Introduction

UNISON is Scotland’s largest trade union representing around 155,000 members working in the public sector. We represent over 60,000 health staff as well as social workers, social care staff, mental health officers, etc., most of whom would be affected by the Scottish Government’s proposals. We also represent members working in health and care in the community and voluntary sector.

UNISON Scotland welcomes the opportunity to respond to the Scottish Parliament’s Health & Sport Committee on their Call for Written Evidence.

NVPs and smoking in hospital grounds

UNISON has consistently supported the Scottish Government in its ambitions to curtail smoking across the Scottish Population since its first consultation paper in 2004.

Whilst there is as yet no definitive advice on the use of Nicotine Vapour Products (NVPs) we believe it is a worthwhile aim to regulate the selling and use of these products. We think there may be some benefits in assisting people to stop smoking tobacco products in general, but until there is actual proof of the harm or otherwise of NVPs it is preferable to restrict their use and sale. We believe that the measures proposed in the Bill will contribute towards this.

We also believe that there is no place for smoking in hospital grounds where many sick people and those visiting them can carry the smoke into patients’ surroundings. However, care must be given to the way in which the regulations are monitored, and individual members of staff asking patients or members of the public to desist need to be given training on the best ways to carry out their duties.

Duty of Candour

UNISON supports the proposals for a Duty of Candour and proposals for an offence of Wilful Neglect and provided submissions on both consultations to the Scottish Government.

However, whilst we welcome the introduction of a Duty of Candour we believe that the desired outcome should emphasise the aim to drive up standards and improve organisational cultures rather than just a monitoring tool to see what reports are submitted.

UNISON welcomes the commitment in the Bill to place the emphasis on organisations and not individual practitioners. We welcome the recognition that Health and Social Care Professionals already have a regulatory and ethical obligation to be open and candid with their patients and service users.
However UNISON members are concerned that despite placing the emphasis on organisations, the unintended consequences of such an approach, could make employers more risk averse and will lead to an increase in dismissals, regulatory referrals and potential litigation against individual practitioners as well as organisations.

UNISON believes that careful consideration should be given to whether whistleblowers need added and specific protection within the Regulations given. We are concerned that where there is not an open and welcoming culture within the organisation, staff who make legitimate concerns known will find themselves being pressurised or even sanctioned because they have highlighted problems. We would, therefore wish to see this included in the legislation.

**Offence of Wilful Neglect**

UNISON supports the proposals in the Bill for an offence of Wilful Neglect by providing for a offence against care workers and against care providers, including supervisors. We are particularly pleased that there will be an opportunity for those organisations which provide care to be prosecuted in circumstances where their policies, including staffing, lead to harm for the service users. In addition, if the offence applies to organisations, we believe that they will monitor and regulate staff more closely.

We are disappointed that the offences only cover adult health and social care services as we believe the penalties should extend to services provided to children who are particularly vulnerable in care and hospital settings. We would recommend that all residential settings for children including care homes, schools, nurseries; and children’s health care including mental health services be included in the legislation.

**UNISON Scotland**