

Annex C – Summary of Consultation Questions

Do you agree with our proposal that the new offence should cover all formal health and adult social care settings, both in the private and public sectors? Please explain your views.

Yes No

Comments: I agree that the proposal should cover all formal health and adult social care settings, both in the private and public sectors. It should not matter whether an employee is employed through a private or public sector agency, they should still provide a standard of care that does not lead to wilful neglect or ill-treatment.

Do you agree with our proposal that the offence should not cover informal arrangements, for example, one family member caring for another?

Yes No

Comments: I agree that the offence should not cover informal arrangements as employees or professionals work to terms and conditions of employment and also governance standards whereas informal or unpaid carers do not.

Should the new offence cover social services for children, and if so which services should it cover? Please list any children's services that you think should be excluded from the scope of the offence and explain your view.

Yes No

Comments: I do not feel I can answer this question as I do not work within children's services and do not have enough background knowledge to make an informed decision.

Should the offence apply to people who are providing care or treatment on a voluntary basis on behalf of a voluntary organisation?

Yes No

Comments: I do feel the offence should apply to volunteers who are providing care or treatment on behalf of a voluntary organisation as they should be provided with a standard of training before being allowed to provide such a service whether paid or unpaid.

Do you agree with our proposal that the new offence should concentrate on the act of wilfully neglecting, or ill-treating an individual rather than any harm suffered as a result of that behaviour?

Yes No

Comments: I agree that the new offence should concentrate on the act rather than the harm suffered as this is in line with the existing mental health legislation and also removes the need for subjective measurements in terms of assessing the harm suffered by individuals.

Do you agree with our proposal that the offence should apply to organisations as well as individuals?

Yes

No

Comments: I agree that the offence should also apply to organisations as well as individuals as I believe that employers have a responsibility to ensure staff or voluntary representatives are competent to perform the tasks they are required to carry out. As a staff side representative, I also believe that employers and employees have a responsibility to identify/ highlight any competency issues early to prevent them reaching a stage that would lead to wilful neglect or ill- treatment of an individual receiving care or treatment. Employees should be able to raise competency issues through regular staff appraisals and training and or development opportunities should be provided to ensure the standards are being achieved.

How, and in what circumstances, do you think the offence should apply to organisations?

Yes

No

Comments: As mentioned above, employers have a responsibility to their employees as well as their service users, to ensure their staff are adequately trained for the job they are employed to do. Organisations should be held accountable as well as individuals, especially if staff appraisals/ developments are not in place and if there is a lack of training or support for employees.

Do you agree that the penalties for this offence should be the same as those for the offences in section 315 of the Mental Health (Care and Treatment) (Scotland) Act 2003 and section 83 of the Adults with Incapacity (Scotland) Act 2000?

Yes

No

Comments: I agree the penalties should be the same as this prevents any confusion and ensures equity.

Should the courts have any additional penalty options in respect of organisations? If so, please provide details of any other penalty options that you think would be appropriate.

Yes

No

Comments: I believe the courts should have additional penalty options in respect to organisations. Organisations have to realise that there are implications for actions or inactions which result in the wilful neglect or ill-treatment of individuals receiving care or treatment. Penalty options could include organisations being asked to meet certain standards related to staff development/ training within certain time limits and regular follow up reviews to ensure standards are being maintained.

What issues or opportunities do the proposed changes raise for people with protected characteristics (age; disability; gender reassignment; race; religion or belief; sex; pregnancy and maternity; and sexual orientation) and what action could be taken to mitigate the impact of negative issues?

Comments: The proposed changes provide the opportunity for all organisations who provide care or treatment to ensure they have a policy for equality and diversity that not only covers service users but also employees and that all employees are aware of the policy and undergo regular training/ development on equality and diversity and recognise the impact it has on the care or treatment they are providing to individuals.