



<b>OP</b>	<b>Duty of Candour Policy</b>	<b>1</b>
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		Last review date	Review Frequency	Next review date
Approved by policy committee		12 <sup>th</sup> December 2018	Annually	12 <sup>th</sup> December 2019
Website (yes/no)	No			

## Duty of Candour

Scotts Project Trust's (the Trust) understands that it must always act in an open and transparent way with service users and their representatives. This is reflected within the Statement of Purpose for each of its Services and in all of The Trust's relationships with its Service users and others involved in their care and/or support.

The duty of candour means the open communication of events (adverse incidents, complaints or claims) which result in moderate or severe harm to or the death of a service user whilst receiving care/support from the Trust.

The Trust 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



It is the responsibility of the relevant Senior Manager or a member of staff acting on the behalf of the Senior Manager to inform the CEO and the board of Trustees of the incident.

The Trust recognises that whenever an incident has occurred, which must be notified to the Care Quality Commission (CQC) (under Regulation 18 described above), it also has a responsibility to ensure that the relevant Senior Manager or a member of staff acting on the behalf of the Senior Manager:

1. Informs the service user and / or their representative(s) that the incident has occurred.
2. provides suitable support to the service user and others affected by the incident.
3. explains directly and in person to the service user and / or their representative(s) exactly what has happened.
4. gives a sincere verbal apology for what has happened, without admitting liability.
5. explains what is being done to investigate and learn the lessons from what has happened and further actions that might be taken.
6. undertakes to put in writing what has happened with an apology which states that the Trust is sorry for the suffering and distress resulting from the incident. (An apology is not an admission of liability.)
7. keeps 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 their representative(s).

Where the service user has given consent to their care and/or support the above actions will be directed at them personally and to others with their agreement. Where the service user has been unable to consent to their care and/or support, (following a decision specific mental capacity assessment) the actions will be followed through communication with their lawful representative(s) with the expectation that the service user will be involved as much as possible.

The Trust 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.



## **Training**

Staff training covers the Trust's ethos of openness and transparency, individual responsibilities to act in an open and transparent way and the procedures which The Trust will follow in exercising its duty of candour following incidents which fall within the scope of this policy.

## **Policy Statement**

This policy is intended to set out the values, principles and policies underpinning the Trust's approach to meeting its statutory requirement to be open and transparent with its service users and/or their representatives if it makes mistakes when providing care and/or support that result in their suffering moderate or severe harm, or death. The Trust understands that it must inform the Local Authority and the Charity Commission of any such incident and in addition to this, the Registered Services, St Peter's Row and the Supporting Independence Service, must notify 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.

### **Clarification of terms used**

1. In this policy reference is made to 'service user' which for the purpose of this policy refers to any person in receipt of services provided by the Trust.
2. Reference is made to the 'Senior Manager.' For clarification this includes the term 'Registered Manager' which is used for the Senior Managers of the CQC registered services; that is residential care at St Peter's Row, and Supporting Independence Service which is delivered at the Oaks and Willows. The Development Centre Senior Manager is an unregistered position.
3. Reference is made to 'Manager' which for the purpose of this policy refers to any other manager employed by the Trust.
4. Reference is also made to 'staff' which for the purposes of this policy refers to everybody who works in a paid or voluntary capacity for or on behalf of the Trust



5. Reference is made to 'the CEO' which for the purposes of this policy refers to the Chief Executive Officer employed by the Trust
6. The Senior Managers each have the role of a designated vulnerable adult protection lead within the Trust.

**Principal Care Quality Commission related legislation relevant to this Policy.**

- 1) Care Quality Commission (Registration) Regulations 2009 (as amended in 2015)- Regulation 18.**
- 2) Health and Social Care Act 2008 (Regulated Activities) Regulations 2014- Regulation 20: Duty of Candour.**