

To: Education and Children's Services Policy Board

On: 24 May 2018

Report by: Director of Children's Services

Heading: Duty of Candour

1. Summary

- 1.1. The organisational duty of candour provisions of the Health (Tobacco, Nicotine etc. & Care) (Scotland) Act 2016 and The Duty of Candour (Scotland) Regulations 2018 came into force on 1 April 2018.
 - 1.2. The purpose of the new duty of candour provisions is to support the implementation of consistent responses across health and social care providers when there has been an unexpected event or incident that has resulted in death or harm, that is not related to the course of the condition for which the person is receiving care.
 - 1.3. The Scottish Government recognise that when adverse events occur during the provision of treatment or care, openness and transparency is fundamental in promoting a culture of learning and continuous improvement in health and social care settings.
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2. Recommendations

- 2.1. Members of the education and children's services policy board are asked to:
 - i) Note the establishment of the organisational duty of candour for health and social care providers from 1 April 2018; and
 - ii) Be advised of the steps being taken to implement these responsibilities within Children's Services.
 - iii) Note that we will be required to report to Scottish Government and the Care Inspectorate on how we have handled duty of candour incidents and demonstrate what has been learned from them.
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3. Background

3.1 The Duty of Candour legislation came into force in Scotland in April 2018. The duty of candour provisions are designed to promote a culture of openness, transparency and learning in all health and social care organisations when things go badly wrong for people who use their services. Duty of candour provisions will apply when there has been an unexpected or unintended event or incident that has resulted in death or harm that is not related to the course of the condition for which the person is receiving care. The harm suffered may be physical or psychological.

3.2 The Act requires that an organisation must follow the duty of candour procedure when:

- an unintended or unexpected incident has occurred in the provision of a health service, care service or a social work service to a service user;
- in the reasonable opinion of a registered health professional that the incident has resulted or could result in harm (as defined by the legislation); and
- the harm relates directly to the incident rather than to the natural course of a service users' illness or underlying condition.

3.3 Key Principles underpinning the legislation:

- Providing health and social care services is associated with risk and there are unintended or unexpected events resulting in death or harm from time to time.
- When this happens, people want to be told honestly what happened, what will be done in response, and to know how actions will be taken to stop this happening again to someone else in the future.
- There is a need to improve the focus on support, training and transparent disclosure of learning to influence improvement and support the development of a learning culture across services.
- Candour is one of a series of actions that should form part of organisational focus and commitment to learning and improvement.
- Transparency, especially following unexpected harm incidents is increasingly considered necessary to improving the quality of health and social care.
- Being candid promotes accountability for safer systems, better engages staff in improvement efforts, and engenders greater trust in patients and service users.

3.4 Duty of candour already applies to many organisations and individuals through their professional regulators' code of conduct. Most Children's Services staff are registered with the Scottish Social Services Council (SSSC) and bound by its Codes of Practice. The Codes set the standards of practice and behaviour expected of registrants as well as the standards expected of employers of social service workers in Scotland. The new duty of candour legislation imposes a statutory obligation which will operate alongside current practices of social work and social care workers.

- 3.5 The Regulations require that organisations must ensure that all employees who carry out the duty of candour procedure on its behalf are aware of the procedure and receive appropriate training on implementing the procedure. To this end, communication has been sent to all relevant staff making them aware of the Regulations. We have also taken the opportunity to reinforce to staff the alignment of the ethos of duty of candour with Renfrewshire's commitment to putting service users at the heart of all we do.
- 3.6 We are currently reviewing our social work complaints policy and procedure to ensure they reflect the new duty of candour requirements. Additionally, we are looking at our ongoing self-evaluation activities to identify how we might link our duty of candour reporting processes to the new Care Inspectorate inspection framework.
- 3.7 The Act requires that, when an organisation becomes aware of an incident which falls under the Regulations, it must take steps to follow the statutory procedure as soon as is reasonably practicable. We are currently in discussion with Health colleagues to consider the most appropriate mechanism for triggering an investigation under the duty of candour. We will agree a procedure for when and how to contact a registered health professional as recommended by the guidance.
- 3.8 The Regulations require that social work services report annually on the implementation of duty of candour. We are considering how we can align this reporting requirement with other related reports to ensure a joined-up and consistent approach to our various statutory reporting functions.
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Implications of this report

1. Financial
None

2. HR and Organisational Development
None.

3. Community/Council Planning

Our Renfrewshire is thriving -

Our Renfrewshire is well -

Our Renfrewshire is fair - *The duty of candour has been established to support a consistent response across health and social care providers when there has been an unexpected event or incident that has resulted in death or harm.*

Our Renfrewshire is safe -

Reshaping our place, our economy and our future -

Building strong, safe and resilient communities -

Tackling inequality, ensuring opportunities for all -

Creating a sustainable Renfrewshire for all to enjoy

Working together to improve outcomes -

4. Legal

The Health (Tobacco, Nicotine etc. & Care) (Scotland) Act 2016 and The Duty of Candour (Scotland) Regulations 2018, which came into force on 1 April 2018 place statutory duties on the local authority as a social care provider.

5. Property/Assets

None.

6. Information Technology

None.

7. Equality and Human Rights

None.

8. Health and Safety

None.

9. Procurement

None.

10. Risk

None.

11. Privacy Impact

None.

12. Cosla Policy Position

None.

List of Background Papers

(a) None

Children's Services

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