



**KTIB**  
Insurance Brokers

## STATUTORY DUTY OF CANDOUR

With effect from April 2015, the Statutory Duty of Candour is expanding beyond the NHS to all Care Providers who are registered with the Care Quality Commission (CQC).

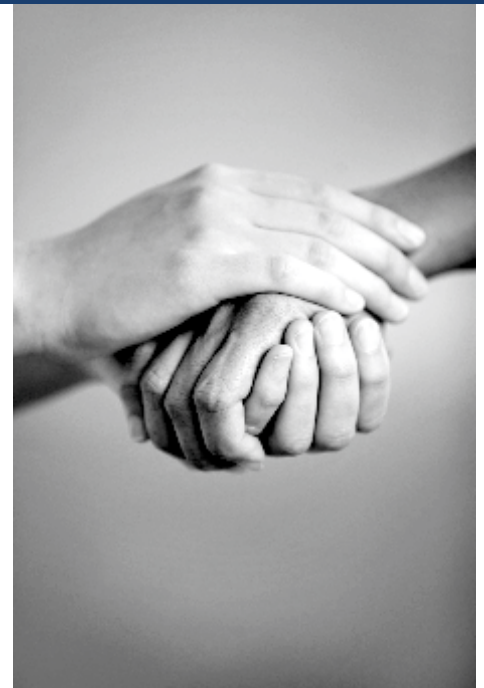
The Statutory Duty of Candour will become a requirement of CQC registration and the CQC may refuse or withdraw registration for care providers who are not able to evidence compliance. The CQC will also be able to prosecute for breaches of the statutory duty with Care Providers receiving a criminal conviction and a fine of up to £2,500. Ultimately, the CQC has the power to close down a Care Provider.

### What is Duty of Candour?

Duty of Candour has been created in order to ensure there is both openness and transparency when any notifiable safety incident has occurred. Whilst it is important to express sympathy or regret, it is important to note that the apology should not include any admission of fault as this is at odds with the Act. An apology is not meant to be an admission of liability but you do need to consider your message carefully to ensure that you do not prejudice your position from an insurance perspective.

### What is a notifiable incident?

A notifiable incident is any unintended or unexpected incident which occurs when a service user is being treated or cared for and that could result or appears to have resulted in the death, severe harm, moderate harm or prolonged psychological harm of a service user.



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## What steps do I need to take?

In the event of a notifiable incident, Duty of Candour requires that you should notify the service user or their representative as soon as reasonably practicable (within 10 working days of the incident occurring) by means of an oral notification by a senior person with the relevant experience and expertise.

The oral notification needs to be followed up by a written notification. You should ensure that copies of the written notification and any further correspondence or documentation are retained.

## Duty of Candour and implications on your liability insurance coverage

Always consider whether you need to notify your insurer of the incident that you are apologising for. If you consider the circumstances surrounding the incident are likely to give rise to a claim then you need to notify your insurer immediately. It is good practice to notify your insurer before you issue an apology so that they could assist you with this.

If, as a result, you receive any communication or allegation which might give rise to a loss then you need to notify your insurer immediately.

At this early stage, it is unclear how an insurer would respond to a potential claim where a policyholder has failed in their duties but there is the strong possibility that insurers could refuse a liability claim where there has been a clear breach.

## How KTIB can help

KTIB is one of the leading brokers for charitable, voluntary (not-for-profit), social enterprise and care organisations

KTIB can provide you with a tailored insurance and risk management solution ensuring that you benefit from comprehensive protection at a fair and reasonable rate.

Working with KTIB you will benefit from:

- A dedicated service team of experienced social care and Charity insurance advisors
- A full review of your existing insurance program
- The creation of a tailored insurance and risk management program
- A prompt and professional claims service provided by our award winning claims team



For more information about what these legislative changes mean for your organisation or to discuss your insurance requirements, please contact Ian Stone:

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