**Duty of Candour Policy**

**Purpose of Policy**

This policy aims to support Rainbow Nursery in the implementation of consistent responses across health, social work and social care providers when there has been an incident that has resulted in unintended or unexpected harm. The overall purpose of the new duty is to ensure that our organisations is open, honest and supportive when there is an unexpected or unintended incident resulting in death or harm, as defined in the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 Act. The policy also ensures that the company deals with incidents that result in unintended or unexpected harm in accordance with its legal requirements as outlined in the Act.

**What is the Duty of Candour and when does it Apply?**

The duty of candour procedure can be aligned with adverse events (also known as incidents), case reviews, notifications, complaints processes or disclosures through relevant ‘whistleblowing’ policy & procedures established within the organisation.

The duty of candour procedure will be carried out by the responsible person as soon as practicable after becoming aware that an individual who has received a health, social care or social work service has been the subject of an unintended or unexpected incident, and in the reasonable opinion of a registered health professional has resulted in or could result in, where applicable:

* death of the person
* a permanent lessening of bodily, sensory, motor, physiologic or intellectual functions
* an increase in the person’s treatment
* changes to the structure of the person’s body
* the shortening of the 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, or any injury to the person which, if left untreated, would lead to one or more of the outcomes mentioned above

**Responsibility**

The Act itself has several definitions of the “Responsible Person” for the purpose of the Policy the responsible person is defined as: *a person (other than an individual) who provides a care service.*

This means that the new Duty applies to organisations delivering the service and not individuals. It is placed upon health, care and social work organisations, such as, Childcare First Ltd. In the instance that an incident activates the Duty of Candour the organisational duty will fall to the nursery manager of the service as the person with the responsibility to act as the “Responsible Person”.

**Procedures**

The ‘Duty of Candour procedure’ means the actions to be taken by the responsible person in accordance with regulations made by the Scottish Ministers.

The key stages of the procedure include:

* to notify the person affected (or family/relative where appropriate)
* 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
* to provide information about further steps taken
* to make available, or provide information about, support to persons affected by the incident
* to prepare and publish an annual report on the duty of candour

**Duty of Candour - Apology**

For the purposes of the Act itself, an “apology” means a statement of sorrow or regret in respect of the unintended or unexpected incident that caused harm or death.

An apology or other step taken in accordance with the duty of candour procedure does not of itself amount to an admission of negligence or a breach of a statutory duty.

The Company recognise that an apology is often the first step in putting things right and can help to repair a damaged relationship and restore dignity and trust.

In order to make an apology meaningful the Senior Manager will make every efforts to ensure the following guidelines are adhered to. An apology should:

* Acknowledge what has gone wrong
* Clearly describe what has gone wrong to show you understand what has happened and the impact for the person affected
* Accept responsibility or the responsibility of your organisation for the harm done
* Explain why the harm happened
* Show that you are sincerely sorry
* Assure the individual and/or their family of the steps you or your organisation have taken, or will be taking to make sure the harm does not happen again (where possible)
* Make amends and put things right where you can

**Monitoring & Reporting**

In order to ensure consistency in applying the duty of candour procedure, it is important that unintended or unexpected incidents triggering the duty of candour procedure are monitored, recorded and reported by all relevant organisations.

The statutory basis for these notifications is outlined within current legislative regulations and well-established reporting processes as a social care service registered with the Care Inspectorate

Notifications by the service are made electronically using the eForms system within a set number of days. Including the requirement to provide certain details relating to the notification.

It is the duty of the responsible person to publish an annual report directed at supporting learning, rather than merely collecting quantitative data.

The primary purpose of the report should be:

* to demonstrate learning which has taken place following the harm being identified
* to provide public assurance that the duty of candour is being embedded in the sectors to which it applies
* to encourage responsible persons to self-reflect on how the duty is being embedded and how the quality of operation can be continually improved
* to contribute to the Care Inspectorate’s, Healthcare Improvement Scotland’s and the Scottish Government’s wide evidence base about the provision of social care and health services.

The Act specifies certain things that should be in the report such as:

* information about the number and nature of incidents to which the duty has applied
* an assessment of the extent to which the responsible person carried out the elements of the duty
* information about the responsible person’s policies and procedures including information about:
  + procedures for identifying and reporting incidents
  + support available to staff and to persons affected by incidents
* information about any changes to the responsible person’s policies and procedures as a result of incidents to which the duty has applied
* such other information as the responsible person thinks fit

The report **must not** mention the name of any individual or contain any information which is likely to identify any individual.

**Date Completed: October 2023**

**Review Date: October 2024**

*This policy will be monitored in line with relevant legislation and good practice guidelines*