

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

Comments

Patients should be protected from wilful neglect and ill-treatment in whichever setting they receive their care. Organisations should be held more to account and that the chief executives/owners should be identified as having a specific legal responsibility to ensure that there is no neglect or ill-treatment. If they fail to do so then that should be a criminal offence for them as an individual. Where insufficient resources are available to ensure good governance and care the person ultimately responsible for the finances must be held accountable.

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

Agree because there is already existing offences in statute that would be applied in those 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

SIHA have no view on this

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

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

It should be the intent to harm that is the offence regardless of actual harm caused

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

Yes No

Comments

See below

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

Yes No

Comments

Where there is a culture of wilful neglect or ill-treatment the offence should apply to the organisation. There must be organisational responsibility for leadership and governance.

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

It is important that consistency is applied across 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

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.

DRAFT