

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 x No

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 x No

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

Yes x No

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

Yes x No

There needs to be consideration about what would happen in the case of a person who lacks capacity, e.g. has dementia or learning disabilities who might not have any family or friends. Also if it is a young child in the care of the LA and does not have contact with their biological family.

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

Yes x No

In addition we believe that people who find themselves in situations of harm or near misses as covered by this proposed legislation should have a statutory right to access independent advocacy. There is extensive evidence that shows that independent advocacy is effective in helping

people understand their rights, make sense of their situation and effectively make decisions about their choices and options. We propose that the definition of independent advocacy as identified in the Mental Health (Care & Treatment)(Scotland) Act 2003 should be adopted for this legislation.

Question 4:

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

Quarterly Bi-Annually Annually Other (outline below)

Question 5:

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

No comment

Question 6a:

Do you agree with the disclosable events that are proposed ?

Yes No

We feel that proper consideration needs to be given to the potential trauma and psychological impact of harm or near misses. The document does not fully address issues around trauma and psychological impact of harm or near misses. We wonder if this proposed legislation will cover people in mental health settings and if so there needs to be proper reference to it.

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

Yes No

Question 6c:

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

It should be the same as the context for adult social care.

Question 7

What are the main issues that need to be addressed to support effective mechanisms to determine if an instance of disclosable harm has occurred ?

There needs to be proper policies and procedures in place to enable people to disclose if harm has taken place. Also there needs to be effective implementation of the policies and procedures so that people who disclose harm or whistle blowers are confident that they will be effectively supported. There needs to be a safe culture where there is an ethos of learning rather than attributing blame and this will foster a situation where people feel confident and comfortable about raising concerns and talking about issues of harm.

Question 8:

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

It should be part of existing monitoring arrangements but needs to be clearly defined.

Question 9:

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

There needs to be clearly defined consequences within the legislation for such events, e.g. if the organisation will be held to account or whether it will be individuals and if this will be considered in terms of criminal offences.

End of Questionnaire