
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

Fully support this proposal and particularly the full extent covering public and private sector organisations. Currently all are subject to inspection and as a result, all should be covered by this legislation.

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

Yes No

On the basis that this could jeopardise informal support from family members and on the presumption that any harm caused would be addressed under alternate 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

Whilst accepting that the provision of services is different for adult and children's services, it seems inconsistent that this type of legislation would only apply to adult services.

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

Yes No

It seems appropriate that this group should be included given the extent of involvement they are expected to have in supporting delivery of community based health and social care services in the future. Volunteers are already subject to a number of checks before they are able to volunteer so it may be appropriate to extend this legislation to cover their involvement but further education and development of volunteers may be required to support them with their responsibilities.

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

On the basis that the harm suffered could be dealt with under other legislation and that the thrust of this legislation is to prevent deliberate rather than accidental ill-treatment. Agree that focus on the extent of any harm or injury could lead to inconsistency in application.

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

Yes No

Organisations have a responsibility to ensure that staff or volunteers acting on their behalf in a position of trust are equipped and supervised to deliver safe care.

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

Yes No

Where there is a clear lack of systems and processes in place to support staff and where there is no management of staff or volunteers to ensure these systems and

processes are being adhered to then the organisation has some responsibility. Where an individual demonstrates wilful neglect or ill-treats those in their care despite evidence of systems and processes and management then the legislation should apply to the individual and not the organisation. Appropriate governance arrangements are therefore paramount.

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

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

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?

Clearly there are implications where this is an influencing factor in the wilful neglect and care will need to be taken to avoid confusion and primacy across different areas of legislation.