



**HEALTH (TOBACCO, NICOTINE ETC. AND CARE) (SCOTLAND) BILL
EVIDENCE TO THE HEALTH AND SPORT COMMITTEE**

Victim Support Scotland is the largest voluntary organisation in Scotland supporting people affected by crime. We provide practical help, emotional support and essential information to victims, witnesses and others affected by crime, both in the community and in every Sheriff and High Court in Scotland. The service is free, confidential and is provided by volunteers. Victim Support Scotland welcomes the opportunity to provide written evidence to the Scottish Parliament's Health and Sport Committee on part 3 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill, which refers to the creation of an offence of wilful neglect or ill-treatment in health and social care settings.

Individuals who are looked after in a health and social care setting can be particularly vulnerable to harm, and are less likely to report any harm suffered due to fear or lack of capacity to do so. Although such behaviour is uncommon, it is essential that the impact of this is recognised and that adequate provisions are in place to ensure that individuals who have abused the trust placed in them to care for another person can be made accountable for their behaviour, irrespective of whether the care is provided within the public or private sector. Victim Support Scotland therefore supports the creation of the new care worker and care provider offences relating to the wilful neglect or ill-treatment of adults receiving health care or social care.

We believe that these new offences will convey a clear message to those who have power over the health and wellbeing of individuals in care that neglect and mistreatment is unacceptable and results in serious consequences. It is hoped that such a message would act as a deterrent to those who hold this power.

VSS notes that the offences proposed by the Bill will only apply to adults. The principle of the legislation is to ensure that sanctions are in place for those who deliberately neglect or mistreat individuals in their care; VSS believes that this principle should be applied across the board, irrespective of the age, mental capacity or health of the beneficiary of that care. However, we note concerns that further discussion is required about implementation and how any new offence would work alongside other legislation that impacts on children and young people, and so understand the need for further consultation on this issue.

Victim Support Scotland welcomes the fact that the offences will apply to voluntary organisations and individuals as well as those who are paid for the work they do in this field. We recognise the contribution of voluntary organisations to care provision within Scotland, with many services carried out by individuals working within both paid and unpaid capacities.

We support the Bill's consistency with existing legislation in not specifying a required level of harm in order to trigger the offences. Victim Support Scotland believes that the harm caused to the victim should however be recognised at a later stage within the criminal justice system. Currently, victim representations to the court on the impact of the crime are restricted to written statements in solemn cases. Victim Support Scotland believes that all victims should be afforded the opportunity to present (orally and/or in writing) the physical, emotional and financial impact of the crime. Regardless of the outcome of the case, the opportunity and process of telling the court what impact the crime has had on them can be extremely helpful and cathartic for many victims. Few victims are required to testify in court and, even for those who are called to testify, victim impact statements are frequently the victims' only real opportunity to 'participate' and to have their voice heard in the criminal justice process. Many victims report that making such statements improves their satisfaction with the criminal justice process and helps them recover from the crime.

In addition to the two additional penalties of remedial and publicity orders proposed by the Bill for the new offences, VSS believes that compensation orders would be an appropriate penalty option for the courts, in respect of both individuals and organisations. Any compensation ordered should be paid upfront by the State to the victim, with the State responsible for pursuing payment from the offender without the need to involve the victim. This would ensure that the victim, if willing, would receive some reparation for the harm that has been caused to them direct from the offender.