

PE1786/G

Petitioner submission of 25 May 2020

I have read the submissions from the Scottish Government and the Mental Welfare Commission dated 6 May 2020 and would like these bodies to comment on the following issues:

Differences between Police Scotland and COPFS evidence

The Scottish Government have stated that Police Scotland reported one case to COPFS where the charge concerned a breach of s318 of the Act and where the prosecutorial decision taken was 'no action' due to insufficient admissible evidence. Could I please receive more details as to why the police decided there was enough corroborated evidence but the COPFS did not? Might the explanation be that the COPFS consulted "experts" who had a vested interest in stopping the prosecution instead of looking at the facts of the case?

The importance of assessments during the creation of a Short-Term Detention Certificate or a Compulsory Treatment Order

It seems very strange that there have been no prosecutions under s318 of the Act. It would seem that insufficient attention has been paid to the importance of ensuring that no one is improperly deprived of their liberty.

There do not seem to be any effective remedies against unlawful detention. Could the Scottish Government and the Mental Welfare Commission please explain what safeguards there are against the detention and treatment of someone, not because they have a mental illness, but because of malicious reasons?

Ill-treatment

For prosecutions and convictions under s315 of the Act, could the Scottish Government please confirm how many of these have taken place as a result of complaints made by professionals and how many as a result of complaints made by carers/family members?

Could there please be an explanation of the difference between restraint and assault? Is there any limit on the number of injections and bruises a person has to sustain before restraint becomes an assault? Who has the responsibility for deciding whether the administration of drugs against the will of the patient is a medical necessity rather than being a potentially harmful act constituting inhuman or degrading treatment?

Could the Scottish Government please explain the difference between an intimate physical examination without consent and sexual abuse? Could it also confirm that the 2003 Act does not authorise such a physical examination.

Patient A

I would like a Zoom meeting to discuss the alleged criminal offences concerning this patient.