

Easy Read



Llywodraeth Cymru  
Welsh Government

# Duty of Candour

We want to know what you think about  
a new law coming to Wales



This document was written by the Welsh Government. It is an easy read version of '**Consultation on the Statutory Guidance and Regulations required to implement the Duty of Candour**'.

August 2022

# How to use this document



This is an easy read document. But you may still need support to read it. Ask someone you know to help you.



Words in **bold blue writing** may be hard to understand. You can check what all the words in blue mean on **page 75**.



Llywodraeth Cymru  
Welsh Government

Where the document says **we**, this means **Welsh Government**. For more information contact:

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# Introduction



There is a law in Wales called **Health and Social Care (Quality and Engagement) (Wales) Act 2020**.



There are new parts to this law called **Duty of Candour**.

**Duty of Candour** means organisations like the NHS have a **duty** to be **open** and **honest** with people they are caring for when things go **wrong**. And they should try and put things right if they have caused harm.



Part of **The Health and Social Care (Wales) Act 2020** places a **Duty of Candour** on the NHS.



This means the NHS must be open and honest with the people they are caring for when things go wrong.



We will be talking more about what **Duty of Candour** means throughout this document.



We want to know what you think about this duty and the parts of the law that go with it.



There are questions after each section in this document.



Please answer the questions and send your answers back to us by **7 December 2022**:



**By email:**

[HSCQualityandEngagement@gov.wales](mailto:HSCQualityandEngagement@gov.wales)

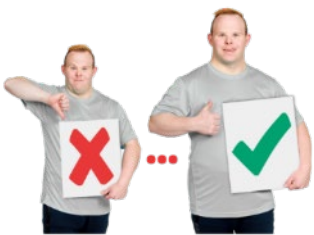


**By post:** Population Healthcare Division  
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CF10 3NQ

# More about the Duty of Candour



The goal of **The Health and Social Care (Wales) Act 2020** is to improve health and well-being in Wales.



When organisations are open and honest about the mistakes they make, they often improve.



They learn from what went wrong and try and do things better.



But when they hide mistakes, things often do not change or get better.



The main goal of the **Duty of Candour** is to make organisations more open and honest when they make mistakes.



And to make sure they are open with people in their care who have come to any harm.



We think this will help organisations like the NHS make better decisions.



And will mean better care for people.



A **Duty of Candour** is already in place in social care.



The new law will mean it applies to the NHS from **2023**. And other health care providers in **2024**.

## When should the Duty of Candour be used



There is **statutory guidance** that goes along with the **Duty of Candour**. It is a document that explains how to follow the **Duty of Candour**.



The guidance will help organisations like the NHS understand what the law means.



And it gives examples of situations when the law would apply.

The **statutory guidance** says that the **Duty of Candour** will apply when:



- a person getting care has suffered in some way, or might suffer
- and the reason they suffered may have been because of their care.



It is to do with something bad that was not **expected** to happen. And was not **meant** to happen.



So, **Duty of Candour** applies when something bad has happened to someone because of the care they were given. **Not** because of their illness.

### Question 1

Is the **statutory guidance** clear about **when** the **Duty of Candour** is applied?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



## Helping organisations understand when the Duty of Candour should be used



These are questions organisations will need to ask to see if the **Duty of Candour** applies.



### 1. Has the organisation provided care to the person?

If the answer is **yes** it might apply.



### 2. Has the person had a bad experience?

If the answer is **yes** it might apply.



### 3. Could the care that was given be a reason for the bad experience?

If the answer is **yes**, the **Duty of Candour** does apply.



**But** the organisation will also need to think about the **level of harm** caused to the person.

## Levels of harm



If there has been no harm or a very low amount of harm the **Duty of Candour** would **not** apply.

Some examples of a very low level of harm are:



- The person needed some extra medicine



- the person needed first aid

- The person fell and needed a small amount of treatment.

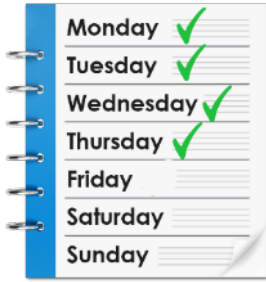


- The person had to stay in hospital for another 1 to 3 days



If there was a higher level of harm the **Duty of Candour** would be applied.

Some examples of a higher level of harm are:



- The person had to stay in hospital for 4 or more days.
- Treatment was cancelled or delayed.
- The person had to go into hospital for a stay that was not planned.
- The person needed another type of care or treatment.
- The person experienced harm that could have been avoided.
- The person experienced permanent harm to their health.
- The person died.



## Question 2

Do you think the levels of harm make it clear when the **Duty of Candour** should be used?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



In the section above we talked about different types of harm.



We said that if there is only a small amount of harm the **Duty of Candour** would **not** apply.



But if there was any more harm than this then it would apply. We call these types of harm;

- **moderate harm**
- **severe harm**
- and **death**.

### Question 3



Do you agree that the **Duty of Candour** should be used when someone experiences **moderate** or **severe harm**, or **death**?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



## Question 4

Do the different levels of harm make sense?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:

## An example of harm to a person



Here we have given an example of a situation and what we mean by harm.

The **Duty of Candour** can also be used where the person **could** experience harm.



A person with a learning disability was living with their family.



They had an assessment and were told they needed some new **manual handling equipment**.

**Manual handling equipment** helps people move around. For example, a hoist.



The equipment was not ordered for them for a long time.



At their next review the person had suffered a lot of falls and broken their wrist.



The **Duty of Candour** **would** be used in this situation. This is because the delay caused the person a lot of harm.



### Question 5

Is this example helpful in understanding what is meant by the harm someone could experience?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



### Question 6

Is the example useful in helping you to understand what the **Duty of Candour** is?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:

# Is the Duty of Candour new for the NHS?



Many parts of the NHS already follow rules that are like the **Duty of Candour**.



They already follow rules that they should be open and honest when things go wrong.



But we believe this new law will make rules like these stronger.



It will help staff to speak up when things go wrong.



And it will mean everyone across the NHS will have to work in the same way.



### Question 7

Is it clear that there are rules that some NHS staff have to follow already. And that **all** NHS staff will have to follow the **Duty of Candour**

**Yes**

**No**

**Don't know**

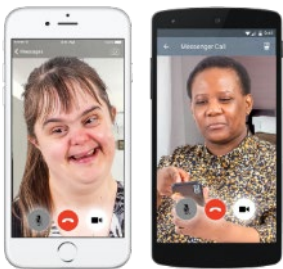
Please add any other thoughts you have in the box:

## Telling the person what has gone wrong



When the **Duty of Candour** applies, the NHS staff will need to speak to the person who has been affected.

They will need to speak to them in person.  
This means:



- Face to face
- On the telephone
- Or through a video call



It is important that the person is **not** contacted first by letter.



If the person does not answer the phone, they should **not** leave a message.



It is important that the person speaks to someone.



The NHS should think about the best way to speak to that person.

They should think about the situation. And the person's needs.



### Question 8

Is it clear what needs to be done to contact the person?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:

# The Duty of Candour process



When the **Duty of Candour** applies, the NHS will need to do these things:

- Contact the person
- Explain what has happened
- Say sorry
- Say what will happen next
- Offer support
- Give contact details
- Then write to the person with all the details within 2 days



The situation will then be **investigated**.

**Investigated** means people will look into what happened and say what needs to happen to stop it from happening again.



It is also important to write everything down and keep records of what is being done.



### Question 9

Is it clear what the NHS must do when the **Duty of Candour** applies?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:

## Who is responsible?



The NHS is a very large organisation in Wales. There are lots of different parts to it. For example:

- Local Health Boards
- Primary Care providers. For example, GP's, dentists and pharmacists.
- NHS Trusts. For example, the Welsh Ambulance Services Trust.



Sometimes one part of the NHS will carry out care on behalf of another part.

For example, a local health board could arrange for a GP to provide care to a patient.



It is the GP who would be responsible for the **Duty of Candour**.



But if the NHS arranges care outside of the NHS, the NHS would still be responsible. For example, if the NHS arranges for a private ambulance to take someone home, the NHS is still responsible.



**Question 10:**

Is the guidance clear on who is responsible?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:

## Question 11



Is it clear what the responsible organisation will need to do when the **Duty of Candour** applies? There was extra information about this on page 22 and page 24.

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:

## Waiting lists



There are many people waiting for NHS treatment and care on waiting lists.



This has become worse because of the coronavirus pandemic.



If you are on a waiting list, it usually means you have been referred by a medical professional and have already been provided with some health care.



This means that the **Duty of Candour** could be used if you are on a waiting list and have experienced harm.



For the **Duty of Candour** to be used, the harm must be **unintended** or **unexpected**.



We know that many people on waiting lists will experience some harm. They are waiting for the treatment they need. This harm is **not** unexpected. The **Duty of Candour** would not be used.



But if a person was missed off the waiting list, or was not placed on the list correctly, this might cause **unintended** harm. The **Duty of Candour** could be used in this situation.



It is not always clear when people are on waiting lists who will be responsible for the **Duty of Candour** if it is needed.



This is because the referral may have been made by a GP. But the GP is not responsible for the waiting list.



The hospital is responsible for waiting lists. But they have not provided any health care yet.



All NHS organisations should work together to make sure the **Duty of Candour** is followed when needed in these situations.

### Question 12

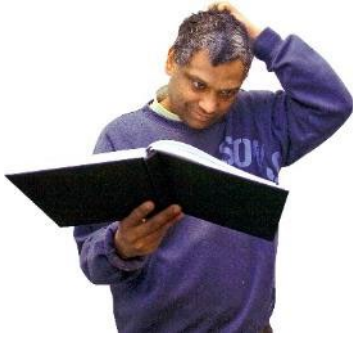
Is it clear **when** the **Duty of Candour** should be used when people on waiting lists experience harm?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



### Question 13

How can we make what happens when people on waiting lists experience harm clearer?

# Reporting



The NHS will need to write reports every year on whether the **Duty of Candour** has been used.

## The reports will need to:



1. Say how often the **Duty of Candour** has been used.

2. Describe what has happened.



3. Show what was done and say how they plan to stop it happening again.



4. Local Health Boards must write 1 big report. It will be based on information given by Primary Care providers.



5. Local Health Boards, NHS Trusts and Special Health Authorities must write a report every year.



6. People's personal information must **not** be included.

7. The report must be written and made available for everyone to read.

### Question 14



Is it clear what NHS organisations have to do about reporting?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:

## Question 15



Is it clear what the reports will need to say?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:

## Dates for reporting



We do not want the **Duty of Candour** to create unnecessary extra work. So, **Duty of Candour** reports will be done with the Putting Things Right reports.



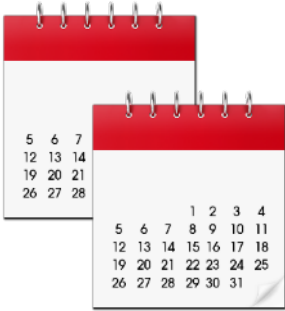
To make sure Local Health Boards have time to write their reports, they will need to get all the information they need in time.



Primary Care providers will need to give them their information by 30 September every year.



The final reports will be available by 31 October.



## Question 16

Do you think getting information by 30 September, and writing the final report by 31 October will work ok?

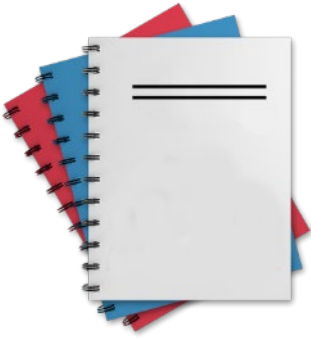
**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:

### Question 17



The NHS must already write similar reports at different times of the year.

Do you think it would be better if reporting on the **Duty of Candour** was done as part of the other report? Rather than having extra ones to write?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:

## What happens when a person is contacted?



When the **Duty of Candour** applies, the person who has been affected must be contacted.



The person should be contacted straight away. Not at the end of an **investigation**.



It is ok to contact a person who is acting on someone's behalf. For example, a family member, if that has been agreed.



It is important to follow laws about keeping people's information private.



The NHS will need to decide who is the best member of staff to get in contact with the person.



They should have enough experience and be able to answer questions about the **Duty of Candour**.



They need to say sorry about what has happened. And explain what will happen next.



They also need to offer any support the person might need.

### Question 18



Is it clear **when** the NHS needs to contact the person affected?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



The person affected must be contacted.  
But the NHS can contact someone acting  
on their behalf if:



- The person has died



- The person does not have **capacity**

If someone does not have **capacity**, it means they may not be able to make their own decisions. Or they may need help with making some decisions.



- The person has asked for someone else to act on their behalf.



They should be contacted straight away.  
Not at the end of an **investigation**.



### Question 17

Is it clear about **when** to contact someone on a person's behalf?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



Sometimes, a person may not want to talk with the NHS about the **Duty of Candour**.



If this happens, the NHS needs to write up everything they have done to contact the person.

### Question 18



Is it clear what the NHS needs to do if the person does not want to be contacted?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



### Question 19

Do you think the guidance talks enough about the needs of the person as well as what the NHS must do?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



## Question 20

Do you think it is important to contact someone in person? This means either face to face or by phone. **Not** by letter.

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



When contacting someone, the NHS will need to think about:

- What has happened
- The harm caused
- The needs of the person



### Question 21

Do you agree that the NHS should think about these things before contacting someone?

**Yes**

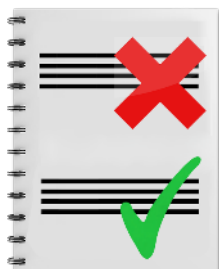
**No**

**Don't know**

Please add any other thoughts you have in the box:



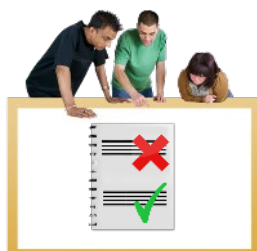
It is important that the NHS says sorry to the person who has been affected.



The NHS should mean what they say. And try and put things right.



The NHS must think about how the person has been affected.



And do something to make sure these things will not happen again.



There is guidance in place to help staff say sorry in the right and best ways.



All apologies should be written up.



## Question 22

Do you think there is enough information to help make sure staff say sorry in the best way?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



### Question 23

Do you agree that the situation should be written up after the person has been spoken to?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



The written record should be sent to the person within 2 days after they have been contacted.

### **Question 24**

Do you agree with this time?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:

# Training



Training will be put in place to help NHS staff know about the **Duty of Candour**.



It will make sure staff know when the duty applies, and what needs to be done.



They will be given the skills they need to follow the duty.



Staff who are involved with care and treatment will need to be trained.



Staff who have to deal with difficult situations will need to be trained.



And staff who will be contacting people about the duty will need to be trained.



## Question 25

Do you think all the right staff are being trained?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



### Question 26

What other training do you think staff might need?



### Question 27

Do you think there is the right amount of support for staff?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:

## How the duty will be managed in the NHS



NHS organisations will need to decide on a person to be responsible for the **duty or candour**.



There are slightly different rules in place for who this person can be. It depends on which part of the NHS it is.



But it is important to make sure the person responsible can make sure the rules are followed.



The NHS must keep information private where needed. It must think about the law to do with handling information. This is called **GDPR**.



### Question 28

Do you think the rules about who must be responsible are helpful for the NHS?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



### Question 29

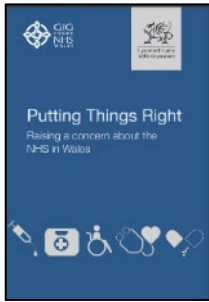
Do you think these rules will help the NHS provide the right amount of leadership?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



The NHS must follow a set of rules called **Putting Things Right**.



**Putting Things Right** has a lot in common with the **Duty of Candour**. They are about patient safety.



We want the **Duty of Candour** start date to be the date the organisation first realised **Duty of Candour** should be used.



They must then make contact face to face or over the phone with the person. And follow the **Duty of Candour** process.



### Question 30

Do you agree that the start date for the **Duty of Candour** process, should be the date when staff first realised **Duty of Candour** should be used?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:

# Changes to the Putting Things Right Regulations



The **Duty of Candour** has a lot in common with **Putting Things Right**. Sometimes these laws will work together and impact one another.



Because of this some changes will need to be made to **Putting Things Right**, to make sure they work with the **Duty of Candour**.



For example, **Putting Things Right** says that you can decide **not** to tell someone if harm was caused if it is in their best interest.



The NHS would still need to write up details of this. And say why they decided not to tell the person.



Now **Putting Things Right** says that the person must be told if something went wrong with their care, and **Duty of Candour** is being used.



But they do not need to be involved in the process or the **investigation**, if that is what is best for them.



Usually, people will be involved in **investigations**. But sometimes this may cause more stress or harm.



### Question 31

Do you think changing the **Putting Things Right** rules like this will cause problems?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box.



For example, do you think it would be better to **not** tell the person what has happened **if** it is in their best interest?

## Question 32



Is it clear how the **Duty of Candour** and **Putting Things Right** work together?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:



There are some other changes to **Putting Thing Right**.



For example, changing the timing of reports so both **Putting Thing Right** and the **Duty of Candour** match up.



**Putting Things Right** has also needed to be updated for other reasons.



For example, so that they are up to date with laws about keeping information.



### Question 33

Do the changes to **Putting Things Right** make sense?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:

### Question 34



Do you think the changes will be enough to help **Putting Thing Right** and the **Duty of Candour** work together?

**Yes**

**No**

**Don't know**

Please add any other thoughts you have in the box:

## Treating people equally and fairly



We have given a lot of thought to the effects the **Duty of Candour** may have on different groups of people.

For example:



- Disabled people
- People of different ages
- People with certain health conditions



We believe the **Duty of Candour** will not affect any groups differently.



But we do think disabled people or older people may be affected by the **Duty of Candour** more often.



This is because these groups are more likely to need health services.



But this is a good thing. Because the **Duty of Candour** will give these groups more protection.



### Question 35

What do you think about how the **Duty of Candour** could affect different groups of people?

# The Welsh language

## Question 36



Do you think the **Duty of Candour** will have any effect on the Welsh language? For example, on it being treated in the same way as the English language.

Please write your views in the box:

## Question 37



Do you think the **Duty of Candour** could have a good or bad effect on the Welsh language?

Please write your views in the box:

### Question 38



If there is anything else you would like to add about anything we have not covered please write it in the box:



Thank you for answering these questions.

Please send them back to us by:



**Email:**

[HSCQualityandEngagement@gov.wales](mailto:HSCQualityandEngagement@gov.wales)



**Post:** Population Healthcare Division  
Health and Social Care Group  
Welsh Government Offices  
Cathays Park  
Cardiff  
CF10 3NQ

# How we use your information



We use your information by following a law called **UK General Data Protection Regulation (UK GDPR)**



Our staff will be able to see your answers. Sometimes we ask other organisations to help us understand people's answers. So, they may see your information too.



We normally publish a report showing the kinds of things people said.



Sometimes this means people's personal details are included. Please tell us if you do not want your personal information included.



If you are in our report the information could be available for a long time. But information that is not published is only kept for 3 years.



The data protection laws give you the right to:

- Know what information we have about you and how you can see it.
- Make us change any mistakes in the information about you.
- Ask us not to use the information in some cases.
- Ask us to delete the information we have about you in some cases.
- Move the information about you somewhere else in some cases.
- Complain to the Information Commissioner's Office.

If you would like to know more about how your information is kept and used please contact us at:



**Post:** Data Protection Officer  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ



**E-mail:** [Data.ProtectionOfficer@gov.wales](mailto:Data.ProtectionOfficer@gov.wales)

You can also contact the **Information Commissioner's Office:**



**Post:** Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF



**Phone:** 01625 545745 or 0303 123 1113



**Website:** <https://ico.org.uk>

# Hard words

## Capacity

If someone does not have **capacity**, it means they may not be able to make their own decisions. Or they may need help with making some decisions.

## Duty of Candour

This means organisations like the NHS have a **duty** to be **open** with people they are caring for when things go **wrong**.

And try and put things right if they have caused harm.

## Investigated

This means people will look into what happened and make decisions about what went wrong.

## Manual handling equipment

Manual handling equipment helps people move around. For example, a hoist.