

CONSULTATION ON PROPOSALS TO INTRODUCE A STATUTORY DUTY OF CANDOUR FOR HEALTH AND SOCIAL CARE SERVICES



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3. Permissions - I am responding as...

Individual

/

Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate Yes No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate Yes No

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

INTRODUCTION

The Salvation Army Scotland is grateful for the opportunity to respond to this consultation. We provide services in a number of social care settings, including care homes and housing support services. We will therefore respond from the standpoint of a social care provider rather than a health services provider.



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

We agree that any organisation providing social care should be open and transparent in all its dealings with its service users. We support legislation that requires organisations to have systems and procedures to ensure openness and transparency. We therefore agree with the proposed duty of candour in principle. We note, however, that the question here is different from that listed on page 13 of the consultation document. There the question asked if the arrangements should be 'specified in detail'. We agree that they should be specified in detail as this will make the requirements clear to a care provider. It will also help to ensure consistent responses from different organisations. Ultimately, this should help to raise the standard of care provision by requiring organisations to learn from any incident of harm and to improve its systems, procedures and staff training.

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

This would be a sensible and necessary response in order to ensure that the care provider learns from the incident and seeks to improve its service.

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

Yes No

In the interests of transparency and accountability a public report should be made.

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

Yes No

The proposed requirements state that the person harmed should be notified personally by a representative of the organisation, but does not say that this information should also be given in writing. It does say that a written summary of the face to face meeting must be given, but this is not the same as a written notification of the adverse event itself. We recommend that this information be given in writing.

The consultation document proposes that the 'relevant person' be informed in the event of an adverse event resulting in harm. In most cases this will be the person harmed, but no mention is made of who the relevant person might be if it is not the person harmed. For example, if a service user has died is the relevant person the next of kin? And who would be the relevant person in situations where the person harmed does not have the mental capacity to understand the information that is being made available? Perhaps the requirements should define who the relevant person will be in such circumstances.

If the relevant person cannot be contacted should there be a requirement for the organisation to provide evidence that they have attempted to contact and inform them?

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

Yes No

No mention is made of the provision of third party advocacy for a harmed person. Perhaps this is implied and included in the term 'appropriate support', but it may be helpful to refer to it explicitly. Also, since service users may have varying levels of mental capacity, appropriate support should include the requirement that the person harmed is given information in the most relevant and understandable way.

Question 4:

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

Quarterly Bi-Annually Annually Other (outline below)

The regulatory authority should receive a report as soon as a full review of the incident has taken place. This should include an account of what happened, a record of the face-to-face meeting with the relevant person, a report of the support given, the learning that has been identified and the steps being taken to prevent a repeat of the incident. A summary of each incident report should be included in the annual report on policies and procedures.

Question 5:

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

It should be possible to implement effective arrangements for disclosure without the need for extra staff. A care provide may, however, need to find extra financial resources to develop and communicate policies, to support service users and staff where an incident of harm has occurred, to improve staff training and to fulfil the reporting requirements.

Question 6a:

Do you agree with the disclosable events that are proposed ?

Yes No

We agree with the definition of a disclosable event stated in paragraph 9.9 of the consultation document. But see answer to 6b.

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

Yes No

The definition in paragraph 9.9 may still leave room for doubt about the level of harm that needs to be disclosed. If so, we recommend that the assessment as to whether a disclosable event has occurred be based on the reasonable opinion of a health or social care professional.

Question 6c:

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

No comment

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 ?

Policy and procedure guidelines need to be clear. Staff should be trained to an appropriate level to ensure that guidelines are understood.

Question 8:

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

No comment

Question 9:

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

Social care providers should be dealt with under the existing enforcement policy of the Care Inspectorate.