Abiola Ajayi-Obe, Associate Director Governance and Risk

abiola.ajayi-obe@nhs.net

Abstract

 **Duty of Candour: Is the legal duty to inform patients and families when we have made a mistake in their care that could have or has caused harm. Practical steps regarding how and when to conduct Duty of Candour. Must be applied in consultation with the Duty of Candour Policy and Training Guide.**

Duty of candour Roles and Responsibilities

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[• Ensure you are aware of the **principles** underlying Duty of Candour and are familiar with the Trust’s policy: ‘*Being Open and Duty of Candour*’. 5](#_Toc116294569)

[• To report incidents on **Datix** appropriately. 5](#_Toc116294570)

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[• **Documentation is key for ALL level of incidents**, including low level Incidents, please make a note under a ‘Duty of Candour’ heading in the progress notes to evidence that you have had an open conversation with the patient or if appropriate the family, carer or advocate. 5](#_Toc116294572)

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| **Duty of Candour Practical Application**  |
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| Aim | This guide aims to outline the procedure for the application of Duty of Candour principles as set out in the Trust Duty of Candour Policy taken from Regulation 20 in the Health and Social Care Act 2008 Regulations 2014. As stated: 20. —(1) A health service body must act in an open and transparent way with relevant persons in relation to care and treatment provided to service users in carrying on a regulated activity. This guide should be used in conjunction with the Duty of Candour and Being Open Policy. This provides comprehensive information related to the definitions, reporting, rating and management of Duty of Candour requirements by East London Foundation Trust. |
| Purpose | **Duty of Candour**: Is the *legal* duty to inform patients and families when we have made a mistake in their care that could have or has caused harmIt is a contractual duty placed on the Trust |
| Date | October 2022 |
| Abbreviations / Glossary | DoC Duty of CandourGC Governance Co-ordinatorRC Responsible ClinicianCGSO Clinical Governance Support Officer  |
| For Further Support and Advice:  | Team ManagerService / Operational LeadsBorough Lead Nurses / DirectorsAssociate Director Governance and RiskDirectors of NursingChief NurseDirectorates should update this section with Directorate / Service Contact Personnel for Duty of Candour Guidance and Support.  |
| Clinical Team Contacts | Directorates to update as appropriate, with details of who patients / families can contact for further advice and support |
| Duty of Candour Timelines | **Stage 1: Immediately - Verbal Apology**Tell the patient or, where appropriate, the patient’s advocate, carer or family when something has gone wrong.Apologise to patient or where appropriate, the patients advocate, carer or family.Offer an appropriate remedy or support to put matters right (if possible).Explain fully to the patient or where appropriate, the patients advocate, carer or family the short and long term effects of what has happened.**Stage 2: Within 10 Working Days of the Incident – Written Apology****(Datix Guidance Template letters – available on Datix)****Follow up the Verbal Apology in Writing** and provide information to the relevant person of the investigation process and the date this will conclude**.** Upload a copy of the letter onto DatixWhere a letter has not been sent, save copy of intended letter on Rio/Systm 1 with details as to why letter was not sent**Stage 2a:****On completion of investigation into the harm event:**Meet with the relevant person i.e. patient / family to update them on the findings of the investigation. [Where a Serious Incident Review has been completed this will be the Lead Serious Incident Reviewer and Co Reviewer] |
| Duty of Candour Responsibilities Who is responsible for conducting Duty of Candour?**Practical Actions Required****Stage 1 -Verbal Apology**Conducting a Verbal Apology - **Stage 2: Written Apology and Investigation****Where should you record your apology?****Where a verbal apology has not been given****Serious Incident Investigation**SI Lead Reviewers Responsibilities **Special Considerations** **Pressure Ulcers** **Directorate Governance Co-ordinator Responsibilities**Escalation PathwaysWhere NoK Details not availableWhere no response to Telephone Approaches | Ensure you are aware of the **principles** underlying Duty of Candour and are familiar with the Trust’s policy: ‘*Being Open and Duty of Candour*’.***Recognising that Being open / candour is a process NOT an event***, it should be on going and is about being open about all aspects of the care a patient has received, including when things go wrong.Knowing that Apologising and Saying Sorry is NOT an admission of liabilityIt is not about being defensive It is not speculation – Candour is about facts. Never speculate - agree to provide the information later if you do not have this to handTo report incidents on **Datix** appropriately. Quality check the Duty of Candour letter before sending out.**Documentation is key for ALL level of incidents**, including low level Incidents, please make a note under a ‘Duty of Candour’ heading in the progress notes to evidence that you have had an open and honest conversation with the patient or if appropriate the family, carer or advocate.**Recognising Medical Harm Levels - Determine Notifiable Incidents and Eligibility for DoC - Defined as:** Any Systemic Failure in the health care system that results in negative psychological, physical or fatal consequences.Recognising the Degree of Harm / Severity / Impact on Patient

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| Harm Level1234 | Degree of harm (Low (Minimal harm - patient(s) required extra observation or minor treatment)**2 Moderate (Short term harm - patient(s) required further treatment, or procedure including psychological harm of up to 28 days)** **3 Severe (Permanent or long term harm – irrecoverable harm)** **4 Death (Caused by the Patient Safety Incident)**  |
| **Duty of Candour ONLY becomes applicable for Harm Levels indicated in Red Above i.e. Moderate, Severe and Death** |  |

Treating Staff MemberResponsible ClinicianResponsible Service LeadSI Lead Reviewer**Services / Teams to allocate as appropriate**The apology should be made by the member of staff involved in the error, but may be made by another member of staff if it is decided this is more beneficial. Where another member of the team is to conduct Duty of Candour this should be a Senior Clinical Team Member. When should an apology be given? Within 2 (two) days of the Team becoming aware of a Duty of Candour applicable incident. The member of staff involved in the incident or a senior member of the team ***where the harm occurred*** should speak to the patient or their family ***acknowledging that an incident has happened***. Ideally this should be done face to face - as soon as possible after the incident took place or the team became aware of the incident.The verbal update to the patient or their family should include the following;An explanation about what has happened as far as is based on known facts about the incident and not speculativeSaying sorry -the person should receive a sincere verbal expression of sorrow or regret for any harm – the apology.Responding to any questions patients or their families/ carers may have Clarifying that efforts will be made to find out why it happenedWorking to make sure it does not happen again**The verbal conversation MUST be followed up in writing within 10 days of the verbal conversation taking place.** The verbal apology should include a dedicated contact in case patients or their family want to get in touch. Where necessary include an explanation about next steps. Within 10 days of the Verbal Apology being issued **a written apology** should be sent to the patient/family/advocate, reiterating the verbal apology and identifying if a further investigation will take place. The written apology should also include a dedicated contact in case patients or their family want to get in touch. If necessary include an explanation about next steps **[See Datix}****Please see the screenshot below for link on Datix****C:\Users\Ajayi-ObeA\AppData\Local\Microsoft\Windows\INetCache\Content.MSO\5F964A8A.tmp**Record the dates of your verbal and written apologies in the ‘**Additional information’ box on Datix** **and on the patient’s clinical record** (Where access is not immediately available to Datix please make a note of the verbal details shared/given for later updates to be made to Datix). Sometimes it is not possible to make contact with the patient or their family. Or the patient /family expresses a wish that they are not informed about an incident. Where it has not been possible to give an apology **the reason why not** **should be recorded within the Progess Notes in RiO and also recorded in the ‘Additional information’ box on Datix.** Attach your written apology to Datix and in the patient’s clinical record [within the RiO Progress Notes]. This should take place within 10 days of the incident occurring.If there is a subsequent serious incident investigation, the Lead Serious Incident (SI) reviewer will contact the patient or their family when the investigation commences.Where an incident requires a Serious Incident Investigation the SI Lead Reviewer will conduct a further Duty of Candour process with the patient and/or their Family to; Provide additional apologiesAdvise that an investigation to discover the facts around the incident which led to the harm occurring will take place.Enable the patient /family to include their own facts or questions for inclusion in the investigation reportFeeding back to the patient / family the outcome of the investigation.Pressure Ulcers and DoC Pressure Ulcers which develop whilst Patients are under our care require DoC.Where Pressure Ulcers arise in patients receiving End of Life Care, this could be normal progression of their condition and staff who are providing care should ideally have had a conversation with them/their family members at the start of care. In this case, the team should still raise a Datix and consider Duty of Candour to provide assurances that this was in fact normal progression of their condition or to advise if there have been any omissions of care which require further investigation. It is good practice to inform the patient/family/carer, if they are considered to be at risk of developing pressure ulcers and that this is documented. However, it may be necessary to send the Duty of Candour response where harm has been considered ‘avoidable’. The Directorate Governance Co-ordinator (GC) Responsibilities**Governance Leads to provide input here*** Monitor DoC Compliance
* Review all moderate and severe incidents to determine DoC applicability or not (For E.g. SU attacking Staff not applicable) based on Directorate review thresholds (max 3 day intervals)
* Update any internal trackers as appropriate
* Send to Datix action owner or 48 hour report author as appropriate
* Send out DoC Guidance Letters to clinical leads once DoC applicability identified – Include Reminder **NOT TO COPY GUIDANCE LETTER VERBATIM**
* DMT to Use Datix Dashboards for DoC Updates
* Where no DoC response received - By day 3-5 follow up email sent and cc’d to Clinical Nurse Manager and Matron for inpatients and Senior Manager for Service
* Still not response received – chaser sent and copied to Service Manager
* Governance Co-ordinator makes personal notes

Please check:* Rio / Sytm 1 / EMIS
* GP
* Local Authority
* Spine
* Police

[Where x 2 methods tried document each method on Datix and in electronic medical records]Send letter advising of wish to make contact to discuss which have not been met via telephone contact. |
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| **Notes**  | **Directorate / Service Specific Notes and Contacts**  |
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