



Review Sheet		
Last Reviewed 26 Mar '21	Last Amended 26 Mar '21	Next Planned Review in 12 months, or sooner as required.
Business impact	<p>MEDIUM IMPACT</p> <p>Changes are important, but urgent implementation is not required, incorporate into your existing workflow.</p>	
Reason for this review	Scheduled review	
Were changes made?	Yes	
Summary:	This policy sets out the process to follow to adhere to Regulation 20: Duty of Candour. It has been reviewed in light of the updated guidance for providers on the duty of candour. New policy statement, procedure and definition added in light of this and other minor content changes made. References also updated and link to new guidance added.	
Relevant legislation:	<ul style="list-style-type: none"> • Criminal Justice and Courts Act 2015 • The Care Act 2014 • The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 • Mental Capacity Act 2005 • Mental Capacity Act Code of Practice • The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2012 	
Underpinning knowledge - What have we used to ensure that the policy is current:	<ul style="list-style-type: none"> • Author: Care Quality Commission, (2021), <i>Regulation 20: Duty of candour</i>. [Online] Available from: https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-20-duty-candour#hide7 [Accessed: 26/3/2021] • Author: Royal College of Nursing, (2021), <i>Duty of candour</i>. [Online] Available from: https://www.rcn.org.uk/get-help/rcn-advice/duty-of-candour [Accessed: 26/3/2021] • Author: Department of Health and Social Care, (2015), <i>Statutory duty of candour for health and adult social care providers</i>. [Online] Available from: https://www.gov.uk/government/consultations/statutory-duty-of-candour-for-health-and-adult-social-care-providers [Accessed: 26/3/2021] • Author: NICE, (2018), <i>Decision-making and mental capacity - Guidelines NG108</i>. [Online] Available from: https://www.nice.org.uk/guidance/ng108 [Accessed: 26/3/2021] • Author: Care Quality Commission, (2021), <i>The duty of candour: guidance for providers</i>. [Online] Available from: https://www.cqc.org.uk/guidance-providers/all-services/duty-candour-guidance-providers [Accessed: 26/3/2021] 	
Suggested action:	<ul style="list-style-type: none"> • Encourage sharing the policy through the use of the QCS App 	
Equality Impact Assessment:	QCS have undertaken an equality analysis during the review of this policy. This statement is a written record that demonstrates that we have shown due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations with respect to the characteristics protected by equality law.	



1. Purpose

1.1 To set out the responsibilities of Inspiring Aspirations Plus Ltd T/A Inspiring Support under Regulation 20 of the Health and Social Care Act 2008 (as amended) to act in an open and clear way about Service User care and treatment.

1.2 To support Inspiring Aspirations Plus Ltd T/A Inspiring Support in meeting the following Key Lines of Enquiry:

Key Question	Key Lines of Enquiry
SAFE	S2: How are risks to people assessed and their safety monitored and managed so they are supported to stay safe and their freedom is respected?
WELL-LED	W1: Is there a clear vision and credible strategy to deliver high-quality care and support, and promote a positive culture that is person-centred, open, inclusive and empowering, which achieves good outcomes for people?

1.3 To meet the legal requirements of the regulated activities that {Inspiring Aspirations Plus Ltd T/A Inspiring Support} is registered to provide:

- | Criminal Justice and Courts Act 2015
- | The Care Act 2014
- | The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
- | Mental Capacity Act 2005
- | Mental Capacity Act Code of Practice
- | The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2012



2. Scope

2.1 The following roles may be affected by this policy:

- | All staff

2.2 The following Service Users may be affected by this policy:

- | Service Users

2.3 The following stakeholders may be affected by this policy:

- | Family
- | Advocates
- | Representatives
- | Commissioners
- | External health professionals
- | Local Authority
- | NHS



3. Objectives

3.1 Inspiring Aspirations Plus Ltd T/A Inspiring Support promotes a culture of being open, honest and transparent. Service Users are provided Support that is safe, effective and based on best practice. Where any incidents occur that may have the potential to cause harm, Inspiring Aspirations Plus Ltd T/A Inspiring Support will act in a timely manner, investigating, reflecting and learning to reduce the risk of reoccurrence.



4. Policy

4.1 To meet the requirements of the duty of candour, Inspiring Aspirations Plus Ltd T/A Inspiring Support must make public commitments to transparency, openness and fairness in relation to care and treatment of Service Users.

4.2 The relevant person must be notified in person as soon as possible and then this will be followed up with a written notification that includes:

- | A factual account of the incident
- | An apology
- | What further enquiries will be taking place
- | Confirmation of when an update will be provided
- | A further notification, including an apology and details of the outcome of any further investigations

4.3 Inspiring Aspirations Plus Ltd T/A Inspiring Support will encourage a culture of openness and transparency throughout Inspiring Aspirations Plus Ltd T/A Inspiring Support, by leading by example through their day-to-day actions and in their communications.

4.4 Inspiring Aspirations Plus Ltd T/A Inspiring Support will support employees at all levels to follow the commitment; ensuring that they are not obstructed to do so.

4.5 Inspiring Aspirations Plus Ltd T/A Inspiring Support will take action to remedy any incident of bullying and/or harassment related to duty of candour.

4.6 Jo Kerley will identify any notifiable safety incidents related to the duty of candour.

4.7 Any incident where an individual has been obstructed in carrying out their duty of candour will be investigated.



5. Procedure

5.1 Awareness of All Staff

- | All staff must be made aware of their personal responsibility to report incidents regardless of whether they are covered by the duty of candour
- | Each employee will be given the time to read and understand the policy and procedures that relate to duty of candour at the point of induction
- | Duty of candour will be discussed at one to one discussions, supervisions, appraisals and staff meetings
- | Staff will be reminded through these communications that attempts by other staff to prevent them from reporting incidents is bullying and/or harassment, and that they should report this immediately to their manager, or if the pressure is from their manager, a representative of Inspiring Aspirations Plus Ltd T/A Inspiring Support
- | Staff should be reminded that if they are unsure whether the incident is reportable, it should be reported anyway

5.2 Reporting

- | All staff must report incidents defined in this policy in written form in a clear, accurate way that becomes a permanent record using the Incident and Accident Reporting Form, even if a verbal report has been made
- | The report must be made to the person on duty and in charge of the service at the time of the incident
- | The person on duty then must formally report it to Jo Kerley if they are not the same person, as soon as possible

5.3 Make an Initial Assessment

Jo Kerley should:

- | Carry out an initial assessment of whether the report includes details of a notifiable safety incident under the regulation (see section 5.4 for more details). If the conclusion is yes, or borderline, continue with this procedure
- | Inform Nicholas Cook or their representative of the incident report and agree with them who is the most appropriate person to continue the procedure. If Jo Kerley takes over the role, they should continue the process using the following procedure
- | If it is considered the incident is not a notifiable incident under regulation 20, follow normal incident reporting procedures

5.4 Notifiable Safety Incidents

A notifiable safety incident must meet all three of the following criteria:

- | It must have been unintended or unexpected
- | It must have occurred during the provision of a regulated activity
- | In the reasonable opinion of a healthcare professional, already has, or might, result in death, or severe or moderate harm to the person receiving care (this will vary depending on the type of provider)

5.5 Notifying Relevant External Agencies

As with all incidents, it is of utmost importance that this policy is used alongside the relevant external notification procedures to:

- | Ensure that relevant agencies are notified; and
- | If an investigation is required, that there is an understanding of roles and responsibilities

5.6 Notifying the Relevant Person

- | One or more suitable representatives of Inspiring Aspirations Plus T/A Inspiring Support will deliver (as soon as possible and in person) a notification of the incident to the relevant persons
- | Inspiring Aspirations Plus Ltd T/A Inspiring Support must ensure that the relevant person is given the support they need when receiving the information. Depending on the needs of the individual, this could be the offer of an advocate or interpreter or other communication aids
- | There should be a written record taken of the notification in person which is kept securely by the



Registered Manager, along with any other notes that are taken

The Notification to the Relevant Person Must Include:

- | An accurate account of the incident
- | An apology that the incident occurred. An apology is not an admission of liability, but an apology for the harm caused, regardless of fault, supports the duty of candour requirements
- | An offer to the relevant persons of sources of support and information which will assist them, which may include, alternative support from within the organisation and external resources such as advocacy and information services should be offered where appropriate
- | Details of next steps including timings

5.7 Written Notification

As soon as possible after the notification in person, a written notification should be sent or given to the relevant person containing the same information as above, plus:

- | The results of any enquiries made since the notification in person
- | Any further timescales

5.8 Further Notifications to the Relevant Person(s)

- | The results of any further enquiries and investigations must also be given or sent in writing to the relevant person if they wish to receive them

5.9 Registered Manager's Enquiries and Investigation

- | Jo Kerley will assess the information they will need to carry out an investigation, taking statements and gathering information needed
- | Having gathered all the evidence, an investigation needs to take place
- | All information and evaluation of the information should be recorded and kept securely in line with data protection laws
- | The purposes of the investigation are to establish if the incident took place, define its nature, gather facts about the processes around the incident, and identify causes where possible

5.10 Final Statement to the Relevant Person(s)

- | Prepare a statement to be given to the relevant person and representative stating the outcome of the investigation, remembering duty of candour focuses on the transparency and openness of the organisation when such events occur
- | Include any lessons learned and changes made to the service because of the incident
- | The final statement should include a more specific apology as the causes of the incident should now be established

5.11 Correspondence with the Relevant Person

- | Where for any reason the relevant person cannot be contacted, or after contact declines to communicate with Inspiring Aspirations Plus Ltd T/A Inspiring Support, a written record of all attempts to contact them must be kept
- | All correspondence with the relevant persons must be recorded and kept securely
- | All correspondence should be written jargon free and where the need is identified, support from an advocate will be offered to ensure that the content is accessible to the individual receiving it
- | Reasonable support must be provided to the relevant person throughout the process

5.12 Breach of Candour by a Professionally Registered Person

- | If a breach of candour is found to have occurred following investigation, and that this breach was by a professionally registered person, then that person should be reported to their professional registration body for further consideration
- | The same action should be taken if, during the investigation, it is found that a professionally registered person had obstructed another person in their professional duty of candour

5.13 Reporting a Possible Breach of Candour

- | If any individual believes that a breach of candour has taken place, they must report this to Jo Kerley
- | If an individual has been stopped or hindered in their duty of candour, they must report this to Jo



Kerley

- | Jo Kerley will conduct an investigation into the allegations and report the findings to Inspiring Aspirations Plus T/A Inspiring Support for action if appropriate
- | If the allegation concerns Jo Kerley, the individual must report the matter to Inspiring Aspirations Plus T/A Inspiring Support directly, who will carry out the investigation and take any action which may be required
- | If the allegation concerns the actions of Inspiring Aspirations Plus T/A Inspiring Support, the individual must inform Inspiring Aspirations Plus T/A Inspiring Support and if action is not seen to be taken, the matter must be reported to the Care Quality Commission



6. Definitions

6.1 Notifiable Safety Incident

- | In relation to any other provider other than a Health Service Body - Regulation 20 (9) - in relation to any other registered person, "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:

Appears to have resulted in:

- | 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
- | 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
- | Changes to the structure of the Service User's body
- | The Service User experiencing prolonged pain or prolonged psychological harm
- | The shortening of the life expectancy of the Service User

6.2 Relevant Persons (from CQC Provider Guidance)

- | In Regulation 20, "relevant person" means the person using the service or, in the following circumstances, a person lawfully acting on their behalf:
 - | When the person using the service dies
 - | Where the person using a service is under 16 and not competent to make a decision in relation to their care or treatment, or
 - | Where the person using the service is 16 or over and lacks capacity to make decisions

6.3 Candour (from CQC Duty of Candour Guidance)

- | Any person who uses the service harmed by the provision of a service provider is informed of the fact and an appropriate remedy offered, regardless of whether a complaint has been made or a question asked about it

6.4 Moderate Harm

- | Harm that requires a moderate increase in treatment, including re-admission, prolongation of care, admission to hospital, referral to hospital as an outpatient, cancelling of treatment that is otherwise needed, or transfer to another specialist facility or treatment area
- | Moderate harm also includes significant but not permanent harm

6.5 Severe Harm

- | A permanent reduction of bodily, sensory, motor, psychological or intellectual functions, including procedures carried out on the wrong person, or wrong area of the body of the right person

6.6 Prolonged Psychological Harm

- | Psychological harm which a relevant person has or is likely to experience for a continuous period of at least 28 days

6.7 Transparency

- | Allowing information about the truth about performance and outcomes to be shared with staff, people who use the service, the public and regulators



6.8 Openness (CQC definition)

- | Enabling concerns and complaints to be raised freely without fear and questions asked to be answered

6.9 Reasonable Support

- | 'Reasonable support' will vary with every situation, but could include, for example:
 - | Environmental adjustments for someone who has a physical disability
 - | An interpreter for someone who does not speak English well
 - | Information in accessible formats
 - | Signposting to mental health services
 - | The support of an advocate
 - | Drawing their attention to other sources of independent help and advice such as AvMA (Action against Medical Accidents) or Cruse Bereavement Care

(CQC Definition)



Key Facts - Professionals

Professionals providing this service should be aware of the following:

- | Inspiring Aspirations Plus Ltd T/A Inspiring Support has a duty to be transparent and open about relevant person care and treatment
- | If things go wrong and a notable safety incident occurs, the relevant person needs to be notified in person as soon as possible and followed up by a written notification. These should both include:- The facts of what has happened- An apology- What the next steps are and timescales
- | It is everybody's responsibility to report incidents. Staff should report incidents on the form attached to the person in charge
- | Staff will not be stopped in reporting incidents, if staff are prevented or discouraged, this will be investigated
- | Inspiring Aspirations Plus Ltd T/A Inspiring Support will support staff if they need to be involved in a notifiable incident
- | Other staff may be asked to support the relevant person when they receive a notification if they are the best person to do this



Key Facts - People affected by the service

People affected by this service should be aware of the following:

- | The law says there are times Inspiring Aspirations Plus Ltd T/A Inspiring Support must tell you if things go wrong with your care or treatment, and you are hurt. The provider must tell you what has happened
- | When Inspiring Aspirations Plus Ltd T/A Inspiring Support tells you, they need to tell you certain things. These are the facts of what happened, what will happen next, and they should also give you an apology
- | Inspiring Aspirations Plus Ltd T/A Inspiring Support will offer you support to understand this, at the time they tell you, and throughout the process
- | You will receive a letter which may be given, or sent to you in the post which tells you the same information shortly after you are told. It will also give you any further dates or information that has happened since
- | You may get further information before the end of the process. It is up to you whether you want to have that information. Inspiring Aspirations Plus Ltd T/A Inspiring Support will respect what you want to do and make a note of it for their records
- | When the process has finished, Inspiring Aspirations Plus Ltd T/A Inspiring Support needs to tell you what happened, and what they are going to do to make it right



Further Reading

As well as the information in the 'underpinning knowledge' section of the review sheet we recommend that you add to your understanding in this policy area by considering the following materials:

AvMA - The Duty of Candour - The legal duty to be open and honest when things go wrong - What it means for patients and their families:

<https://www.cqc.org.uk/sites/default/files/Duty-of-Candour-2016-CQC-joint-branded.pdf>

AvMA, Action against Medical Accidents:

<https://www.avma.org.uk/>



Outstanding Practice

To be 'outstanding' in this policy area you could provide evidence that:

- 1 Even when the threshold for Regulation 20 is not met in regard to the level of harm caused to a relevant person, Inspiring Aspirations Plus Ltd T/A Inspiring Support uses the same procedure to notify relevant persons. Showing a greater level of transparency
- 1 Share the improvements made because of Notifiable Safety Incidents with relevant persons. This could be done to show greater transparency, but you would need to ensure that individuals' information was anonymised and only share the changes
- 1 The wide understanding of the policy is enabled by proactive use of the QCS App



Forms

The following forms are included as part of this policy:

Title of form	When would the form be used?	Created by
Incident and Accident Reporting Form - AR59	Any incident and/or accident	QCS
Initial Notification to Relevant Persons Regarding Duty of Candour - AR59	When a notifiable safety incident occurs and triggers Regulation 20 Duty of Candour	QCS

Accident and Incident Log and Investigation Record – Relevant Person

Name:	Date of birth:
Time and date of accident/incident:	
Precise location of accident/incident:	
How did the accident/incident happen (initial report)?	
Name of witness(es):	
Details of apparent injuries or harm (refer to policy definitions for clarification):	
What immediate action was taken?	
Reasons given for cause of accident/incident by relevant person:	
Reasons given for cause of accident/incident by witness(es):	
Report causes and recommended action by investigator:	
Signed (investigator):	
Designation:	
Date:	

Inspiring Aspirations Plus Ltd T/A Inspiring Support

Accident and Incident Log – Relevant Person – Management Review

AT THE TIME OF THE ACCIDENT/INCIDENT	
1. Was the relevant person accompanied?	Y/N
2. If accompanied, by whom?	
3. Was the accompanying person acting in accordance with policy, procedure and training?	Y/N
4. Was equipment provided for the processes, resulting in the accident/incident?	Y/N
5. Was the personal protective equipment being worn?	Y/N
If the answer to any of these questions is no, provide full details on a separate but attached sheet	
6. Did the relevant person require medical attention?	Y/N
If medical attention was required, please describe:	
Investigator's summary:	
Investigator's recommendations, including Care Plan changes:	
Signature: (investigator)	
Designation:	Date:
Relevant person informed by:	Date:
Insurance company informed by:	Date:
Reported to Management Meeting by:	Date:

Refer to Management Meeting Action Plan for planned outcomes arising from the investigation.

Suggested template initial notification letter. Transfer to your own letterhead, format and edit as required and where indicated.

[Date]

Dear [the relevant person],

Notification under the Duty of Candour Regulations

I am writing to you to inform you of an incident which has occurred involving you, [insert relevant person name]. The details of the incident, as they are known at the time of writing this letter are:

Date: _____

Time: _____

Location: _____

Nature of the incident: [describe the incident, not naming persons involved (other than the relevant person) if possible, taking into account the definitions of an "incident" as set out in the policy section of this policy and procedure.]

I am sorry that this has happened to you. I have begun the process of conducting an investigation into the incident.

As part of that investigation I expect to interview:

- [List people, by post or function, avoiding names if possible]

I will also be gathering the following information

- [List the information you are planning to gather and review only if relevant]

I will be making arrangements to support you during the investigation, and also in response to the effects this may have had on you. [Edit as appropriate, and detail the support to be offered].

I will give you further information by [state date] and will inform you if this date changes. This may only be interim information if I have not finished my investigations, in which case I will give you a predicted date for the end of the investigation.

If these target dates cannot be met because of issues which I am currently unaware of, I will contact you to let you know reasons for the delay, progress to date and revised dates.

Yours sincerely,

Registered Manager

An edited version of this letter can be used to make the final notification, by editing out the references to a pending investigation and support, and substituting the outcome of the investigation, and firming up on the apology in line with those conclusions.