

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

Our view is that all 'formal' arrangements should be the subject of legislative scrutiny & potentially sanction

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

Yes No

Yes, common law would cover these circumstances.

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 No

It should cover organisations where people are employed to provide care/support this would include Fostering.

Kinship care should be excluded as this can be covered by existing legislation.

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

Yes No

Voluntary organisations are providing services on a commissioned basis and should therefore be subject to the same scrutiny as public bodies.

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

This would be in line with AWI & Mental Health legislation. How 'harm' is measured & interpreted is a subjective issue.

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

Yes No

Organisations should accept responsibility for their staff, standards of care/support they deliver and staff behaviour.

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

Yes No

In context organisations would have to demonstrate that all reasonable measures have been taken to ensure appropriate recruitment, policies & procedures, supervision, internal & external scrutiny mechanisms for feedback etc were all in place and being followed and reviewed. Where there are clear failures the offence should apply

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

This would be in line with AWI & Mental Health legislation.

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

Courts should have the option to refer the organisation onto the respective external scrutiny body (Care Inspectorate, HCIS)

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?

Proposed EQIA would highlight any issues.