

## **PE1786/H petitioner submission of 19 October 2020**

I would like this petition kept open as I know that some complaints are ongoing which I would like monitored.

There have still been no prosecutions under section 318 of the Mental Health Act.

From my own experience it is very difficult to obtain a prosecution under sections 315 & 318 of the Mental Health Act for the following reasons:

- The legislation is very complicated
- There are not enough police resources
- There is not enough police expertise
- The NHS have all the documentation and the release of this is time consuming
- If someone is alleged to have broken the law, the NHS will move this person to another area to hamper the investigation
- If the police charge a person with an offence the details will be forwarded to the Procurator Fiscal who will then ask expert advice. The people chosen as experts tend to be people who will defend the accused person.
- Making a complaint may put the whistle-blower at risk due to the inherent power imbalance in the system.
- Several other complaints bodies have time-bar rules which mean the police have to start from scratch when investigating since no other body has examined the issues properly.