulting on proposed updates to parts of volume 1 of the Mental Health Code of Practice, focusing specifically on the use of restraint and seclusion. It has also been working towards bringing forensic orders in line with civil orders, in relation to recorded matters.

Key organisations and relevant links

- Centre for Mental Health Practice Policy and Law Research, Edinburgh Napier University
- Law Society of Scotland

- Mental Welfare Commission for Scotland
- Royal College of Psychiatrists in Scotland
- VOX Scotland
- SPICe briefing on Mental Health (publication forthcoming)

Lizzy Burgess
Senior Researcher
24 September 2026

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.

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Annexe C: Written Submissions

PE2242/A: Repeal the Mental Health (Care and Treatment) (Scotland) Act 2003

Scottish Government written submission, 26 August 2026

Does the Scottish Government consider the specific ask[s] of the petition to be practical or achievable? If not, please explain why.

The Scottish Government would not recommend repealing the Mental Health (Care and Treatment) (Scotland) Act 2003 ("the 2003 Act). The 2003 Act is based on rights and principles and provides for rigorous safeguards to ensure that human rights are respected, protected and fulfilled where compulsory treatment is necessary.

The Scottish Government is committed to ensuring that our legislative framework reflects the requirements of the UNCRPD and ECHR. We recognise that there are some tensions between the interpretation of some aspects of the rights set out in those two instruments. Mental health legislation in Scotland provides rigorous safeguards to ensure that human rights are respected, protected and fulfilled where compulsory treatment is necessary. Our legislation sets out that any function should be carried out for the maximum benefit of the patient, with the minimum necessary restriction on the freedom of the patient.

The 2003 Act is not incompatible with the ECHR in terms of compulsory measures for the care and treatment of people with a mental disorder.

Most people who use mental health services receive treatment without being subject to an order or certificate under current legislation. For some individuals, however, compulsory treatment is used to provide the person with medical treatment to alleviate or prevent deterioration in the person's condition and for the protection of the person and/or others. Compulsory treatment is only allowed under mental health legislation in Scotland in very carefully prescribed, and regularly reviewed, circumstances.

Applications for compulsory treatment orders may be made only by a mental health officer. A mental health officer is under a duty to make such an application on receiving two mental health reports. One of these reports must be compiled by an approved medical practitioner while the other must be provided by another approved medical practitioner or the patient's general practitioner.

There are additional safeguards in place governing the use of specific treatments such as Electro-convulsive Therapy (ECT). For example, if a person is capable of giving consent, but refuses to give consent, they cannot be treated by ECT, even in an emergency. If a patient can and does consent to the treatment, the Responsible Medical Officer (RMO) or a Designated Medical Practitioner (DMP) must certify that consent has been given in writing and the treatment is in the person's best interest. Consent can be withdrawn at any time. If a patient does not have the capacity to consent, a DMP appointed by the Mental Welfare Commission must authorise the treatment. They must take account of the principles of the 2003 Act, the views of the patient and any advance statement that is made.

The 2003 Act also provides for a right of access to advocacy for people with a mental disorder.

The Mental Welfare Commission ("the MWC") monitors the use of Scottish mental health law, including compulsory treatment. The MWC has the power to intervene in particular cases if there is evidence of improper care, treatment or practices.

The Mental Health Tribunal for Scotland is an independent organisation that makes decisions on the compulsory care and treatment of people with a mental disorder in Scotland. The patient and their named person must have the chance to take part in the Tribunal. This could be orally, in writing or by producing evidence. If a person is unhappy with the decision of the Tribunal, they may be able to appeal to the Court.

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

We are committed to modernising our mental health and capacity legislation, including the Mental Health (Care and Treatment) (Scotland) Act 2003, to better reflect international human rights standards, in line with the findings of the Scottish Mental Health Law Review. The Scottish Mental Health Law Review, published in 2022, was an independent and comprehensive review of Scotland's mental health, incapacity and adult support and protection legislation.

The Review examined how the law could better respect, protect and fulfil the rights of people with mental illness, learning disabilities, dementia and other conditions that may affect decision-making, and made over 200 recommendations for reform to strengthen rights, improve safeguards and reduce barriers to care and support. We agreed with the broad vision of the Review and acknowledge that more can be done to enhance and protect the human rights of people with mental illness and adults who lack capacity.

Guided by the principles of the Scottish Mental Health Law Review, we believe that a staged approach is the most credible option to advance towards our vision to enable people to live well, with choice and control over their own lives, care and treatment. This staged approach has an initial focus on Adults with Incapacity reform, with the expectation of bringing forward an amendment Bill this parliamentary term, and following this, a focus on wider reforms. This approach recognises the challenges of delivering further change at a time when there is significant transformation across the health and social care sector.

The Scottish Mental Health Law Review recommends that the future strategic direction of mental health and incapacity legislation should take a human rights-based approach with a specific focus on economic, social and cultural rights. However, they are not of the view that mental health and incapacity law requires to be abolished in order to comply with UNCRPD. They also recognise that there may still be times when there is a need for non-consensual intervention in a person's life.

Mental Health and Incapacity Law Unit

PE2242/B: Repeal the Mental Health (Care and Treatment) (Scotland) Act 2003

Petitioner written submission, 25 October 2026

I have dealt with mental health professionals for over 20 years and I have found that the Mental Health Act and the medical model is just a massive fraud. Its design is to make lots of money for pharmaceutical companies and lawyers, using human beings as guinea pigs to take drugs.

Some people are treated under the Act who don't have a mental illness. Some people experience horrific side-effects from the drugs for the rest of their lives. Some die much earlier than they should have due to the drugs they have been given.

The success rate of treatment is very low with a survey taken about 15 years ago stating that at the end of their course of treatment only 50% of people stated that their treatment had been beneficial.

The United Nations is recommending an end to compulsory treatment for human rights reasons. The admission process to hospital is not robust and is based on a single medical opinion.

Under a Short-Term Detention Certificate a person can be forced to take medication for 28 days before any sort of hearing. This is enough time for someone to become addicted and dependent on the medication and be trapped on this for the rest of their life. The entitlement to a fair and public hearing is enshrined in Article 6 of the European Convention on Human Rights (ECHR). Schedule 1 of the Human Rights Act 1998 makes Article 6 rights fully enforceable in UK courts. The Scotland Act 1998 explicitly prevents the Scottish Parliament from passing laws, and Scottish Ministers from acting, in a way that is incompatible with ECHR rights. It would be prudent to ask the Advocate General to make a statement confirming the Act is compatible.

Hearings are generally unfair. Learning Disability Alliance Scotland found that in their 2016 survey that 98% of Mental Health Tribunals agreed with the psychiatrist. If somebody were to read the transcripts of these secret tribunals they would easily see that they are a total farce.

Psychiatric drugs have serious side-effects, for example involuntary movement (tardive dyskinesia) and sexual dysfunction.

- In one important 2013 study, people who stopped taking antipsychotic medication were more than twice as likely to recover their normal daily life and work compared to people who kept taking the drugs.

- Antipsychotics cause specific harm to people's brains, for example: Brain Tissue Changes and Antipsychotic Medication [Puri BK (2011)].

- Evidence of long - term antipsychotics doubling the mortality rate of elderly patients and causing Parkinsonism.

- There is overwhelming evidence that psychiatrists are increasingly working to a single treatment paradigm. There has been a large increase in the number of patients prescribed antipsychotic drugs in the last 10 years.

- It is unfortunate that DSM has expanded from 106 diagnoses at outset in 1952 to about 540 different conditions now. This means that over 20% of the population qualify as having a mental disorder.

- Drugs get used for conditions they should not be, such as autism, dementia, learning disability and many cases of depression.

It is very hard to taper off psychiatric drugs. Robert F. Kennedy Jr. has repeatedly claimed that Selective Serotonin Reuptake Inhibitors (SSRIs), a type of antidepressant, can be harder to taper and quit than heroin.

There are no rigorous safeguards during treatment. Human rights may not be respected. No known mental health professional has ever been prosecuted for ill-treating a person or making false statements on documents.

The Millan principles are unenforceable. Nobody has won a court case or won compensation when they have been shown to be broken.

There are two forms of restraint used in hospital which I find particularly unpleasant and disgusting (a) Chemical restraint is the non-consensual use of medication to rapidly suppress someone's behaviour or restrict their freedom of movement. This is typically administered via a rapid-acting intramuscular injection, using heavy sedatives, antipsychotics, or benzodiazepines. (b) Physical Restraint: This could mean five male members of staff grappling with someone or pinning them to the ground. This can be done to any person e.g. a woman or a teenager. They can severely restrict the movement of the diaphragm and chest wall, making it incredibly difficult to breathe. A person can also receive multiple bruises or break a limb. I consider these cases to be assault, not restraint. A woman who has suffered either of these types of restraint has endured an experience contrary to the Scottish Government's Violence Against Women and Girls policy.

The costs of treating someone against their will are disproportionate compared to the costs of treating a voluntary patient. The cost of treating someone in a Psychiatric Intensive Care Unit can be about £6,000 a week or more per person. This money would be better spent on reducing the waiting lists for people who wish consensual treatment.

If you are married to a person subject to the Act you will tend to have no say in the treatment. The marriage vows no longer count.

If you disagree with your treatment your relationship with your GP may breakdown and you may get banned from the practice. Changing your GP and arguing your case may lead to a further ban. This total lack of trust may mean you may be cut off from doctors for the rest of your life.

There is a campaign group "Get Me Out of The State Hospital!" established by families and advocates fighting for the rights and release of patients detained in the

State Hospital in Carstairs, Lanarkshire. They have revealed cases of autistic individuals or people with learning difficulties being kept behind locked hospital doors for 10 to 25 years despite being cleared for community release.

The make-up of the Scottish Mental Health Law Review (the Scott Review) Executive Team was of a professional nature with members from the Mental Health Tribunal, Mental Welfare Commission and the Centre for Mental Health and Capacity Law at Edinburgh Napier University. Some campaigners and those negatively affected by the 2003 Act were banned from participating.