

# TD Homecare Services Limited

3 Whittingham Place. The Avenue  
Freshwater. Isle of Wight. PO40 9UR

## Duty of Candour Policy

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### Policy Statement

The policy sets out the approach of this care service to meeting its statutory requirements to be open and transparent with its service users if it makes mistakes when providing care and treatment that result in their suffering moderate or serious harm.

These situations must be notified to the Care Quality Commission under Regulation 18 of the Care Commission (Registration) Regulations (as amended in 2015) "Notification of Other Incidents" and trigger a formal requirement to exercise a duty of candour as defined in Regulation 20 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

### What is the Duty of Candour?

The aim of regulation 20 is to ensure that providers are open and transparent with people who use services and other 'relevant persons' (people acting lawfully on their behalf) in relation to care and treatment.

It also sets out some specific requirements that providers must follow when things go wrong with care and treatment, including informing people about the incident, providing reasonable support, providing truthful information and an apology. Providers must promote a culture that encourages candour, openness and honesty at all levels. This should be an integral part of a culture of safety that supports organisational and personal learning. There should also be a commitment to being open and transparent at board level, or its equivalent such as a governing body. (CQC guidance)

### Policy Aims

1. This service understands that it must always act in an open and transparent way with service users and the people closely involved in their care. This is reflected in our [Statement of Purpose](#) and our [Leadership and Management policy](#) and in all of the service's relationships with its users and others involved in their care and treatment.
2. To meet the requirements of The Duty of Candour, commitments to transparency, openness and fairness in relation to care and treatment of relevant persons will be made public.
3. The registered person, registered manager or a suitable person in authority acting on behalf of the registered person or registered provider will (in addition to notifying the CQC):
  - be open with the service user and other relevant persons about the incident
  - provide suitable support to the service user and others affected by the incident
  - explain directly and in person to the service user and / or their representatives exactly what has happened
  - apologise, for example express sorrow and regret for what has happened
  - say what is being done to investigate and learn the lessons from what has happened and further actions that might be taken
  - undertake to put in writing what has happened and the apology
  - keep full records of the incident, including all associated correspondence and the actions that have been taken to carry out the duty of candour with the service user and / or representatives.

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4. Where the person has given consent to their care and support the above actions will be directed at them personally and to others with their agreement. Where the person has been unable to give their consent to their care because of mental incapacity the actions will be followed through communication with their lawful representatives with the expectation that the service user will be involved as much as possible.
5. The service understands that the incidents to which a specific duty of candour is owed (as opposed to the general duty to act openly and transparently) are those described in the duty of candour Regulation 20.9, ie unintended or unexpected incidents that might occur in the delivery of the care service that: “in the reasonable opinion of a health care professional
  - appears to have resulted in
    - the death of the service user, where the death relates directly to the incident rather than to the natural course of the service user’s illness or underlying condition,
    - an impairment of the sensory, motor or intellectual functions of the service user which has lasted, or is likely to last, for a continuous period of at least 28 days,
    - changes to the structure of the service user’s body,
    - the service user experiencing prolonged pain or prolonged psychological harm, or
    - the shortening of the life expectancy of the service user; or
  - requires treatment by a health care professional in order to prevent
    - the death of the service user, or
    - any injury to the service user which, if left untreated, would lead to one or more of the outcomes” described above.
6. This policy and procedure and its distribution forms part of the commitment to be open and transparent with relevant persons when things go wrong.
7. Relevant persons will be informed as soon as possible of any notifiable incident in the carrying out of a regulated activity.
8. There will be a culture of openness and transparency throughout the organisation through day to day actions and communications.
9. Employees will be supported at all levels to follow the commitment; ensuring they are not obstructed to do so.
10. Action will be taken to remedy any incident of bullying and or harassment related to duty of candour.
11. Any incident where an individual has been obstructed in carrying out their duty of candour will be investigated.

## Staff Awareness

- All staff will be made aware of their personal responsibility to report incidents regardless of whether they are covered by this regulation.
- Each employee will be given the time to read and understand the policy and procedures at the point of induction.
- Staff training covers the service ethos of openness and transparency, individual responsibilities to act in open and transparent ways and the procedures which the service will follow in exercising its duty of candour following incidents that fall within its scope.
- The principles of the Duty of Candour and staff responsibility will be regularly communicated to staff.
- Staff should be reminded that if they are unsure whether the incident is reportable, it should be reported anyway

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## Duty of Candour Procedure

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### Reporting

- All staff must report incidents defined in this policy in written form in a clear accurate way that becomes a permanent record using the Accidents and Incidents Form, even if a verbal report has been made
- The report must be made to the person on duty and in charge of the service at the time of the incident
- The person on duty then must formally report it to the registered manager if they are not the same person, as soon as possible.
- If staff are unable to report to the registered manager, they should contact the nominated individual. If staff feel that they are not being supported, the matter must be reported to the Care Quality Commission.

### Make an Initial Assessment

- Once the incident has been reported an initial assessment should be made to decide as to whether the report includes details of a notifiable incident under the regulation. If the conclusion is yes, or borderline, continue with this procedure.
- If the assessment identifies that there is a safeguarding issue, then the safeguarding policy and procedure should be implemented. It may run alongside this policy.
- If it is considered the incident is not a notifiable incident under regulation 20, follow normal incident reporting procedures alone.
- The registered manager or nominated individual will assess who is the most appropriate person to continue with the procedure. In most cases this will be the registered manager.

### Enquiry and Investigation

- The registered manager will assess the information they will need to carry out an investigation, taking statements and gathering information needed.
- All information and evaluation of the information should be recorded and kept securely
- The purposes of the investigation are to establish if the incident took place, define its nature, gather facts about the processes around the incident, and identify causes where possible

### Notifying People

- Written notification should be sent to the appropriate external agencies including the local authority and CQC.
- The relevant person (those who were involved and/or their advocates / representative) should be notified in person by the registered manager, within one working day of the incident becoming known.
- The notification must include:
  - An accurate account of the incident
  - An apology that the incident occurred
  - An offer to the relevant persons of sources of support and information which will assist them, which may include, alternative support from within the organisation and external resources such as advocacy and information services should be offered where appropriate
  - Details of next steps including timings

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- The results of any further enquiries and investigations must also be given or sent in writing to the relevant person if they wish to receive them
- A final statement / report stating the outcome of the investigation, remembering Duty of Candour focuses on the transparency and openness of the organisation when such events occur will be sent and should include:
  - Include any lessons learned and changes made to the service because of the incident
  - The final statement should include a more specific apology as the causes of the incident should now be established
- The agency must ensure the relevant person is given the support they need when receiving the information. Depending on the needs of the individual, this could be the offer of an advocate or interpreter or other communication aids
- There should be a written record taken of the notification in person which is kept securely by the registered manager, along with any other notes that are taken
- Where for any reason the relevant person cannot be contacted, or after contact declines to communicate with the service, a written record of all attempts to contact them must be kept
- All correspondence with the relevant persons must be recorded and kept securely

## **Breach of Candour by a Professionally Registered Person**

- If a breach of candour is found to have occurred following investigation, and that this breach was by a professionally registered person, then that person should be reported to their professional registration body for further consideration
- The same action should be taken if, during the investigation, it is found that a professionally registered person had obstructed another person in their professional duty of candour