

Is sorry the hardest word?

Jo Wren

Lead Regional Liaison Adviser

Openness and honesty when things go wrong: the professional duty of candour

The professional duty of candour¹

Every healthcare professional must be open and honest with patients when something that goes wrong with their treatment or care causes, or has the potential to cause, harm or distress. This means that healthcare professionals must:

- tell the patient (or, where appropriate, the patient's advocate, carer or family) when something has gone wrong
- apologise to the patient (or, where appropriate, the patient's advocate, carer or family)

About this guidance

- 1 All healthcare professionals have a duty of candour – a professional responsibility to be honest with patients² when things go wrong. This is described in *The professional duty of candour*, which introduces this guidance and forms part of a joint statement from eight regulators of healthcare professionals in the UK.
- 2 As a doctor, nurse or midwife, you must be open and honest with patients, colleagues and your employers.

Candour



any patient harmed by the provision of a healthcare service is informed of the fact and an appropriate remedy offered, regardless of whether a complaint has been made or a question asked about it.

Why apologise?



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'No apology' tops patient complaints

22 September 2015 | Health



Not getting a good enough apology when things go wrong is the most common complaint escalated by NHS patients in England, figures show.

Why not apologise?



After a US state passed a law encouraging doctors to apologize (by making such apologies inadmissible in court), that state's malpractice cases settled 19-20% faster, and there was a 16-18% reduction in the number of claims filed in the first place. The most severe cases were the ones most likely to settle quickly.

To win a negligence claim you must prove

- the doctor owed you a duty of care (it is unlikely that this will be in dispute)
- that they breached that duty by providing you with unacceptable care and
- that the breach caused damage to you.

Just because your doctor has said sorry or an apology was made doesn't necessarily mean that you will win your case. In fact doctors are expected to express regret in certain circumstances and it is not necessarily the case that this is the same as an admission of liability.

In what circumstances does the duty of candour apply?

- 8** This guidance is not intended for circumstances where a patient's condition gets worse due to the natural progression of their illness. It applies when something goes wrong with a patient's care, and they suffer harm or distress as a result. This guidance also applies in situations where a patient may yet suffer harm or distress as a result of something going wrong with their care.

Informed consent

You must tell patients if an investigation or treatment might result in a serious adverse outcome, even if the likelihood is very small.

(Consent : patients and doctors making decisions together Para 32)

Serious adverse outcome

An adverse outcome resulting in death, permanent or long-term physical disability or disfigurement, medium or long-term pain, or admission to hospital; **or other outcomes with a long-term or permanent effect on a patient's employment, social or personal life.**



Diabetic
Small
Pregnant

CQC inspections – Regulation 20

Are people who use services told when they are affected by something that goes wrong, given an apology and informed of any actions taken as a result?

Does the culture encourage candour, openness and honesty, with regular meetings and a culture of challenge and debate?

CQC Regulation 20

- Notifiable safety incident:
- 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 to 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.

"severe harm" means a permanent lessening of bodily, sensory, motor, physiologic or intellectual functions, including removal of the wrong limb or organ or brain damage, that is related directly to the incident and not related to the natural course of the service user's illness or underlying condition

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 re-admission, a prolonged episode of care, extra time in hospital or as an outpatient, cancelling of treatment, or transfer to another treatment area (such as intensive care);

psychological harm which a service user has experienced, or is likely to experience, for a continuous period of at least 28 days;

You see a colleague's patient for a 6 week check-up after a squint operation. The patient complains that their double vision has not improved. Prior to the operation you see in the notes that the doctor spoke to the family about the risk and benefits and provided a copy of the patients' leaflet about squint operations.

A patient with a long term and deteriorating heart condition is admitted for an unrelated operation. They suffer heart failure and die in hospital shortly after the operation.

A patient catches the Norovirus from an infection traced back to your waiting room.

An ambulance with a frail and elderly patient is initially directed to the wrong hospital by the practice receptionist. The patient is delayed by 45 minutes but there are no serious implications for their care. The patient is unaware of what has happened.

A drug prescribed for a patient produces an unexpected and previously undocumented reaction causing pain and breathing difficulty for the patient.

You are about to speak to a patient whose recent scan shows that they have secondary cancers which you expect to prove terminal. Shortly before you speak to them the radiologist tells you that she has re-examined the scan taken 6 months earlier, which at the time was reported to be clear, and noticed a small shadow on one of the lungs. Discussing this with the radiologist you agree that this makes no difference to the patient's prognosis.

Something has gone wrong

What things should you consider and cover when speaking to a patient/those close to them?





22 Aug 2014 13:33

2 ↑

I may be an awkward bugger here. But when I made a complaint about my mental health team, I got an apology, and nothing changed. I'd've been happier with the other way around - stuff the empty words and fake feelings, and actually put things in place so the problems didn't happen again. I don't want mouth-noises; I want action.

Closing the loop – feedback





Read Good medical practice (2013) ▶

Read the explanatory guidance ▶

0-18 years ▶

Accountability in multi-disciplinary and multi-agency mental health teams ▶

Acting as a witness in legal proceedings (2013) ▶

Confidentiality ▶

Consent guidance ▶

You are here: [Home](#) > [Good medical practice](#) > [Read the explanatory guidance](#) > [Openness and honesty when things go wrong](#) > [Encouraging a learning culture by reporting errors](#) > **The organisational duty of candour**

The organisational duty of candour

32 All healthcare organisations have a duty to support their staff to report adverse incidents, and to support staff to be open and honest with patients if something goes wrong with their care. Each of the four UK governments has considered ways to implement the organisational duty of candour, with some writing it into law (see [appendix 2](#)).

33 If systems are not in place in your organisation to support staff to report adverse incidents, you should speak to your manager or a senior colleague. If necessary, you should escalate your concern in line with our guidance on raising concerns.[32](#), [33](#)

← [Additional duties for doctors, nurses and midwives with management responsibilities and for senior or high-profile clinicians \(paragraphs 29-31\).](#)

[Appendix 1: Extracts from GMC and NMC guidance that are referenced in this guidance.](#) →



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Takeaway points and feedback

Be aware of
GMC and CQC
thresholds



Document
everything!

Encourage trainees to note reflection and learning from errors



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GMC guidance

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The GMC has a statutory role to provide guidance to doctors on medical ethics.

- **Consent**
- **Confidentiality**
- **Good Medical Practice (0-18 years)**
- **Personal Beliefs and Medical Practice**
- **Conflicts of Interest**

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Contact us

WWW **Website:** www.gmc-uk.org



Email: jwren@gmc-uk.org



Phone: 0161 923 6823



Twitter: [@jowren1](https://twitter.com/jowren1)

GMC Confidential helpline: 0161 923 6399