
Public Board Meeting 31 January 2013

Implementation of Contractual Duty of Candour – Effective 1 April 2013

Presented by: Patricia Duncan-Company Secretary

1. Purpose

To ensure that the Trust complies with the Contractual Duty of Candour.

2. Background

The Government expects the NHS to admit to patient safety incidents, apologise to those affected, and ensure that lessons are learned to prevent them from being repeated. Ensuring staff across the NHS are open with patients is crucial to a safety culture and 'Being Open' has been promoted actively since its introduction in 2004 and further reinforced following a review of the requirements for Being Open in 2009. WHHT has a policy in place that reflects up to date guidance and is pursued through the implementation of the Trust's Serious Incidents Requiring Investigation Policy.

More recently in its response to the report of the NHS Future Forum in 2011, the Government signalled it would require openness through a contractual mechanism. It undertook a consultation with stakeholders about the proposed link to a contractual requirement rather than imposing a statutory Duty of Candour. The consultation ended in January 2012.

The outcomes from the consultation were summarised in a document issued in December 2012 in which the DH noted:

"We heard through the listening exercise the suggestion that we could strengthen transparency of organisations and increase patient confidence by introducing a "duty of candour": a new contractual requirement on providers to be open and transparent in admitting mistakes. We agree. This will be enacted through contractual mechanisms..."

The Government's proposal is for a contractual requirement, implemented through the NHS Standard Contract, covering NHS acute, ambulance, community and mental health care providers. The contract requires these organisations to be open with patients when things go wrong with their healthcare and give them information about any investigations that have taken place, or any lessons learned.

Enforcing the proposed duty will be the responsibility of Clinical Commissioning Groups.

The intention is to implement a contractual duty of candour in the NHS Standard Contract in 2013/14.

Although the Government has committed to a contractual duty of candour as probably the most effective mechanism for requiring openness it has also committed to giving full consideration to the findings of the Mid-Staffordshire Inquiry. If the Inquiry finds that a statutory duty is preferable to a contractual one and the Government finds the argument persuading, it will respond accordingly. The implementation of a contractual duty and the associated standing rules regulations represent the Government's intention to progress the contractual rather than statutory duty in the current absence of sufficient evidence that alternative routes are likely to be more effective.

3. Recommendation

The Trust continues to reinforce its obligations under the Being Open policy framework

The Trust will review its monitoring arrangements for Being Open to ensure it is fully assured that it is able to meet the contractual duty of Candour

Develop internal training to support full implementation.

Patricia Duncan
21 January 2013