

The Lomond Clinic Duty of Candour Policy

DATE April 2024 REVIEW DATE April 2027

Reviewer Name : Jill du Toit

Duty of Candour Policy

The intention of the duty of candour legislation is to ensure that providers are open and transparent with people who use services. It sets out some specific requirements 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.

Introduction

Candour is defined as: 'The volunteering of all relevant information to persons who have or may have been harmed by the provision of services, whether or not the information has been requested and whether or not a complaint or a report about that provision has been made'

It is Company policy to take an honest and open approach with users of our services, and when things go wrong with care or treatment to provide service users and other relevant persons with support, truthful information and a written apology.

It is broadly acknowledged that care is not risk free. Service users, families and carers usually understand this and want to know not only that every effort has been made to put things right, but every effort is made to prevent similar incidents from happening again to someone else. A critical test for service users' trust in the Company is how we respond when things go wrong.

The Company will ensure an honest and open culture exists across and at all levels within the organisation, and it will ensure that systems are in place for reporting notifiable safety incidents and informing relevant person(s) in a timely manner when such an incident has occurred.

The Being Open principles and ethical duty of openness apply to all incidents and any failure in care or treatment. The Duty of Candour applies to incidents whereby moderate harm, significant harm or death has occurred.

It is a matter of judgment that needs to be exercised on a case by case basis to determine whether an incident that meets the Duty of Candour criteria has occurred. What may not appear to be such an incident at the outset may look very different once more information comes to light and may therefore lead to an incident becoming notifiable under the Duty of Candour.

The Company will ensure staff are aware of and abide by the Duty of Candour Procedure (Scotland) Regulations 2018.



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Roles and Responsibilities:

Director:

The Directors are responsible for determining the governance arrangements of the Service including effective risk management processes. They are responsible for ensuring that the necessary clinical policies, procedures and guidelines are in place to safeguard service users and reduce risk. In addition, they will require assurance that clinical policies, procedures and guidelines are being implemented and monitored for effectiveness and compliance.

Manager:

The Manager has overall responsibility for service user safety and ensuring that there are effective risk management processes within the Service provider that meet all statutory requirements and adhere to guidance issued by the Department of Health.

This policy is made available to all staff.

The staff they are responsible for implementation and compliance with the policy.

That staff are updated with regards to any change in the policy Key Principles of the Duty of Candour Policy:

A culture that encourages candour, openness and honesty at all levels. Staff must feel that they work in an organisation that supports organisational and personal learning.

A zero-tolerance approach to bullying and harassment, including in relation to duty of candour. In any instance where it is alleged that a member of staff may have obstructed another in exercising their duty of candour, an investigation will be carried out. Furthermore, if a professionally registered member of staff is found, following investigation, to have breached their duty of candour, referral to the relevant professional body may be indicated.

The provision of staff training in relation to the duty of candour, and support if they are involved in a notifiable safety incident

All staff working with the Company have a responsibility to adhere to the policy and procedures around duty of candour.

As soon as reasonably practicable after becoming aware that a safety incident has occurred that falls into the moderate harm or more serious categories the staff must:

Notify the 'relevant person' (this is usually the service user but may in some circumstances be the relative, carer or advocate) that the incident has occurred and;

Provide reasonable support to the relevant person in relation to the incident The notification must:

- (a) Be given in person by one or more members of staff
- (b) Provide an account of all the facts known about the incident to date
- (c) Advise the person what further enquiries into the incident will be undertaken



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(d) Include an apology and/or a sincere expression of regret, and;

(e) Be recorded in writing in the notes

This notification must be followed up in writing to the relevant person.

The member of staff should be clear in the first meeting that the facts may not yet have been established, tell the relevant person only what is known and believe to be true, and answer and questions honestly and as fully as they can.

The aim of the Duty is to ensure that service users are told when harm occurs as a result of the care they receive. Where the degree of harm is not yet clear but may fall into the moderate or above categories, then the relevant person must be notified.

It is not necessary to inform a person where a 'near miss' has occurred, so long as the incident has resulted in no harm to the person

Arrangements must be in place to notify a person affected by an incident who lacks capacity to decide about their care, including ensuring that a person acting lawfully on their behalf is notified, as the relevant person.

Other than in the exceptions outlined above, information should only be disclosed to family members or carers where the service user has given express or implied consent

The information to be provided should include a step by step account of all relevant facts known about the incident at the time. The information should be given in person, by one or more appropriate staff members or 'representatives' of the Company. The information should be as detailed, or as simple, as the relevant person wants, and should be jargon free with any complicated terms explained. The information must be given in a manner that the relevant person can understand, and if necessary, assisted by interpreters, advocates or other communication aids, having given due consideration to breaches of confidentiality. The information should also include what further enquiries are to be made (if any)

The Company will also ensure that a meaningful apology is given, in person, by the most appropriate representative of the Service provider

The Company will also ensure that all reasonable support is provided to the relevant person to help them overcome the physical, psychological and emotional impact of the incident, including:

- Treating the person with respect, consideration and empathy
- Offering direct emotional support during the process of notification, perhaps from a family member, friend, care professional or advocate
- Offering help to understand what is being said, perhaps through an interpreter, nonverbal communication aids, Braille etc.
- Providing access to treatment and care to recover from or minimize the harm caused if appropriate
- Providing details of specialist independent sources of practical advice and support, or emotional support / counselling
- Providing information about available impartial advocacy and support services and other relevant support groups
- Providing support to access the complaints procedure

Following the notification in person, written notification will also be provided, even though enquiries may not yet be complete. The written notification must contain all the information that was given in person, including an apology, as well as the results of any enquiries that have been made since the face to face meeting

The outcomes or results of any further enquiries and investigations must also be provided in writing to the relevant person if they wish to receive them

If the relevant person cannot be contacted in person or declines to speak to representatives of The Company a documented record must be kept of all attempts to make contact

Mental Capacity

Where the service user or service user is assessed as not having the capacity to make a decision in relation to their care or where the service user is under 16 and deemed not to have the necessary competency, then the most appropriate relevant person should be notified of the incident.

Confidentiality

Details of a service user's care and treatment should always be considered confidential. Where the Duty of Candour would include providing confidential information to family or carers, then the consent of the individual concerned should be sought prior to disclosing information. This consent or denial of consent to share should be recorded in the clinical notes.

Communication with parties outside of the clinical team should be on a strictly need-to-know basis and, where practicable, records should be anonymised.

The Relevant Person Cannot be Contacted or Declines to Have Further Information

If, after discussion, the service user says they do not want more information, then the possible consequences must be explained to them. It should be made clear that they can change their mind and have more information at any time.

All Duty of Candour conversations must be recorded in the notes including instances when the service user has declined the offer of further information.

Where a relevant person cannot be contacted, a clear written record must be kept of the attempts made to contact or speak to the relevant person. This should evidence that every reasonable effort was made to contact the person by stating how many attempts were made, who by and when.

All records are kept for 8 years in line with other healthcare records.

Staff Training:

All staff will be provided with training in relation to this policy.