

Annex B CONSULTATION QUESTIONNAIRE

Question 1 :

Do you agree that the arrangements that should be in place to support an organisational duty of candour should be outlined in legislation ?

Yes x No

Staff providing care to people should fulfill a duty of candour at work. The proposed legislative arrangements would be more workable if they were less prescriptive and there was an option to determine the most proportionate response to take on a case by case basis.

Question 2:

Do you agree that the organisational duty of candour encompass the requirement that adequate provision be in place to ensure that staff have the support, knowledge and skill required ?

Yes x No

The requirement that adequate provision be in place to ensure that staff have the support, knowledge and skill required to report matters is useful. However, there will be associated resource issues and financial burdens for agencies to release staff from their core duties to be trained to learn their duty of candour role and responsibilities.

Question 3a: Do you agree with the requirement for organisations to publically report on disclosures that have taken place ?

Yes x No

Publically reporting on disclosures that have taken place seems reasonable, but further work may be needed to determine what level of harm types should be reported. Further detail in the associated duty of candour guidance and resources to support the process of notification, staff support and public recording will be of benefit to organisations. Introducing the process of publically reporting will introduce a new system and resources will need to be deployed to establish, sustain and operate the same systems.

Question 3b: Do you agree with the proposed requirements to ensure that people harmed are informed ?

Yesx No

Yes, people should be informed when adverse incidents happen to them.

Question 3c: Do you agree with the proposed requirements to ensure that people are appropriately supported ?

Yes x No

The proposed requirements will have both a practical and financial impact for organisations. Organisations will need to have suitable support arrangements in place to offer assistance to patients, service users, families and staff. If existing staff are used to support others or to attend support sessions themselves this will extract them from their core duties to provide a care service. Consequently, backfill arrangements for key service delivery staff will need to be considered, identified and made known to organisations.

Question 4:

What do you think is an appropriate frequency for such reporting ?

Quarterly Bi-Annually Annually x Other (outline below)

This would be a manageable and proportionate reporting time – scale for the harm categories noted.

Question 5:

What staffing and resources that would be required to support effective arrangements for the disclose of instances of harm ?

Each disclosure of harm dependent on its severity, context and each person's response will vary as will the associated time it takes to conclude. This expected variable from one case to another has implications for organisations' resources and how these will be deployed.

The anticipated staffing and resource implications are:

- Delivery duty of candour training would include a facilitator(s) and venue hire;
- Backfill of staff for staff attending duty of candour training;
- Employing / contracting counselling services to offer support to patients; service users; families and staff;
- Administrative staff regarding administrative processes;
- Required software for recording and reporting on the frequency and number of disclosures.

The idea of complete openness and transparency is viewed as a laudable principle but it is suggested that this has the potential to lead all local authorities not just West Lothian Council into a position of increased numbers of claims being received. There is an argument that although an increase could be expected, this would potentially be offset by a reduction in

legal costs with matters being settled more quickly. It will be difficult at this stage for insurers to determine the impact should this be forced upon them but if loss experiences deteriorated it would be expected that they will respond with policy changes in the coming years.

The concept of issuing an apology and full explanation following an event is fine in itself but it is expected that any correspondence being issued would have to be thoroughly reviewed as there is a fine line between showing *empathy & transparency* and *admission of liability*. It will be important for the council from a legal and an insurance perspective not to cross that line. There will be cost and resource implications in reviewing correspondence from a legal and insurance perspective.

It is also not clear where liability would lie for commissioned resources.

Question 6a:

Do you agree with the disclosable events that are proposed ?

Yes No x

The disclosable events numbered 9.9, 9.10 and 9.11 are clear. The other disclosable events 9.12, 9.13, 9.14 and 9.15 are less clear and open to being interpreted differently from one individual to another. This makes them more difficult to work with and be applied consistently across and between agencies.

Question 6b: Will the disclosable events that are proposed be clearly applicable and identifiable in all care settings ?

Yesx No

With the assistance of further guidance and training this should be achievable within organisations.

Question 6c:

What definition should be used for 'disclosable events' in the context of children's social care?

All work with children focuses on ensuring their needs are met and balancing the risk of intervention against the risks of not intervening. It is therefore difficult to think of a definition of a disclosable event.

Question 7

What are the main issues that need to be addressed to support effective mechanisms to determine if an instance of disclosable harm has occurred ?

Implementing systems and clear thresholds for staff to identify harm and to

promptly report it.

Question 8:

How do you think the organisational duty of candour should be monitored ?

Without guidance to provide further definition about this it is difficult to provide a response.

Question 9:

What should the consequences be if it is discovered that a disclosable event has not been disclosed to the relevant person ?

Support and refresher training to staff. The implementation of a continual improvement action plan by organisations.

End of Questionnaire