

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

All paid carers whether in public or private sector have a duty of care and are placed in a position of trust. While the vast majority of staff respect the rights of their clients, where this is not the case, staff need to understand that there are serious consequences of neglect, for both those due to receive care, and for the staff responsible.

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

Yes No

There maybe some instances where family members are entrusted in the short term with vulnerable adults or children e.g. parent in hospital, and instances whereby local authorities do not provide care when it is required. However, neglect by family members, whilst socially abhorrent, should not be covered by the proposal. If ill treatment occurs, the offender can be pursued under existing legislation.

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

The legislation should cover all formal health and social care settings for children, including fostering, i.e. in situations where they are cared for by those other than family should be included. Consideration needs to be given to those situations where children are cared for by extended, rather than immediate, family members.

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

Yes No

Third sector provision will become increasingly important, and those involved should be held to the same standards. If care is being provided by an organisation, even if it is voluntary, it should be covered by this legislation as people are placing their trust in the carers.

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

The offence should be dealt with on the basis of the intent/action of the perpetrator not the outcome.

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

Yes No

Organisations must be able to demonstrate they have appropriate recruitment, training and supervision policies in place. They should also be able to demonstrate that they have adequate staffing levels. If an organisation has wilfully neglected the care needs of individuals, they should also be held accountable.

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

Yes No

See response to previous question.

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

There is no reason for any differences and would be consistent.

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

Financial penalties and closure/limitations of service, up to and including revoking the organisation's licence to provide care. If there is proof of lack of appropriate policies and supervision of staff the chief officer should be subject to fines or imprisonment.

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?

This legislation should help protect people protected characteristics.