

## Annex B CONSULTATION QUESTIONNAIRE

Question 1 :

Do you agree that the arrangements that should be in place to support an organisational duty of candour should be outlined in legislation ?

Yes  No

Yes, however care should be taken to avoid duplication of activity when already existing duties and legislation require this.

Question 2:

Do you agree that the organisational duty of candour encompass the requirement that adequate provision be in place to ensure that staff have the support, knowledge and skill required ?

Yes  No

Some skills are already part of the competence of many staff employed in Social Work and Social Care. Services will require to support employees to enhance these skills in relation to sensitively communicating with service users and carers about harm believed or known to be as a result of their care or treatment.

Policies and procedures will need to provide guidance on good practice and this would form the focus of training and briefings for employees.

There should be targeted training for those in posts with responsibility to meet with people in these circumstances.

Knowledge about the legislation and the culture of transparency it promotes should be a key focus for training. It will be important that elected members and senior managers are fully aware of the implications of the legislation and so promote good practice and support to staff in implementing it. As outlined in 4.2

*'organisations should support the development of a culture that values and supports staff to be candid'*

Question 3a: Do you agree with the requirement for organisations to publically report on disclosures that have taken place ?

Yes  No

In principal and with the qualification that the confidentiality and privacy of those involved and their families are carefully considered and protected in the style and format of reports. Detailed consideration of how best to provide assurance that matters have been addressed whilst maintaining confidentiality will be required.

Question 3b: Do you agree with the proposed requirements to ensure that people harmed are informed ?

Yes  No

Noting that in 6.1 there is a reference to..

*'...including as much or as little information as the person expressed their wish for'*

Too much information and technical and medical details being volunteered by a professional without checking out how much they wish to know at that time may be overwhelming or experienced as a defensive approach or 'as making excuses'.

There could be an additional provision for reassurance that a person could return and seek more information at a later date if they had initially felt too distressed or in 'shock' and so did not feel able to cope with the amount of detail available.

e.g. if surgery or other treatment resulted in death or severe physical detriment .

Question 3c: Do you agree with the proposed requirements to ensure that people are appropriately supported ?

Yes  No

It would be helpful to explore what is 'appropriate' and what sources and resources of support are likely to be available. Relatives and staff involved may need different types of support.

Question 4:

What do you think is an appropriate frequency for such reporting ?

Quarterly  Bi-Annually  Annually  Other  (outline below)

Annually for Public reporting. Internal reporting within existing processes and scrutiny mechanisms should ensure timeous action guided by procedures.

Question 5:

What staffing and resources that would be required to support effective arrangements for the disclose of instances of harm ?

The additional resources to develop, agree and implement local procedures in the short term will be a demand on services. Time and training costs will be considerable if the organisation is required to ensure all staff are equipped to be prepared for the eventuality of responding re an instance of harm. Improving culture around transparency in day to day working would potentially increase reporting of harm in the short to medium term but then improved awareness of risks and proactive practice may reduce frequency of events in the longer term.

For each incident there will be a varying amount of time spent on communicating and supporting individuals, relatives and staff. These responses under Duty of Candour will require staff time to be diverted from other service delivery activity. Learning and Debriefing events similar to those services undertake around practice issues in ASP and CP work would ensure evidence that the organisation has learned from the events.

Question 6a:

Do you agree with the disclosable events that are proposed ?

Yes  No

Question 6b: Will the disclosable events that are proposed be clearly applicable and identifiable in all care settings ?

Yes  No

The disclosable events for Adults ( 9.9 to 9.14) are predominantly focussed on Hospital and medical interventions or omissions of intervention and the physical and /or psychological detriment and harm.

If some of these occurred in a social care setting ( Care Home or Day Care) or when providing care in a person's home ( Home Care) they would likely to be subject to ASP or criminal enquiries and the staff involved subject to investigation under disciplinary procedures or in less severe situations given direction and training. The Duty of Candour would perhaps add to the transparency with the service user's relatives and staff involved in situations currently bound by the confidentiality relating to an ASP inquiry or criminal investigation.

The Duty would increase the responsibility of staff to proactively report their own errors in practice and for the organisation to demonstrate candour about mistakes that result in harm. Good practice and adherence to the SSSC codes of practice for employees and employers should already promote this honesty. However the Duty of Candour would further highlight the obligation to self- report errors and address the consequences.

The legislation would benefit from further clarity about the types of events that would be included in Social care settings.

In relation to the consequences of plans made following a community care assessment having a detrimental impact resulting in harm to the person, then this could be either a proactive harm or harm as a question of omission or failure to act or intervene. This again interfaces with ASP, AWI and Mental Health legislation and the impact of assessment and judgement by individual workers or groups of professionals in decision making meetings.

Duty of Candour would interface with this work when a worker or agency identifies that the consequences of their decisions, actions or non-action has proved physically or psychologically harmful to the person.

This is an area of complexity in terms of cause and effect and evidence about what factors impacted on the person.

Question 6c:

What definition should be used for 'disclosable events' in the context of children's social care?

9.15 briefly outlines the challenge in identifying how to define a disclosable event.

Physical and psychological harm relating to children should be reported and addressed under CP legislation and procedures. Accumulative psychological impact of harm has been described both in relation to children in care settings and children remaining at home with supports in place to compensate for damaging factors in their family and community.

As noted there is a difficulty in identifying one cause and effect in relation to trauma.

Criminal compensation cases sometimes highlight the likely or known source of harm that leads to trauma for a child. Adults have sought redress for harm experienced as children in care. e.g. when childhood abuse in a care setting has been disclosed by an adult.

e.g. Following an investigation of harm in a care setting the duty of candour would provide an apology by the Organisation as a Corporate parent who did not know about the risk at the time of placing a child. Information could be provided about what steps were taken to prevent further harm and support to deal with the impact.

Once again the existing codes of practice for employees and employers should promote transparency in working with children and their families and the existing legislation for children and young people encompasses protection from serious harm.

The question of finite resources resulting in frequent change of placement and the degree of harm resulting in trauma in a care setting versus supporting a child in their family at home is widely evidenced in research. The extent to which a Duty of Candour would address the detriment is unknown.

Question 7

mechanisms to determine if an instance of disclosable harm has occurred ?

Clarity of legislation and guidance. Provision of examples of types of events that illustrate disclosable harm. Developing confidence and understanding of Managers who can act as advisors when determining if an event is an instance of disclosable harm or may require other actions under other legislation.

Promotion of a culture of transparency and honesty.

Support from top level of organisations to all levels of staff around learning from mistakes and taking responsibility.

Genuine apologies and skilled workers acknowledging the range of feelings experienced by people involved -distress ,anger and loss .

Flexibility in providing the level of support to people and staff involved.

Training on guidance and good practice.

Question 8:

How do you think the organisational duty of candour should be monitored ?

Via reporting to existing monitoring groups and by annual external public reporting

Question 9:

What should the consequences be if it is discovered that a disclosable event has not been disclosed to the relevant person ?

Senior Manager to meet person or relatives to make Disclosure, full details and apology and explanation about action to be taken i.e . Internal investigation will be undertaken and a follow up report to be provided detailing action taken.

Contact to be made urgently and not delayed to await report from internal investigation.

Refer to Disciplinary procedures.

Report to SG or SSSC under Conduct concern.

Public reporting to specify remedial action take to address reasons for failure to disclose.

**End of Questionnaire**