



THE DONALDSON TRUST

The National Body for Neurodiversity

Duty of Candour Policy & Procedure

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Document Control

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1	Feb 20	Admin Manager	ELT	CEO	New
2	March 22	Customer Operations Co-ordinator	ELT	CEO	Update
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4	July 2026	Services Co-ordinator	Safeguarding Lead	Director of People & Engagement	Review

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References:

Policies:

- Accident & Incident Policy
- Safeguarding (Child & Adult Protection Policies)
- Whistleblowing Policy
- Complaints Policy
- Records Management Policy
- Data Protection Policy

Forms:

- Incident Report

Records:

- Duty of Candour Report

Introduction

The purpose of this policy is to detail The Donaldson Trust's responsibilities and procedures in relation to the Health (Tobacco, Nicotine etc. & Care) (Scotland) Act 2016 and the Duty of Candour (Scotland) Regulations 2018, which came into force on 1st April 2018.

The Duty of Candour is about being open, honest and transparent with supported people and/or their families or representative, when serious harm (physical or psychological) has happened as a result of the care or support provided. The harm may be the result of an intended or unintended incident whether due to actions taken by a colleague or the way in which The Donaldson Trust operates.

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

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

The Duty of Candour promotes:

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

This policy should be read in conjunction with the Trust's Incident Reporting, Safeguarding, Whistleblowing and Complaints Policies to ensure a coordinated and proportionate response to intended or unintended incidents.

Scope

This policy and procedure apply to:

- everyone who is employed by the Trust
- Tutors and contractors working on behalf of the Trust
- anyone who volunteers for the Trust including board trustees

'Person affected' or 'Relevant person' referenced in this policy refers to any child, young person or adult supported by or enrolled in services of The Donaldson Trust.

This policy supports a rights based and trauma-informed approach and applies to children, young people and young adults in a way that is appropriate to their age, level of understanding, communication needs and capacity.

Incidents that activate Duty of Candour

The Duty of Candour (Scotland) Regulations 2018 define the types of harm that must be reported and responded to under the Duty of Candour procedure.

An incident triggers the Duty of Candour when it results, whether intended or unintended, from the care or support provided by the service and leads to one or more of the following outcomes for the person affected:

- The death of the person
- Severe harm, defined as a permanent reduction in bodily, sensory, motor, physiological or intellectual functions (e.g. organ or brain damage)
- Harm that is not severe, but which results in one or more of the following –
 - An increase in the person's care and support needs;
 - 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 be likely to result in one or more of the outcomes listed above.

Where there is any uncertainty as to whether an incident meets the threshold for the Duty of Candour, the incident must be escalated to a Line Manager and the Safeguarding Lead for determination

Requirements of the Procedure

The Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 and the Duty of Candour (Scotland) Regulations 2018 set out the procedures that The Donaldson Trust is legally required to follow when Duty of Candour is activated.

The key stages of the procedure are:

- To notify the person affected by the incident or, where appropriate, their family;
- To provide an apology (Which does not constitute an admission of liability);
- To carry out a review of the circumstances that led 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 for individuals affected by the incident;
- To prepare and publish an annual report of the Duty of Candour.

The Duty of Candour procedure is the responsibility of The Donaldson Trust, however, other organisations may be required to contribute information as part of a review process or to provide support for the relevant person(s) affected by the incident.

Support for the people affected may take the form of counselling, bereavement or independent advocacy services. Support for colleagues may take the form of debriefing, support through the Employee Assistance Programme, direct management support or People Team/dedicated internal wellbeing support.

Where an incident also meets thresholds for child protection, adult protection, regulatory notification or professional referral, the relevant procedures will be followed alongside the Duty of Candour process.

The Duty of Candour procedure does not replace safeguarding, regulatory or disciplinary processes.

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 Duty of Candour procedure has been activated.

The decision about who will notify the relevant person(s) will be made on a case-by-case basis by the Safeguarding Lead in consultation with the Executive Leadership Team (ELT), taking into account the nature of the incident and the needs of the individual(s) affected.

National guidance states that this initial notification should normally take place within 10 days of the Duty of Candour procedure starting.

The notification should be made by a method that is accessible and appropriate to the relevant person(s).

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 of what The Donaldson Trust will do as part of the Duty of Candour procedure.

Further information should be shared as it becomes available, in line with the ongoing Duty of Candour process.

Communicating with and supporting the relevant person during the procedure

In respect of how best to communicate with the relevant person this information may be found within their records, including application form, admission form, individual risk assessments and records on CRM.

If the relevant person is someone else (i.e. parent/ carer of supported young person) The Donaldson Trust will explore with them their preferred method of communication and any reasonable adjustments required.

Where the relevant person is an individual supported within our services, the Donaldson Trust will seek their views directly wherever possible, taking account of their age, level of understanding, communication preferences and wellbeing. Appropriate support will be provided to enable the individual to express their views in a way that is meaningful to them.

The Donaldson Trust will also consider what support the relevant person may need as the Duty of Candour procedure is followed. Given the incident will likely have a significant impact on the person supported, it should be recognised that the relevant person may experience upset, anger or distress, and responses should be compassionate and trauma-informed.

If the relevant person indicates they do not wish to receive further information this should be respected. The Donaldson Trust will confirm this decision in writing and will make clear 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 to reassure the relevant person and set a positive and transparent tone for communication during the Duty of Candour procedure.

The language used should be clear, plain and direct, delivered in a way that is natural and sincere. The apology should acknowledge that significant harm has been done and recognise that any distress or upset is understandable.

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(s) 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 may 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.

The meeting will be held in a quiet, private space, free from interruption and distraction. 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 avoided 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 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, safeguarding 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 different purpose, scope and focus.

This may also include information relating to the support to colleagues or organisational review and learning prompted by the incident.

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

- A written note of the meeting, agreed with the relevant person(s).
- The note of the meeting will be shared in a timely manner. This might include an initial brief note of the meeting, with a more comprehensive summary to follow.
- 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 people from each organisation involved will communicate with each other. For the Donaldson Trust, this will be under the direction of the Safeguarding Lead.

Where multiple organisations are involved, the organisation where the incident took place will be the main responsible person and the relevant person will 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(s) as directed by the Safeguarding Lead, in consultation with Executive Leadership Team.

Reviewing the Circumstances Leading to the Incident

A prompt review into the circumstances that led or contributed to the intended or unintended 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(s) and take account of views expressed, ensuring that the process reflects what matters most to them.

In line with best practice, the review undertaken may involve professionals both internal and external with the relevant subject matter expertise, as appropriate, e.g. Health and Safety, 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.

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

- A description of how the review was carried out.
- A summary of findings and learning identified.
- A list of the actions taken to reduce recurrence, including timescales.
- How learning from the incident will be shared across the organisation and embedded into practice, training or policy review

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 and safety of care or support.
- Details of any services or support that may be able to help or support the relevant person, taking account of their individual 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.

All records will be managed in line with data protection legislation and the Trust's Records Management and Data Protection policies.

Reporting

The Donaldson Trust, as required by the Health (Tobacco, Nicotine, etc. and Care) (Scotland) Act 2016, will prepare an **Annual Duty of Candour Report** for each financial year in which the Duty of Candour procedure has been activated.

The Annual Duty of Candour Report will be published on The Donaldson Trust's public website as soon as reasonably practicable after the end of the financial year, in line with Care Inspectorate expectations and statutory guidance.

Once published, The Donaldson Trust will notify the Care Inspectorate through the Annual Returns process that the report has been published and is publicly available.

The Annual Duty of Candour Report will include:

- The number and nature of incidents to which the Duty of Candour procedure applied
- An assessment of the extent to which the procedure was followed
- Information about policies and procedures related to Duty of Candour, including:
 - How incidents are identified and reported
 - Support available to colleagues and persons affected
- Details of learning and improvements made as a result of applying the procedure
- Any other information The Donaldson Trust considers relevant

The report will not include the name of any individual nor any information that could identify a person involved in an incident.

Training & Support

The Donaldson Trust will ensure that all colleagues involved in carrying out the Duty of Candour procedure are aware of and understand the Duty of Candour Policy and Procedure, their individual role and the requirements placed upon them.

The Donaldson Trust will ensure that colleagues requiring more detailed knowledge of the Duty of Candour policy and procedure have access to training 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 Safeguarding Lead / Team:

- The Duty of Candour Policy and Procedure is implemented and adhered to
- oversee any Duty of Candour review processes
- Act as chair at required meetings, or formally delegate this responsibility to a member of the Safeguarding Team
- The Annual Duty of Candour Report is approved, published on the Trust's website and notified to the Care Inspectorate within required timescales.
- report to the Executive Leadership Team (ELT)

Managers:

- Appropriate training and supervision is provided to anyone carrying out any part of the Duty of Candour procedure, in line with the relevant regulations

- Ensuring incidents are identified, recorded and escalated promptly
- Supporting colleagues involved in incidents
- Liaising with the Safeguarding Team
- Ensuring no delays in activating the Duty of Candour procedure

Any colleague who has concerns that an incident has not been appropriately identified or managed under this policy may raise this through their line manager, the Safeguarding Team or via the Trust's Whistleblowing Policy.

Appendix One – Summary for Colleagues

What You Need to Know

1. What is Duty of Candour?

Duty of Candour is a legal requirement that means we must be open, honest and supportive when an intended or unintended incident occurs that has caused serious harm to a person we support.

It is about:

- Being honest
- Apologising
- Listening
- Learning and improving

An apology is not an admission of blame.

2. When does it apply?

Duty of Candour is triggered when an incident results in:

- Death
- Severe harm
- Ongoing physical or psychological harm (28 days or more)
- Increased care or treatment by a health professional

If you are unsure, report and escalate the incident – the Safeguarding Lead will decide if Duty of Candour applies.

3. What is your role as a colleague?

All colleagues must:

- Recognise and report incidents promptly
- Record incidents accurately
- Escalate concerns to your Line Manager
- Be open and respectful with people we support and their families
- Cooperate with reviews and learning

If you are concerned that an incident has not been managed appropriately, you can escalate this through your Line Manager, Safeguarding Team, or the Whistleblowing Policy.

4. What happens when Duty of Candour is activated?

The Trust will:

1. Inform the person affected (or their family)
2. Say sorry in a sincere and timely way
3. Offer support (emotional, practical, advocacy)
4. Hold a meeting (if the person wishes)
5. Review what happened
6. Share learning and make improvements

Children, young people and adults will be supported to have their views heard, in line with their age, understanding and communication needs.

5. How are colleagues supported?

We recognise incidents can be distressing for staff. Support may include:

- Line management support
- Debriefing
- Access to confidential support
- Guidance throughout the process

You will not be blamed for raising concerns or reporting incidents.

6. What is the focus?

- Safety
- Dignity and respect
- Learning and improvement
- Doing the right thing

7. Key message

If something goes wrong: report it, be open, be honest, and seek support.

If you have any questions about Duty of Candour or your role, speak to your Line Manager or a member of the Safeguarding Team.

Appendix Two – Summary for Managers

Duty of Candour –Manager Flowchart

Your Responsibilities When Something Goes Wrong

1. Is there an incident?

An incident is anything intended or unintended that causes harm or risk of harm to a person we support.

Ensure the incident is:

- Recorded immediately
- Actions taken to secure safety

2. Could this trigger Duty of Candour?

Duty of Candour may apply if the incident resulted in:

- Death
- Severe harm
- Lasting physical or psychological harm (28+ days)
- Increased care or treatment by a health professional

Unsure? → Escalate to the Safeguarding Team immediately

→ Duty of Candour decisions are never made alone by managers.

3. Your Key Manager Responsibilities

You must:

- Escalate the incident promptly to the Safeguarding Team
- Support colleagues involved
- Preserve records and factual information
- Maintain confidentiality and professionalism
- Ensure safeguarding procedures are followed if required

Do NOT:

- Delay escalation
- Make promises or assign blame
- Attempt to manage Duty of Candour alone

4. Does safeguarding apply as well?

If the incident may involve:

- Child protection
- Adult protection
- Regulatory notification

Safeguarding and Duty of Candour run in parallel
Escalate via safeguarding procedure.

5. Once Duty of Candour is Activated

Led by Safeguarding Team, with manager support where appropriate.

The Trust will:

1. Inform the person affected (or family)
2. Provide an apology
3. Offer support
4. Offer a meeting
5. Carry out a review
6. Identify learning and improvement actions

Managers may be asked to:

- Provide information for the review
- Implement improvement actions
- Support learning in teams

6. Supported People & Colleagues

Managers must ensure:

- Supported People are treated with dignity, respect and compassion
- Supported People are supported to have their views heard
- Colleagues receive debriefing and emotional support
- No detriment for raising or reporting concerns

7. If You're Concerned

If you believe:

- An incident has not been escalated
- Duty of Candour has not been applied appropriately

Escalate to:

- Safeguarding Team
- Or via the Whistleblowing Policy

8. Key Manager Message

Report early · Escalate quickly · Support people · Learn and improve

9. Need advice now?

Contact a member of the Safeguarding Team

Appendix Three – Summary for Safeguarding Lead / Team

Duty of Candour – Safeguarding Lead / Team Overview

Leading and Coordinating the Duty of Candour Process

1. What is your role?

The Safeguarding Lead / Team has overall responsibility for coordinating and overseeing the Duty of Candour procedure within The Donaldson Trust.

The role is to ensure the process is:

- Person-centred
- Lawfully implemented
- Open and transparent
- Consistent across the organisation
- Focused on learning and improvement

2. When an Incident is Reported

When a serious incident is escalated:

You must:

- Review available information promptly
- Consider whether the incident meets the Duty of Candour threshold
- Consult with relevant managers and professionals as required
- Seek ELT input where necessary
- Ensure any immediate safeguarding actions are implemented

Where uncertainty exists, the Safeguarding Lead is responsible for determining whether Duty of Candour applies.

3. Does Safeguarding Apply Too?

Many incidents may require:

- Duty of Candour
- Child Protection procedures
- Adult Protection procedures
- Regulatory notifications
- Internal reviews or investigations

These processes may run alongside each other and do not replace one another.

The Safeguarding Team will ensure all relevant procedures are initiated and coordinated appropriately.

4. When Duty of Candour is Activated

The Safeguarding Lead / Team will:

- Coordinate the overall Duty of Candour process
- Identify the most appropriate person to contact the relevant person
- Ensure notification takes place as soon as reasonably practicable
- Ensure a sincere apology is offered
- Consider communication, accessibility and advocacy needs
- Identify a single point of contact for the relevant person
- Ensure appropriate support is offered to those affected

5. Meetings and Communication

The Safeguarding Lead / Team will:

- Arrange and coordinate Duty of Candour meetings where required
- Chair meetings or formally delegate this responsibility
- Ensure the views of the relevant person are heard and respected
- Ensure communication is compassionate, trauma-informed and accessible
- Provide updates throughout the process
- Maintain accurate records of discussions and decisions

6. Review and Learning

The Safeguarding Lead / Team will:

- Lead or oversee the review process
- Ensure reviews are completed without unnecessary delay
- Gather factual information from relevant colleagues and agencies
- Ensure the views of the affected person are considered
- Identify contributory factors and learning
- Develop actions to reduce the risk of recurrence
- Monitor implementation of improvement actions

The focus of the review is learning and improvement rather than blame.

7. Supporting Colleagues

The Safeguarding Team should ensure that colleagues involved in incidents have access to:

- Management support
- Debriefing opportunities
- Wellbeing support

- Employee Assistance Programme services where appropriate
- Guidance throughout the Duty of Candour process

8. Reporting and Governance

The Safeguarding Lead / Team will:

- Keep oversight of all Duty of Candour cases
- Maintain appropriate records and documentation
- Provide updates to Executive Leadership Team (ELT)
- Identify organisational themes and learning
- Contribute to policy and practice improvements
- Prepare and coordinate the Annual Duty of Candour Report
- Ensure publication and Care Inspectorate notification within required timescales

9. Key Principles

Always ensure that Duty of Candour is:

- Open
- Honest
- Respectful
- Compassionate
- Trauma-informed
- Rights-based
- Focused on learning and improvement

10. Key Message

Lead with openness · Act promptly · Support people affected · Learn from incidents · Improve practice

The purpose of Duty of Candour is not to apportion blame, but to ensure transparency, accountability, learning and better outcomes for the people we support