

North West NHS primary care Dispelling the myth-towards safer practice

Webinar three: Helping general practice manage and learn from claims part 2

Wednesday 12th June , 1pm-2pm

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Introduction

North West 3 (GPI)

**Operational Team
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Case Managers
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Alex Lee
Jessica Ridley

Overview

- Claims
- Learning from claims
- Documentation
- Safety netting

- Duty of candour
- Consent
- Patient safety and reducing harm

Duty of candour

Professional duty of candour

- Unintended/unexpected outcome + harm = duty of candour
- Being open, honest and transparent when things go wrong
- Apology and investigation

Duty of candour

Professional duty of candour

- Saying sorry
- *“an apology, an offer of treatment or other redress shall not of itself amount to an admission of negligence or breach of statutory duty”*

Compensation Act 2006

- Putting things right where possible

Duty of candour

- *Support and encourage openness and learning*
- <https://resolution.nhs.uk/resources/saying-sorry/>
- <https://www.gmc-uk.org/-/media/documents/openness-and-honesty-when-things-go-wrong--the-professional-duty-of-candour.pdf-61540594.pdf>

Duty of candour

Statutory duty of candour

- Regulation 20 Health and Social Care Act 2008. There are specific actions that must be taken
- Tell the relevant person, face-to-face, that a notifiable safety incident has taken place.
- Say Sorry
- Provide a true account of what happened, explaining whatever is known at that point.

Duty of candour

- Explain to the relevant person what further enquiries or investigations will take place
- Follow up by providing this information, and the apology, in writing, and providing an update on any enquiries.
- Keep a secure written record of all meetings and communications with the relevant person

<https://resolution.nhs.uk/resources/duty-of-candour-animation/#:~:text=The%20professional%20duty%20of%20candour%20is%20a%20professional%20responsibility%20to,put%20things%20right%20where%20possible.>

Consent

- All patients have a right to be involved in decisions about their treatment and care and to make informed decisions if they can.
- Those obtaining consent must be satisfied that they have a patient's consent or other valid authority before providing treatment or care.
- Case law of Montgomery v Lanarkshire Health Board was used as a basis for the GMC's guidance on consent in Good Medical Practice. Should be read in conjunction with the case of McCullough v Forth Valley Health Boards

Consent

- Seven principals from GMC Guidance:-
 1. All patients have the right to be involved in decisions
 2. Decision making is an ongoing process.
 3. All patients have the right to be listened to and be given the time and support needed to understand it.
 4. Doctors must try to find out what matters to patients so they can share relevant information about the benefits and harms of proposed treatment options and reasonable alternatives – including the option to take no action.
 5. Start from a presumption of capacity to make decisions about treatment and care.
 6. The choice of treatment or care for patients who lack capacity must be of overall benefit to them and decisions made in consultation with those who are close to them or advocating for them.
 7. Patients whose right to consent is affected by law should be supported to be involved in the decision making process and exercise choice if possible.

Consent

- Give clear accurate and up to date information about the potential benefits and risks of each option including the option to take no action
- Tailor your discussion to each individual patient guided by what matters to them and share information in a way that they can understand.
- Check whether the patient has understood the information given or if they would like more information.
- Linking this to the scenario

Consent

Recording decisions about consent

- Take a proportionate approach to the level of detail recorded.
- Consent forms can be helpful but filling in a consent form and the patient signing it is not a substitute for meaningful dialogue tailored to the patient's needs.
- Unfortunately, and in our experience, cases which allege a failure to obtain informed consent are often very difficult to defend when there has been an adverse outcome.

Questions

