



Duty of Candour Policy

Directorate:	Social Care, Health, and Housing (SCHH)		
Division & Service:	Adult Social Care: Care and Support Services		
Signed off by	Care and Support Managers Practice Governance Board		
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Issue date:	April 2018		
Approved By:	Practice Governance Board	Approved Date:	18/04/18
Effective From:	April 2018	Version No.	1.1
Next Review:	April 2021		

Version Control

Version no.	Date issued	Author	Change reference	Issued to
1.0	16/04/18	Ramone Nurse		PGB
1.1	18/04/18	Jo Bellamy	Live link to Safeguarding Adults Policy and Procedures	PGB
1.2				
1.3				

1. INTRODUCTION

- 1.1 Central Bedfordshire Council believes that promoting a culture of openness, transparency and good communication with service users, their families and carers, is vital to the delivery of high quality care that:
- Is Person Centred
 - Will contribute to safety, wellbeing and quality of life; and
 - Will enable service users to live their lives in a way that they choose
- 1.2 The Duty of Candour policy places a requirement on all providers of health and social care and everyone who works for them to be open with service users when things go wrong.
- 1.3 While it is inevitable that errors, accidents or incidents will occur. It is important to recognise that they are very rarely caused willfully. They can be caused by a number of factors including: process problems, systems errors, behavior of an individual, lack of knowledge or skills or human error.
- 1.4 When errors, accidents and incidents happen, the Council wants to ensure that they are reported in an open and transparent way, services users and staff are supported through the process and the resulting actions and outcomes can be shared across the organisation and, where necessary, result in change.
- 1.3 The Duty of Candour was introduced following a key recommendation from the Mid Staffordshire NHS Foundation Trust Public Inquiry (the Francis Inquiry) and has applied in health settings since 27 November 2014.
- 1.4 The Health and Social Care Act 2008 (Duty of Candour) Regulations 2014 introduced the Duty of Candour as a statutory requirement for all Care Quality Commission (CQC) registered providers of social care from April 2015.

2. PURPOSE

- 2.1 The purpose of this policy is to provide a framework for the delivery of the Duty of Candour. In particular it sets out how the council will:
- Promote a culture that encourages candour, openness and honesty at all levels. This should be an integral part of a culture of safety that supports organisational and personal learning.
 - Be open and transparent with people who use services and other “relevant persons” in relation to care and treatment.
 - Ensure a common understanding about what constitutes a notifiable safety incident and the harm thresholds that trigger the duty of candour.

- Set out the actions that must follow when things go wrong with care and treatment, including informing people about the incident, providing reasonable support, providing truthful information and an apology.

3. SCOPE DEFINITION AND RELATED POLICIES

3.1 This policy and procedure covers all care homes and other Adult Social Care services provided directly by Central Bedfordshire Council.

3.2 To meet the requirements of the new CQC regulation, the Council has to:

- Recognise the event involving the service user or “relevant person” as an incident.
- Establish that it has caused harm.
- Act in an open and transparent way with the “relevant person”.
- Tell the “relevant person” as soon as reasonably practicable after becoming aware that a notifiable safety incident has occurred and provide support to them.
- Provide an account of the incident.
- Advise the ‘relevant person’ what further enquiries the Trust believes are appropriate.
- Offer an apology.
- Follow this up by giving the same information in writing, and providing an update on enquiries.
- Keep a written record of all communication with the ‘relevant person’.

3.2 The CQC will assess whether there is an understanding of the regulation within the organisation. This will involve a review of the systems in place using the following “Safe” and “Well-led” questions:

- How are risks to individuals and the service managed so that people are protected and their freedom is supported and respected?
- How does the service promote a positive culture that is person-centred, open, inclusive and empowering?

3.3 The following key terms have been defined by CQC:

Term	Definition
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Apology	A sincere expression of regret offered for harm sustained. It is not an admission of guilt.
Appropriate written records	Records are complete, legible, accurate and updated without delay.
Candour	Any patient harmed by the provision of a healthcare service is informed of the fact and an appropriate remedy offered, regardless of whether a complaint has been made or question asked about it
CQC	The Care Quality Commission, the independent regulator of health and social care in England.
Notifiable safety incident	Any unintended or unexpected incident that occurred in respect of a service user during the provision of a regulated activity that could result in or appears to have resulted in death, severe harm, moderate harm or prolonged psychological harm to the service user.
Openness	Enabling concerns and complaints to be raised freely without fear and questions asked to be answered.
Relevant person	<p>The service user, or a person lawfully acting on their behalf in circumstances in which the service user:</p> <ul style="list-style-type: none"> • has died • is under 16 years of age • is 16 or over and lacks capacity in relation to their care and treatment
Serious Injury	<p>There is no legal definition of what constitutes a serious injury however, the following examples would be considered as serious injuries:</p> <ul style="list-style-type: none"> • Permanent disfigurement, such as a burn or scarring. • An injury that requires surgery to remedy. • Temporary, semi-permanent or permanent harm, for example, as a consequence of a drug error.

	<ul style="list-style-type: none"> • Injuries that damage any major organs of the body, for example, a perforation (even where this may be a known complication of the procedure). • Injuries that cause loss of any senses such as blindness. • Actual serious injury or harm to a service user, as a result of failure of establishment systems, procedures, guidelines or protocols, including breach of confidentiality. <p>(The above list is not exhaustive)</p>
Transparency	Allowing accurate information about performance and outcomes to be shared with staff, patients, the public and regulators.

Related Policies

Confidential Reporting (Whistle Blowing) Policy
 Code of Conduct for ASC Workers (Care Homes)
 CBC Health & Safety Policy
 Person Centred Care Policy (Care Homes)
 Safeguarding and Safe Care Policy
[Multi Agency Safeguarding \(Adults\) Policy](#)

4. POLICY DETAILS

4.1 The Duty of Candour will be applied where there is an unintended or unexpected incident that occurs in respect of a service user during the provision of a regulated or non-regulated activity where it:

a) 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 user's illness or underlying condition,
- 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,
- Changes to the structure of the service user's body,
- The service user experiencing prolonged pain or prolonged psychological harm, or
- The shortening of the life expectancy of the service user; or

b) Requires treatment by a health care professional in order to prevent—

- The death of the service user, or
- Any injury to the service user which, if left untreated, would lead to one or more of the outcomes mentioned above.

5. LEGAL AND REGULATORY FRAMEWORK

Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2015: Regulation 20 – Duty of Candour

The intention of this regulation is to ensure that providers are open and transparent with people who use services and other 'relevant persons' (people acting lawfully on their behalf) in general in relation to care and treatment. It also sets out some specific requirements that providers must follow when things go wrong with care and treatment, including informing people about the incident, providing reasonable support, providing truthful information and an apology when things go wrong.

The regulation applies to registered persons when they are carrying on a regulated activity.

CQC can prosecute for a breach of parts 20(2)(a) and 20(3) of this regulation and can move directly to prosecution without first serving a Warning Notice. Additionally, CQC may also take other regulatory action.

6. MONITORING AND REPORTING ARRANGEMENTS

Monitoring Compliance

6.1 Compliance will be monitored through an Incident Reporting system AssessNET. Those inputting into AssessNet must indicate whether the incident meets the Duty of Candour requirement and whether the duty has been actioned and by whom. Care home managers will report all incidents and accidents to the Head of Service. This information will be presented bi-monthly to the Performance Management Board and the Adult Social Care balanced scorecard will include a scorecard on the number of Duty of Candour incidents and the outcomes of the subsequent investigations.

6.2 The Practice Governance Board will oversee issues or needs arising from duty of candour, safeguarding and complaints investigations and make recommendations as required.

7. TRAINING

7.1 All relevant new employees of direct services within Social Care Health and Housing and the Council will receive training on the Duty of Candour requirement and its implications for them as employees.

7.2 Managers will monitor the implementation of the policy to identify any further training need.

- 7.2 Managers will ensure that feedback is provided in supervision and team meeting following and incident or accident so that learning from the incident can be embedded.

8. RESPONSIBILITIES

- 8.1 The following officers responsible for implementing, monitoring and reviewing the policy:

The Director is ultimately responsible for delegating the process of managing and responding to the Duty of Candour process.

The Head of Care and Support has responsibility for ensuring the implementation of the duty of candour process and reporting back to PMB and the Director, as well as ensuring a duty of candour policy is in place.

Line managers are responsible for supporting their staff to understand and to comply with this duty.

Employees must comply with the framework of this policy and with any professional codes relevant to their role —The College of Social Work, Health and Care Professional Council etc.

Registered/Service Managers are responsible for ensuring all incidents which meet the criteria for duty of candour are escalated in accordance with the Incident Reporting procedure/policy.

9. EVALUATION AND REVIEW

To be reviewed after 3 years.