

**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 providers should be expected to meet the same standards and operate under the same pressures.

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

Yes  No

This is an area of difficulty. Family carers should be held accountable for their actions and neglect. Our only doubt is whether this particular proposed legislation is needed in order to make that the case.

**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

All should be included

**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

**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

This depends what is meant by "concentrate" and "rather than". The consequent harm should not be ignored altogether. Perhaps what is important is the severity of the risks caused by the behaviour.

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

Yes  No

Comments

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

Yes  No

If the organisation was aware of the offences and did not act; or did not take steps to ensure that reporting of incidents to management took place; or insufficient safeguards on recruitment, supervision and monitoring of staff; absence of clear policy guidance.

It is important that it be kept in view that an incident may be perpetrated by an employee even in the best run organisation. The prosecution of the organisation should not be automatic, but should only happen if there has actually been a deficiency in the organisation's practice

**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

**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

Enforcement action, possibly override/ reduction of Care Inspectorate gradings

**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 could be consequences for the employment of people with learning disabilities in certain roles.