

**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

Yes There is no difference which would suggest an offence could or would only happen in one type of setting and an increase in the independent advocacy available to people using these types of service would make it more likely to be discovered.

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

No

No there have been clearly recorded cases where a family member has been the one to neglect an individual and as Self Directed Support encourages these types of care arrangements the likelihood may increase.

**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

Yes, we cannot see a reason why the offence would not cover these services.(see above)

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

Yes

Yes as above, this may have a positive effect in clarifying roles and responsibilities for volunteers.

**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

Yes the harm may be difficult to recognise as it may have been a process of slow deterioration and so not obvious. It would be useful to simply establish that wilful neglect or ill-treatment had taken place.

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

Yes

Yes

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

Yes

Where they are providing or have provided care in a manner which has resulted in wilful neglect or ill-treatment, this may have been because supervision or training of staff may have been inadequate, where the culture of the agency encouraged such behaviour or where staff have alerted the organisation to an issue for someone in their care and appropriate action has not been taken.

**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

Yes, whether these are currently appropriate or not is not the issue but all these offence should carry similar penalties.

**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

Yes, where an organisation is a repeat offender the penalties should increase to reflect this.

**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?**

If independent advocacy is increased the opportunity to challenge inadequate care provision will be likely to increase with it. For our members who all have a Learning Disability this will be a positive impact.

Increased recognition that wilful neglect can and does take place, particularly in settings of any type where an individual finds her or himself dependent on others for care would be a positive change.