

HARPENDEN MENCAP

The voice of learning disability

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Harpenden Mencap's Duty of Candour Policy

Policy statement

The policy sets out the approach of Harpenden Mencap to meeting its statutory requirements to be open and transparent with its service users if it makes mistakes when providing care and support that result in service users suffering moderate or serious harm. These situations must be notified to the Care Quality Commission under Regulation 18 of the Care Commission (Registration) Regulations (as amended in 2015) "Notification of Other Incidents" and trigger a formal requirement to exercise a duty of candour as defined in Regulation 20 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. The CQC have issued a guidance document addressing the Duty of Candour: http://www.cqc.org.uk/sites/default/files/20141120_doc_fppf_final_nhs_provider_guidance_v1-0.pdf

Candour is defined by Robert Francis as: 'The volunteering of all relevant information to persons who have or may have been harmed by the provision of services, whether or not the information has been requested and whether or not a complaint or a report about that provision has been made'.

Harpenden Mencap understands that it must always act in an open and transparent way with service users and the people closely involved in their care. This is reflected in our Statement of Purpose and our Leadership and Management policy and in all of the service's relationships with its users and others involved in their care and support.

The service understands that it owes a duty of candour particularly when things go wrong with service users' care and support. Thus, it recognises that whenever an incident has occurred, which must be notified to the Care Quality Commission (CQC) (under Regulation 18 described above), it must also carry out the following actions.

The registered person, registered manager or a suitable person in authority acting on behalf of the registered person or registered provider will (in addition to notifying the CQC):

- be open with the service user and other relevant persons about the incident
- provide suitable support to the service user and others affected by the incident
- explain directly and in person to the service user and / or their representatives exactly what has happened
- apologise, for example express sorrow and regret for what has happened
- say what is being done to investigate and learn the lessons from what has happened and further actions that might be taken
- undertake to put in writing what has happened and the apology
- keep full records of the incident, including all associated correspondence and the actions that have been taken to carry out the duty of candour with the service user and / or representatives.

Where the person has given consent to their care and support the above actions will be directed at them personally and to others with their agreement. Where the person has been unable to give their consent to their care because of mental incapacity the actions will be followed through communication with their lawful representatives with the expectation that the service user will be involved as much as possible.

A service user safety incident is defined as ‘Any unintended or unexpected incident that could have or did lead to harm for one or more service users supported by Harpenden Mencap.

Harpenden Mencap understands that the incidents to which a specific duty of candour is owed (as opposed to the general duty to act openly and transparently) are those described in the duty of candour Regulation 20.9, i.e. unintended or unexpected incidents that might occur in the delivery of the care service that: “in the reasonable opinion of a health care professional.

- a. appears to have resulted in
 - i. the death of the service user, where the death relates directly to the incident rather than to the natural course of the service user’s illness or underlying condition,
 - ii. an impairment of the sensory, motor or intellectual functions of the service user which has lasted, or is likely to last, for a continuous period of at least 28 days,
 - iii. changes to the structure of the service user’s body,
 - iv. the service user experiencing prolonged pain or prolonged psychological harm, or

- v. the shortening of the life expectancy of the service user; or
- b. requires treatment by a health care professional in order to prevent
 - i. the death of the service user, or
 - ii. any injury to the service user which, if left untreated, would lead to one or more of the outcomes” described in (a) above.

The service will review and amend as necessary this duty of candour policy in the light of any experiences of having to apply it and CQC guidance.

Staff training covers the service ethos of openness and transparency, individual responsibilities to act in open and transparent ways and the procedures which the service will follow in exercising its duty of candour following incidents that fall within its scope.

Mental Capacity

Where the service user is assessed as not having the capacity to make a decision in relation to their care or treatment, then the most appropriate relevant person should be notified of the incident

Apology

Where a safety incident involving a service user has caused harm, an apology must be offered to the relevant person – a sincere expression of sorrow or regret for any possible harm and distress caused. This may be made by the chair of Trustees, the Director or a registered manager as appropriate to the seriousness of the incident and the harm caused.

The CQC in their guidance relating to the Duty of Candour explain the approach they will be taking to assess whether a provider is complying with the new regulation. The CQC’s key lines of enquiry will be:

1. Are lessons learned and improvements made when things go wrong?
2. Are people who use services told when they are affected by something that goes wrong, given an apology and informed of any actions taken as a result?
3. How does the leadership and culture reflect the vision and values encourage openness and transparency and promote good quality care?
4. Does the culture encourage candour, openness and honesty?

The following paragraph is taken from the Dalton and Williams review of the thresholds for the Duty of Candour:

“The obligations and challenges of candour serve to remind us that for all its technological advances, healthcare is a deeply human business. Systems and processes are necessary supports to good, compassionate care, but they can never serve as its substitute. It follows from this that making a reality of candour is a matter of hearts and minds more than it is a matter of systems and processes, important as they can be. A compliance-focused approach will fail. If organisations do not start from the simple recognition that candour is the right thing to do, systems and processes can only serve to structure a regulatory conversation about compliance. The commitment to candour has to be about values and it has to be

rooted in genuine engagement of staff, building on their own professional duties and their personal commitment to their patients”.

Responsibilities

Harpenden Mencap Board of Trustees;

The Trustees must fully endorse the principles of being open and actively promote an open, honest and fair culture. The Trustees will seek assurances that the principles and processes set out in this policy work effectively to support the commitment to implementing the Duty of Candour.

Employees involved in safety incidents in which a service user has been harmed can be traumatised by the event. The Trustees ensure that systems are in place to provide support to employees in these circumstances.

Director of Services

The Director is ultimately responsible for the process of promoting, managing responding & monitoring the Duty of Candour process/policy and for the delegation of this role as required to all registered managers.

Registered Managers

The registered managers for all services are responsible for actively supporting the Director of Services, with the Duty of Candour principles and process and must:

- understand Harpenden Mencap’s policy and their own responsibilities under their CQC registration
- be able to identify when a referral/notification is required to the local authority and or the CQC
- set by example an open, honest and fair culture within their services.
- report to the director any incident/accident or unusual occurrence that did or could have caused upset, harm or distress to a service user
- ensure the appropriate investigation of any incident/accident/unusual occurrence is carried out & documented
- identify via mental capacity assessments who they should liaise and feedback to as part of their Duty of Candour (i.e. the service user directly or a family member/advocate)
- look at lessons learned and improvements made when things go wrong?

Employee Responsibility

- All employees must comply with Harpenden Mencap's codes of conduct & policies.
- All employees must understand their duty for being open and must demonstrate the principles of being open in their work.
- All employees who become aware of an incident or near miss having occurred must follow the Harpenden Mencap Reporting Policy and apply the principles of being open and the Duty of Candour throughout these processes.
- All employees dealing working with service users or relatives should abide by Harpenden Mencap's complaints process and advice who service users or carers should write to if they wish to formalise a complaint.

Signed: G.Wood

Date: March 2018
