Health (Tobacco, Nicotine etc. and Care)(Scotland) Bill

Quarriers

Introduction

Quarriers is one of Scotland’s largest social care charities supporting thousands of disadvantaged people each year. We support vulnerable children, young people, adults and families who face challenging circumstances such as homelessness, learning and physical disabilities and epilepsy. We welcome the opportunity to comment on the duty of candour and wilful neglect sections of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill.

Duty of Candour and wilful neglect

Question 4: Do you support the proposed duty of candour?

Quarriers supports a statutory duty of candour. Social care providers have a duty to be open and honest, and individuals have a right to be properly informed about matters relating to their health and well-being. To support this accessible communication is essential and when someone has been subject to an adverse event information must be delivered in a sensitive and professional way.

We support the provision that public reporting does not name any individual or contain any information which is likely to identify the individual. We agree also that the duty of candour should be monitored by the existing regulatory bodies: Health Improvement Scotland, the Care Inspectorate and the Scottish Government.

A statutory duty of candour will help to engender greater transparency within health and social care services promoting safe and effective care and improved delivery. Legislation, however, is only one part of a wider process of culture change within health and social care services and must be complimented by continued commitment to person centredness, co-production and asset-based approaches.

A statutory duty of candour should encourage and promote honesty and integrity within the health and social care system to allow organisations to learn from and act on mistakes. It should not be used as a means to be excessively punitive when errors occur.

Question 5: Do you support the proposal to make wilful neglect or ill-treatment of patients a criminal offence?

We support the statutory provision for an offence of wilful neglect/ill treatment to allow the criminal justice system to deal effectively with those who neglect or ill-treat those in their care.

Across health and social care settings in Scotland the vast majority of people receive high quality care and treatment by dedicated professionals who
respect and protect the dignity and rights of individuals and their families. Quarriers recognises however, that there are instances where people receiving care or treatment are deliberately mistreated or neglected.

There is scope for health and social organisation to follow a rights based approach and develop human rights based policies for preventing ill-treatment of wilful neglect. At the same time, appropriate mechanisms for reporting incidents must be available to staff, people receiving support and families and carers.

**Question 6: Is there anything you would add/remove/change in the Bill with regard to these provisions?**

To ensure the successful implementation of the duty of candour, Quarriers urges the Committee to:

- Consider the appropriate mechanisms and forms for public reporting and how people will be able to access this information.
- Clarify in guidance what defines ‘reasonable support provided to the person harmed, relatives and staff who have been involved with the event’.
- Consider the resource implications for organisations to provide training and support to ensure staff implement the duty of candour correctly.
- Encourage effective joint-working between the regulatory bodies to develop a consistent approach to monitoring of duty of candour.

To ensure the successful implementation of the wilful neglect, Quarriers urges the Committee to:

- Consider whether provision should be extended to informal care workers e.g. family members. People increasingly receive a mixed package of care and there is a risk that the Bill could create an anomaly where the law applies to some individuals who provide care and not others.

**Quarriers**

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1 Consultation on Proposals to Introduce a Statutory Duty of Candour for health and Social Care Services, October 2014