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Governance Policy

Duty of Candour Policy

DOCUMENT CONTROL PAGE

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DUTY OF CANDOUR

1. Purpose and Scope

This policy applies to all Trustees, Staff, Consultants and Volunteers of We Are Survivors.

Duty of Candour is a legal duty for all healthcare providers to be open and honest with clients, or their families, when something goes wrong that appears to have caused or could lead to significant harm in the future. It applies to all NHS services, including NHS commissioned services, and health and social care organisations registered with the regulator, the Care Quality Commission (CQC) in England.

We Are Survivors is committed to ensuring all transactions made within the context of our business are transparent.

2. What are the Requirements of the Duty of Candour?

Whilst all staff at We Are Survivors work hard to ensure that all clients have a healthy and adaptive experience at We Are Survivors, unfortunately, there are times when something goes wrong with a client's care.

On those occasions, the organisation responsible should:

- tell the client in person what has happened and apologise.
- provide the client with a full and true account of all the known facts.
- advise what else the organisation will need to do.
- provide reasonable support to the client.
- follow-up with a written letter which confirms the information already provided, results of further enquiries and an apology.

The organisation should tell the client what has happened as soon as is reasonably possible. Sometimes, we will only become aware of an incident sometime after it has happened.

In certain situations, the requirements above will apply to someone representing the patient. This is likely to be when the patient is under 16 years old or when the client lacks capacity to make their own decisions.

3. What Incidents are Covered by Duty of Candour?

Duty of Candour starts when there has been a 'notifiable safety incident'. This is a serious incident which has resulted in either:

- a client's death
- moderate harm to the client
- severe harm to the client
- prolonged psychological harm to the client

In short, the organisation must inform any client about an incident where the care or treatment may have gone wrong and appears to have caused significant harm or has the potential to result in significant harm in the future.

It is important to note that severe harm occurs when there has been a permanent lessening of functions that is related directly to the incident and prolonged psychological harm is defined as psychological harm which is experienced or is likely to be experienced for a continuous period of at least 28 days.

4. What Steps Do We Need to Take?

This section must be read in conjunction with the SUIINM Policy (WASSI001); Confidentiality Policy (OPG004); GDPR & IG Policy (WASIG2024) and Safeguarding Policy (WASP001).

In the event of a notifiable incident, we are required to notify the client or their representative as soon as reasonably practicable (defined as within 10 working days), by means of 'Oral Notification' by a senior person with relevant experience and expertise.

If the notifiable incident has occurred within the clinical support services, the Oral Notification must be given by the Services Manager.

If the notifiable incident has occurred within a non-clinical support service, such as ISVA or Criminal Justice / Outreach, the Oral Notification must be given by the ISVA Services Manager.

Should the notifiable incident involve another Services Manager or the ISVA Services Manager, the Service Director will enact the 'Oral Notification'.

Should the notifiable incident involve the Service Director or the Chief Executive Officer, the Deputy Chief Executive will enact the 'Oral Notification'.

Should the notifiable incident involve the Deputy Chief Executive Officer, the Chief Executive will enact the 'Oral Notification'.

a) Oral Notification

During the oral notification, the person giving it must:

- Ensure that the client or their representative understands what has gone wrong.
- Give an account that is true to the best of the organisation's knowledge.
- Clearly state what further enquiries into the incident will now take place.
- Apologise, expressing the organisations sorrow or regret, which must not be tarred with indications of fault or liability.
- Keep a written record of this conversation.

The oral notification must then be followed by a written notification within 5 working days.

b) Written Notification

The 'Written Notification' must:

- Repeat the information, and apology, given in the oral notification.
- Include the results of any further enquiries; and
- Inform the recipient of your continuing duty to keep the service user or their representative informed, in writing, of any further enquiries and investigations, should they wish to receive it.

You should also ensure that copies of this and any further correspondence or documentation are retained.

5. Insurance Notification and Liability

When things do go wrong, explaining what has happened, what you will do about it and expressing sympathy or regret in a timely manner by the relevant senior staff member is key. Poor communication, or a perception that you are not being open and honest, can only aggravate the situation. Saying sorry is not an admission of legal liability. However, it is important that should be within the guidelines set out by organisational insurance policy.

You should always consult with your Line Manager to consider whether notification needs to be given to the insurance company of the incident that you are apologising for. Your Line Manager will discuss with the Service Director if you consider the circumstances surrounding the incident are likely to give rise to a claim and if so, then the Deputy Chief Executive Officer will notify the insurance company immediately.

It is good practice to notify any Insurance Company before issuing an apology so that they can assist us with this. If, as a result, you receive any communication or allegation which might give rise to a loss then you need to notify the Insurance Company immediately.

Notification must be given to the Insurance company by the Deputy Chief Executive Officer or Chief Executive Officer in their absence quoting Policy Reference and customer number (normal office hours).

Aviva Insurance

Policy Reference: 031998/11/24

Contract Number: 100719892BDN

24/7 Support Tel: 0800 015 1498

When making an apology, you should:

- Stick to the facts known at the time. Do not stray into opinion.
- Provide a step-by-step explanation of what has happened.
- Keep the language and tone conciliatory and measured. Don't use unnecessary or emotive language.
- Be clear and unambiguous.
- Think about how you would hear / read what is being communicated – if it is not clear, try again.
- If an investigation is appropriate, undertake one.
- Keep the family updated of the progress of any investigation.
- Communicate any new facts to the family.