

## Duty of Candour Policy

### Policy Statement

This policy describes the arrangements for managing incidents where it is suspected that the Duty of Candour has/may have been triggered.

Public Health Wales recognises that even with the best of intentions, mistakes can and do happen, and mistakes can lead to unintended consequences for both the people we serve and the organisation.

When this happens the people affected want to be told honestly what happened, what will be done in response, and to know what improvements will be made to stop this happening again to someone else in the future.

Where Duty of Candour incidents are identified they should be investigated within the required timeframes to understand what happened with a view to identifying areas for improvement and lessons being learnt.

Duty of Candour means NHS organisations have a duty to be open and honest with people they are providing healthcare for and, if things go wrong and harm has occurred they must recognise this and communicate with the service user. This builds upon the principles of the Putting Things Right Regulations already in place and the overall objective is to ensure that when a person receives healthcare from the NHS, they will be dealt with in an open and honest way by their care provider. The Duty ensures that NHS organisations are clear about avoiding any potential culture of blame and supports those where mistakes and errors have been made.

This policy has been produced to satisfy the requirements of The Duty of Candour Statutory Guidance 2023.

### Policy Commitment

Public Health Wales will adopt a common and standardised approach for dealing with all incidents where Duty of Candour has/may have been triggered.

This policy aims to ensure that appropriate structures and reporting mechanisms are in place to enable Duty of Candour incidents to be investigated and managed in a proactive and timely manner, as per the requirements of the Statutory Guidance.

## **Supporting Procedures and Written Control Documents**

[All corporate policies and procedures are available on the Public Health Wales website](#)

### **Related documents are:**

- [Duty of Candour Statutory Guidance 2023](#)
- Duty of Candour Procedure
- Claims Management Policy
- Claims Management Procedure
- Complaints procedure
- Duty of Candour Procedure
- Health and Safety Policy & Procedure
- Incident Management Procedure
- Putting Things Right Policy
- Redress Procedure
- Risk Management Policy & Procedure

### **Scope**

This policy has been produced for the management of incidents which has/may trigger the Duty of Candour.

The scope of this policy covers all staff employed by Public Health Wales.

<b>Equality, Welsh Language and Health Impact Assessment</b>	An Equality, Welsh Language and Health Impact Assessment has been completed and can be viewed on the policy webpages.
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**Disclaimer**

**If the review date of this document has passed, please ensure that the version you are using is the most up to date either by contacting the document author or [Corporate Governance](#).**

**Summary of reviews/amendments**

<b>Version number</b>	<b>Date of Review</b>	<b>Date of Approval</b>	<b>Date published</b>	<b>Summary of Amendments</b>
V1	23.01.23			New policy introduced to support internal implementation of Duty of Candour

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## 1 Introduction

The Duty of Candour means NHS organisations have a duty to be open and honest with people they are caring or providing services for if things go wrong and harm has occurred.

The purpose of the Duty is to build upon the current Putting Things right legislation, as well as National Reportable Incidents, continuing to promote a culture of openness and honesty to service users of health care in Wales. It is a lever for improving and protecting the health, care and well-being of the current and future population of Wales and being clear about avoiding a potential culture of blame. The Duty will complement the existing professional Duty of Candour required of individual healthcare professional.

## 2 Duty of Candour Trigger

The following conditions must be met, for the Duty of Candour to be triggered:-

- a) A service user to whom **health care** should be offered; is being provided or has been provided has suffered an **adverse outcome**;

A service user is to be treated as having suffered an adverse outcome if the user experiences, or if the circumstances are such that the user **could** experience any **unexpected or unintended harm** that is more than minimal. Moderate and severe harm are defined within the Statutory Guidance and included in the Duty of Candour Procedure.

- b) The **provision of the health care** was or may have been a factor in the service user suffering that outcome.

It need not be certain that the health care caused the harm. It is sufficient that it **could** have been a factor.

## 3 Aims

This policy is an integral part of our approach to Risk Management and related Policies and procedures and is intrinsically linked to its systems for managing and learning from nationally reportable incidents and concerns. The aim of this policy is to ensure that Public Health Wales will manage all Duty of Candour incidents by making service users aware of what has gone wrong and potential harm, apologising and keeping a record of any Duty of Candour incidents on our Datix system. The aim is also to ensure that staff are fully supported with this Policy and a Procedure for reference when it is believed the duty has been triggered.

## **4 Roles and responsibilities**

### **4.1 Chief Executive**

The Chief Executive has overall responsibility for incident management and Duty of Candour Triggers. This responsibility has been delegated on a day-to-day basis in the following manner.

### **4.2 Executive Director of Quality, Nursing and Allied Health Professionals**

Public Health Wales has designated the Executive Director of Quality, Nursing and Allied Health Professionals (QNAHPs) to act as the responsible officer for Duty of Candour under Regulation 11. The Executive Director of QNAHPs will ensure that arrangements are in place for the effective management and reporting of incidents which have triggered the Duty of Candour and will keep the Business Executive Team informed of key developments and will provide assurance to the Quality, Safety and Improvement Committee and Board on key matters relating to the implementation and utilisation of this policy.

### **4.3 Executive Team**

The Executive Team have delegated accountability and responsibility within their service areas for adherence to and for the implementation of this policy. They must ensure that there are appropriate structures and processes in place to apply this policy and to facilitate the investigation of incidents and ensure that lessons learned from Duty of Candour incidents are identified, documented, addressed, implemented and audited.

### **4.4 Non-Executive Responsible Officer**

In line with Regulation 10 of the Duty of Candour Procedure (Wales) Regulations 2023, Public Health Wales is required to designate a person to be responsible for maintaining a strategic oversight of the operation of the candour procedure. Public Health Wales has designated this role to the Vice Chair.

### **4.5 Executive Directors & Heads of Programme**

Executive Directors and Heads of Programme are responsible for having suitable arrangements in place to ensure that incidents are appropriately investigated within the Directorate / Division/Service area. This includes establishing reporting and monitoring arrangements with a focus on lessons learnt. They must also ensure they engage with the Claims Manager to support investigations into Duty of Candour incidents in their respective Directorate/Division. In addition,

they will be responsible for ensuring that any identified failings which arise during the investigation of a Duty of Candour incident are addressed and any lessons learned shared across the organisation. They will be responsible for producing and monitoring action plans. They will monitor that there are sufficient resources to implement Duty of Candour. They must also ensure appropriate staff are released and available to communicate with service users in line with the required Duty of Candour timescales as identified in the Duty of Candour Procedures.

## **4.6 Duty of Candour Investigation Leads**

Designated Programme Managers, Clinical Leads and Lead Clinicians or any other Senior Managers within the services will be identified by the relevant Directorate to lead on the investigation of incidents which may give rise to the Duty of Candour.

## **4.7 Role of the Claims Manager**

The Claims manager will enable Public Health Wales to fulfil its statutory obligation of the Duty of Candour, in accordance with the requirements of the 2023 Statutory Guidance. It is important to ensure that the Claims Manager is of sufficient seniority and has relevant subject matter expertise and will have direct access to brief the Chief Executive, Executive Director for QNAHPS and the Executive Team as necessary to achieve the objectives for effective management of Duty of Candour incidents.

## **4.8 Legal Advisers**

Public Health Wales will solicit legal advice from Legal & Risk Services from NHS Wales Shared Services Partnership (NWSSP) when necessary, particularly for those incidents where the application of Duty of Candour requires further guidance.

The procedure for instructing and liaising with Legal & Risk Services is set out in the Claims Management Procedure and for legal advice requests, staff can contact the Claims Manager for the legal request form which the Claims Manager will forward to Legal and Risk for advice.

## **4.9 Managers and Staff involved with Duty of Candour incidents**

Managers and Staff involved with Duty of Candour incidents will be kept informed of the progress and outcome of all individual cases via the Claims Manager.

## **4.10 All members of staff**

The co-operation of all staff involved in the incident leading to a Duty of Candour trigger is crucial. Public Health Wales will ensure that such staff are encouraged to support the Claims Manager and any duly appointed legal advisors, in the handling of a Duty of Candour incident. All staff have a responsibility to report incidents.

All members of staff have a duty to fully and openly co-operate in the assessment, examination and investigation of any Duty of Candour incident and must comply with this policy and the Duty of Candour Procedure.

All members of staff must report incidents on the Datix management system, including those that may be classified as Nationally Reportable Incidents and Duty of Candour triggers, in line with Public Health Wales' promotion of a fair, blame free culture. When reporting incidents, a detailed description of the incident must be provided, along with information on the service user, witness statements/contact details of relevant members of staff involved or witness to the incident and any other relevant documentation should also be uploaded to the Datix incident record.

Unless there are exceptional circumstances, any member of staff asked to do so should provide the Claims Manager or legal advisor with written comments or formal written or oral testimony and information regarding the investigation of the relevant Duty of Candour Trigger in a timely manner.

Public Health Wales recognises that providing a statement and giving evidence can be a stressful experience and will ensure that full support and guidance is provided to members of staff who are asked to give evidence on behalf of Public Health Wales.

## **5 Reporting Requirements**

Public Health Wales will be required to report annually on compliance with the duty and publish a report. This report will be prepared as soon as practicable at the end of the financial year and will need to specify if the duty of candour has been triggered in the reporting year and if it has:

- a. State how often the duty of candour has been triggered during the reporting year.
- b. Give a brief description of the circumstances in which the duty was triggered; and
- c. Specify any steps taken by the body with a view to preventing similar circumstances from arising in the future

This annual report should be streamlined and included as part of the annual



Putting Things Right report.

## **6 Board Assurance and Monitoring Arrangements**

The Board has delegated responsibility to the Quality, Safety and Improvement Committee to monitor and seek assurance that the organisation has appropriate arrangements in place to discharge responsibilities that relate to the Duty of Candour. The Executive Team will ensure there are arrangements in place for the ongoing implementation of this policy and quarterly reporting on Duty of Candour Incident reports. The Executive team will be supported in the process by Leaders and managers within Public Health Wales ensuring that the implementation of the duty of candour forms a key part of the learning systems within their service areas and will take assurance that the necessary integration and alignment with processes and procedures has taken place and reinforces the values expected in their service area.

The Executive Team will receive, review and recommend action as necessary on a quarterly progress report on the management and status of Duty of Candour incidents. This will be further scrutinised by the Quality and Safety Committee for assurance. The chair of the Quality and Safety Committee will provide updates to the Board as necessary on any significant issues.

Executive Directors and key members of the relevant Directorate/Division will attend Committee meetings for Duty of Candour incidents which fall within their portfolio, to provide assurance and identify any additional actions which may be identified.

## **7 Duty of Candour Procedure**

A Duty of Candour Procedure has been developed which supports and embraces the objectives contained in this policy.

The Duty of Candour Procedure sets out the processes for the day to day practical management of Duty of Candour incidents.

## **8 Monitoring and auditing**

The Duty of Candour Procedure sets out the process for managing, monitoring learning, audit and board assurance.

A centralised record of Duty of Candour incidents will be maintained and overseen by the Claims Manager using the Datix system. A quarterly meeting will also be convened with the Claims Manager, Assistant Director for Quality and Nursing and Head of Screening Division, to assess how improvements are being implemented following the identification of any lessons learned.

## **9 Training**

Training on Duty of Candour will be implemented internally and arrangements will be made to ensure that new starters are appropriately trained. Training will be kept under review and updated pursuant to any changes in guidance.

Training will be delivered at two levels.

Level 1 Duty of Candour Awareness Training – awareness training applicable to all staff which is being commissioned by NHS Wales and will be available on the Electronic Staff Record (ESR).

Level 2 Duty of Candour Application Training- which is developed internally in Public Health Wales and will be delivered to key staff involved in the application of Duty of Candour which will include clinical and non-clinical staff.

## **10 Confidentiality**

When completing records under duty of candour staff should remember that any records made in relation to the incident may be disclosable to the individual under UK GDPR (if their personal data) or to the general public under the Freedom of Information Act (if not personal data). Staff should also involve their organisation Data Protection Officer (DPO) when a notifiable adverse outcome appears to involve a personal data breach as there may also be reporting requirements to the Information Commissioners Office under UK GDPR.