

**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

We are fully supportive of the proposal that the new offence should cover all formal health and social care settings.

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

Yes  No

We feel this aspect requires further consideration and clarification. Care needs to be taken that people are protected where there are 'informal' arrangements. An example where the offence could be relevant would be where someone had entered into a verbal arrangement with a friend to provide support. We feel that the consultation should refer to some of the arrangements that people may make under Self Directed Support. We strongly believe that arrangements made under SDS need to be covered by the new offence and the implications of SDS need to be worked through before the new offence is created.

**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

We believe that if the new offence is to cover social care services for children then all should be covered and none should be excluded from the scope.

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

Yes  No

We are firmly of this view. Volunteers should have a contract, should be properly supervised and there should be disciplinary processes in place.

**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

We support the reasoning behind this proposal and confirm this. We have difficulty, however, with reconciling our answer to this point with our answers to (D) penalties as we feel if harm has actually occurred this needs to be reflected in the penalty system. We do not feel that there should be a differentiation from other offences. If neglect is wilful the sanctions should be commensurate as other offences with the same potential for harm or harmful outcomes.

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

Yes  No

We agree in principle but feel further work is needed on how this would apply. Section 315 of the Mental Health (Care and Treatment) (Scotland) Act 2003 applies the offence more specifically to managers than organisations.

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

Yes  No

See our difficulty with the question above.

**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 seem appropriate. We would like to see confirmation that, if serious harm has occurred, the offence of wilful neglect or ill- treatment would not be the only one that may be considered in terms of bringing a prosecution. We additionally would want individuals who are convicted of such an offence to be permanently listed on the register held by the SSSC.

**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

We believe existing statutes provide sufficient legal recourse for misconduct or failures in governance and organisational oversight, for example health and Safety at Work legislation, Charities and Trustee Investment (Scotland) Act 2005 and the Companies Act 2006.

**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?**

We do not feel that the proposals raise any issues. They clearly add protection for people with protected characteristics who are receiving care and support.