

This response is from the Scottish Social Services Council (SSSC). The SSSC is a Non Departmental Public Body (NDPB) and was established by the Regulation of Care (Scotland) Act 2001. We are responsible for registering people who work in social services, regulating their education and training and the collation and publication of data on the size and nature of the sector's workforce. We are also the Scottish partner in Skills for Care and Development, the Sector Skills Council for the care sector in the UK.

Our work increases the protection of people who use services by ensuring that the workforce is properly trained, appropriately qualified and effectively regulated. We aim to protect people who use services, raise standards of practice, strengthen and support the professionalism of the workforce and improve the outcomes and experience of people who use social services. The social service workforce provides care and support for some of the most vulnerable people in Scottish society. These workers often deal with complex care needs and make a real difference to individuals' lives. The social service workforce employs more than 192,000 people in Scotland.

Our vision is that our work means the people of Scotland can count on social services being provided by a trusted, skilled and confident workforce. Our purpose is to raise standards and protect the public through regulation, innovation and continuous improvement in workforce planning and development for the social service workforce.

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 welcome these proposals.

An increasing number of people are employing Personal Assistants (PAs) as part of Self-Directed Support (SDS). SDS is about giving people a choice about how their individual budget is used to meet their outcomes. It may be helpful to revise the scope within Annex A to reinforce the points that PAs:

- are included within the definition of social care professionals
- will be covered by this offence.

Many PAs are based within the settings identified in Annex A. They may be directly employed by a recipient of care or someone on their behalf.

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

Yes No

Yes. We agree with this proposal. This offence should not cover individuals who are delivering 'informal' care. The one exception to this rule is where someone delivering informal care is also undertaking a role which requires them to register with a regulatory body. These individuals should be subject to the same arrangements as any other worker.

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

Yes. All social care services for children should be covered. This includes residential care, early years, day care of children and childminders.

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

Yes.

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

Yes No

Yes. This offence should also apply to organisations. These services have a key role to play in establishing the appropriate and supportive environment for their staff. The existing regulatory and inspection processes focus on the role of the organisation and the individual. For example, there is a Code of Practice for Social Services Workers and Employers.

There are a number of resources which can help employers to develop a supportive culture and environment, such as the Continuous Learning Framework (CLF). Further information about these resources is available from the SSSC's website, www.sssc.uk.com

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

Yes No

There are a number of instances where this offence should apply to organisations. For example:

- Organisations which fail to take appropriate action when a culture of neglect or ill-treatment of service users has been highlighted by whistleblowing or through inspection.
- Organisations which do not maintain appropriate staffing ratios which contributes to neglect or ill-treatment of service users.

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

Yes. These offences should be consistent.

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

There are a number of penalties which may be appropriate. These penalties could include:

- Disqualification from providing a care service;
- disqualification of an individual from holding a directorship;
- interdict a charity from representing itself or a person from representing the charity as being established under the law of Scotland;
- interdict a person from acting or representing itself as acting on behalf of a charity or body by providing that certain breaches may result in sanctions under other relevant legislation e.g. Charities and Trustee Investment (Scotland) Act 2005.

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?

These proposals are about improving the quality of care and the level of protection provided to people who use these services. They should ultimately lead to benefits for everyone involved in the service, including staff, carers and volunteers.