

**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 service users have the right to be protected from wilful neglect and ill treatment when they are in receipt of care, regardless of the care setting

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

Yes  No

Comments

Yes, as there are existing offences in statute that would apply in 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

Comments: Whilst BIRT does not have currently act as a service provider for children with brain injury – it is our view that regardless of age – every individual should be afforded the same protection. In this vein we would agree that legislation to cover the same or similar care services that would be covered in adults.

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

Yes  No

Comments

Again this is covered by existing offence in statute

**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

Comments

Yes, as it is the intent to do harm that is the offence regardless of the actual harm

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

Yes  No

Comments

As below

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

Yes  No

Comments

In cases where there is a culture of wilful neglect and/or ill treatment, the organisation is failing. Organisations must ensure their services are responsibly managed and governed.

**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

Consistency should be across all sectors

**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

Where individual leaders in organisations are culpable they should be dealt with as an individual. No additional penalty options are therefore appropriate

**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?**

Comments

As a member of the Scottish Independent Hospitals Association (SIHA) we agree -

There will have to be an advocacy service for some people with protected characteristics in order for them to have an equal opportunity to bring offences to the attention of authorities