

CORPORATE POLICY - Duty of Candour Policy

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Duty of Candour Policy

Document Control / History

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5	Full review of policy and introduction of Duty of Candour SOP

Consultation

Quality Improvement Committee - September 2016

Executive Committee - 21 September 2016

Trust Board – September 2016

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Duty of Candour Policy

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Must be read in conjunction with the Duty of Candour Standard Operating Procedure
Also to be read in conjunction with any policies listed in Trust Associated Documents.

1 Introduction

- 1.1 Promoting a culture of openness is a prerequisite to improving patient safety and the quality of healthcare systems. It involves apologising and explaining what happened to patients who have been harmed as a result of their healthcare treatment. It ensures that communication is open, honest, transparent and occurs as soon as possible following an incident. It encompasses communication between healthcare organisations, healthcare teams and patients and/or their carers (National Patient Safety Agency, 2009).
- 1.2 The Duty of Candour process is a legal duty that was introduced in November 2014 (ref: regulation 20 of the health and social care act 2008 (Regulated Activities) Regulations 2014) to ensure that providers are open and transparent with people who use services and other 'relevant persons' (people acting lawfully on their behalf) in relation to care and treatment where they have experienced significant harm.
- 1.3 The primary concern of Duty of Candour is to ensure that the patient and or their family/carer are told about patient safety incidents that have affected them. That they receive a genuine apology, are kept informed of investigations and are supported to deal with the consequences.

2 Purpose / Aim and Objective

- 2.1 The policy aims to improve the quality and consistency of communication when patients are involved in an incident by ensuring that, if they experience harm (moderate, severe or die unexpectedly), patients/patients relatives and/or their carers receive the prompt information they need to enable them to understand what has happened; that an apology is offered; and that patients/patients representative and/or carers are informed of the action the Trust will take to try and ensure that a similar type of incident does not recur. This policy, in conjunction with the documents listed in the Associated Documents section also aims to create an environment where patients and/or their carers, healthcare professionals and managers all feel supported when things go wrong.
- 2.2 A further aim of this policy is to inform staff that an apology is not an admission of liability, it is however a legal expectation of the Duty of Candour.

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3 Definitions of harm

- 3.1 Duty of Candour applies to patient safety incidents that result in moderate or severe harm or unexpected death. It does not apply to low harm, no harm or near miss incidents but this does not negate the requirement to inform the patient if appropriate.
- 3.2 Notifiable safety incident means any unintended or unexpected incident that occurred in respect of a service user during the provision of a regulated activity that, in the reasonable opinion of a health care professional, could result in, or appears to have resulted in:
- The death of the service user, where the death relates directly to the incident rather than to the natural course of the service users' illness or underlying condition, or
 - Severe harm, moderate harm or prolonged psychological harm to the user

Definitions of harm:

3.3 Moderate harm:

- harm that requires a moderate increase in treatment
- significant but not permanent harm

For example:

- a moderate increase in treatment means an unplanned return to surgery, unplanned readmission, a prolonged episode of care, extra time receiving care or treatment in hospital as
- an inpatient or outpatient, cancelling of treatment or transfer to another treatment area (such as intensive care).

3.4 Severe harm:

- when there has been a permanent reduction of health or functional ability that is related directly to the incident.

3.5 Prolonged psychological harm:

- psychological harm which is experienced or is likely to be experienced for a continuous period of at least 28 days

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4 (Duties) Roles & Responsibilities

This policy is aimed at all healthcare staff. The following responsibilities and accountabilities have been identified and confirmed.

4.1 Trust Board and Executive Team

The Trust Board and the wider Executive Team is responsible for:

- 4.1.1 Responsible for setting the strategic direction for the organisation, including for the implementation of the Duty of Candour.
- 4.1.2 Actively championing the “Being Open and Duty of Candour” process by demonstrating commitment to openness, honesty and transparency in all aspects of patient care and fostering a learning, supportive, fair and just safety culture.
- 4.1.3 Ensuring that recommendations and actions identified from patient safety incidents are implemented and their effectiveness reviewed.

4.2 Medical Director and Director of Nursing

They are responsible for:

- 4.2.1 Conveying to medical, nursing and other health care professionals the importance of complying with both the regulatory and professional duty of candour; and
- 4.2.2 Raising awareness of the process, ensuring that the requirements for sharing information under both the Duty of Candour and Open & Transparent processes are met.

4.3 Chief Quality Officer

The Chief Quality is responsible for:

- 4.3.1 Oversight of the effective systems and processes to ensure that there is timely notification and communication to patients or their representatives.
- 4.3.2 Work closely with the Medical Director and Director of Nursing to ensure regulatory compliance of the Duty of Candour is met.
- 4.3.3 Providing advice to health professionals and managers on meeting the Duty of Candour.

4.4 Quality Improvement and Patient Safety Team

- 4.4.1 Facilitate the implementation of the Duty of Candour systems and processes by working with the directorate staff.
- 4.4.2 To ensure applicable Duty of Candour fields on Datix are completed prior to incident closure.
- 4.4.3 Providing training or arranging for training to be provided on the Duty of Candour.

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- 4.4.4 Ensuring that the Being Open and Duty of Candour Policy and the Duty of Candour Guidance is kept up to date to comply with current regulation and recognised best practice

4.5 Directors of Operations

The directorate management team is responsible for:

- 4.5.1 Ensuring that health professionals within their directorates comply with both the regulatory and professional duty of candour by following this policy.
- 4.5.2 Liaising with the Patient Safety Team regarding compliance with this policy.
- 4.5.3 Be responsible for implementing training sessions within their directorates and raising awareness of the Duty of Candour with their relevant staff

4.6 Directorate Governance Managers:

Director Governance Managers are responsible for:

- 4.6.1 The coordination of communication with patients and patient representatives for Duty of Candour in relation to incoming complaints.
- 4.6.2 Where it is applicable, ensuring that a corresponding entry and documentation is made on the Incidents module of Datix and that the responsible senior clinician initiates a Duty of Candour procedure.
- 4.6.3 Ensure that relevant staff are attending Duty of Candour training sessions.

4.7 Senior Clinical Lead

Senior Clinical Lead is responsible for:

- 4.7.1 Ensuring the principles of being open and the Duty of Candour are followed in their service
- 4.7.2 Making the initial disclosure of harm as soon as possible after the incident (usually within 48 hours of the incident and definitely no longer than 10 days).
- 4.7.3 Apologising to the patient/family/carer, giving an initial explanation of the incident which is known at that point.
- 4.7.4 Signposting the patient/family/carer to appropriate support.
- 4.7.5 Discussing the investigation process with the patient/family/carer and asking if they have any concerns regarding the investigation and conveying these concerns to the investigator(s) if not present.
- 4.7.6 Agreeing an ongoing point of contact with the patient/family/carer
- 4.7.7 The Duty of Candour letters must be completed by the directorate Governance Manager/lead supported by the senior clinician involved in the

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patients care within 48 hours of the incident and filed in the patient's notes; they must also be attached to the relevant Datix report. The first letter is completed after the verbal meeting. The second letter is completed following the meeting where the investigation results are discussed.

- Letter one is to inform the patient/patient representative of the incident and to apologise and inform them that an investigation will be taking place
- Letter two is to inform the patient/patient representative of the findings from the investigation and how lessons will be learnt

4.7.8 Ensuring all staff involved in an incident, including non-clinical staff, staff from other teams and locum staff are debriefed and signposted to further sources of support if required for example counselling.

4.8 All staff

4.8.1 All cases of moderate harm, severe harm, death or prolonged psychological trauma (at least 28 days) must be promptly escalated to the senior clinician present at that time, for initiation of the Duty of Candour procedure.

4.8.2 Every member of staff has a duty to ensure all patient safety incidents are promptly reported using the Trust incident reporting system (Datix).

4.8.3 All staff should be sensitive to peers involved in an incident and provide a supportive environment

5 Monitoring and Review

What will be monitored	How/Method	Frequency	Lead	Reporting to	Deficiencies/ gaps Recommendations and actions
Ensure the Trust complies with the Duty of Candour Policy following all incidents of moderate harm and more severe incidents.	Audit of DATIX, RCA reports and patient notes (as necessary)	6 monthly	Head of Patient Safety	Quality Improvement and Compliance Group	Where gaps are recognised actions plans will be put into place to improve compliance
Ensure the Trust complies with Regulation 20 Duty of Candour and the Professional Duty of Candour.	Compliance report as part of wider monitoring report.	Monthly	Head of Patient Safety	Report to sent to CQC / Reviewed by Quality Improvement and Compliance Group (where requested)	Where gaps are recognised actions plans will be put into place to improve compliance

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What will be monitored	How/Method	Frequency	Lead	Reporting to	Deficiencies/ gaps Recommendations and actions
Local Being Open and Duty of Candour Activity	Presentation of reports on Being Open, staff training, lessons learned and dissemination of lessons learned	Quarterly	Directorate Quality and Governance Leads/ Directorate Associate Chief Nurses	Directorate Quality and Governance Groups	Where gaps are recognised actions plans will be put into place and monitored through the Directorate Governance Group.
That the Being Open and Duty of Candour Policy and SOP continue to meet regulatory requirements and best practice.	Keep abreast of regulatory changes and best practice from CQC guidance	On-going	Patient Safety Manager	Quality Improvement and Compliance Group / Chief Executive Advisory Group	The policy will be updated when there is a requirement to do so following regulatory and/or best practice changes.

6 Training and Implementation

- 6.1 E-learning package directing staff through the principles and concept of Duty of Candour and Being Open.
- 6.2 Directorate Governance Managers will be responsible for implementing training sessions within their directorates and raising awareness of the Duty of Candour with their relevant staff.

7 Equality Impact Assessment Statement & Tool

All public bodies have a statutory duty under The Equality Act 2010 (Statutory Duties) Regulations 2011 to provide “evidence of analysis it undertook to establish whether its policies and practices would further, or had furthered, the aims set out in section 149(1) of the [Equality Act 2010]”; in effect to undertake equality impact assessments on all procedural documents and practices. Authors should use the Equality Impact Toolkit to assess the impact of the document.

In the first instance this will mean screening the document and, where the screening indicates, completing a full assessment. The Toolkit can be found on the Trust website <http://www.medway.nhs.uk/our-foundation-trust/publications/equality-and-diversity/equality-impact-assessments/>

A document will not be considered approved until the author has confirmed that the screening process has been carried out and where required a full impact assessment has been completed. Where a full assessment is completed this should be submitted along with the document for approval.

8 References

Document	Ref No
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References:	
Health and Social Care Act 2008 (Regulated Activities) Regulations 2014	Regulation 20
Care Quality Commission: Regulation 20: Duty of candour Information for all providers: NHS bodies, adult social care, primary medical and dental care, and independent healthcare	March 2015
CQC Provider Handbook: NHS and independent acute hospitals (KLOE)	S2 Prompt 1 W3 Prompt 9
Joint Statement from the Chief Executives of statutory regulators of healthcare professionals – Openness and honesty – the professional duty of candour	http://www.gmc-uk.org/Joint_statement_on_the_professional_duty_of_candour_FINAL.pdf df_58140142.pdf
2014/15 NHS Standard Contract: Service Conditions	http://www.england.nhs.uk/nhs-standard-contract/
NPSA: Being Open Framework (2009)	http://www.nrls.npsa.nhs.uk/resources/collections/being-open/?entryid45=83726
Trust Associated Documents:	
Duty of Candour Guidance	GUCGR021
Risk Management Policy	POLCGR065
Maternity Risk Management Strategy	STRCGR006
Risk Management Standing Operating Procedure	SOP0064
Serious Incident Policy	POLCGR071
PALS & Advocacy Policy	POLCPCM018
Complaints Policy	POLCGR005
Respect Countering Bullying in the Workplace Policy	POLCHR002

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