

Duty of Candour Regulations and Requirements

One Trust...



...serving our local communities

Patient Safety
Team

Duty of Candour - DoC

*The Health and Social Care Act 2008 (Regulated Activities)
Regulations 2014 No 2936; Part 3 Section 2.20*

Came into force on 27th November 2014.

Scope:

Covers all notifiable safety incidents defined as:

Any unintended or unexpected incident that occurred in respect of a service user during the provision of healthcare that could result in, or appears to have resulted in – Death, Severe Harm, Moderate Harm or Prolonged Psychological Harm (likely to exceed 28 days)

Duty of Candour Requirements

As soon as reasonably practicable after becoming aware that a notifiable safety incident has occurred a health service body must:

- a) Notify the relevant person that the incident has occurred, and
- b) Provide reasonable support in relation to the incident, and when giving the news of the incident (notification)
- c) The notification must be given by one or more representatives of the Trust

Duty of Candour Requirements continued...

- d) It must provide an account of all the facts known at the time of the notification (to the HCP's best belief)
- e) Advise what further enquiries the Trust believes are appropriate
- f) Include an apology
- g) Be documented in a written record which is kept securely by the Trust
- h) This discussion **MUST** be followed by a written notification (letter) given or sent to the relevant person containing:
 - the info at d) above
 - details of any enquiries to be undertaken
 - the results of any further enquiries into the incident
 - an apology
- i) The Trust must keep a copy of all correspondence with the relevant person



Duty of Candour definitions (2)

Apology means:

- An expression of sorrow or regret in respect of a notifiable safety incident

Relevant person means:

- The service user or, in the following circumstances, a person lawfully acting on their behalf :
 - On the death of the service user
 - Where the service user is under 16 years old and not competent to make a decision in relation to their care or treatment, or
 - Where the service user is 16 years or older and lacks capacity (as determined in accordance with sections 2 and 3 of the Mental Capacity Act 2005) in relation to the matter.



Duty of Candour Requirements (3)

What if the relevant person cannot be contacted or declines to speak to the HCP / Trust representative?

- No notification is needed
- A written record must be kept of attempts made to contact or to speak to the relevant person

Duty of Candour definitions

Death:

The patient's death is only considered 'Trust Attributable Harm' if the death has occurred as a result of a patient safety incident and not as a result of a matter of disease progression or naturally occurring event.

Duty of Candour definitions

Severe harm means:

- A permanent lessening of bodily, sensory, motor, physiologic, or intellectual functions, including removal of the wrong organ or brain damage that is directly related to the incident and not related to the natural course of the service user's illness or underlying condition.



Duty of Candour definitions

Moderate harm means:

- Harm that requires a moderate increase in treatment, and
- Significant, but not permanent, harm
- Moderate increase in treatment means an unplanned return to surgery, an unplanned re-admission, a prolonged episode of care, extra time in hospital or as an outpatient, cancelling of treatment, or transfer to another treatment area (such as ICU)



Practicalities of Duty of Candour

- Where can you get help from:

Templates for DoC Letters are available from:

- The Patient Safety Team – LG.incidents@nhs.net
- Divisional Clinical Governance Manager
- Divisional Head of Nursing



Practicalities of Duty of Candour

- Recording Duty of Candour:
 - Please ensure that you complete your ‘Being Open’ discussion on the Ulysses incident system
 - Include the date that the letter was sent to the patient and/or family.

