



Care Quality Commission (CQC) - FUNDAMENTAL STANDARDS

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| Policy title: | Duty of candour and being open. |
| Outcome: | the Street Medical Practice will act in an open and transparent way with patients in relation to the care and treatment provided. |
| Target audience: | All members of Street Medical Practice, whether employed full-time or part-time, paid or unpaid, granted practising privileges, volunteers, students, and external contractors. |
| Authorised by: | Dr Debbie Street, Medical Director (CQC Registered Manager) |
| Date issued: | 1 August 2018 |
| Next review date: | 31 July 2019 (or before if there is a change in practice or circumstances) |
| Signature: | |

1. Policy statement

- 1.1 It is a legal requirement for the Street Medical Practice to have duty of candour arrangements in place in relation to patient safety incidents that occur resulting in moderate harm, severe harm or death.

The Street Medical Practice's primary concern is to ensure that patients and their families are told about patient safety incidents that affect them, receive appropriate apologies, are kept informed of investigations and are supported to deal with the consequences.

This policy sets out the necessary arrangements.

- 1.2 The Street Medical Practice independent healthcare service is committed to the provision of high quality independent healthcare. As part of this objective, the Street Medical Practice has a duty to limit the potential impact of clinical and non-clinical risks and put in place robust and transparent systems to make sure that all incidents which might cause actual or potential harm to patients, visitors and staff are identified, investigated and rectified.
- 1.3 Promoting a culture of being open and transparent is a prerequisite to improving patient safety and the quality of the Street Medical Practice healthcare service. It involves explaining and apologising for what happened to patients who may have been harmed or involved in an incident as a result of their healthcare treatment received at the Street Medical Practice. It ensures communication is open, honest and occurs as soon as possible following an incident.
- 1.4 This policy is aimed at all healthcare staff working or practising at the Street Medical Practice responsible for ensuring the infrastructure is in place to support openness between healthcare professionals and patients (or relevant persons) following an incident, complaint or claim.
- 1.5 For the purposes of this policy, the term '**relevant person**' means the patient, or where the patient is not competent to make a decision in relation to their care or treatment, a person lawfully acting on their behalf. This could be a family member, friend, carer or advocate.
- 1.6 The term '**Lawfully acting on their behalf**' means authority given under the Mental Capacity Act 2005 such as a valid and applicable advance decision to refuse treatment, Lasting Powers of Attorney for health and welfare containing relevant clauses, Court-Appointed Deputyship including relevant decision-making powers, a decision of a Court, the Mental Health Act 1983, or a best interest assessment in accordance with the Mental Capacity Act 2005.

However, prior to engaging with a person who has legal authority to make a decision on behalf of a patient, the Street Medical Practice will request formal verification of the legal authority of the named person or persons, and sight of the relevant documentation.

- 1.7 The term '**being open**' refers to apologising and explaining what has happened to patients who have been harmed as a result of a patient safety incident. It encompasses communications between the Street Medical

Practice healthcare professionals, patients and their carers (or relevant persons), and visitors.

- 1.8 The term '**candour**' refers to any patient harmed by the provision of healthcare service is informed of the fact and an appropriate remedy offered, regardless of whether a complaint has been made or a question asked.

2. Being open and transparent - 10 principles

- 2.1 Being open is a process rather than a one off event. The National Patient Safety Agency (NPSA) states that 'being open' is underpinned by 10 principles. The Street Medical Practice adheres to these principles which are set out as follows:

1. Principle of acknowledgement

All patient safety incidents at the Street Medical Practice will be recognised and reported as soon as they are identified. In cases where the patient informs the Street Medical Practice staff that something untoward has happened, it must be taken seriously from the outset.

Any concerns will be treated with compassion and understanding by all Street Medical Practice staff. Denial of a service user's concerns will make future open and honest communication more difficult.

2. Principle of truthfulness, timeliness and clarity of Communication

Information about a patient safety incident at the Street Medical Practice must be given to the patient, or relevant person, in a:

- truthful
- jargon free
- timely
- factual, and
- open manner

by an appropriately nominated person representing the Street Medical Practice.

Patients will be given a step by step explanation of what happened, that considers their individual needs and is delivered openly. A commitment will be maintained to keep the service user updated regarding the incident investigation by a single point of contact to avoid conflicting information.

3. Principle of apology

Patients will receive a sincere expression of regret for the harm that has resulted from a patient safety incident occurring at the Street Medical Practice. This will be in the form of both a verbal and written apology from the Medical Director, appropriately worded, and in agreed and timely manner.

Any written apology, will clearly state that the Street Medical Practice is sorry for the suffering and distress resulting from the adverse incident.

4. Principle of recognising patient and carer expectations

Patients will be fully informed of the issues surrounding an adverse incident, and its consequences, in a face to face meeting with the Medical Director. They will be treated in a caring manner, with respect and consideration. Confidentiality will be maintained at all times. Patients and/or their representatives will also be provided with support in a manner appropriate to their needs.

This may include the following:

- Easy read literature
- Patient Advisory and Liaison Service (PALS)
- Advocacy services
- Legal representatives
- Interpreters
- Contacts with relevant support groups, or
- Provision of psychological support.

5. Principle of professional support

As part of developing an open and transparent culture within the Street Medical Practice, all staff will be supported in reporting safety incidents. Practice staff will also be supported throughout the incident investigation process to ensure a robust and consistent approach to investigation and any necessary action that needs to be taken as a result.

6. Principle of risk management and systems improvement

Where serious and untoward incidents occur within the Street Medical Practice, the Root Cause Analysis (RCA) principles of investigation will be adopted. Investigations will focus on improving the healthcare service provided at the Practice, which will then be reviewed for its effectiveness.

The investigation process will focus on learning and improvement with the aim of preventing or minimising future reoccurrence of such incidents and not on apportioning blame.

7. Principle of multi disciplinary responsibility

This policy applies and extends to all the Street Medical Practice staff who have roles in the patient's care and treatment. The provision of healthcare services at the Practice may involve the use of multidisciplinary healthcare staff and communication with patients and/or their representatives following an incident that led to harm, should reflect this.

8. Principle of clinical governance

The principle of being open and transparent will be supported by the Street Medical Practice's clinical governance framework. The investigation and

analysis of incidents will focus on the identification of learning lessons and preventing and/or minimising further reoccurrences. The use of clinical audit will enable the Practice to monitor the implementation and effects of changes in practice following a patient safety incident.

9. Principle of Confidentiality

The details of a patient safety incident that has occurred at the Street Medical Practice will at all times be considered confidential. Any communications with parties outside of the Street Medical Practice healthcare team will be on a strictly need to know basis. The consent of the patient concerned will be sought prior to disclosing information beyond the Practice healthcare professionals involved in treating the patient.

It is recognised that there may be circumstances where it is not practicable for details of an adverse incident to remain confidential, e.g. where those investigating the incident have statutory powers for obtaining the information such as the Police or where there is a public interest duty. In circumstances regarding public interest disclosure, careful consideration to disclosing such information will be given by the Street Medical Practice after receiving legal advice.

The Street Medical Practice will inform the patient and/or their representative of any pending investigation before it takes place, who will be carrying out the investigation giving them the opportunity to raise any objections.

Full respect will be given to a patient and/or their representative, and the Street Medical Practice member of staff's privacy and confidentiality. Where this is not practicable or an individual refuses to consent to the disclosure, disclosure may still be lawful if justified in the public interest or where those investigating the incident have statutory powers for obtaining information.

10. Principle of continuity of care

Where a concern is raised by a patient and/or they are directly involved in an adverse incident, they will continue to receive all planned care and treatment by the Street Medical Practice and be treated with respect and compassion.

If a patient expresses a preference for their healthcare needs to be taken over by another healthcare provider, the Street Medical Practice will make the appropriate arrangements for the person to receive treatment elsewhere.

3. Obstruction

- 3.1 The Street Medical Practice will make all reasonable efforts to ensure that staff carry out their respective roles within a culture of openness and transparency. The Street Medical Practice will support staff to understand their individual responsibilities in relation to the duty of candour, and to be open and honest with patients when things go wrong.
- 3.2 The Street Medical Practice will monitor, identify and take the necessary action in relation to potential breaches of professional duty of candour by members of clinic staff who are registered with a professional body, and who may have obstructed another healthcare professional in their professional

duty of candour. This may involve an investigation, escalation process and referral to a professional regulator or other relevant regulatory body.

4. Notifiable safety incident

4.1 When a notifiable safety incident has occurred at the Street Medical Practice, the patient or relevant person, will be informed as soon as reasonably practicable after the incident has been identified.

4.2 A notifiable safety incident is defined in CQC regulations and includes incidents that, in the reasonable opinion of a healthcare professional, could result in, or appear to have resulted in;

- the death of the person using the healthcare service
- severe harm
- moderate harm, or
- prolonged psychological harm.

The term '**severe harm**' means permanent lessening of bodily, sensory, motor, physiologic or intellectual functions, including removal of the wrong limb or organ or brain damage, that is related directly to the incident and not related to the natural course of the patient's illness or underlying condition.

The term '**moderate harm**' means harm that requires a moderate increase in treatment, and significant, but not permanent harm.

The term '**moderate increase in treatment**' means an unplanned return to surgery; an unplanned re-admission; a prolonged episode of care; extra time in hospital or as an outpatient, cancelling of treatment, or transfer to another treatment area (such as intensive care).

The term '**prolonged psychological harm**' means psychological harm which a service user has experienced, or is likely to experience, for a continuous period of at least 28 days.

5. Patient support

5.1 The Street Medical Practice will provide patients or relevant persons, with all reasonable support necessary to help overcome the physical, psychological and emotional impact of the incident. This could include all or some of the following:

- Treating them with respect, dignity, consideration and empathy.
- Providing the person with details of specialist independent sources of practical advice and support or emotional support/counselling. This might be from a health or social care professional, independent advocacy and support services, a family member, or a friend.

- Offering help to understand what is being said, for example, through an interpreter, non-verbal communication aids, written information, Braille etc.
- Providing access to any necessary treatment and care to help in recovering from or minimising the harm caused by the incident, where appropriate.
- Arranging for care and treatment from another healthcare provider if the person wishes.
- Providing support to access the complaints procedure.

6. Written notification

- 6.1 The Street Medical Practice will ensure that written notification is given to the patient or relevant person following the notification that was given in person, even though enquiries may not yet be complete.

Appendix A has an example of a template letter that can be used to send to the patient and/or their representative. This can be modified to suit individual circumstances.

- 6.2 The written notification will contain all the information that was provided in person, including an apology, as well as the results of any enquiries that have been made since the notification in person.
- 6.3 Outcomes or results of any further enquiries and investigations carried out by the Street Medical Practice will be provided in writing to the patient or relevant person, through further written notifications.

7. Communicating with patients

- 7.1 The Street Medical Practice will make every reasonable attempt to contact the patient and/or the relevant person through all available means of communication. All attempts to make contact will be documented.
- 7.2 If the patient does not wish to communicate with the Street Medical Practice, their wishes will be respected and a written record made.

8. Record keeping

- 8.1 The Street Medical Practice will keep a record of all written notifications with the patient or relevant person, along with any enquiries and investigations and the subsequent outcome or results.
- 8.2 Any correspondence received from the patient or relevant person relating to the incident will be responded to in an appropriate manner by the Street Medical Practice and a record kept.

9. Guidance and further reading

- Care Quality Commission (Registration) Regulations 2009
<http://www.legislation.gov.uk/uksi/2009/3112/contents/made>
 - Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
<http://www.legislation.gov.uk/uksi/2014/2936/contents/made>
 - Health Professional Council – legal framework
<http://www.hpc-uk.org/aboutus/legislation/>
 - MDU – Duty of candour – Quick guide.
<https://www.themdu.com/guidance-and-advice/guides/duty-of-candour>
 - Mental Capacity Act 2005 and associated code of practice
<http://www.legislation.gov.uk/ukpga/2005/9/contents>
<https://www.gov.uk/government/publications/mental-capacity-act-code-of-practice>
 - NHS Litigation Authority – Duty of candour Introduction.
<http://www.nhsla.com/OtherServices/Documents/NHS%20LA%20-%20Duty%20of%20Candour%202014%20-%20Slides.pdf>
 - NMC and GMC (June 2015) - Openness and honesty when things go wrong: the professional duty of candour
https://www.gmc-uk.org/DoC_guidance_englsih.pdf_61618688.pdf
 - Royal College of Nursing – Duty of candour.
<https://www.rcn.org.uk/get-help/rcn-advice/duty-of-candour>
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Appendix A

Template to be used by the Street Medical Practice to construct a communication letter in accordance with the requirements of the 'Duty of Candour and being open' policy.

Dear Patient/Relative(as appropriate)

You/Your (insert relative) have/has been involved in an adverse event at the Street Medical Practice independent healthcare service - describe event here:

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.....
.....
.....

I wish to express my sincere regret that this event has occurred.

The Street Medical Practice aims to provide a quality healthcare service to you/your (relative as appropriate) and to investigate promptly such adverse events and share findings with those involved. To support anyone involved in an adverse incident, the Street Medical Practice has a Duty of Candour and Being Open policy.

(If appropriate) I would like to invite (you/your relative to attend a meeting which is being organised as part of the investigation. Prior to this going ahead, I would appreciate your views on the following, in relation to this meeting.

- Your preference of time and date of meeting?
- Where would you wish to meet/proposed venue if there is any reason that this cannot be at the Street Medical Practice clinic?
- Who would you prefer to meet with?

If you wish to do so, please feel free to bring along a friend or relative to offer you support during this meeting. Following the meeting you will be provided with further information relating to the outcome of the investigation.

If you would prefer not to attend any meetings please do not hesitate to let us know.

When our investigation is completed we will write to you to provide feedback regarding the outcome of the investigation.

I/ Staff member XXXXX at the Street Medical Practice will be your lead contact for the duration of the being open and investigation process. I/they can be contacted on telephone number xxxxx xxxxxxxx

Yours sincerely,

**Medical Director
Street Medical Practice**