



**REPORT TO: HEALTH AND SOCIAL CARE INTEGRATION JOINT BOARD –
24 APRIL 2018**

REPORT ON: UPDATE ON DUTY OF CANDOUR PREPARATIONS

REPORT BY: CHIEF FINANCE OFFICER

REPORT NO: DIJB20-2018

1.0 PURPOSE OF REPORT

- 1.1 To inform the Integration Joint Board of ongoing and planned work in relation to the implementation of the Duty of Candour procedure which came into force on 1 April 2018.
- 1.2 The Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 received Royal Assent on 6 April 2016 and introduced a new organisational duty of candour on health, care and social work services.

2.0 RECOMMENDATIONS

It is recommended that the Integration Joint Board (IJB):

- 2.1 Notes the preparations that are being undertaken by NHS Tayside and Dundee City Council for the implementation of the Duty of Candour (Scotland) Regulations 2018.
- 2.2 Notes that the responsibility for the reporting of the Duty of Candour events remains with the responsible person.

3.0 FINANCIAL IMPLICATIONS

There are no financial implications related to the preparations for the Duty of Candour (Scotland) Regulations 2018.

4.0 MAIN TEXT

- 4.1 The Duty of Candour (Scotland) Procedure came into force on 1 April 2018. 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.
- 4.2 Severe harm is described as:
 - The death of a person;
 - Permanent disability either physical or psychological (such as removal of the wrong limb or organ, or brain damage).
- 4.3 The legislation also outlines harm to people which is not severe but which results in:
 - An increase in their treatment;
 - Changes to the structure of their body;
 - Shortening of their life;

- An impairment which can be sensory, motor or intellectual and has lasted or is likely to last at least 28 days;
 - Pain or psychological harm which lasts, or is likely to last, for at least 28 days.
- 4.4 Examples of harm or severe harm to which the duty of candour apply could include:
- If care staff failing to raise the bed rails on a person assessed as needing them, which resulted in the person falling from bed and sustaining a bleed on the brain, and dying two days later;
 - A swab left in a patient following an operation, which results in another operation and eight weeks off work.
- 4.5 Unintended incidents which do not result in harm as outlined in the duty of candour provisions could include:
- The incorrect administration of medication which results in no lasting effects.
- 4.6 The key principles of the regulations are:
- 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.
- 4.7 Preparations are ongoing to prepare the workforce as follows:
- NHS Tayside have included Duty of Candour as part of the Adverse Events procedure;
 - NHS Tayside Duty of Candour events will be recorded on Datix (incident reporting and risk management system);
 - Comprehensive materials are available on the Scottish Government website, including e-learning <http://www.gov.scot/Topics/Health/Policy/Duty-of-Candour>;
 - Duty of Candour awareness sessions provided by NHS Tayside have been happening which are accessible by the Partnership workforce;
 - Dundee City Council Duty of Candour events will be recorded on Mosaic (service user recording system). This will record the same information as Datix to enable consistent reporting for the Partnership;
 - Preparations are underway to complete a Duty of Candour policy for Dundee City Council. Duty of Candour will be relevant not only for the Health and Social Care Partnership, but for all council services providing care including Children and Families and the Housing Support Team.
- 4.8 It should be noted that the responsibility of the reporting of the Duty of Candour events remains with the responsible person. The Act defines the “responsible person” as:
- a Health Board;
 - a person (other than an individual) who has entered into a contract, agreement or arrangement with a Health Board to provide a health service;
 - the Common Services Agency for the Scottish Health Service;
 - a person (other than an individual) providing an independent health care service;
 - a local authority;
 - a person (other than an individual) who provides a care service;
 - an individual who provides a care service and who employs, or has otherwise made arrangements with, other persons to assist with the provision of that service;
 - a person (other than an individual) who provides a social work service.

This means that the new Duty applies to organisations and not individuals. It is placed upon health, care and social work organisations. NHS Tayside and Dundee City Council will therefore maintain their own recording systems.

- 4.9 In relation to reporting Duty of Candour events the following will be put in place:
- NHS Tayside and the Council will produce annual reports on Duty of Candour events;
 - The IJB will be provided with a report specific to the Partnership services;
 - Partnership Duty of Candour events will be reported to the R2 - Clinical Care & Professional Governance Meeting. The R2 - Clinical Care & Professional Governance Update report comes to the Performance and Audit Committee.

5.0 POLICY IMPLICATIONS

This report has been screened for any policy implications in respect of Equality Impact Assessment. There are no major issues

6.0 RISK ASSESSMENT

Risk 1 Description	Preparations to comply with the Duty of Candour Regulations are not carried out efficiently or completed due to staffing levels.
Risk Category	Governance
Inherent Risk Level	Likelihood (3) x Impact (3) = Risk Scoring (9)
Mitigating Actions (including timescales and resources)	NHS Tayside preparations for the Duty of Candour regulations are well established. Council preparations are progressing, there is a clear plan in place and it is likely that this can be completed before the end of May 2018. It is likely that there will be far fewer Duty Of Candour events that will happen for council employees.
Residual Risk Level	Likelihood (3) x Impact (2) = Risk Scoring (6)
Planned Risk Level	Likelihood (2) x Impact (2) = Risk Scoring (4)
Approval recommendation	Given the low level of planned risk, this risk is deemed to be manageable.

7.0 CONSULTATIONS

The Chief Officer and the Clerk were consulted in the preparation of this report.

8.0 DIRECTIONS

The Integration Joint Board requires a mechanism to action its strategic commissioning plans and this is provided for in sections 26 to 28 of the Public Bodies (Joint Working)(Scotland) Act 2014. This mechanism takes the form of binding directions from the Integration Joint Board to one or both of Dundee City Council and NHS Tayside.

Direction Required to Dundee City Council, NHS Tayside or Both	Direction to:	
	1. No Direction Required	✓
	2. Dundee City Council	
	3. NHS Tayside	
	4. Dundee City Council and NHS Tayside	

9.0 BACKGROUND PAPERS

None.

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