

# THE DONALDSON TRUST

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## **Duty of Candour Policy & Procedure**

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Author: Services Co-Ordinator

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## Document control

### Author

Job title	Role	Date
Services Co-Ordinator	Author	March 2023
ELT	Reviewer	April 2023
CEO	Approver	April 2023

### Version

Version	Date	Author	Amend
1	February 2020	Administration Manager	New
2	March 2022	Customer Operations Co-ordinator	Update
3	March 2023	Services Co-ordinator	Update

## Introduction

The purpose of this policy is to detail The Donaldson Trusts responsibilities and procedures in relation to the Health (tobacco, Nicotine etc. & Care) (Scotland) Act 2016 and The Duty of Candour (Scotland) Regulations 2018 that came into force on 1<sup>st</sup> April 2018.

The Duty of Candour is about being open and honest with people supported and/ or their families or representative, when serious harm (physical or psychological) has happened as a result of the support they have received. The harm may be the result of an intended or unintended incident by either someone employed by The Donaldson Trust or the way The Donaldson Trust functions.

The Donaldson Trust is required to put people at the centre of its responses to unintended or unexpected incidents.

The Donaldson Trust's Duty of Candour is intended to ensure a consistent response across organisation to unintended or unexpected incidents.

The Duty of Candour promotes:

- Responsibility for developing safer systems
- Engagement of staff in improving services
- Creates greater trust in people we support, their families or representatives.

References within this policy:

The relevant person = service user (pupil and or/ trainee) or their parent/ carer

## Incidents that activate Duty of Candour

The Act defines the types of harm which must be reported under the procedure.

Definitions of reportable instances of harm occurring as the results, intended or otherwise, of the service delivered:

- The death of the person
- "severe harm" of permanent lessening of bodily, sensory, motor, physiological or intellectual functions (e.g. organ or brain damage)
- Harm, which is not severe harm, but which results in –
  - An increase in the person's care and support;
  - Changes to the structure of the person's body;
  - The shortening of 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 for a continuous period of at least 28 days
- The person requiring treatment by a registered health professional in order to prevent:
  - The death of the person;

- Any injury to the person which, if left untreated, would lead to one or more of the outcomes mentioned above.

## Requirements of the Procedure

The act sets out the procedure The Donaldson Trust is required by law to follow. The key stages of the procedure are:

- To notify the person affected by the incident or, where appropriate, their family;
- To provide an apology;
- To carry out a review into the circumstances leading to the incident;
- To offer and arrange a meeting with the person affected and/ or their family where appropriate;
- To provide the person affected with an account of the incident and steps which were taken as a result;
- To make available, or provide information about, support to persons affected by the incident;
- To prepare and publish an annual report of the Duty of Candour.

The procedure is the responsibility of The Donaldson Trust, but other organisations may need to be involved to provide information as part of the review or providing support for the relevant person(s) affected by the incident.

Support for the relevant person may take the form of counselling, bereavement or independent advocacy services. Support for staff may take the form of debriefing, a service from The Donaldson Trust's confidential support service or direct support.

## The Donaldson Trust Procedure

The procedure The Donaldson Trust will follow is:

### Notifying Relevant Person(s)

As soon as reasonably practicable the relevant person should be informed an incident has taken place where the procedure has been activated. Who will inform the relevant person will be decided on a case by case basis by the Executive Leadership Team (ELT). Guidance states that this should be within 10 days of the procedure starting. The notification can be made by a method best suited to the relevant person.

The notification must include:

- An account of the incident as far as the facts are known at the point the notification is provided;
- An explanation what The Donaldson Trust will do as part of the procedure.

### Communicating with and supporting the relevant person during the procedure

In respect of how best to communicate with the person supported this information may be found in the relevant persons application form, admission form, One page profiles, records on CMS. If the relevant person is someone

else (i.e. parent/ carer of supported young person) The Donaldson Trust must explore with them what method of communication, they would prefer.

The Donaldson Trust should also consider what support the relevant person may need as the procedure is followed. Given the incident has had a significant impact on the person supported it should be expected the relevant person may be upset or angry.

If the relevant person explains they do not wish to receive information this should be respected. We will confirm with them by letter that they have stated this, but they are free to reconsider their decision at any point.

### **Providing an Apology**

An open and honest apology should be provided at the time of the incident in order to reassure the relevant person and set the tone for communication during the procedure. The language to be used should be clear, plain and direct, sound natural and sincere. The apology should acknowledge that significant harm has been done, a mistake has been made and that any heightened emotions are understandable.

For an apology to be effective it must be sincere and concerns about making one should be set aside. The Act clearly states that the apology is not an admission of liability or negligence but rather "a statement of sorrow or regret"

Where appropriate, the apology will be communicated in writing, (including electronic) or in the method preferred by the relevant person.

A record of the apology will be kept along with all other written information for the relevant incident.

### **Meeting**

The Donaldson Trust will invite the relevant person to attend a meeting and give them the opportunity to ask questions in advance of the meeting.

The Donaldson Trust, after having considered the needs of the relevant person, will take all reasonable steps to ensure that the meeting is accessible to them. For example, this might include communication needs or reasonable adjustments for physical access. In some circumstances, it will be necessary to have someone who can interact with the relevant person e.g. a BSL or language interpreter, an advocate and/or someone the relevant person chooses to support them.

A quiet room should be used, free from distraction where the meeting will not be interrupted. It may not be appropriate to host the meeting close to where the incident happened, or where service provision is delivered, as this could be emotionally difficult for the relevant person. The meeting Chair and others attending the meeting will speak to the relevant person with dignity and respect at all times.

The use of jargon will be discouraged and explanation of technical terms, if required, will be given.

The meeting will include:

- A verbal account of the incident.

- An explanation of any further steps that are being and/or are to be taken by The Donaldson Trust in order to investigate the circumstances, which it considers led to, or contributed to, the incident.
- An opportunity for the relevant person to ask questions about the incident.
- An opportunity for the relevant person to express their views about the incident.
- The provision of information to the relevant person about any legal, regulatory or review procedures that are being followed in respect of the incident (in addition to the Duty of Candour procedure).

Where a number of these may be running in parallel, this will include an explanation of their differing scope and focus.

This could also include the provision of information relating to the support to staff or organisational review and learning prompted by the incident.

After the meeting, the relevant person will be provided with:

- A note of the meeting and an agreement as to what will be included.
- The note of the meeting will be shared in good time. This might include an initial brief note of the meeting, with a more comprehensive summary to follow, as agreed with the relevant person.
- Details of the appointed single point of contact as identified by The Donaldson Trust.

Where an incident is complex, other organisations may be involved. In such circumstances, each of the responsible persons for the organisations involved will communicate with each other. For the Donaldson Trust, this will be under the direction of the Executive Leadership Team. Where this is the case, the organisation where the incident took place will be the main responsible person and the relevant person will need to be informed of this at the notification stage.

In instances where the incident occurred elsewhere, The Donaldson Trust may be called upon to assist or provide support to the relevant person as directed by the Executive Leadership Team.

### **Reviewing the Circumstances Leading to the Incident**

A prompt review into the circumstances that led or contributed to the unintended or unexpected incident should be carried out to establish the facts and identify what actions need to take place as a result. A repetition of the incident must be avoided, and the safety of the people supported prioritised.

The review must seek the views of the relevant person and take account of views expressed.

Best practice requires that the review undertaken may involve professionals both internal and external with the relevant subject matter expertise, as appropriate, e.g. Health and Safety, Moving and Assisting, General Practitioner or other health or care professionals.

In the case where the review is not completed within three months of the procedure start date, The Donaldson Trust will provide the relevant person with an explanation of the reason for the delay in completing the review.

In carrying out the review, The Donaldson Trust will seek the views of the relevant person and take account of any views expressed in order to reflect what matters most to the relevant person.

The Donaldson Trust will prepare a written report of the review. This will include:

- A description of the manner in which the review was carried out.
- A statement of any improvement actions taken or to be taken by The Donaldson Trust.
- Shared learning with other people or organisations in order to support continuous improvement.
- A list of the actions taken for the purpose of the procedure in respect of the incident to mitigate as much as possible any recurrence and the date each action took place.

The report will be written in an open and transparent manner.

The Donaldson Trust will offer to send the relevant person:

- A copy of the written report of the review.
- Details of any further information about actions taken to improve the quality of care.
- Details of any services or support that may be able to help or support to the relevant person, considering their needs.

## Records

The Donaldson Trust will keep the following records in respect of incidents to which the Duty of Candour procedure was applied:

- A written record of each incident
- Copies of all related documents;
- Copies of all related correspondence.

## Reporting

The Donaldson Trust, as required by the Health (Tobacco, Nicotine, etc. and Care) (Scotland) Act 2016, will produce an Annual Report in relation to the Duty of Candour. The report will cover the financial year and be produced as soon as is practicable after the year end. The report will be published on The Donaldson Trusts website. Thereafter, The Donaldson Trust will inform the Care Inspectorate that it has done so via the first set of Annual Returns.

The annual report will include the following:

- The number and nature of incidents
- An assessment of the extent to which The Donaldson Trust carried out the procedure
- Information about policies and procedures related to the procedure including
  - Procedures for identifying and reporting incidents
  - Support available to staff and persons affected by incidents



- Details of changes made to policies and procedures as a result of the procedure being applied
- Any other information The Donaldson Trust thinks relevant

The report must not mention names of any individual or any identifying information.

## **Training & Support**

The Donaldson Trust will ensure that all staff involved in carrying out the procedure are aware of the Duty of Candour Policy and Procedure and understand their role and its requirements.

The Donaldson Trust will ensure that staff requiring more detailed knowledge of the Duty of Candour policy and procedure have access to training in order to improve their understanding and knowledge and are confident with the processes.

In addition, The Donaldson Trust will ensure that the relevant person(s) is/are supported and has/have access to support that mitigates the impact of the unintended or unexpected event on their health and wellbeing. This will also apply to staff within The Donaldson Trust who are involved in the incident.

## **Responsibilities**

The following people have responsibility in ensuring that the Duty of Candour Policy and Procedure is adhered to and that reporting, investigation and review procedures are correctly followed.

The Executive Leadership Team will act on behalf of The Donaldson Trust and are responsible for ensuring that:

- The Duty of Candour Policy and Procedure is carried out
- Training, supervision and support are provided to any person carrying out any part of the procedure as required by the relevant regulations
- The Donaldson Trust reports annually on the duty to the Care Inspectorate and publish the report in their website.

In addition, a member of the Executive Leadership Team will lead and direct any Duty of Candour review processes, and act as chair at required meetings of direct others to do so.

## Document approval


The Services Co-ordinator is the owner of this policy and is responsible for ensuring its review.

ELT has responsibility for reviewing this policy.

The CEO has responsibility for approving this policy.

This policy is reviewed and approved on a version-controlled basis.

This policy is available to all staff.

<b>Signature</b>	
<b>Name</b>	Laura Watkins, CEO
<b>Date</b>	05/04/2023