



**Response to**

**Scottish Government**

**Consultation**

**on Proposals for an Offence of Wilful  
Neglect or Ill-treatment in  
Health and Social Care Settings**

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The National Pharmacy Association is the not for profit trade body which represents the vast majority of independent community pharmacy owners (including independent multiples) in Scotland and across the UK. The Association provides its members and the staff that work in the member pharmacies with professional and commercial support, professional indemnity insurance as well as representing the interests of community pharmacy.

The NPA is pleased to have the opportunity to respond to this consultation and limits its response to brief general comments with regards to those areas which are more directly relevant to the independent community pharmacy network. The NPA is available for further discussion on this consultation.

The NPA agree with the Scottish Government's proposals for a new criminal offence of ill-treatment or wilful neglect of those receiving care or treatment in health and social care settings similar to those for specific patient groups that presently exist.

We consider deliberate mistreatment of patients by pharmacists or technicians to be negligible but agree there is a need for the criminal justice system to be able to deal with these cases effectively should they arise.

We wish to remind the Scottish Government that pharmacists can be prosecuted for making a dispensing error. The Rebalancing Medicines Legislation and Pharmacy Regulation Programme Board is reviewing the sanctions associated with dispensing errors. The recent work of the Board has shown how criminal sanctions associated with dispensing errors can act as a barrier to openness and transparency. This is about a climate of fear in which a health care professional may feel unable to admit when they have made a mistake. This is likely to prevent opportunities for learning and therefore lead to more serious incidents and greater patient harm. The work of the Board is progressing and subject to the necessary legislative processes we understand that Department of Health will be consulting on proposed changes in 2015. As we understand it the potential will remain for pharmacists to be prosecuted if the error was due to wilful neglect or maliciousness.

Whilst we support pharmacists and technicians being included in the proposed legislation and that primary care including community pharmacies is a situation deemed appropriate for the legislation. However we ask that the Scottish Government bears the above factors in mind when drafting the legislation on wilful neglect and that the new legislation doesn't conflict with or undo the work of the Rebalancing Medicines Legislation and Pharmacy Regulation Programme Board.

We believe that the offence should be based on conduct rather than harm caused and that it is entirely appropriate in specific circumstances to include organisations and individuals.