



Criminal Justice and Courts Act 2015

2015 CHAPTER 2

PART 1

CRIMINAL JUSTICE

Offences involving ill-treatment or wilful neglect

21 Ill-treatment or wilful neglect: care provider offence

- (1) A care provider commits an offence if—
- (a) an individual who has the care of another individual by virtue of being part of the care provider's arrangements ill-treats or wilfully neglects that individual,
 - (b) the care provider's activities are managed or organised in a way which amounts to a gross breach of a relevant duty of care owed by the care provider to the individual who is ill-treated or neglected, and
 - (c) in the absence of the breach, the ill-treatment or wilful neglect would not have occurred or would have been less likely to occur.
- (2) "Care provider" means—
- (a) a body corporate or unincorporated association which provides or arranges for the provision of—
 - (i) health care for an adult or child, other than excluded health care, or
 - (ii) social care for an adult, or
 - (b) an individual who provides such care and employs, or has otherwise made arrangements with, other persons to assist him or her in providing such care, subject to section 22.
- (3) An individual is "part of a care provider's arrangements" where the individual—
- (a) is not the care provider, but
 - (b) provides health care or social care as part of health care or social care provided or arranged for by the care provider,

Status: This is the original version (as it was originally enacted).

including where the individual is not the care provider but supervises or manages individuals providing health care or social care as described in paragraph (b) or is a director or similar officer of an organisation which provides health care or social care as described there.

- (4) A “relevant duty of care” means—
- (a) a duty owed under the law of negligence, or
 - (b) a duty that would be owed under the law of negligence but for a provision contained in an Act, or an instrument made under an Act, under which liability is imposed in place of liability under that law,
- but only to the extent that the duty is owed in connection with providing, or arranging for the provision of, health care or social care.
- (5) For the purposes of this section, there is to be disregarded any rule of the common law that has the effect of—
- (a) preventing a duty of care from being owed by one person to another by reason of the fact that they are jointly engaged in unlawful conduct, or
 - (b) preventing a duty of care being owed to a person by reason of that person’s acceptance of a risk of harm.
- (6) A breach of a duty of care by a care provider is a “gross” breach if the conduct alleged to amount to the breach falls far below what can reasonably be expected of the care provider in the circumstances.
- (7) In this section—
- (a) references to a person providing health care or social care do not include a person whose provision of such care is merely incidental to the carrying out of other activities by the person, and
 - (b) references to a person arranging for the provision of such care do not include a person who makes arrangements under which the provision of such care is merely incidental to the carrying out of other activities.
- (8) References in this section to providing or arranging for the provision of health care or social care do not include making payments under—
- (a) regulations under section 57 of the Health and Social Care Act 2001 (direct payments for community services and carers);
 - (b) section 12A of the National Health Act 2006 (direct payments for health care);
 - (c) section 31 or 32 of the Care Act 2014 (direct payments for care and support);
 - (d) regulations under section 50 of the [Social Services and Well-being \(Wales\) Act 2014 \(anaw 4\)](#) (direct payments to meet an adult’s needs).
- (9) In this section—
- “Act” includes an Act or Measure of the National Assembly for Wales;
 - “adult”, “child”, “excluded health care”, “health care” and “social care” have the same meaning as in section 20.