

**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

Comments

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

This requirement should align with existing regulatory requirements to the extent possible.

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

Yes x No

Any definition of 'relevant person' should consider issues of capacity and when it is appropriate to include parents, carers, and guardians.

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

Yes x No

The guidance should be clear about what is reasonable support, and examples of what that must include, e.g. counselling, access to independent advocacy or legal advice, staff training, etc.

Question 4:

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

Quarterly  Bi-Annually  Annually  Other  (outline below)

Comments

Question 5:

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

Staff training, and support to senior management for time in drafting reports and disclosures, meeting and consulting with staff, etc.; occasional legal advice on potential implications for employment issues in a disciplinary situation which may still be ongoing; training, mentoring, management support; staff and management time in supporting the service user.

Question 6a:

Do you agree with the disclosable events that are proposed ?

Yes  No

We agree with the basic principle as set out in para 9.9. This principle will require more detailed elaboration in order to ensure clear and consistent application in the social care setting in particular. The description in para 9.14 seems wider and will require further clarification and support with examples. In the social care context there could be issues with regard to decision making on what is disclosable or not, and also understanding when harm was done and how/when it became evident. We would like to work with Scottish Government officials to develop this further.

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

Yes  No

As above.

Question 6c:

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

We would support a definition that included any incident that causes a child significant harm, physical or psychological. We agree that the definition should include harm that has a lasting impact on the 'development' of a child or young person but this will need to be agreed in discussion with

those who work with children and young people, as well as children and young people themselves. The definition and guidance should take account of the UNCRC.

#### 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 ?

Some suggestions include a clear definition of the circumstances in which the duty applies; clear guidance, including case studies or examples that are relevant to the different circumstances (e.g. the health context will often be different from the social care context); ease of use of any reporting system; a national programme of training; appropriate management/supervision support to ensure consistency of application.

#### Question 8:

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

Providers of registered care and support services have existing duties to report serious incidents to the Care Inspectorate, Healthcare Improvement Scotland and the Scottish Housing Regulator. We suggest that any new reporting requirements under the duty of candour follow along similar lines in order to minimise administration for both providers and regulators.

#### Question 9:

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

Feedback from some CCPS members suggested the possibility of applying a stronger penalty where non-disclosure was intentional. As for the penalties, a number of possibilities might be considered, including an adjustment to CI grades and improvement notices, or fines, in serious cases of breach of the duty.

**End of Questionnaire**