

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

It has been difficult to explain to staff this proposal and the consultation on a proposal for a statutory duty of candour, as both are out for consultation at the same time and from the same department. Inherently, to many staff, these two proposals are perceived to be counterintuitive and sit uncomfortably with the strong emphasis on quality improvement within the NHS institutions as learning organisations. Public health colleagues have expressed a view that a new offence is not needed as existing legislation cover the circumstance outlined

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

Yes No

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

Legislation should be careful to define combined residential provision between education and health for children as within 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

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

Although such acts are also covered by professional regulatory frameworks for those professionals who are registered (GMC, NMC stc)

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

Yes No

Any such drafting should be worded in a way as to be compatible with and reflect the responsibilities of organisations as outlined under Corporate Homicide

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

Yes No

Only where there is a lack of clarity about individual responsibilities or clear evidence that organisations having knowingly fluted agreed professional standards of care.

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

For consistency

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

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?

There is an issue of awareness of the expected standards in some hard to reach groups