



Department  
of Health

# Ill-treatment or wilful neglect Our consultation: Easy Read



March 2014

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# Introduction



At the moment, if people ill-treat or wilfully neglect someone they are meant to be caring for, depending on what happened, and who the victim was, they can face different consequences.



Everyone should receive good and safe care when they need it. If someone is meant to be caring for people and they choose to ill-treat or neglect them, then at the moment there are some laws in place which they may be breaking.

However, we think there is a gap in the law, which means that not everyone can be dealt with the same way if they treat someone they should be caring for very badly.

We want to make a new law to fill this gap and help make sure that if someone does ill-treat or neglect someone on purpose when they are meant to be caring for them, they can always face the same punishment.



This booklet sets out our plans on what this new law will look like **asks what you think about it.**

# What happens at the moment?



Not long ago, some very bad care was being given at Mid Staffordshire NHS Foundation Trust, which was meant to be looking after people. So we asked Robert Francis to look at what went wrong.

Robert Francis said that we could make looking after people safer, if we made some changes.

We asked Professor Don Berwick, and a group of experts to help him, to think about what these changes should be.

Once of the changes they suggested was for us to make a new law to fill the 'gap' in what is already there, and which would make sure that people could be punished whenever it was decided in a Court that they had ill-treated or wilfully neglected someone they were meant to be caring for.

We agreed to make this change, but want to ask you how you think we should do it so that we make sure that we make the best law we can.



This booklet will tell you what we think. But we want to know what you think.




Please tell us what you think **by 31 March 2014.**

This doesn't give you long, but we want to make sure we are able to make this new law as soon as possible.



You can use this answer booklet to send in your views.

# How you can you tell us what you think:

	<p>You can tell us by posting your answers in this booklet to :</p> <p><b>Ill-treatment or wilful neglect</b> <b>c/o Mia Snook</b> <b>Room 2E11 Quarry House</b> <b>Quarry Hill</b> <b>Leeds</b> <b>West Yorkshire</b> <b>LS2 7UE</b></p>
	<p>Send us an email:</p> <p><b><a href="mailto:WN.consultation@dh.gsi.gov.uk">WN.consultation@dh.gsi.gov.uk</a></b></p>
	<p>Or write to:</p> <p><b>Ill-treatment or wilful neglect</b> <b>c/o Mia Snook</b> <b>Room 2E11 Quarry House</b> <b>Quarry Hill</b> <b>Leeds</b> <b>West Yorkshire</b> <b>LS2 7UE</b></p>

# What are we thinking about doing, and do you agree with us?



Professor Berwick was asked to think about whether we needed any changes to the way the NHS works when it looks after and treats people.

When he told us he thought there should be a new law which meant ill-treating someone or wilfully neglecting them was illegal, he also said it should work for the whole of the NHS. We agreed, but we also thought it should cover all those people and organisations who provide any health or care, not just the NHS. This would make sure that the gap in the law was properly filled.

## **1. Do you agree with us? Or do you think we should only make the law work in the NHS?**

Please tell us what you think here:





At the moment, if someone wilfully ill-treats or neglects a child, depending on who they are, where it happened, and what they did, will make a difference to which law they have broken. But we think that there could still be a gap in those laws, meaning that someone who ill-treats or wilfully neglects a child, might face different consequences to someone who treats some adults in that way.

We think that the new law we want to make should work where people are meant to be providing health care for children, for example looking after them in hospital when they are unwell. If they ill-treat or wilfully neglect a child they were meant to be caring for, then a Court might decide that they have broken the new law.

**2. Do you agree with us? Or do you think that the new law should only cover health care for adults?**

Please tell us what you think here:



We are not sure about whether our new law should also cover some other places which provide services to children. For adults, we call these 'social care services' and we think the law should apply when these services are being given to an adult. However, for children it is not so clear.



**3. Can you think of places where people provide children with health or care, which you think should be covered by our new law of ill-treatment or wilful neglect?**

Please tell us what you think here:



We think there are two types of health and care. The first type is when someone is paid to look after or care for someone, or has agreed in a formal way to do so, for example by signing a contract. The second type is when someone isn't paid or hasn't formally agreed to, but looks after or cares for someone anyway, for example someone who spends time every day looking after their elderly Mum.

We think that only the first type of health or care should be covered by our new law, because if someone has agreed to provide good, safe care, then they should never ill-treat or wilfully neglect someone.

If someone has volunteered to look after someone, we think they should be helped to do it well, but we don't think that our law should cover them as there are better ways to support them to do the right thing.

**4. Do you agree with us? Or do you think that our law should work even if someone is volunteering to look after or care for a person?**

Please tell us what you think here:



We think that there are two main ways the new law could work. The first way is that a Court could only decide the law had been broken if the person was ill-treated or wilfully neglected and they were seriously hurt, or even died.

The second way it could work, is if it instead, no matter what happens to the person, if they have been ill-treated or wilfully neglected then the Court may decide that the law has been broken.

We think that the law should work in the second way, because we don't think anyone should ever be ill-treated or wilfully neglected by a person who is meant to be looking after them or providing them with care.

**5. Do you agree? Or do you think that the new law should only be broken if someone was seriously hurt or died?**

Please tell us what you think here:



We think that both a person and an organisation that provides health or adult social care services should be covered by the new law. So if someone working in a care home deliberately hurts one of the people living there, the new law should be able to deal with the worker and whoever owns or runs the home.

But we know that in the past and for other similar laws, it has been very difficult to prove that an organisation has broken a law.

We think that our law should work in such a way that an organisation would have broken it if the way it managed or organised its work, caused or allowed a person to be ill-treated or wilfully neglected.

**6. Do you agree with us? Or do you think there is a better way that this law could work for organisations?**

Please tell us what you think here:



If a person or an organisation are found to have broken the law, they will face punishment.

If a person has broken the law, we think that they should face the same punishment as they would for very similar laws on ill-treatment or wilful neglect. This could be up to five years in prison, and a fine.

If an organisation has broken the law, we think that there could be some choices for the Judge on the best way to punish the organisation. For example the organisations could be made to pay a fine, or to tell local people that they have broken the law and how they are going to put things right.

**7. Do you agree with us? Or do you think that a person or an organisation should be punished in a different way if they break this law?**

Please tell us what you think here:



We think that when we make the new law, some people might try and say it has been broken for the wrong reasons. One way that we can help to stop this happening, is for someone called the Director of Public Prosecutions to decide what happens next in these cases. They may decide to let the case go ahead, or they may say that it wouldn't be fair, and stop the case from going ahead.

We think that the Director of Prosecutions should be able to make a decision when a person has tried by themselves to prove the new law has been broken.

### **8. Do you agree with us?**

Please tell us what you think here:



We would also like to know whether you think the new law would affect some people more than others. For each of the types of people listed below, please say whether you think the new law will have any particular effect on them:

- People of different ages
- People who have a disability
- People who have changed their sex
- People who are married or are civil partners
- Women who are pregnant or have children
- People of a particular race
- People with a particular religion or belief
- Men
- Women
- People who are attracted to others of the same sex, or both sexes

**9. Please tell us what you think here:**



# What will happen next?



We are going to look at what everything thinks about how our new law should work, and make a final decision.

We will then look to make the new law as soon as we can.



Thank you very much for your time.