

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 X No

All individuals should be protected from wilful harm and neglect.
Wilful neglect or ill treatment should be considered an offence whether witnessed in private or public care settings.
In view of impending integration of health and social care would ensure consistency across service areas and assure patient safety.

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

Yes X No

Would be extremely difficult to establish the basis, nature and extent of a formal caring relationship given the fact of its informality. Also additional legislation would apply in these instances.
No – I think this should be included if there is a view of wilful neglect or ill treatment. In what other way could such ill treatment be considered?
Where there is a belief that this should not apply to volunteers or family members due to lack of contractual arrangements this needs to be qualified by a clear statement of circumstances described where this would apply.

Should the new offence cover social care 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 the offence and explain your view.

Yes X No

After –school care, nurseries, schools, Child and Family Social Work services and Learning Disability services should be included.
One respondent unsure if any child health and social care settings should be included.
Yes I agree that the new offence should cover all formal health and adult social care settings both in the private and public sectors.

I think that the offence should apply to people providing care on a voluntary basis on behalf of a voluntary origination, whether paid or unpaid.

I think the new offence should cover social care services for children.

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

Yes No

Yes, but not sure how this would be applied in practice?

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

Impact of wilful neglect will depend on particular vulnerability of the individual victim; it is however important to manage the fact of the neglect and its wilful nature regardless of the potentially small degree of harm which may be serendipitous.

Harm may not always be readily identified.

I agree the new proposal should concentrate on the act of wilfully neglecting rather than the harm to take a very clear proactive approach and deliver a strong message.

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

Yes No

Individual accountabilities apply with regards to professional persons. Potential for professional organisations to de-register a person complements this approach.

The organisation ultimately should be responsible for the actions or omissions of its employees or those volunteers it allows access to the clients

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

Yes No

Where there is mitigation e.g. lack of training, support, development in the face of identified need/lack of competency and the organisation has wilfully neglected to remedy deficits in care giving.

It should apply to organisations whose culture lacks strong leadership; are aware that an individual's care is not at a standard of care etc that it should be and does

not put in place any structure/discipline to deal with the individual. Does not promote training/learning development.

Organisations should be vicariously liable for the conduct, practice, actions of their employees.

There would need to be very clear circumstances described where this would apply to an organisation as well as to an individual.

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

Yes, to ensure consistency across all areas.

For consistency there would need to be a similar approach to penalties as taken with the AWI and Mental Health Care and Treatment Scotland Acts.

The proposed penalties are sufficient.

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

Yes, but unsure of what options are available.

Yes, but take care to ensure consistency across all areas.

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 any negative issues?

More opportunities for protection irrespective of setting (private or public) or whether the person has protected characteristics. Sensitive handling of the information particularly in cases which involve people with protected characteristics will serve to mitigate the impact of any negative issues.

Opportunities for people with protected characteristics to have a clear pathway of complaint, that in the past they may have felt that they needed to 'put up with' certain situations; example being left waiting longer than other patients to be dealt with; staff ignoring them or treating them in an abrupt manner.