



# Fisherton Early Years Duty of Candour Policy Statement

# Duty of Candour Policy Statement

This policy outlines how Fisherton Early Years Centre meets the obligations introduced by the Health (Tobacco, Nicotine etc.) and Care (Scotland) Act 2016 and Duty of Candour Procedure (Scotland) Regulations 2018. The Nursery has a duty to protect the health, safety and welfare of all users and employees as well as a duty of care. In addition to this the prevention and control of infection is essential in helping to establish a safe and secure environment in which children can learn and develop through play.

## Aims

The aims of this policy are to ensure that we, as an Early Learning and Childcare setting are complying with the legal requirement/expectation of the Health (Tobacco, Nicotine etc.) and Care (Scotland) Act 2016 and Duty of Candour Procedure (Scotland) Regulations 2018. By implementing the detail of this legislation means that we are responding, recording and communicating with our service users about any serious incidents that we may experience within our setting.

## What is Duty of Candour?

The duty of candour is about what happens if there is an unintended or unexpected incident within an organisation that results in death, severe harm, or other serious consequences specified in the act. The focus of the duty of candour legislation is to ensure that Early Years settings take specific steps when a serious adverse event happens. They will need to let the people affected know, offer to meet with them, and apologise. This is an important part of being open with people who experience care, and also learning from things that go wrong. Settings must, by law, produce a short annual report showing their learning from any incidents that year, publish it and notify Care Inspectorate that it has been published.

## When is Duty of Candour activated?

Early Years Settings must activate the duty of candour procedure as soon as reasonably possible after becoming aware that an individual has been subject to an unintended or unexpected incident occurred in the provision of the nursery care, and in the reasonable opinion of a registered health professional has resulted in or could result in:

- death of the person
- a permanent lessening of bodily, sensory, motor, physiologic or intellectual functions
- an increase in the person's treatment
- changes to the structure of the person's body
- the shortening of the life expectancy of the person
- an impairment of the sensory, motor or intellectual functions of the person which has lasted, or is likely to last, for a continuous period of at least 28 days
- the person experiencing pain or psychological harm which has been, or is likely to be, experienced by the person continuous for a period of at least 28 days

- the person requiring treatment by a registered health professional in order to prevent the death of the person. Or any injury to the person which, if left untreated, would lead to one or more of the outcomes mentioned above.

It is important to note that where the duty of candour procedure start date is later than one month after the date on which the incident occurred, an explanation of the reason for this has to be provided to the relevant person.

## **Procedures**

If the nursery staff believe that an incident has occurred which may trigger the duty of candour, they will report it to the Head Teacher or designated staff member immediately, or as soon as they realise it may be such an incident, who will inform their QIO and the Central Early Years Team. The Head Teacher shall be responsible for managing the duty of candour from that point. They will: Obtain a viewpoint from a registered health professional as to the incident and its relationship to the harm that was caused. The Head Teacher should ensure this viewpoint covers the following questions: - What was the incident? - What was the outcome? - What illnesses and underlying conditions did/does the person have? - Does it appear that this incident resulted in or could result in the death or harm, caused? - Does the natural course of the person's illness or underlying condition directly relate to the death or harm described?

- If the registered professional's view is that the incident appears to have resulted in, or could result in harm caused, the Head Teacher will:
- Record the date this view is given as the procedure start date
- Notify the parents/carers of the child as soon as reasonably practical, and ideally within 10 working days of the procedure date. The notification should include:
- An account of the incident and all the facts the school is aware of
- An explanation of the actions that the school will take as part of the duty of candour procedure
- An apology for the incident
- An invitation to meet the person or their parents/carers if they want to ask any questions.

Meet with the parents/carers of the child to discuss the incident. Provide a note of the meeting which should include when and where the meeting took place, a record of the apology, and any timescales that were agreed.

Co-operate fully with a review of the circumstances which led to the incident, led by an Aberdeenshire Council Officer, within three months of the procedure start date. A written report of this review will be sent to the parents/carers of the child.

- Inform Care Inspectorate about the report and actions from this.

An annual report will be written at the end of March which includes information about the number of nature of incidents to which duty of candour applies (ensuring anonymity).

## **Training**

All staff have completed the following training and revisit it annually. NHS Education for Scotland (NES), Duty of candour: openness and honesty when things go wrong, 18/08/2022. (refresher during in-service day)

## **Policy Review**

This policy will be reviewed regularly and in response to accident, incident or change in National or Local policy or guidance. Date of Issue: March 2022 Date of Review: March 2023 Policy Author: Avril Foakes (PT)

## **References**

NHS Education for Scotland, The Duty of Candour - Procedure, Factsheet 1

NHS Education for Scotland, The Duty of Candour - Apology, Factsheet 2

NHS Education for Scotland, The Duty of Candour - Monitoring and Reporting, Factsheet 3

## **Health and Social Care Standards**

4.4 "I receive an apology if things go wrong with my care and support or my human rights are not respected, and the organisation takes responsibility for it's actions."

## **SSSC Codes of Practice**

Employees – 2.1 Be truthful, open, honest and trustworthy

Employers – 4.2 Have procedures in place for social service workers to report when care has caused, or may have caused physical, emotional, financial, or material harm or loss

## **Wellbeing Indicator**

Safe, Included, Respected and Responsible

## **UNCRC**

Article 69 – "You have the right to help if you have been hurt, neglected or badly treated