

## Duty of Candour – Signposting Document

This document has been produced to support organisations in Shropshire and Telford & Wrekin to develop and implement a Duty of Candour Policy following attendance on the ‘Safeguarding for Provider Managers’ Joint Training Course.

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February 2017  
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### Duty of Candour

If developing a Duty of Candour Policy and Procedure in line with CQC Fundamental Standards (Standard 20) you may wish to consider some of the information below.

The Duty of Candour places a requirement on providers of health and adult social care to be open with patients or service users when things go wrong. Providers should establish the duty throughout their organisations, ensuring that honesty and transparency are the norm in every organisation registered by the CQC.

#### Background/context Duty of Candour

Care Quality Commission (2014) *Response to our consultation on our guidance to help services meet the new regulations for Fit and proper persons: directors and Duty of candour*. London: CQC  
[https://www.cqc.org.uk/sites/default/files/20140808\\_Quick\\_GuideReqs\\_Enforcement\\_consultation\\_CQC.pdf](https://www.cqc.org.uk/sites/default/files/20140808_Quick_GuideReqs_Enforcement_consultation_CQC.pdf)

Department of Health (2014) *Introducing the Statutory Duty of Candour*  
*A consultation on proposals to introduce a new CQC registration regulation*. London: DoH.  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/295773/Duty\\_of\\_Candour\\_Consultation..pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/295773/Duty_of_Candour_Consultation..pdf)

#### Candour

Any person who uses the service harmed by the provision of a service provider is informed of the fact and an appropriate remedy offered, regardless of whether a complaint has been made or a question asked about it.

CQC (2015) *Regulation 20: Duty of candour Information for all providers: NHS bodies, adult social care, primary medical and dental care, and independent healthcare*. London: CQC.  
[http://www.cqc.org.uk/sites/default/files/20150327\\_duty\\_of\\_candour\\_guidance\\_final.pdf](http://www.cqc.org.uk/sites/default/files/20150327_duty_of_candour_guidance_final.pdf)

Care Quality Commission (2016) *Regulation 20: Duty of Candour. Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 20*. London: CQC.  
<http://www.cqc.org.uk/content/regulation-20-duty-candour>

## Documents you may wish to view if writing a Duty of Candour policy and procedure:

Care Quality Commission (2015) *Regulation 20: Duty of candour Information for all providers: NHS bodies, adult social care, primary medical and dental care, and independent healthcare* March 2015. London: CQC.

[http://www.cqc.org.uk/sites/default/files/20150327\\_duty\\_of\\_candour\\_guidance\\_final.pdf](http://www.cqc.org.uk/sites/default/files/20150327_duty_of_candour_guidance_final.pdf)

Hempsons *The duty of candour, fundamental standards and fit and proper persons test* Hempsons step guide for health and social care providers to the new CQC regulatory regime.

<http://www.hempsons.co.uk/wp-content/uploads/2015/04/Hempsons-Duty-of-Candour-Brochure.pdf>

Think Personal Act Local (2014) *The Duty of Candour – an Adult Social Care Perspective* March 2014.

[http://www.thinklocalactpersonal.org.uk/library/The\\_Duty\\_of\\_Candour\\_-\\_an\\_Adult\\_Social\\_Care\\_Perspective\\_March\\_2014.pdf](http://www.thinklocalactpersonal.org.uk/library/The_Duty_of_Candour_-_an_Adult_Social_Care_Perspective_March_2014.pdf)

## Examples of when Duty of Candour Applies

Care Quality Commission (2015) *Regulation 20: Duty of candour, Information for all providers: NHS bodies, adult social care, primary medical and dental care, and independent healthcare*. London: CQC

[http://www.cqc.org.uk/sites/default/files/20150327\\_duty\\_of\\_candour\\_guidance\\_final.pdf](http://www.cqc.org.uk/sites/default/files/20150327_duty_of_candour_guidance_final.pdf)

See the Adult Social Care section in Appendix C: Illustrative examples of incidents that trigger the thresholds for duty of candour

Example	Interpretation
A new member of staff on induction was shadowing another care worker delivering care to a person who needed to be hoisted. Two trained members of staff were required to operate the hoist safely and the new member of staff had not yet been trained in moving and handling. The new care worker was asked to assist with the manoeuvre and did not attach one of the loops of the sling to the hoist properly. As a result, during the manoeuvre, the person slid out of the sling and onto the floor. The person sustained a broken hip requiring emergency surgery.	This would be an example of an incident leading to a service user experiencing changes to the structure to the body (regulation 20 (9)(b) (iii))

## What triggers the Duty of Candour?

### Social Care Providers

A safety incident is an unintended or unexpected incident, which is suspected to have occurred to a service user during the provision of a regulated activity and that could result in or appears to have resulted in harm to the service user. A notifiable safety incident in the care setting is a safety incident which results in the following types of harm to the service user:

1. In relation to any other registered person, "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—
  - a. appears to have resulted in—

- i. the death of the service user, where the death relates directly to the incident rather than to the natural course of the service user's illness or underlying condition,
  - ii. an impairment of the sensory, motor or intellectual functions of the service user which has lasted, or is likely to last, for a continuous period of at least 28 days,
  - iii. changes to the structure of the service user's body,
  - iv. the service user experiencing prolonged pain or prolonged psychological harm, or
  - v. the shortening of the life expectancy of the service user; or
- b. requires treatment by a health care professional in order to prevent—
- i. the death of the service user, or
  - ii. any injury to the service user which, if left untreated, would lead to one or more of the outcomes mentioned in sub-paragraph (a).

### **What Could the Organisation do to Address Duty of Candour?**

- Prepare guidance or information for staff or give a briefing to the team on this new duty and what constitutes a *notifiable incident* and what they need to do if one occurs
- Produce a notification letter template
- Consider the development of a policy that outlines organisation's commitment to openness and candour

### **Additional Sources of Information**

General Medical Council (GMC) (2013) *Good Medical Practice*. London: GMC.  
[http://www.gmcuk.org/guidance/good\\_medical\\_practice.asp](http://www.gmcuk.org/guidance/good_medical_practice.asp)

National Patient Safety Agency (2009) *Patient Safety Alert Being Open: Communicating with patients, their families and carers following a patient safety incident*. London: NPSA.  
<http://www.nrls.npsa.nhs.uk/beingopen/?entryid45=83726>

NHS Standard Contract <https://www.england.nhs.uk/nhs-standard-contract/16-17/>