

July 2017

Duty of Candour Policy



Date Written	17.07.2017
Author(s)	Registered manager
Version	2.0
Date Signed Off	20/07/2017
Reviewed by	

Unit 1 Chandos House,
Hankridge Way,
Taunton,
Somerset
TA1 2LR

Review Data

Initial Production

Name	Role/Department	RACI	Date
Registered manager	Registered Manager	RA	17.07.2017
Registered manager	Registered Manager	RA	06.12.2017

R = Responsible for document production; A = Accountable; C = Consulted; I = Informed

Change History

Version	Date	Details of Change	Author
2.0	17.07.2017	Re-write and re-structure of original policy in line with most recent legislative updates.	Registered manager

Emergency Contact Details

Name	Email	Mobile
Registered manager	fran@livein.care	

CQC Fundamental Standards

Regulation Number	Regulation Details
Regulation 20: Duty of Candour	Registered persons must act in an open and transparent way with relevant persons in relation to care and treatment provided to Clients in carrying on a regulated activity.

Key Lines of Enquiry

KLOE	How this applies to Duty of Candour
Well-Led	This Duty of Candour policy is an aspect of 'Well Led' because an important part of effective leadership in Social Care is being open and transparent. When Leaders are open and transparent about their services, this helps to build trust between the provider and the people using those services. It also helps to maintain public confidence in the sector. This policy describes how we can all play a part in that process.

Related Documents

This policy should be read in conjunction with our:

- **Incident Reporting Policy**
- **Risk Assessment Policy**
- **Record Keeping Policy**

Policy Statement

Policy Aims

- to help all care staff to apply Duty of Candour principles within their daily work. Staff are supported, through this Policy and CQC regulation 20, to be open and honest whenever mistakes are made and to offer early apology and explanation to Clients who have experienced harm.

The principles of this document apply to all communications with Clients and their families when errors have been made and it includes both incidents and complaints.

It applies to local resolution meetings, to enquiries and investigations and to personal conversations in which details of an incident are notified to Clients and/ or relatives.

What is Duty of Candour?

The purpose of the Duty of Candour is to ensure that providers are open and honest with Clients when things go wrong with their care and treatment. To meet the requirements of the regulation, a provider must:

- Make sure it has an open and honest culture across and at all levels within its organisation
- Tell Clients in a timely manner when incidents have occurred
- Provide in writing a truthful account of the incident and an explanation about the enquiries and investigations that they will carry out
- Offer an apology in writing
- Provide reasonable support to the person after the incident

EXAMPLE OF DUTY OF CANDOUR IN YOUR WORKPLACE

A Risk assessment has been undertaken at a Client's home, and due to a deterioration in mobility, grab rails in the Client's bathroom need to be implemented, and in the meantime staff should assist the person to have a strip wash each morning. The manager failed to update the person's care plan or inform the care staff of this change, so staff supported the person to take a bath the following morning as usual. The person slipped when getting out of the bath and sustained a broken arm.

This would be an example of an incident leading to a Client requiring further treatment, and as such Duty of Candour needs to be applied. The Client or their representative needs to be informed of the incident as soon as reasonably practicable, by means of oral notification by a senior person with relevant experience and expertise.

Openness

It is important that openness is shown whenever things go wrong with treatment and care; however, **the regulation does not require ‘no/low harm’ incidents to be formally reported to Clients/relatives.**

When a moderate, severe harm or death incident occurs, the processes outlined in this policy must be followed. To do otherwise, may constitute a breach of Health and Social Care Act 2008 regulations and may carry an offence that means CQC can move directly to prosecution without first serving a warning notice.

Key Question: How long after the incident should I talk to the Client/representative?

Disclosing to the Client that an incident has occurred, of which they may be unaware, must occur as soon as possible [and absolutely within 10 working days of the incident]. Disclosure must be made by an appropriate member of staff, who is able to outline the facts of the incident and what steps the Company is taking to investigate and learn from the event. Staff members conducting Duty of Candour disclosures are not expected to have all the answers at the time of disclosure but must ensure that Clients and families are able to put forward specific questions that will help to direct the terms of reference of any subsequent investigation and that will later receive a full response. Face to face communication is preferred for disclosure conversations but may not always be possible. A written summary of the disclosure must be provided within 10 working days of the conversation and copied to the Directors so that this can be considered during investigation of the incident or complaint.

The findings of investigations will subsequently be shared with the Client and their family unless they have specifically requested that this does not occur.

- **All communications with Clients/families must be timely and use understandable language.**
- **Duty of Candour meetings with Clients/families must allow time for discussion and questions.**
- **Staff must demonstrate that they are approachable using appropriate verbal and body language, followed up with clear written communication.**
- **Openness is promoted by staff showing they are caring and sympathetic and by providing opportunities for Clients/relatives to ask questions and gain information.**

Roles and Responsibilities

Director and Senior Managers

It is the duty of the Director and Senior Managers to lead by example and to hold themselves and others to account for complying with the legal and moral duties and contractual requirements placed on providers of health care. Specifically, role holders will:

- Uphold the principles of the Duty of Candour regulation and make a public commitment to Being Open and transparent
- Enforce the Company's Policy on Duty of Candour and promote an organisational culture in which openness and learning from error can thrive
- Receive assurance reports demonstrating that, in all applicable instances, Duty of Candour conversations have taken place and that a written summary of the conversation has also been provided to those impacted by harm
- Ensure the Company has formal arrangements in place for the implementation of Duty of Candour principles
- Ensure that an explicit procedure for the management of Duty of Candour disclosures and related actions is in place, which includes processes for the monitoring and reporting of compliance.
- Ensure that the professional standards of all reporting clinical staff are maintained, including the professional Duty of Candour as it applies to registered clinical professionals
- Ensure the identification of a Duty of Candour lead for all moderate or severe harm or death incidents and/ or related concerns, complaints or claims
- Ensure that copies of investigation findings arising from incidents or complaints are shared with the impacted Client and, where appropriate, with their family
- Ensure that appropriate Duty of Candour communication has occurred with the Client/family as soon as possible following the incident, with a written summary of the conversation provided within 10 working days.
- Ensure that Clients/family members impacted by an incident are contacted ahead of root cause analysis investigation and are invited to contribute to the terms of reference, through the capture of their concerns and questions
- Promote and proactively encourage a team and organisational culture in which openness and learning from error can thrive
- Hold people to account in instances when they fail in their duty to identify, report and/ or disclose Client safety incidents

All Staff

In addition to a general duty on all staff to identify, report and disclose any incident that results in Client harm, specific roles will have additional duties in respect of Duty of Candour, as outlined below.

- Be aware of, and apply, the principles of the Duty of Candour
- Be vigilant in the identification of incidents
- Report identified incidents at the earliest opportunity using the Company's incident reporting system
- Address all received concerns or complaints openly and honestly
- Communicate with Clients/ families in line with the principles outlined in this Policy

Duty of Candour Process

The following series of actions should be initiated as soon as possible after identification of, and immediate response to, an incident that has resulted in moderate or severe harm or death to a Client whilst in receipt of care and support at Living Carers Ltd:

Members of the Senior Management Team should meet as soon as reasonably practical after the identification of the event to:

- **Define the issue**
- **Establish the basic facts and timeline**
- **Make an initial assessment of the level of harm caused**
- **Identify who will be responsible for conducting the Duty of Candour conversation *and* for ensuring that a written summary of the conversation is provided with 10 working days of disclosure**
- **Consider the appropriateness of engaging Client support at this early stage. This might, for example, include the use of a facilitator, a Client advocate or a healthcare professional responsible for identifying the Client's needs and communicating these to the investigation teams**
- **Ensure there is a consistent approach in discussions with the Client and/ or their families**
- **Identify any support needs for the care staff involved**

The initial discussion with the Client/carers should occur as soon as possible after recognition of the incident and always within 10 working days. Factors to consider when timing this discussion include:

- **The clinical condition of the Client**
- **The availability of key staff involved in the incident**
- **The availability of the Client's family and/ or carer**
- **The availability of identified Client support staff**
- **The Client's preference [in terms of when and where the meeting takes place and which healthcare professional leads the discussion]**
- **The privacy and comfort of the Client**

When selecting the individual to communicate with Client/ carers, this should be the most senior person responsible for the Client's care and/ or someone with experience and expertise in the type of incident that has occurred. Wherever possible, the person should:

- **Be known to, and accompanied by, the Client/family**
- **Have a good grasp of the facts relevant to the incident**
- **Be senior enough or have sufficient experience and expertise in relation to the type of incident to be credible to Clients/carers**
- **Have excellent interpersonal skills, avoiding excessive use of medical jargon**
- **Be willing and able to offer an apology, reassurance and feedback**

Where a root cause analysis investigation is to be undertaken, it may be agreed that the Lead Investigator is the person best placed to undertake initial and on-going discussions with the Client/ carer in order to protect their ability to be involved in the investigation.

Assistance with the initial Duty of Candour disclosure

The professional should be able to nominate a colleague to assist them with the meeting. Ideally this should be someone with experience or training in communication. If, for any reason, it becomes clear during the initial discussion that the Client would prefer to speak with a different individual, the Client's wishes should be respected wherever possible. A substitute with whom the Client is satisfied should be provided.

Incidents related to the environment of care

In such cases, a senior manager of the relevant service will be responsible for communicating with the Client/ carer. Where appropriate, the healthcare professional responsible for treating the injury should also be present to assist in providing information on what will happen next and the likely effects of the injury.

Incidents involving staff who made mistakes

Some incidents will result from errors or omissions made by staff whilst caring for the Client. In these circumstances, the member[s] of staff involved may or may not wish to participate in the disclosure discussion with the Client/carers. Any case where an error or omission has led to harm will need to be individually considered to balance the needs of the Client/ carer with those of the healthcare professional concerned. In cases where the healthcare professional wishes to attend in order to offer personal apology, they should be accompanied and supported by a senior colleague. If the Client/carers express a preference for the exclusion of an involved

healthcare professional from the discussion, this should be honoured and the option of a written personal apology considered as an alternative.

Key Question: What needs to be included in the initial disclosure meeting?

- Provision of an expression of genuine sympathy, regret and an apology for the harm that has occurred, regardless of liability.
- Acknowledgement that some Clients may not want to know the full details of the incident and that the personal wishes of the impacted person will be respected.
- Disclosure of the facts, as known.
- A seeking of the Client's/carer's views of what has happened and a pledge that any questions or concerns they raise will be captured and considered as part of the investigation.
- Adjustment of communication to take into account individual needs, for example, through use of appropriate language and terminology.
- Notification of next steps, including the scope of the investigation to be undertaken and the likely timescale envisaged.
- Provision of information on the likely short/long term effects of the incident on the person, where known. This may have to be delayed to a subsequent meeting when the situation is as yet unclear.
- Where required, an explanation of the proposed treatment plan to address the harm caused
- Provision of an offer of practical and emotional support, with reassurance that information about the Client and the incident will not be inappropriately disclosed to third parties.
- An explanation that the Client will continue to be supported according to their care needs; however, if the Client/carer expresses that they have lost confidence in the existing care team and they wish for their ongoing care to be transferred elsewhere, appropriate arrangements should be made to facilitate this.
- Provision of information regarding the Complaints Procedure. Assistance should be offered to the Client/carer if they wish to make a complaint.

Documentation

Required Documentation

Communication of Client safety incidents must be recorded. Required documentation includes:

- **A copy of relevant medical information, which should be filed in the Client's records**
- **Incident reports**
- **Complaints made- if appropriate**
- **Records of the investigation and analysis process**
- **Written records of discussions [file notes]**
- **Copies of letters sent to Clients, carers and healthcare professionals, such as the GP**
- **Copies of any statements taken in relation to the incident**
- **Written records of the Duty of Candour disclosure**

The disclosure must be documented and include the following:

- **The date, time and place of the disclosure meeting, as well as the name, role title [where applicable] and relationships of all attendees**
- **The plan for providing further information to the Client/ carers**
- **Details of offers of assistance and the Client's/ carer's response**
- **Questions or concerns raised by the Client or their representatives and any responses immediately provided**
- **Progress notes relating to the clinical situation and an accurate summary of all the points explained to the Client/carers**
- **A written summary of the disclosure discussion must be provided to the Client unless they have explicitly stated that they do not wish to have this.**

Storage of information

The discussion record and any relevant documents affecting the Client's care should be placed in the Client's notes. The incident report and record of the investigation and analysis process should be filed separately from the Client's record as part of the incident file held on file.

Notification

Key Question: Who needs to be notified of any incidents?

Internal Notification

In all cases, notification of a 'moderate or severe harm' incident or unexpected death must be made at the earliest opportunity to the Care and Operations Manager. A member of the Senior Management Team will then be assigned to oversee and subsequent processes. A copy of all written documentation must then be provided to the nominated individual. Incident reporting via the Company's incident management system must also be undertaken.

External Notification

The care team should consider contacting the Client's GP at an early stage for any incidents that have implications for the person's wider care. The information provided should contain summary details of:

- The nature of the incident
- Any treatment provided
- The current condition of the Client
- Subsequent actions taken
-

It may also be valuable to consider including the GP in one of the follow-up discussions with the Client.

CQC notification

In the occurrence of death, serious incident or prolonged suffering (physical or psychological harm anticipated to last longer than 28 days), notification to CQC must be made immediately.

Coroner's Notification

All cases of untimely, unexpected or unexplained death and suspected unnatural deaths need to be reported to the Coroner. A Coroner may request the case not be discussed with other parties until the facts have been considered. However, this should not preclude the provision of a verbal and written apology or expression of regret, where appropriate. In the case of a Serious Incident, external agencies will also need to be notified, such as the police and/or the Health and Safety Executive. Further advice should be sought from the Directors.

Key Points to Take Away

- The purpose of the Duty of Candour is to ensure that providers are open and honest with Clients when things go wrong with their care and treatment.
- Disclosing to the Client that an incident has occurred, of which they may be unaware, must occur as soon as possible [and absolutely within 10 working days of the incident].
- Openness is promoted by staff showing they are caring and sympathetic and by providing opportunities for Clients/relatives to ask questions and gain information.
- In all cases, notification of a 'moderate or severe harm' incident or unexpected death must be made at the earliest opportunity to the Registered Manager.

Policy Review

This policy will be reviewed by the Registered Manager at least annually to make any updates and amendments necessary to ensure the policy conforms to current legislation, reflects current practice and expectations.

Authorisation and Signature

This Policy is the official and authorised version agreed by the Directors of Living Carers Ltd. All employees are expected to work in accordance with this policy and failure to comply with this policy could result in disciplinary action.

Registered Manager

06.12.2017

