

Policy Library Pro Forma

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Title: **Duty of Candour** - the obligation to inform and apologise if mistakes have been made in the delivery of care and support

Aim / Summary: To set out a framework for operational managers and team members under the Duty of Candour to meet the requirements of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

Document type (please choose one)

Policy	X	Guidance	
Strategy		Procedure	

Approved by: Corporate Director,
Adult Social Care and Health

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Subject Areas (choose all relevant)

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Please include any supporting documents

1.

2.

3.

Review date

Amendments

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Duty of Candour Policy

Policy Statement

1. This Policy sets out the approach of Adult Social Care Provider Services to meeting its statutory requirements to be open and transparent with the people who use its services. If mistakes are made when providing care and support that results in suffering harm, then openness and honesty is actively encouraged by the County Council. It is a requirement in maintaining positive relationships and the reputation of the Authority.
2. A duty of candour is “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” (Francis Report). This definition underpins the County Council approach to ensure that services are active in following this duty.

Scope of this policy

3. This policy applies to all Provider Services regulated by the Care Quality Commission (CQC) and those which are not regulated but are operating in an open and transparent way in working.
4. Regulated Services include:
84, Church Street, Short Breaks Services, Shared Lives Scheme, Maximising Independence Service
5. Services not regulated but required to follow this policy include:
Day and Employment Services

Principles and Commitments

6. Provider Services (i.e., those listed above) must notify the Care Quality Commission where appropriate under Regulation 18 of the Care Quality Commission (Registration) Regulations 2009 (as amended in 2015): “Notification of Other Incidents” and this triggers a formal requirement to exercise a duty of candour as defined in Regulation 20 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

7. Provider Services understands that it must always act in an open and transparent way with everyone using its services and the people closely involved in their care and support. This is reflected across our Policies in particular the Safeguarding Policy, and the Complaints Policy.
8. The service understands that it owes a duty of candour particularly when things go wrong with the care and treatment of those in its care. It recognises that whenever an incident has occurred, which must be notified to the Care Quality Commission (CQC) (under Regulation 18 described above), it must also carry out the following actions.
9. The Registered Provider, Registered Manager or a suitable person in authority acting on behalf of them will (in addition to notifying the CQC):
 - i. be open with the person and other relevant persons about the incident
 - ii. provide suitable support to the person and others affected by the incident
 - iii. explain directly to the person and others affected by the incident, exactly what has happened
 - iv. apologise for what has happened
 - v. say what is being done to investigate and learn the lessons from what has happened and further actions that might be taken
 - vi. put in writing what has happened along with the apology
 - vii. keep full records of the incident, including all associated correspondence and the actions that have been taken to carry out the duty of candour with the person and those affected by the incident.
10. Where the person has given consent to their care and support, the above actions will be directed at them personally and to others with their agreement. Where the person has been assessed as not having the mental capacity to give their consent, the actions will be followed through communication with their representative(s) with the expectation that the person will be involved as much as possible.
11. The service understands that the incidents to which a specific duty of candour is owed (as opposed to the general duty to act openly and transparently) are those described in the CQC Duty of Candour Regulation 20.9, i.e., unintended or unexpected incidents that might occur in the delivery of the care service that: "in the reasonable opinion of a health care professional. [The duty of candour: guidance for providers \(cqc.org.uk\)](https://www.cqc.org.uk/guidance/publications/duty-of-candour)
 - a. Appears to have resulted in:

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

12. The service will review and amend this Duty of Candour Policy in the light of any experiences of having to apply it or updated CQC guidance.

13. The policy is not intended to replace the Adult Social Care Complaints Procedure or the Nottingham and Nottinghamshire Multi-Agency Adult Safeguarding Procedure, but rather to be used in conjunction with the existing procedures.

Training

14. Staff training covers the service ethos of openness and transparency, individual responsibilities to act in open and transparent ways and the procedures which the service will follow in exercising its duty of candour following incidents that fall within its scope.

Key actions to meet the commitments set out in the policy

15. The development of procedural guidance to support staff in the implementation of this policy will be undertaken and updated regularly to retain currency.