



# Fairfield Farm College

## Duty of Candour Policy

Policy number	New or Reviewed	Date of next review	Responsibility
016	New	October 2021	Registered Manager

To provide young people with opportunities to be successful and make a positive contribution within their community.

## **Policy statement**

This is a requirement under the Fundamental Standards Regulation 20 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. Put simply, candour means the quality of being open and honest. Candour can only work when it is part of a wider commitment to safety, listening and learning, with an organisational commitment to continual improvement. Care and treatment is not risk free and when things go wrong in health or care settings, families want to know three things,

- to be told honestly what happened
- what can be done to deal with any harm caused
- to know what will be done to prevent a recurrence to someone else

The Duty of Candour applies to all Health and Social Care providers registered with the Care Quality Commission (CQC). All Registered providers must notify CQC about certain changes, events and incidents that affect their service or the people who use it via Statutory Notifications. In Social Care this is the "Harm threshold", which is breached when a statutory notification is required to CQC.

## **Compassion humanity and candour**

A large part of delivering successful health and social care services is via human contact. Although systems and processes are necessary to support good compassionate care, they can never serve as its substitute. Organisations need to start from the simple recognition that candour is the right thing to do. The commitment to candour has to be about values, rooted in the genuine engagement of staff building on their own professional duties, and personal commitment to service users. It is right to be clear about thresholds. The government's choice of a statutory duty which sends an equivocal signal to the health and social care sector that candour matters.

"Moderate harm" means harm that requires a moderate increase in treatment, and, significant but not permanent harm, moderate increase in treatment "means an unplanned return to surgery, an unplanned readmission, prolonged episode of care, extra time in hospital or as an outpatient, cancelling of treatment or care transfer to another treatment area (such as intensive care).

"Notifiable safety incident" means any unintended or unexpected incident that occurred in respect of a service user during the provision of a regulated activity that, in the reasonable opinion of a health care professional, could result in, or appears to have resulted in:

- The death of the service user, where the death relates directly of the incident rather than to the natural course of the service user's illness or underlying condition, or
- Severe harm, moderate harm, or prolonged psychological harm to the service user; "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;

- “relevant person” means the service user or in the following circumstances, a person lawfully acting on their behalf
- on the death of the service user;
- where they are under 16 and not competent to make a decision in relation to their care or treatment, or where the service user is 16 or over and lack capacity (as determined by the Mental Capacity Act 2005) in relation to the matter;
- “severe harm” means a permanent lessening of bodily, sensory, motor, physiologic or intellectual functions including removal of the wrong limb or brain damage, which is related directly to the incident and not related to the natural course of the service user’s illness or underlying condition.

The Guidance set out below should be followed in order to fulfil our duty as a provider.

As soon as reasonably practicable:

- notify the ‘relevant person’ (Family member/Next of Kin/Advocate) that the incident has occurred.
- provide support to the relevant person, where appropriate, including when informing them of the incident.
- the information should be given in person, when possible
- an account of the incident should be provided, which is factual and true at the date of the notification
- advise them of the relevant steps or actions are to be taken
- include an apology
- record the incident and the steps and actions taken
- the notification must be followed up in writing, confirming all the above points

If the relevant person declines to engage in the process, this should be recorded and include the attempts to engage with them.

In this regulation:

“Relevant person” means the service user or, in the following circumstances, a person lawfully acting on their behalf [this would only be someone with a lasting power of attorney or a court appointed deputy]--

(a) on the death of the service user,

(b) where the service user is under 16 and not competent to make a decision in relation to their care or treatment, or

(c) where the service user is 16 or over and lacks capacity in relation to the matter;

“Apology” means an expression of sorrow or regret in respect of a Notifiable safety incident.

“Notifiable” means to an external regulator e.g. Care Quality Commission, Health and Safety Executive.

Separate guidance is to be issued with regard to this Regulation and this policy will be reviewed and amended in publication of further guidance.

### **Please Note**

#### **Next of Kin (NoK)**

This term is commonly used and there is a presumption that the person identified has certain rights and duties.

Health and Social Care colleagues should always consult the people closest to a person who lacks capacity to understand that person's wishes and feelings to help them make a decision in that person's best interest.

However, the person identified as NoK should not be asked to sign and/or consent to certain interventions unless they have a legal basis for doing so such as an EPA or the appropriate LPA. This is a mistake often made in many hospitals, nursing or residential settings where family members are asked to sign care plans or end of life plans and other treatment options and provide consent which is not legally valid.

#### **Related Policies**

Dignity and Respect

Safeguarding of Vulnerable Adults

Mental Capacity

Deprivation of Liberty

General Data Protection Regulations

By order of the board.

**Tanya Takle**  
**Registered Manager**  
October 2018