

The Organisational Duty of Candour Procedure – Review of First Year

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1. Key Observations

1.1 Observations

A result of this evaluation and analysis is the suggestion of several observations that could be considered for implementation in the future of the duty of candour reporting process. These should not be considered to be aimed at any one Board or person, but are observations as a whole.

These are;

- Consider liaising with stakeholders to create updated guidance around the duty of candour procedure.
- Discuss with Boards the possibility of integrating the duty of candour reporting system with existing adverse events systems, multidisciplinary meetings, and decisions.
- Liaise with Boards around guidance of what should be included in annual reports, including informal, interactive, and open sessions.
- Consider developing streamlined refresher training guidance.
- Consider issuing a standardised annual reporting template to Boards.
- Consider suggesting to Boards that they issue a standardised annual reporting template to their independent contractors.
- Consider standardising a requirement that all annual duty of candour reports should include examples the nature of incidents that led to policy changes thereafter as a section in the report.
- Consider asking Boards to learn from the previous year's annual reporting.
- Issue examples of well done, clear and transparent annual reports which evidence adherence to the reporting policy and reflect the culture of openness and learning strived for through duty of candour procedure.
- Consider publicising supplementary duty of candour materials such as a checklist.

2. Introduction

This report is a review of NHS Scotland's first year of experience in implementing the statutory organisational Duty of Candour, including annual reporting. Scotland has 14 territorial health boards, 7 special boards and 1 public health body who support the regional NHS Boards by providing a range of important specialist and national services.

These findings and observations have been informed by;

- 19 annual Duty of Candour reports from 1st April 2018 to 31st March 2019. Comprising of;
 - a. 14 reports from territorial health boards
 - b. 2 special boards
- Visits to 6 health boards
- Visits to 2 special boards

See Appendix 1 to see a list of boards visited.

2.1 Background & Policy Context

Scottish Ministers are committed to an integrated programme of measures to facilitate cultural change to achieve openness and transparency without blame in the provision of NHS health and social care services. Central to this is the statutory organisational duty of candour, which came into effect on 1 April 2018.

The duty of candour procedure provisions reflect the Scottish Government's commitment to place people at the heart of health and social care services in Scotland. When death or harm occurs the focus must be on personal contact with those affected; support and a process of review and action that is meaningful and informed by the principles of learning and continuous improvement.

There is an organisational emphasis on staff support and training to ensure effective implementation of the organisational duty. Staff must feel that they have the necessary skills and confidence if they are to be meaningfully involved in the delivery of the duty of candour procedure.

The Openness and Learning Unit was established in September 2017 in the Scottish Government to work with stakeholders in developing an approach that is accessible and meaningful for front-line professionals and national bodies to support improvements in health and social care outcomes. The aim is to create an environment that uses knowledge to inform continuous improvement to services in a culture of openness without censure.

2.2. The New Organisational Duty of Candour Procedure

The new organisational duty of candour underpins the commitment of the Scottish government to openness and learning, which is vital to the provision of safe, person-centred, and effective health and social care.

The Scottish Government's organisational Duty of Candour provisions within the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (The Act) and The Duty of Candour Procedure (Scotland) Regulations 2018 set out the procedure that organisations providing health services, care services and social work services in Scotland are required by law to follow when there has been an unintended or unexpected incident that results in death or harm (or additional treatment is required to prevent injury that would result in death or harm).

2.2.1. Why We Need Candour

Enabling and managing risk is a central part of delivering high quality health and social work services. Candour promotes responsibility for developing a safer way of working; better engages staff in improving their services, and creates a greater trust in people who use these services – either first-hand or on behalf of someone else.

2.3. Project Aims & Objectives

The aim of this research project was to identify what difference organisational duty of candour has made, whether it has been embedded in the operational procedures of

organisations and to what extent it has influenced learning and service improvements. The project also aimed to identify any variation in the implementation of the procedural requirements of the procedure, and to highlight good practice or particular areas of concern.

3. Method

Between December 2019 and January 2020, NHS Boards' annual Duty of Candour Reports for 2018/2019 were reviewed and analysed. Primary care Duty of Candour reports were also analysed (including a sample of reported incidents), which involved the work of the business support team to analyse, to collate and format a rolling inventory of primary care reports by territorial Board and incidents reported.

3.1. Analysis of Annual Reports

Duty of Candour Reports were initially analysed using a customised framework to map compliance with the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 - Part 2, Section 24: Reporting and Monitoring, which governs what an annual Duty of Candour report should include. A quick-check mapping table of the 2018/19 Board reports can be seen in Appendix 5.

3.2. Interview Findings

Most NHS Boards responded positively to a request to interview their Duty of Candour named person lead, or another individual responsible for the roll-out of Duty of Candour reporting and training within their Board. Visits lasted between 1 and 4 hours and involved the Boards' Duty of Candour lead or named person responsible for the roll-out within their board.

During these visits, their annual Duty of Candour reports were considered in more details, with particular focus on adherence to Part 2, Section 24 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016, as well as personal experiences and feedback. When requested follow-up questions were also emailed.

4. Findings from Annual Report Analysis

This section describes this review's findings, which were informed by analysis of the annual Duty of Candour reports for the first year (2018/19). These sections reflect the structure of Part 2, Section 24 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016. The findings and associated observations are aimed at NHS Scotland rather than any particular Board.

4.1. Analysis of First Year Annual Reports

Duty of Candour Reports were initially analysed using a customised framework to map compliance with the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 - Part 2, Section 24: Reporting and Monitoring, which governs what an annual Duty of Candour report should include. A quick-check mapping table of the 2018/19 Board reports can be seen in Appendix 5.

4.1.1. Preparing and Submitting Report

Part 2, Section 24: Reporting and Monitoring point 1 stipulates that *"A responsible person who provides a health service, a care service or a social work service during*

a financial year must prepare an annual report on the duty of candour as soon as reasonably practicable after the end of that financial year.”

For the majority of Boards point 1 was met within an adequate time frame. By November 2019 the majority of Boards had either contacted the dedicated Duty of Candour mailbox within the department to inform that their annual report had been published publically or was ready to view, or had published their report on their public website. However, one Board has yet to publish its report (see Appendix 5). It is also of note that the majority of Primary Care providers have not as yet published a report. Those that did notify the Scottish Government that they published represent a very small proportion of overall Primary Care providers in Scotland, and are skewed towards certain Boards (See Appendix 5). I understand that NHS Highland emailed a reporting template to all the GP practices that were contracted to them and that this worked well.

4.1.2. Report Information Required

Part 2, Section 24: Reporting and Monitoring point 2 stipulates that *“The report must set out in relation to the financial year—*

- (a) information about the number and nature of incidents to which the duty under section 21(1) has applied in relation to a health service, a care service or a social work service provided by the responsible person,*
- (b) an assessment of the extent to which the responsible person carried out the duty under section 21(1),*
- (c) information about the responsible person’s policies and procedures in relation to the duty under section 21(1), including information about –*
 - (i) procedures for identifying and reporting incidents, and*
 - (ii) support available to staff and to persons affected by incidents.”*

Most Board reports complied and met expectations in regards to point 2. However, there were some exceptions. Five Territorial Boards, three Special Boards, and one Primary Care Provider failed to comply with various sub-sections of point 2. This included several reports that did not include information on the number and type of incidents to which the Duty of Candour applied; assessments to the extent to which duty of candour was carried out, and the type of support available to staff and persons affected by incidents which triggered the duty of candour procedure.

Of the reports that did not meet expectations under point 2 and its sub-sections, the most common exclusion was the type of support available to staff and persons affected by incidents, or if this information was included, it tended to cite staff undertaking the duty of candour e-module, instead of outlining practical or psychological support available for those members of staff affected.

4.1.3. Report Confidentiality

Part 2, Section 24: Reporting and Monitoring point 3 stipulates that *“A report must not—*

- (a) mention the name of any individual, or*
- (b) contain any information which, in the responsible person’s opinion, is likely to identify any individual.”*

Almost all submitted annual reports complied with point three and all sub-sections. The protection of patient confidentiality should be upheld continuously and when preparing the annual duty of candour reports, even more so. This was for the most part, upheld. However, one report, from a Primary Care provider, did not fully meet expectations in regards to point 2, sub-section (b), in which a recommendation for further learning placed the onus of the incident occurring on the patient involved. If viewed by the patient in question, they could be identifiable.

4.1.4. Appropriate Reporting

Part 2, Section 24: Reporting and Monitoring point 4 stipulates that *“The responsible person must publish a report prepared under subsection (1) in such manner as the responsible person thinks appropriate.”*

All annual reports that the Scottish government were notified about were prepared with sub-section one in mind, and were deemed by the responsible person to be appropriate for submission. However, the available report template provided to those preparing an annual report was only a suggestion. Following the provided template was not a requirement for the first year of reporting on duty of candour. As such, the overall quality of reporting varied quite widely, making standardised analysis difficult.

4.1.5. Notification of Publication

Part 2, Section 24: Reporting and Monitoring point 5 stipulates that *“On publishing a report, the responsible person must notify—*

- (a) Healthcare Improvement Scotland, in the case of a report published by a responsible person which provides an independent health care service (within the meaning of section 10F(1) of the 1978 Act),*
- (b) the Scottish Ministers, in the case of a report published by any other responsible person which provides a health service,*
- (c) Social Care and Social Work Improvement Scotland, in the case of a report published by a responsible person which provides a care service or a social work service.”*

Under point five, sub-sections (a) and (c) were not applicable to the annual report analysis due to only analysing annual reports published by the territorial Boards, special Boards, and Primary Care providers falling under GPs, Dentistry, Pharmacies, and Optometrists. Those providing independent health services as defined under sub-section (a), and those providing care or social work services defined under sub-section (c) were not captured for analysis this year.

Of those services required to notify the Scottish Ministers as defined under sub-section (b), sixteen out of the twenty-three annual reports analysed met expectations by notifying the dedicated duty of candour email inbox. The others published their reports, but failed to report the publication to the dedicated inbox.

4.2. Good Practice in the Annual Reports

There were several examples of good practice present in the annual duty of candour reports published for 2018/2019. This included; clear examples of what improved as a result of reviewing duty of candour incidents, and transparent reporting where the template was used.

Reports produced by NHS 24, NHS Ayrshire & Arran, and Dumfries & Galloway include transparent, clear examples of incidents that triggered the duty of candour procedure, and the subsequent learning and improvement as a result. These examples illustrate a clear understanding of the duty of candour procedure and reporting requirements, as well as the expectations of an open and transparent culture in which learning can come from unintended incidents. An example includes NHS24 updating relevant clinical and operational processes, ensuring that NHS24 staff do not raise expectations when arranging an onward referral for patients. This was implemented following an incident where a patient was told that they would be seen at out of hours by a doctor specifically. NHS24 have reviewed all guidance and processes to ensure that staff are instructed that when arranging an onward referral for patients not to set expectations on the level of health professional that will see them at the out of hours services.

Several reports were also produced in a clear and transparent style. The reports that contained examples of good practice were those that followed the duty of candour report template and guidance booklet information.

Another example of good practice to note was demonstrated by those Boards who were transparent as to the extent they followed the duty of candour procedure. Instead of treating this section as a closed question, they elaborated as to the extent or lack of in their opinion in which they met the stipulations as laid out in the duty of candour procedure, showing an alignment to a culture of openness and learning.

5. Findings from Interviews

This section describes this review's findings, which were informed by the visits, phone-calls, and contact with and to NHS Boards. These sections reflect the over-arching themes that presented themselves during the informal interviews. The findings and associated observations are aimed at NHS Boards collectively rather than any particular Board.

5.1. Qualitative Themes

Several over-arching qualitative themes arose from engaging with the NHS Territorial Boards, Special Boards, and Primary Care providers. Those contacted and engaged with can be seen in Appendix 1. The topic guide and clarifying questions for the informal interviews and any subsequent follow-up clarification can be seen in Appendix 4.

Overall, five main themes emerged around duty of candour;

1. Implementing the duty of candour procedure,
2. Producing the report
3. Guidance for reporting
4. Liaising with primary care providers
5. The purpose of duty of candour. These are discussed below.

5.1.1. Implementing Duty of Candour Procedure

Implementation of the Duty of Candour was raised in several interviews. A number of Boards expressed difficulties in understanding the legislation and policy behind it,

and what this meant for the Board in practice. Several also referenced the guidance which they felt had come a bit too late in the process. Confusion around where the duty of candour procedure aligned with other reporting systems such as Adverse Events, Significant Adverse Event Reviews and the Datix system also caused confusion.

On the other hand, some Boards found implementation relatively straightforward. They put this down to integrating their reporting systems from the start, receiving advice on the guidance and interpretation, and pre-implementation training. They also credited the guidance with being clear on what the reporting requirements are.

Several Boards also felt that decision making regarding which incidents required duty of candour to be activated was inconsistent. There was confusion over what constituted a duty of candour incident across different parts of Scotland. Some Special and rural Boards felt that the guidance and procedure did not take into account their unique needs, and felt isolated in their decision making.

5.1.2. Producing the Duty of Candour Report

Some confusion and concern over producing the actual annual duty of candour report was raised by all Boards engaged with. A number felt the official guidance produced and disseminated came too close to the publication of the regulations to be helpful. Many also found the guidance itself confusing, as well as “too general”.

The other issue raised for producing the report itself was confusion around time-scales – a number of Boards were unsure or did not know when or where to submit the report. Another issue was the lack of a standardised template to be used. Although a template was available on the Scottish Government website, it was not a requirement that this be used and certain Boards found this confusing. A number voiced the preference for a set template to be issued with clearer sub-sections. Others mentioned reviewing other Boards’ published reports before publishing their own to get a sense of the report style, but again many did not find this helpful as the reports were not standardised across the Service.

Several Boards also cited “stress over getting it right” and felt the loose time frame for submitting reports did not help this feeling. Others also mentioned a nervousness around how these publically published reports could be used in the future by interested parties, such as the media. They felt that lack of reassurance or guidance on this matter was an oversight.

5.1.3. Guidance for Reporting Incidents

Many Boards cited confusion over reporting incidents, namely by their type in the table provided in the suggested template provided. Several cited confusion over how the table for reporting duty of candour incidents was set out, particularly the categories within the table. A few Boards also expressed concern over interpretation of these table categories and gave examples of how a set of hypothetical incidents that would trigger duty of candour could fall into or between several of the categories within the table. Where examples were sought, they were not considered to be universal or applicable to the Board and were considered unhelpful.

5.1.4. Liaising with Primary Care

Liaising with primary care providers within the territorial Boards was brought up by all Boards. Some mentioned not being aware of who was responsible for contacting or making the primary care providers in their area aware of their duty to provide an annual duty of candour report.

Other Boards struggled with liaising with primary care providers as they were not aware of the numbers within their territorial area, nor did they have a list of all concerned to get in contact with.

Other Boards expressed a concern and confusion over who was the responsible person whose duty it is to get in touch with primary care providers in the said territorial area to make when aware of providing a report. There was also concern cited about how this responsible person would be held accountable for their actions – or lack thereof. Other Boards did not seem aware of the concept of the responsible person in relation to primary care duty of candour reports within their territorial area.

5.1.5. Purpose of Duty of Candour

Several Boards questioned the purpose of the duty of candour procedure and reporting arrangements in light of several active systems. Most of the territorial Boards contacted cited feedback from front-line staff and concerns over increased work load and paperwork when systems were already in place to deal with incidents that would trigger duty of candour.

Another interesting point raised by some Boards was the idea that the duty of candour procedure could prove traumatic and cause more harm to families or persons involved in the incident. One Board cited an example of an incident that triggered the duty of candour procedure in retrospect, in which grieving had already commenced. They cited concerns over length of time the procedure took due to waiting on post mortem results and then the triggering of the new duty of candour procedure was thought to have “re-opened old wounds” for family members involved in the incident.

Other Boards felt there has been an overall inconsistent approach to rolling out the duty of candour procedure and reporting requirements across Scotland, which failed to take into account some of the unique challenges faced by certain Boards, including Special Boards, or rural Boards who cited feeling isolated in the process.

5.2. Good Practice in Action

Some Boards have fully integrated the duty of candour procedure with their existing Adverse Events system. This was thought to make adapting to the new procedure run more smoothly and ‘cast a wider net’ in order to identify incidents that would trigger the duty of candour procedure, including past incidents already in the system.

Another Board found having dedicated duty of candour multidisciplinary meetings helped ease staff concerns, ironing out front line problems, and encouraging debate around the process.

One Board has included duty of candour procedure training into its yearly refresher training package for all staff, even if they were not clinically trained or placed to make decisions on duty of candour.

6. Observations for Future Practice

A result of this evaluation and analysis is the suggestion of several observations that could be considered for implementation in the future of the duty of candour reporting process. These should not be considered to be aimed at any one Board or person, but are observations as a whole.

These are;

- Consider liaising with stakeholders to create updated guidance around the duty of candour procedure.
- Discuss with Boards the possibility of integrating the duty of candour reporting system with existing adverse events systems, multidisciplinary meetings, and decisions.
- Liaise Boards around guidance of what should be included in annual reports, including informal, interactive, and open sessions.
- Consider developing streamlined refresher training guidance.
- Consider issuing a standardised annual reporting template to Boards.
- Consider suggesting to Boards that they issue a standardised annual reporting template to their independent contractors.
- Consider standardising a requirement that all annual duty of candour reports should include examples the nature of incidents that led to policy changes thereafter as a section in the report.
- Consider asking Boards to learn from the previous year's annual reporting.
- Issue examples of well done, clear and transparent annual reports which evidence adherence to the reporting policy and reflect the culture of openness and learning strived for through duty of candour procedure.
- Consider publicising supplementary duty of candour materials such as a checklist.

7. Conclusions & Next Steps

As the Board meetings were carried out in December 2019 and January 2020 and therefore in the second half of the second year of the new organisational Duty of Candour changes, some insight was gained into changes planned and further improvements. Many agreed that the first year reporting was not consistent due to a number of factors, and that the second year will be improved.

The Scottish Government appreciates the feedback provided by everyone who took part in this review. It appreciates the willingness to share views and opinions as well

as the opportunity to conduct honest discussions around thoughts and feelings of the new organisational Duty of Candour implementation. The input received from everyone has helped gain a better understanding of the challenges introduced by the new organisational Duty of Candour. This report identifies progress and good practice, as well as challenges that will now be considered. The Scottish Government will continue the work with health and social care service providers in order to help drive continued improvement in terms of implementation, handling and feedback of annual reporting of Duty of Candour.

Appendices

Appendix 1: List of NHS Boards Interviewed

NHS Ayrshire & Arran

NHS24

Scottish Ambulance Service

The State Hospital

NHS Shetland

NHS Orkney

NHS Boards

NHS Education Scotland

Appendix 2: Duty of Candour: the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 - Part 2, Section 24: Reporting and Monitoring

Reporting and monitoring

(1) A responsible person who provides a health service, a care service or a social work service during a financial year must prepare an annual report on the duty of candour as soon as reasonably practicable after the end of that financial year.

(2) The report must set out in relation to the financial year—

(a) information about the number and nature of incidents to which the duty under section 21(1) has applied in relation to a health service, a care service or a social work service provided by the responsible person,

(b) An assessment of the extent to which the responsible person carried out the duty under section 21(1),

(c) Information about the responsible person's policies and procedures in relation to the duty under section 21(1), including information about—

(i) Procedures for identifying and reporting incidents, and

(ii) Support available to staff and to persons affected by incidents,

(d) Information about any changes to the responsible person's policies and procedures as a result of incidents to which the duty under section 21(1) has applied, and

(e) Such other information as the responsible person thinks fit.

(3) A report must not—

(a) Mention the name of any individual, or

(b) Contain any information which, in the responsible person's opinion, is likely to identify any individual.

(4) The responsible person must publish a report prepared under subsection (1) in such manner as the responsible person thinks appropriate.

(5) On publishing a report, the responsible person must notify—

(a) Healthcare Improvement Scotland, in the case of a report published by a responsible person which provides an independent health care service (within the meaning of section FL (1) of the 1978 Act),

(b) The Scottish Ministers, in the case of a report published by any other responsible person which provides a health service,

(c) Social Care and Social Work Improvement Scotland, in the case of a report published by a responsible person which provides a care service or a social work service.

(6) A person mentioned in subsection (7) may, for the purpose of monitoring compliance with the provisions of this Part, serve a notice on a responsible person requiring—

(a) the responsible person to provide the person serving the notice with information about any matter mentioned in subsection (2) as specified in the notice, and

(b) That information to be provided within the time specified in the notice.

(7) The persons are—

(a) Healthcare Improvement Scotland, in relation to a responsible person which provides an independent health care service (within the meaning of section FL (1) of the 1978 Act),

(B) The Scottish Ministers, in relation to any other responsible person which provides a health service,

(c) Social Care and Social Work Improvement Scotland, in relation to a responsible person which provides a care service or a social work service.

(8) The Scottish Ministers, Healthcare Improvement Scotland and Social Care and Social Work Improvement Scotland may publish a report on compliance with the provisions of this Part by responsible persons.

Appendix 3: Invitation to Interview Email

Subject: Duty of Candour Informal Meeting

Hi [NAME]

I'm Michelle Jamieson, and you may have heard from me before. I am a PhD intern currently working with the Scottish Government until mid-January on the evaluation of health organisations' 2018/19 Duty of Candour annual reports. I am keen for this research to include the voices of those actively working within NHS Scotland that have implemented this and to hear what they think of the Duty of Candour procedure and legislation.

Would yourself as [NHS BOARD] DoC Lead, or one of your colleagues, be available for an informal meeting to talk about thoughts/feelings around Duty of Candour? I am flexible regarding days and times, and available for meeting immediately. If you have any questions, thoughts, or concerns please do not hesitate to get in touch.

I look forward to hearing from you,

Michelle



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Appendix 4: Interview Topic Guide

Interview Topic Guide

1. Implementation
 - a. ways of implementing DofC
 - b. staff engagement
 - c. Challenges
2. Collecting feedback
 - a. ways of collecting
 - b. changes since implementation
3. Working with primary care providers within boards
 - a. Reception from providers
4. Engaging with other DofC reports
 - a. Done so?
 - i. No – why not?
 - ii. Yes – helpful?
5. Working with patients & families
 - a. Experience since DofC came in?
 - b. Feedback from families?
6. Escalating incidents
 - a. How was this decided?
7. Resolution/apologies
 - a. Experience of apologies
 - b. Reception by individual/families
8. Relationship change
 - a. Between staff & Board
 - b. Between families & Board
 - c. Primary care providers & Board
 - d. Public & Board
9. Learning from incidents
 - a. Changes?
 - b. Outwith e-training
10. Training experience
 - a. Staff engagement?
 - b. Levels of understanding
 - c. Top-Up?
11. Experience of the procedure/checklist
 - a. What has changed as a result?
 - b. Extent procedure was followed for incidents reported?
12. Last Thoughts

Appendix 5: Analysis Mapping of Annual Duty of Candour Reports (2018/19)

Evaluation/Analysis of Health Organisations' 2018/19 Duty of Candour Annual Reports

Table 1: Mapping Duty of Candour Reports to the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 - Part 2, Section 24: Reporting and Monitoring

Report Requirements (Sec 24: Reporting & Monitoring Mapping)								
	1	2	3	4	5	6	7	8
		(a) (b) (c) i ii (d) (e)	(a) (b)		(a) (b) (c)	(a) (b)	(a) (b) (c)	
NHS Territorial Boards								
NHS Ayrshire & Arran	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Notified	N/A	N/A	
		Included			N/A		N/A	
		Included			N/A		N/A	
NHS Borders	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Not included	Does not		Not notified	N/A	N/A	
		Not included			N/A		N/A	
		Included			N/A		N/A	
NHS Dumfries & Galloway	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Not notified	N/A	N/A	
		Included			N/A		N/A	
		Included			N/A		N/A	
NHS Fife	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						

		Included					N/A	
		Included						
		Included				Not notified		
		Included				N/A		N/A
NHS Forth Valley	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Notified	N/A	N/A	
		Included						
		Included						
NHS Grampian	Published	Not included	Does not	Done	N/A	N/A	N/A	N/A
		Not included						
		Not included						
		Included	Does not		Notified	N/A	N/A	
		Included						
		Included						
NHS Greater Glasgow & Clyde	Not Published at time of analysis of reports (Nov 2019) ¹							
NHS Highland	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Notified	N/A	N/A	
		Included						
		Included						
NHS Lanarkshire	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Notified	N/A	N/A	
		Not included						
		Included						
NHS Lothian	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Notified	N/A	N/A	
		Included						
		Included						

¹ NHSGG&C included their 2018-19 DoC report in the Clinical Governance report dated December 2019

NHS Orkney	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Notified	N/A	N/A	
		Included			N/A		N/A	
		Included						
NHS Shetland	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Notified	N/A	N/A	
		Included			N/A		N/A	
		Included						
NHS Tayside	Published	Not included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Notified	N/A	N/A	
		Included			N/A		N/A	
		Included						
NHS Western Isles	Published	Not included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Not notified	N/A	N/A	
		Not included			N/A		N/A	
		Included						
NHS Special Boards								
Golden Jubilee Foundation	Published	Not included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Notified	N/A	N/A	
		Included			N/A		N/A	
		Included						
NHS 24	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Notified	N/A	N/A	
		Included			N/A		N/A	
		Included						

Scottish Ambulance Service	Published	Not included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Not included	Does not		Not notified	N/A	N/A	
		Not included			N/A		N/A	
		Not included						
The State Hospital	Published	Not included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Not included	Does not		Not notified	N/A	N/A	
		Not included			N/A		N/A	
		Included						
National Services Scotland	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Notified	N/A	N/A	
		Included			N/A		N/A	
		Included						
Primary Care Sample With Incidents								
Millig Practice (NHS Highland)	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Notified	N/A	N/A	
		Included			N/A		N/A	
		Included						
Riverside Medical Practice (NHS Highland)	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Notified	N/A	N/A	
		Included			N/A		N/A	
		Included						
Gentle Dental Care (NHS Fife)	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Not included						
		Included	Does		Notified	N/A	N/A	

		Included			N/A		N/A	
		Included						
Bairds Pharmacy (NHS Grampian)	Published	Included	Does not	Done	N/A	N/A	N/A	N/A
		Included						
		Included						
		Included	Does not		Notified			
		Included			N/A	N/A		
		Included						
		Included			N/A	N/A		

(1) A responsible person who provides a health service, a care service or a social work service during a financial year must prepare an annual report on the duty of candour as soon as reasonably practicable after the end of that financial year.

(2) The report must set out in relation to the financial year— (a) information about the number and nature of incidents to which the duty under section 21(1) has applied in relation to a health service, a care service or a social work service provided by the responsible person, (b) an assessment of the extent to which the responsible person carried out the duty under section 21(1), (c) information about the responsible person's policies and procedures in relation to the duty under section 21(1), including information about— (i) procedures for identifying and reporting incidents, and (ii) support available to staff and to persons affected by incidents, (d) information about any changes to the responsible person's policies and procedures as a result of incidents to which the duty under section 21(1) has applied, and (e) such other information as the responsible person thinks fit.

(3) A report must not— (a) mention the name of any individual, or (b) contain any information which, in the responsible person's opinion, is likely to identify any individual.

(4) The responsible person must publish a report prepared under subsection (1) in such manner as the responsible person thinks appropriate.

(5) On publishing a report, the responsible person must notify— (a) Healthcare Improvement Scotland, in the case of a report published by a responsible person which provides an independent health care service (within the meaning of section 10F(1) of the 1978 Act), (b) the Scottish Ministers, in the case of a report published by any other responsible person which provides a health service, (c) Social Care and Social Work Improvement Scotland, in the case of a report published by a responsible person which provides a care service or a social work service.

(6) A person mentioned in subsection (7) may, for the purpose of monitoring compliance with the provisions of this Part, serve a notice on a responsible person requiring— (a) the responsible person to provide the person serving the notice with information about any matter mentioned in subsection (2) as specified in the notice, and (b) that information to be provided within the time specified in the notice.

(7) The persons are— (a) Healthcare Improvement Scotland, in relation to a responsible person which provides an independent health care service (within the meaning of section 10F(1) of the 1978 Act), (b) the Scottish Ministers, in relation to any other responsible person which provides a health service,

(c) Social Care and Social Work Improvement Scotland, in relation to a responsible person which provides a care service or a social work service.

(8) The Scottish Ministers, Healthcare Improvement Scotland and Social Care and Social Work Improvement Scotland may publish a report on compliance with the provisions of this Part by responsible persons.

Appendix 6: Internship Project Briefing

Scottish Ministers are committed to an integrated programme of measures to facilitate cultural change to achieve openness and transparency without blame in the provision of NHS health and social care services. Central to this is the statutory organisational duty of candour, which came into effect on 1 April 2018².

The duty of candour procedure provisions reflect the Scottish Government's commitment to place people at the heart of health and social care services in Scotland. When death or harm occurs the focus must be on personal contact with those affected; support and a process of review and action that is meaningful and informed by the principles of learning and continuous improvement. There is an organisational emphasis on staff support and training to ensure effective implementation of the organisational duty. Staff must feel that they have the necessary skills and confidence if they are to be meaningfully involved in the delivery of the duty of candour procedure.

The Openness and Learning Unit was established in September 2017 in the Scottish Government to work with stakeholders in developing an approach that is accessible and meaningful for front-line professionals and national bodies to support improvements in health and social care outcomes. The aim is to create an environment that uses knowledge to inform continuous improvement to services in a culture of openness without censure.

This is an opportunity to work closely with the Openness and Learning Unit and relevant stakeholders including NHS Boards, Primary Care Providers, government analysts and potentially patients, taking a 360 degree view on the effectiveness of the duty of candour procedure and making recommendations for improvement. The project will be focussed on reviewing and analysing responsible persons' annual reports and, with lead policy officials, meeting with relevant stakeholders to gain a deeper insight into the content of them.

The project aims to identify what difference duty of candour has made, whether it has been embedded the operational procedures of organisations and to what extent has it influenced learning and service improvements. The project also aims to identify any variation in the implementation of the procedural requirements of the organisational duty of candour procedure, and to highlight any good practice or particular areas of concern.

The project output will be a report focussed on the experience of the first year of the duty of candour, highlighting the challenges and developing some conclusions / potential recommendations for going forward. This should also focus on providing recommendations for a national approach to integrating consideration of these annual reports with broader policy commitments supporting accountability for open and transparent arrangements to implement improvements across the health and social care system in Scotland.

² The organisational duty of candour provisions of the Health (Tobacco, Nicotine etc. & Care) (Scotland) Act 2016 and The Duty of Candour (Scotland) Regulations 2018 came into force on 1 April 2018.



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