

1.14.24 The Professional Duty of Candourⁱ

List of Relevant Legislation

- Care Act 2014
- Social Services and Well-being (Wales) Act 2014
- The Children's Homes (England) Regulations 2015
- Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017
- Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
- Care Quality Commission (Registration) Regulations 2009

Relevant Policies:

- Health and Safety
- Safeguarding
- Bullying and Harassment
- Whistleblowing
- Accident

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1. Introduction

A Professional Duty of Candour is required of every employee of Bryn Melyn Care, from the front line Carers, Clinicians and Teachers, to those services which manage, support and underpin their work. This Policy reflects Children's Homes regulations brought in in 2015 in England and 2017 in Wales which place a greater emphasis on 'openness, transparency and candour.' Bryn Melyn Care already has policies and procedures in place to support a culture of openness and transparency, the Safeguarding and Whistleblowing policy are two examples. This policy specifically sets out the duties and responsibilities required in a professional duty of candour.

2. Bryn Melyn Care's Duty of Candour

We will take action to prevent and appropriately address bullying, victimisation and/or harassment in relation to the duty of candour, and investigate any instances where any employee of Bryn Melyn Care may have obstructed another in exercising their duty of candour.

A culture of candour includes:

- being open and honest when engaging with children, young people and their representatives when things go wrong;
- providing information about incidents which happen and the outcome of any investigations that have taken place
- offering an apology for what has happened, where it is appropriate to do so.

HR are developing a system to help identify and address possible breaches of the duty of candour by carers and others, including the obstruction of another in their professional duty of candour. Action taken to address such breaches will include, where appropriate, a referral to the professional regulator or other relevant body.

Registered Care Managers should ensure that all carers are aware of this and other relevant policies and follow them.

N.B. Please note: If Registered in Wales, The Social Care Wales practice guidance relevant to your role includes additional and related guidance on Raising and Acting on Concerns. Whether working in England or Wales, you should be familiar with relevant policies and procedures for reporting concerns, e.g. Harassment and Bullying at Work Policy, Safeguarding Policy, Whistleblowing Policy, Equality and Diversity policies.

3. The Responsible Individual

There is a requirement on the Responsible Individual to act in an open and transparent way with our young people, their representatives and their placing authority.

4. What can go wrong with a young person's care and support?

In this policy, the duty of candour applies when something goes wrong with a young person's care or support that has, or has the potential to have, an adverse effect on the young person's well-being.

Things can go wrong even when services are well run and managed: the consequences can range from minor inconvenience to serious, even long term implications for a young person's life.

Things can go wrong as a result of action or inaction on the part of a social care professional or other member of the team and, whilst by no means an exhaustive list, might include:

- giving the wrong information
- losing an young person's belongings

- breaching confidentiality
- medication errors
- breaching organisational policy and guidelines, e.g. in the use of restrictive physical intervention
- equipment not used properly
- not passing on important information to a colleague or manager
- not acting on concerns raised by a young person
- inadequate standards of personal care
- not reporting safeguarding concerns that were witnessed or disclosed, etc.

4.1 Being open and honest with your manager

When something goes wrong with a young person's care and support, it is crucial it is reported at an early stage so that actions can be agreed, lessons can be learned and children and young people can be protected in the future. You must follow any Bryn Melyn Care policy relevant to what has happened, for example, health and safety, safeguarding, accident policy etc.

Similarly, you must be open and honest with your manager about 'near misses', i.e. incidents that had the potential to cause harm but did not do so. Such occurrences can provide important opportunities for learning and preventing harm in the future. If you are unsure about your role or how to proceed with dealing with a mistake or a 'near miss', you must seek assistance from your manager or another senior colleague, such as a Senior Care Practitioner or Deputy.

As a therapeutic care professional it is important that you are open and honest with young peopleⁱⁱ when something that goes wrong with their care or support has, or has the potential to have, an adverse effect on their well-being. Always seek advice from your manager, and potentially the young person's clinician first, in order that the information can be shared in a way which prioritises the young person's ability to safely accommodate the news.

This means that you must:

- be open and honest with your manager, and relevant organisations, and take part in investigations and reviews when required
- discuss and agree actions with your manager to put things right, including telling the young person what has gone wrong and apologising
- be open and honest with the regulatory bodies, raising concerns when appropriate
- support and encourage other professionals to be open and honest and to raise their concerns.

Following consultation with your manager, you must also:

- tell the young person (or where appropriate the young person's social worker, family or advocate) when something has gone wrong
- apologise to the young person (or where appropriate the young person's social worker, family or advocate)

- explain to the young person (or where appropriate the young person's social worker, family or advocate) the consequences of what has happened
- remind the young person (or where appropriate the young person's social worker, family or advocate) of their right to make a complaint
- involve the young person in deciding an appropriate remedy to put things right, where possible.

You must not obstruct or attempt to dissuade a colleague in raising their concerns.

4.2 Telling the young person and putting things right

When you realise that something has gone wrong you should do what you can immediately to put things right. **In agreement with your manager**, you or someone from your team should speak to the young person. In some cases, it may be helpful if your manager speaks to the young person with you. If you are unsure about who should speak to the young person, and at what point, you should get advice from your manager or an appropriate senior colleague.

You should share, sensitively and in language the young person can understandⁱⁱⁱ, all you know and believe to be true about what went wrong and why and what the consequences are likely to be. You should explain about any investigation taking place and when the outcome is likely to be known.

You should apologise to the young person about what happened. An apology does not amount to an admission of legal liability. The young person has the right to receive an apology from the most appropriate team member.

Where the event or incident in question gives rise to an allegation of impaired fitness to practise, it is relevant to note that, if working in Wales, a fitness to practise panel, may view an apology as evidence of insight, which will be to your credit. You should record the details of your apology in the young person's records.

You should involve the young person in deciding how to put things right where possible, recognising this may require more than one conversation and allowing the young person time to consider their options and take advice.

You should make sure the young person knows who to contact if they have any further questions or concerns, or wish to speak to someone more senior, or need support.

You should make sure they have information about how to make a complaint, independent advocacy and other support available. You should ensure children and young people are supported to access these channels, as necessary.

4.3 Learning from mistakes

You must take part in investigations and reviews of the standards and performance of your work and your team, actively working to improve the service. You must use supervision, appraisal and staff development opportunities to reflect on your practice and that of your team in order to learn and improve.

You must listen to the views and experiences of the children and young people you support and care for in your work and learn from them.

5 Additional responsibilities for managers and services.

If you are responsible for leading, managing, supervising, mentoring or supporting Care Practitioners and other therapeutic care professionals, you must promote openness and honesty as described in this policy and address any concerns. You must do all that you can to encourage an open and learning culture in the workplace.

If in Wales, you must promote awareness of the Code of Professional Practice by children and young people who use the service.

6 Induction and Training

As part of the staff induction, we will reinforce these values of fairness and transparency. The duty of candour will form part of the Safeguarding, Whistleblowing and Equality and Diversity Training.

ⁱ Definition of 'candour' as used in this policy - 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. Definition from Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry, 2013

ⁱⁱ In this policy, the term 'young person' refers to the person the social care professional supports or cares for in their work whether that be a child, young person or adult.

ⁱⁱⁱ This includes taking account of communication preference and need as well as the 'active offer' of services in Welsh

Revision History

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