



Consultation Response submitted by

Telling It Like It Is (TILII)

AUGUST 2021



## **Duty of Candour**

Our Telling It Like It Is project is a group of adults with a learning disability who are keen to have their voice heard. Originating out of the resettlement agenda and part funded by Belfast; South-Eastern and the Western Health & Social Care Trust, groups operate within local communities and hospital settings.

TILII are highly experienced in delivering training, undertaking research, contributing to public consultation processes and delivering workshops and presentations at events. TILII recently facilitated a review of day services across their peer group who receive support from the Belfast Trust. TILII members also deliver a professional and efficient Easy Read service (TILII Translates) to all sectors, as part of our commitment towards improving access to information for all.

This response was developed and collated using the views of 47 TILII members (10 of which currently reside in a hospital).

### **Booklet One Why we need a Duty of Candour policy**

#### **1 Do you think we should call it duty of candour?**

All TILII members had not heard the title Duty of Candour. They said that the definition suggested, “How organisations can be open and honest when things go wrong”, was clear and easy to understand.

TILII members said if the title remains, Duty of Candour, this definition should be included in all information to ensure clear understanding and accessibility.

Alternative names suggested by TILII members are as follows:

A Duty to be Open and Honest.

A Duty to Tell the Whole Truth.

A Duty to Own up to Mistakes.

A Duty to Admit to Mistakes in Care & Support

### **Booklet 2 The rules that organisations will have to follow**

#### **Do you agree all organisations should have to follow the rules?**

All TILII members felt that it was a good idea that all organisations followed the rules, this would ensure fairness and honesty from every organisation in the Health and Social Care Sector.



### **Do you agree with how we have decided what serious harm is?**

TILII said that the definition of serious and moderate harm was okay. However, when it came to psychological harm, 14 TILII members highlighted that we are all individuals, and one individual may suffer for a longer period than others depending on the way they deal with life situations. For example, someone who has a diagnosis of a learning disability, with autism and suffers from anxiety. This means that the individual will have communication and social interaction difficulties, so along with their anxiety it could affect their ability to talk or deal with how they feel, so it would make it difficult to put a time factor on it e.g., Psychological Harm 28 days. It could be affecting the individual, but not become apparent until 28 days have passed. This could lead everyone to think the individual is okay when they are not, but they are unable to communicate or deal with it, and then later they develop mental health problems e.g., post-traumatic stress disorder.

TILII also highlighted individuals without learning disabilities who may be more able or equipped to deal with a trauma due to skills they have developed but even then, we are all different and cope with problems and trauma differently. In essence they were referring to emotional resilience and learned coping strategies which is different for every individual. TILII felt it was not fair to put a time factor on psychological harm.

31 TILII members thought that what we define as serious harm should be used across the whole health and social care sector for all policies and legislation. TILII suggested that it would make sense that the definition is the same as that is used for safeguarding law and policies in NI.

### **Do you agree the organisation should have to do these things if it makes a mistake?**

TILII members do agree with your suggestions of what an organisation should do if it makes a mistake. TILII members were not so concerned about having an apology as they felt an apology changes nothing. All TILII members feel that it would be better if everyone who is involved, not only should be included in the investigation but those hurt, and their families should also be involved in helping to make sure the staff/organisation improves its service. It is about making sure that the mistakes that have happened are prevented from happening again, to ensure an improved service and better care.

### **Do you think it is important that organisations support staff and give training on how to be honest and open?**

TILII were happy with any training that supported all staff to do their job well including training on how to be open and honest.



One TILII member noted that he had been lucky to have good role models in his parents, who had taught him how to be honest and he recognised that not everyone would be as lucky as him. This TILII member felt that training and support for staff to encourage them and teach them the importance of openness and honesty was vital. The other TILII members agreed with this but went a stage further and highlighted how important it was for employees to be open and honest, and felt that having those values should be an important part of the recruitment process.

TILII fully agree that staff should be supported to speak out if they see something wrong, and not feel nervous of any comeback from the organisation, or a staff member they may have reported. Open and honesty should be right through an organisation to protect everyone, so they are confident to do their job properly and speak out if they see anyone doing their job wrong. Also, people who are supported should feel confident to report any wrong doings that happen to them, or they see happen to others.

**Do you agree with the ideas for how to check organisations are being honest and open?**

TILII do agree with the ideas to check an organisation is being open and honest but 12 TILII members questioned how we know that an organisation will not ignore rules. For example, “the rules say an organisation must not leave out any important information for fear that it might make them look bad, but how do we know that an organisation will not ignore that rule and still not put the information in?”

**Do you have another idea about how we can check how organisations are being honest and open?**

TILII did not have any suggestions as what else could be done to check if organisations were being open and honest other than the inspections and other forms of monitoring.

**Do you agree that it should be a crime if organisations do not follow the duty of candour policy?**

All TILII members felt that it should be a crime if an organisation does not follow the duty of candour policy.



### **Do you have another idea about what we could do if organisations do not follow the policy?**

TILII said if an organisation has made some mistakes by accident, they should get a warning and be monitored and get extra training, inspections and monitoring to help them get it right.

If an organisation repeatedly fails to follow the rules TILII said a fine is okay, but they are worried it would not be enough to make sure an organisation acts correctly. Some TILII members suggested that if an organisation has been found not to be honest, the organisation, including all management should receive training and support to improve the running of the organisation. It is a way to make sure the organisation is being managed and run properly. TILII members also felt that instead of the fine, the organisation must find extra funds to give better support. For example pay for extra training and support to make sure they improve their staff and service; to employ extra staff; to consult with the service users and families they are supporting to see whatever is needed to put the organisation right to ensure high standards of care and support for all individuals they support.

### **Booklet 3 The rules that staff should follow**

#### **What are the good things about idea 1?**

TILII members like Idea 1 and feel it is good because it says all staff should follow the rules. TILII members also thought it was a good idea to include the rule that if other staff stopped staff following the rules, they would be committing a crime too. TILII also think that idea 1 is good because it says all recommendations should be in the policy.

#### **Is there anything you would like to change or add to idea 1?**

If staff did commit a crime but it was an accident and they did not do it deliberately, they should receive a warning rather than a fine and be asked what support they feel they need to make sure they do not make the same mistake again.

We think that if an organisation has made a mistake by accident they should be warned and supported to improve the service they provide.

TILII think that if staff and organisations are making lots of mistakes, even if it is by accident then this should be treated differently. One or two mistakes we all make, but lots of mistakes are not acceptable so this should then be moved to be treated as deliberate because they are not learning from their mistakes or improving their care.



### **Do you think all staff should have to follow the rules?**

TILII think it is important all staff follow the rules, for example a receptionist might not be involved in care but might type up information and be aware of any mistakes that have happened in an organisation, so they need to be open and honest too and speak out if they know of any wrongdoing.

### **What are the good things about idea 2?**

No TILII Members liked idea 2 because it said only some recommendations will be put in the rules rather than all of them. TILII also do not like the fact that it says staff would not be committing a crime if they do not follow the rules, TILII Members felt this would allow staff to make mistakes deliberately or accidentally but have the excuse that they did not have to follow the rules.

### **Is there anything you would like to change or add to idea 2?**

We do not think this idea is good enough and suggest it should be dropped.

### **What are the good things about idea 3?**

TILII members also liked Idea 3 because it says if staff did things by accident, they would not be committing a crime, but if it was deliberate, they would be committing a crime. TILII members felt this was important as doing something by accident should not be a crime unless the staff or organisation keep making mistakes by accidents and then it would need to become a crime because they were not learning from their mistakes and making the improvements needed. TILII members liked the addition of another law in which says staff would be in trouble if they kept information secret, destroyed information, or changed information.

### **Is there anything you would like to change or add to idea 3?**

TILII members suggested what they had already added above to idea 1.

### **Do you think all staff should have to follow the rules?**

Yes, TILII members all agreed and you can see their reason which has already been given to this question in idea 1.



## **Booklet 4 Being Open Framework**

All TILII members agree with the idea of a framework and feel this could help organisations understand and know what is expected as well as giving them a resource that can be used in their recruitment and induction training to ensure staff understand too. TILII Members liked all ideas through level one to three and did not have anything additional to add.

TILII members want to thank you for giving them the chance to have their views heard by doing this consultation.