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

PE2243: Refund legal expenses for those acquitted of a crime

Introduction

Petitioner	Andrew Muir
Petition Summary	Calling on the Scottish Parliament to urge the Scottish Government to refund legal expenses for those acquitted of a crime.
Website	https://petitions.parliament.scot/petitions/PE2243

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, 19 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

PE2243: Refund legal expenses for those acquitted of a crime

Petitioner:

Andrew Muir

Date published:

4 August 2026

Petition summary:

Calling on the Scottish Parliament to urge the Scottish Government to refund legal expenses for those acquitted of a crime.

Background information:

Someone who has been acquitted in any criminal legal action should be put back in the same financial position as if they had never been arrested. This covers cases with and without legal aid.

Legal expenses should be reimbursed by the Scottish Government, who may wish to seek payments from third parties depending on the circumstances of the legal action.

Although someone may have lost earnings due to the legal process and experienced the distress of being wrongly accused of a crime, the reimbursement of legal fees would be a major factor allowing them to move forward.

The process of reimbursement would also act as a brake on further injustices happening to people who have had false accusations made against them.

My own scenario was that I was arrested in 2023. I was not entitled to any legal aid due to my employment and savings and was not permitted to represent myself. I was acquitted but there is no route for me to claim back my legal expenses of over £8,000.

Annexe B: SPICe Briefing

Scottish Parliament Information Centre
Ionad Fiosrachaidh Pàrlamaid na h-Alba

Briefing for the Public Petitions Committee on petition PE2243: Refund legal expenses for those acquitted of a crime, lodged by Andrew Muir

Brief overview of issues raised by the petition

- The petitioner believes that those who are acquitted of a crime should be returned to the financial position they were in if they had never been arrested. This would prevent further harm and allow people to move on. The petitioner thinks there should be re-imbursement of legal expenses, regardless of whether the accused person paid privately for a solicitor or received legal aid.

- Legal aid is available to people who have been accused of committing a crime, if they meet the qualifying criteria. It is likely that most people going through the criminal justice system are receiving legal aid. There are different types of criminal legal assistance, depending on the situation of the accused person. The SPICe briefing Legal aid – how it works contains more information.

- Broadly, Criminal Legal Aid is the main type of legal aid available for people who plead not guilty. The financial eligibility test for Criminal Legal Aid is an all or nothing test – so people who qualify do not have to pay any financial contribution. However, some people seeking initial advice about a criminal offence may access Advice and Assistance. Depending on their circumstances, recipients of Advice and Assistance can be required to make a financial contribution to their legal costs from their own income.

- People who do not meet the eligibility criteria for legal aid will have to pay privately if they engage a solicitor. The amount they pay will depend on the extent of work needed and the fee scale of the solicitor they use. However, expenses can be considerable.

- In England, it is possible to recover legal “costs” in criminal cases. As well as accused people being able to recover costs, people who are found guilty can also have costs awarded against them (so that they face paying some or all of the costs of the prosecution). This is a dynamic entirely missing from the Scottish system.

- In England, a range of public bodies, as well as private individuals, can bring prosecutions. Prosecutions in Scotland are almost always taken by the Crown Office and Procurator Fiscal Service on behalf of the state. There are rare examples of prosecutions by private individuals, but these need the consent of the Crown Office and Procurator Fiscal Service.

- Broadly, costs awards in criminal cases in England should be made unless there is a good reason not to. However, the courts usually have wide discretion as to what approach is appropriate in a particular case. Practice Direction (Costs in Criminal Proceedings) 2015 has further information.

- The main types of costs orders in criminal proceedings in England are:

    - **defendant's costs orders** – paid out of central (i.e. UK Government) funds to someone who has been acquitted, or where charges have not been proceeded with, in criminal cases. Recovery is usually limited to legal aid fee rates, rather than what the defendant may have paid

    - **costs for private prosecutions** – can be awarded from central funds

    - **costs against people who are convicted** – the sum which can be awarded is usually limited by the defendant's ability to pay and the size of any fine imposed

    - **costs in relation to unnecessary or improper actions** – costs can be awarded against various parties (including a solicitor representing the accused) responsible for unnecessary or improper actions.

- As far as SPICe is aware, this issue was last raised in the Scottish Parliament during scrutiny of the Scottish Civil Justice Council and Criminal Legal Assistance Bill in 2012/13. Views from stakeholders on the issue of recovering contributions if acquitted are discussed in paragraphs 162 to 178 of the Stage 1 Report.

- Several Stage 2 amendments were proposed on the issue of recovering expenses on acquittal. On the Scottish Government's position, the SPICe prior to Stage 3 briefing (see page 10) states:

    > "The Scottish Government stated that the refund of defence costs had never been a feature in Scots criminal law. Instead, prosecutions were considered to be brought in the public interest. It also considered that the issue of refunding costs where the defence was privately funded would have to be addressed as part of any solution.
    >
    > "The Scottish Government considered that such provision would be beyond the scope of the current Bill. The Scottish Government argued that if, as proposed by the Committee, defence costs were only refunded in some cases, this may be perceived by the public as an indication that a not guilty verdict had more weight where someone received a refund than where they did not."

Key Organisations and relevant links

- Scottish Government

- Scottish Legal Aid Board

- Law Society of Scotland
- Scottish Solicitors' Bar Association
- There may be views on this issue among justice campaigning organisations such as Justice Scotland.

Abigail Bremner
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.

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

PE2243/A: Refund legal expenses for those acquitted of a crime

Scottish Government written submission, 8 September 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 does not consider that the specific ask of the petition is in line with the principles of the current provision of Legal Aid in Scotland. Any reimbursement in circumstances such as those outlined by the petition would not necessarily constitute retrospective legal aid. Rather, it would be more closely aligned with the principle that expenses may follow success in civil litigation. The nearest equivalent in Scotland would be an award arising from a malicious prosecution claim, although the threshold for such claims is high.

Legal Aid, as currently governed by the Legal Aid (Scotland) Act 1986, is publicly funded legal assistance that helps individuals access advice and representation where they cannot afford to do so. It supports access to justice by enabling people to understand their rights, resolve disputes and participate effectively in legal processes.

Legal aid is a significant publicly funded service, and Scottish Ministers are accountable to the Scottish Parliament for ensuring that public resources are used effectively. Financial sustainability is a key challenge for the current system. Scotland already has one of the broadest legal aid systems in Europe, with legal aid remaining demand-led and available across a wide range of legal issues. At the same time, costs have increased significantly, reaching around £169 million in 2024-25.

As a demand-led system, costs can rise with increases in case volumes, complexity or scope. Expanding eligibility or provision - for example to cover the legal expenses of those acquitted of a crime - would have significant financial implications. The Scottish Government has no current plans to extend legal aid to specific groups or additional areas of law, as this would be unaffordable and would risk the sustainability of the current system.

The Scottish Government is required to balance access to justice with responsible stewardship of public funds by ensuring that those who can afford to cover their own legal costs - in full or in part - do so, while continuing to protect access for those least able to pay. Ultimately, the aim is to ensure that legal aid remains affordable, sustainable and capable of delivering access to justice for future generations, while continuing to direct resources towards those who need support most.

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?

The Scottish Government has no specific plans to address the issue raised by this petition. That notwithstanding, we are actively engaged in a programme of Legal Aid Reform in line with the principles of the 2025 Legal Aid Reform Discussion Paper in

order to ensure that we have an adaptable, flexible, affordable and sustainable legal aid system that supports people who are facing challenging issues and problems.

The most recent phase of this work is the publication of a public consultation on Legal Aid Reform. The consultation seeks views on how the legal aid system could be more responsive, user-centred and accountable, while continuing to deliver effective access to justice.

The consultation provides an important opportunity for service users, legal professionals and stakeholders to help shape the future of legal aid in Scotland. Responses will inform the development of the Legal Aid (Scotland) Bill and future policy decisions.

Reform to legal aid is being considered to ensure we have an adaptable, flexible, affordable and sustainable legal aid system in Scotland that supports people who are facing challenging issues and problems.

The Scottish Government encourages all those with an interest in Legal Aid to engage with this consultation and share their views.

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

In England and Wales, in certain circumstances some costs can be recovered following an acquittal or the dismissal of a case where a Defendant's Costs Order has been made by the court - however these expenses are repaid at legal aid rates, rather than private rates.

Unlike England and Wales, the refunding expenses of acquitted persons has never formed part of the Scottish criminal law system.

Legal Aid Policy Team, Civil Law & Legal Services Division

PE2243/B: Refund legal expenses for those acquitted of a crime

Petitioner written submission, 25 October 2026

Campaigners seen as political opposition or nuisances can become a target for politically influenced accusations and/or charges.

There are many well-known cases throughout the world where people have been accused in order to derail or to end their political careers. The more successful you are, the more likely you are to be a target.

The stress of being falsely accused is usually immense. An arrested person is in danger of being imprisoned, being a social pariah, losing their job, home, savings, perhaps even family and friends. My experience on bail lasted 15 months.

In Scotland, someone accused of certain crimes cannot represent themselves. If they have savings they will not be entitled to Legal Aid. Legal bills can be very high.

The public believe that the police investigate allegations before deciding whether to prosecute. However, it is not well known that when there is 'corroboration', the police and legal standards seem to drop alarmingly.

Even if a storyline is unbelievable, when there is even one alleged witness on the side of the accuser the police may assume the actions to be committed offences without even interviewing the accused. The COPFS (Procurator Fiscal) can then immediately proceed to prosecution, based solely on one side. Given the high legal costs, the defendant can therefore be subjected to a considerable amount of, essentially, punishment, without having had the opportunity to put even the police straight as to what actually occurred.

The seminal work by Malcolm Feeley, in a book called The Process is the Punishment, was based on 1600 cases in Connecticut which did not go to trial, and found that most defendants pled guilty to avoid pre-trial expenses. The book's title is an apt description of what happened to me.

The 'punishment' is not confined to the matter of expenses. An arrested person can be forced to go the police station in a cage, even if they find this claustrophobic. Demeaningly, they will then be photographed and have to give their fingerprints. They also wait in line with other accused people. A famous or locally well-known person may get their name printed on the front page of newspapers, and may appear all over the internet too.

After being acquitted the person can try to rebuild their life, but the punishment largely remains; the expenses, the stress, the time spent. In extreme cases the person can become bankrupt or even die from the cumulative stress. This has happened, for instance, in the Post Office scandal.

The false (or no-show) accusers who have wasted the police, the courts and the accused’s time face no consequences.

When a case is dismissed due to no-shows, and particularly when the state or legal system has brought the case based solely on 'corroboration', it should bear responsibility for that action. The case for this is even harder to refute when both the police and the Procurator Fiscal neglected to interview the accused.

I was told unofficially that no-shows happen 'all the time'; this further emphasises that the accused should always be able to give their account of events before any police prosecution is brought, and this account should also be included in the report to the Procurator Fiscal.

The Scottish Government have not explained how I recover the legal expenses of over £8,000 which I had to come up with to defend myself in court against my accusations. In its response, they wrongly equated this suggestion as being like Legal Aid - but it is not, as Legal Aid always costs the government, whether the outcome is a guilty verdict or not. It is not a matter of 'aid', but justice!

The costs to the accused can be maximised if the allegations (and thereby the category of offence) are stretched, however thinly, to tenuously reach a category of offence that prevents the accused defending himself.

Due to the nature of these accusations and the current culture in Scottish courts, I was told that I started at a significant disadvantage and I was given professional advice to employ King's Counsel. I appeared at Dumbarton Sheriff Court four times. At the first appearance I simply pled not guilty. At the second appearance no hearing took place due to the large number of alternative cases and a shortage of Sheriffs on that day. At the third appearance my accuser did not appear. At the fourth appearance my accuser again did not appear and the case was dismissed and I was acquitted.

I have made complaints to several bodies about my arrest, none of which have been upheld. I complained to the Police Investigations & Review Commissioner (PIRC) about the nature of my arrest and they stated that the police officers acted reasonably in arresting me. I complained to the Crown Office and Procurator Fiscal Service (COPFS) who stated that I met the threshold for prosecution. I also complained to the accuser's political party and the Standards Commission who both refused to investigate the matter.

I have been a human rights campaigner for over 20 years. During this time I have stood for election several times. I have stood in elections for Holyrood, Westminster, my local council and community council. Having to pay substantial costs to deal with false accusations against me is a significant deterrent against me standing in future. Recovering these expenses would alleviate that. If no action is taken here it sets a precedent against other people standing in elections.

The Petitions Committee may wish to read the book "Passage to India" by E.M. Forster, or watch the film. In this a person is falsely accused of crimes, and is arrested under great commotion. In court the accuser refuses to testify and the accused is then acquitted. The accused is then offered compensation of full monetary reparations and damages. The accused however declines the offer as this sum would have completely ruined the accuser financially and is ultimately persuaded to show mercy.