



Department of  
**Health**

An Roinn Sláinte

Máinnystrie O Poustie

[www.health-ni.gov.uk](http://www.health-ni.gov.uk)

---

# Being Open Framework

---

**Consultation Document**

**December 2024**

## **DUTY OF CANDOUR & BEING OPEN - DRAFT POLICY PROPOSALS FOR CONSULTATION**

### **Ministerial Foreword from Mike Nesbitt MLA**



Being open and honest is one of the core values of our health service, and we know from research that these are critical components of safe and effective health care. However, all too frequently we have seen from multiple public inquiries that we, as a system, have failed to live up to these core values. We have families who have lost loved ones, or individuals where the standard of care has not been what we would have wanted, who have found it incredibly difficult to get answers out of our system. We also know that we have staff who feel frightened to raise concerns because of a lack of trust that the health system will deal with them fairly and proportionately.

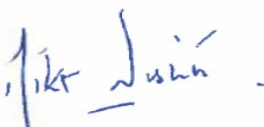
Many of the recent inquiries have recommended the introduction of a Statutory Duty of Candour in Northern Ireland, and there is the opportunity in this consultation to express your views on that. However, we know that simply introducing legislation is not enough. What we need at the core of this is profound cultural change. We need to create a culture in which staff feel safe, supported and empowered to speak up when things are not as they should be, in the certainty that their concerns will be listened to and acted upon. We need to create a culture where the public can have

complete confidence that if the care they receive has not been as it should be, they will be supported, and information about what has happened will be provided to them quickly and accurately. Also, that if mistakes have happened, they will be supported to participate in helping the system learn from these.

We do not underestimate the magnitude of this task. Part of this process is to attempt, once again, to build confidence in the integrity and openness of this health system of which we are so proud. We also recognise that we are doing this at a time of unprecedented pressures, however we believe that this needs to be one of the core foundations of the transformation of our health services that we require.

The NI Being Open Framework provides a matrix for us to engage with the complexities of supporting staff to be open and candid, not just when things go wrong, but also in the routine day to day activities of providing care. It is not prescriptive; in that it acknowledges the wide variety of different cultural challenges within our system and allows each component of the system to engage with the challenges that are particular to them in ways that are going to be effective for them.

This is about empowering staff to do what we know is at the heart of their core professional identity, and about providing them with the support, encouragement and confidence to do so. While legislation may provide some support to these efforts, we know that engaging cultural change will be the key to our success. Please engage as fully as you can in this consultation process and help us progress this in a way that is really going to have an impact.



**Mike Nesbitt, Minister of Health**

## **Patient Safety Overview**

The challenges facing our Health and Social Care (HSC) system in Northern Ireland are complex and systematic in nature and delivering safe, effective and quality care is of paramount importance across all disciplines and roles. Recommendations from various review reports and public inquiries have highlighted serious failings within the health service of Northern Ireland and have been clear that effective patient safety systems and culture are key for HSC moving forward.

The Department of Health is committed to delivering the recommendations from relevant reports and inquiries to build a safer, more patient centred health system with public safety, confidence in HSC services and quality improvement at the heart. This must be considered in the wider context of developments to continually improve the quality of care in HSC services.

Healthcare staff operate within complex systems with many factors influencing the likelihood of error. Evidence and best practice in other nations suggests that patient safety is not about individual effort, it requires a safety culture in every HSC organisation based on trust, openness and strong collective leadership. Too often this open and learning culture is prevented by fear and blame.

Many staff feel that they work in a dangerous and toxic environment with a blame culture that jeopardises patient safety and discourages learning and reflection. In order to improve patient safety outcomes, there must be a move away from this negative blame culture towards a just culture which creates a psychologically safe space for staff to report any potential patient safety issues and engage openly in the learning processes. Part of this cultural change will include supporting an environment that welcomes, encourages and seeks out patient, family and staff experience to deliver continuous improvement to the delivery of care.

It is the wider local clinical and organisational governance systems, and the culture within HSC organisations, which can best assure the implementation of best practice and identify potential patient safety issues.

The effectiveness of any Patient Safety System depends on robust mechanisms for organisations to receive qualitative and quantitative information from various sources. Patient Safety systems are comprised of a number of legislative duties, policies and professional codes of practice that relate to each of the components of an open, just and learning culture. This can include Incident Reporting and Review Procedures, Being Open Policies, Raising Concern mechanisms, Complaints processes, Conduct and Performance processes and Fitness to Practice procedures.

All procedures and processes with a relevance to patient safety must interface with and influence each other appropriately in order to deliver effective Patient Safety Systems in HSC organisations and it is important to consider this wider context when providing your input to this consultation.

## **Background**

Since the publication of Justice O'Hara's 2018 report on the Independent Inquiry into Hyponatraemia Related Deaths 2018 (IHRD), Health and Social Care in Northern Ireland has responded to the challenges in changing the culture and behaviours that led, two decades before, to five avoidable deaths in children. However, as we have seen in a number of recent high-profile cases, there is still work to be done to ensure a consistently open and honest health and social care service.

Many of the old habits and behaviours that had enabled the poor practice in the first place have been corrected; better management, regulation and training have each made an impact. Nevertheless, there is more to be achieved. Justice O'Hara's flagship recommendations are to introduce duties of candour, for organisations and individuals, which would require primary legislation in the Assembly.

In order to explore the Duty of Candour and Being Open recommendations, the Duty of Candour Workstream and Being Open Sub-Group embarked on an ambitious and comprehensive co-production process, involving hundreds of HSC practitioners and clinicians, dozens of representative organisations, unions, Royal Colleges and professional bodies, but above all, thousands of patients, carers and service users.

Having initiated a 20-week public consultation in 2021 that yielded 334 responses, the Department of Health collated and analysed the submissions, engaging the Duty of Candour Workstream again to help interpret and assess what the public had reported, and how best to proceed with final implementation recommendations to the Minister.

After considering all the evidence, the Duty of Candour Workstream provided its assessment to Minister in 2022.

As a first step in understanding the barriers to an open and candid culture, Minister asked officials to develop the policy for a "Being Open Framework" for the health and social care system.

The NI Being Open Framework is based on principles that have emerged from major consultation exercises carried out across the NI health service and with the public since 2018. The first is the work that was done in the IHRD Implementation program. In this process, starting in 2018, a comprehensive co-production process was undertaken about the implementation of the recommendations that were made in the IHRD report concerning the introduction of a Statutory Duty of Candor in NI and the associated cultural work to encourage openness. Alongside this co-production process, a public consultation provided essential additional information about these issues.

For the past two years, this work has focused on the HSC and specifically on engaging with staff to really understand any impediments they might feel exist to encourage them to be open and honest in all aspects of their work, as well as the supports that are required to support them in this. This process of engagement has involved multiple face to face meetings with a variety of staff at all levels in the HSC and in all of the trusts. These meetings were held confidentially with individuals and groups, and staff had the opportunity to speak candidly about any anxieties they might have about speaking up, and about the things that they believed would make a positive difference. Alongside this direct consultation with staff, there has been significant engagement with senior leadership and trust boards to develop an understanding of appropriate governance arrangements and the factors that support a “listening organisation”.

Organisations with important and influential roles in relation to the HSC like Unions and Regulators were also part of the engagement, reflecting the complexity of the system of factors that influence openness. Asking staff to be open and honest in a system that is incapable or unwilling to listen and act would be immoral. Therefore engaging widely with individuals, groups and systems has been essential to create a balanced and inter-dependent model that challenges organisations to create the right environment to promote openness and challenges individuals within that environment to speak up with the courage and confidence that they will be supported. The NI Being Open Framework is the start of trying to systematize this complex cultural challenge.

## **Approaches to Openness and Candour in other Jurisdictions**

Across the jurisdictions of the United Kingdom and the Republic of Ireland there are different approaches to Openness and Candour in health and social care.

### NHS England

There is a statutory Duty of Candour in England. The duty became a statutory requirement in 2014 for NHS Trusts and in 2015 for other providers, after recommendations made by Sir Robert Francis in the Mid Staffordshire Inquiry in 2013. It imposes an organisational legal duty to be open and honest with patients (or service users), or their families when something goes wrong that appears to have caused or could lead to significant harm in the future.

In 2015, NHS England launched their 'Being Open Principles' and is available at Principles'.

The Being Open guidance for NHS England is based on the then National Patient Safety Agency's (NPSA) Being Open Framework 'Saying sorry when things go wrong'. The original guidance was issued in 2005. The NPSA Framework was updated in 2009 to demonstrate how to strengthen the culture for being open within a healthcare organisation.

The NPSA recognised that the process for being open about a patient safety incident is more than a one-off event; it is a communication process with a number of stages. The duration of the process will depend on the incident, the needs of the patient, their family and carers, and how the investigation into the incident progresses. (HSC Trust policies in Northern Ireland are based on the NPSA Framework.)

### NHS Scotland

The organisational Duty of Candour is a statutory duty of Scottish organisations providing health and social care, to be open and honest when something goes wrong that is not related to the course of the condition for which the person is receiving care. The duty is set



out in the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 and The Duty of Candour Procedure (Scotland) Regulations 2018.<sup>1</sup>

The organisational Duty of Candour procedure sets out how organisations should tell those affected that an unintended or unexpected incident appears to have caused harm or death. They are required to apologise and to meaningfully involve them in a review of what happened. When the review is complete, the organisation should agree any actions required to improve the quality of care, informed by the principles of learning and continuous improvement. They should tell the person who appears to have been harmed (or those acting on their behalf) what those actions are and when they will happen.

Organisational Duty of Candour guidance for Scotland is available at [Organisational Duty of Candour: guidance](#).

### HSC Wales

The introduction of the Duty of Candour through the Health and Social Care (Quality and Engagement) (Wales) Act 20201 ('the Act'). The duty is placed on NHS Bodies (Health Boards, NHS Trusts, Welsh Special Health Authorities and NHS Blood and Transplant in relation to their Welsh functions) and on primary care providers in Wales in respect of services they provide under a contract or other arrangements with a Local Health Board.

The focus of the duty in the Act is ultimately to serve service users by ensuring that if the service user experiences, or if the circumstances are such that the service user could experience, any unexpected or unintended harm that is more than minimal, and the provision of health care was or may have been a factor, the service user, (or person acting on their behalf), is informed, provided with an apology and offered details of relevant services or support.

The NHS body is required to provide the service user/or person acting on their behalf with an explanation of the actions that the responsible body or the provider will take, and further

---

<sup>1</sup>[The Duty of Candour Procedure \(Scotland\) Regulations 2018 \(legislation.gov.uk\)](#)

enquiries that the responsible body or the provider will carry out, to investigate the circumstances of the notifiable adverse outcome, including any actions to be taken under the Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011. Guidance for the Act is available at [duty-of-candour-statutory-guidance.pdf \(gov.wales\)](#).

#### Health Service Executive, Republic of Ireland

In 2013, the Health Service Executive (HSE) developed an Open Disclosure Policy for Communicating with patients following a patient safety incident. Part 4 of the Civil Liability (Amendment) Act 2017 provided for voluntary open disclosure and was commenced in September 2018. In 2019, the Patient Safety (Notifiable Incidents and Open Disclosure) Bill approved and a summary guide to the Bill is available at [summary-guide-patient-safety-npsi-bill-2019.pdf \(hse.ie\)](#).

It was finalised and enacted into Irish law as an Act in 2023. The Act provides the legislative framework for a number of patient safety issues, including the mandatory open disclosure of a list of specified serious patient safety incidents that must be disclosed to the patient and/or their family and the notification of same to the Health Information and Quality Authority, Chief Inspector of Social Services and the Mental Health Commission.

The DoH is now seeking your views on proposals to introduce a 'Being Open Framework' for all Health and Social Care Trusts and their staff.

A detailed summary of these proposals is available [here](#) on the DoH website.

## Ways to Respond

The consultation opened on 10 December 2024 and will close on 21 March 2025. Stakeholders can respond by completing this questionnaire, or by submitting their own written response, to the policy proposals to:

**E-mail:** [being.open@health-ni.gov.uk](mailto:being.open@health-ni.gov.uk)

**Written:** **Being Open / Duty of Candour Branch**

Department of Health

Room D2.1

Castle Buildings

Stormont Estate, BELFAST

BT4 3SQ

In addition, an online questionnaire is available on the Citizen Space website [here](#), which allows stakeholders the opportunity to respond to the consultation questions online.

If, for any reason, you are unable to access the electronic versions of the documents you can request a paper copy by e-mailing [being.open@health-ni.gov.uk](mailto:being.open@health-ni.gov.uk) or by writing to the address below. The consultation documents, including the questionnaire, may also be requested in an alternative format by also contacting this address.

## Public Consultation on the draft 'Being Open Framework'

I am responding:

As an individual \_\_\_\_\_

As a health and social care professional \_\_\_\_\_

On behalf of an organisation \_\_\_\_\_

(please tick one option)

About you or your organisation:

Name:

Job Title:

Organisation:

Address:

Tel:

E-mail:

|  |
|--|
|  |
|  |
|  |
|  |
|  |
|  |
|  |

## CONSULTATION QUESTIONS

Please indicate in each section if you agree YES or NO and add comments in the box below.

### Understanding Openness and Culture

These questions focus on how organisations can create a culture where being open and honest is the norm (further information is provided in Section 3 of the 'Being Open Framework').

#### Q1 The framework looks at openness at three levels:

- **Routine openness:** Being honest in everyday care and communication.
- **Learning from mistakes:** Reflecting on errors to improve and avoid repeating them.
- **When things go wrong:** Clear communication and accountability when harm is caused.

Do you think these levels are helpful and appropriate?

YES NO

#### Q2 The framework focuses on three areas of culture in an organisation:

- Infrastructure (e.g., policies and systems to support openness).
- Behaviours (e.g., how staff interact and communicate).
- Beliefs and stories (e.g., shared values and lessons from the past).

Do you think it's helpful to also focus on three areas?

YES NO

Comments:

### Supporting openness in everyday care

These questions focus on how organisations can make honesty and openness a natural part of daily care (further information is provided in Section 2, Section 3.3.1 and Section 7).

**Q3 To support staff in being open it is proposed that organisations:**

- Provide regular training for staff to promote openness.
- Share real-life examples of openness and what was learned.
- Recognise and celebrate examples of good practice in being open.
- Provide supervision that is supportive of openness.

Do you agree with these will help staff be open and honest every day?

YES NO

**Comments:**

### Openness with a focus on learning

These questions focus on how organisations learn from experience to improve care and avoid future harm (further information is provided in Sections 2 and 3).

#### Q4 To improve learning it is proposed that organisations should:

- Encourage staff to talk openly about mistakes without fear of unfair retribution.
- Understand the circumstances that may contribute to failures and mistakes.
- Share lessons across teams to improve safety and care.
- Make improvements visible to the public, so people know what has changed.

Do you agree that these will improve learning from experience?

YES NO

**Comments:**

### Openness when things go wrong

These questions focus on when things go wrong, and how organisations and their staff handle these situations with openness, compassion, and clear communication (further information is provided in Section 3).

**Q5 When things go wrong, it is proposed that organisations immediately:**

- Inform patients and families as soon as possible after an incident.
- Offer apologies and explanations early.
- Provide emotional or therapeutic support to all those affected (patients; carers; staff).
- 

Do you agree with the proposals for when things go wrong?

YES NO

**Q6 For all involved in serious incidents, it is proposed that they have:**

- Timely access to information about the incident.
- Regular updates on progress and outcomes of any investigations.
- Counselling or emotional support as and when needed for all involved.
- Debriefs to discuss what happened and how to improve.

Do you think all involved in serious incidents should receive support?

YES NO

**Comments:**



### Duty of Candour to support Openness

These questions relate to the proposals for the introduction of a statutory organisational and individual Duty of Candour.

**Q7** Do you think that the introduction of a statutory organisational Duty of Candour would support organisations in their development of a more open culture?

YES NO

**Q8** Do you think that the introduction of a statutory individual Duty of Candour would support individuals to be more open?

YES NO

**Q9** Do you think that including a “Duty of Candour” clause in staff contracts will improve openness?

YES NO

**Comments:**

### Leadership and oversight to promote Openness

These questions consider the role of leaders in promoting and monitoring openness (further information is provided in Section 4).

**Q10 Should Boards of organisations and Chief Executives, through their Board Patient Safety and Quality Committee, be held responsible for creating an open culture?**

YES NO

**Q11 Proposals for monitoring openness in organisations**

- Organisations should report and publish regularly on their progress in being open.
- Organisations should be held accountable for supporting openness by the Department of Health and regulators.
- Independent audits should assess whether organisations are meeting openness standards.

Do you agree with the proposals to monitor openness?

YES NO

**Q12 Would the introduction of an Independent Patient Safety Commissioner improve openness and patient safety? (Further information is provided in Section 6.2).**

YES NO

**Comments:**

### Training and education to support openness

These questions focus on the training and support that is needed to help staff understand how to be open and honest in different situations (further information is provided in Sections 7 and 8).

**Q13 Organisations should support and train staff in being open in different situations so they can:**

- Be open and honest in everyday care.
- Learn from mistakes and failures to share lessons.
- Support patients and families when things go wrong.

Do you think all staff should be trained for these purposes?

YES NO

**Q14 Organisations should provide support and train staff at different times using a range of training methods**

- Training for openness at induction and as refresher training for all staff.
- Provision of a range of different opportunities for learning such as online or in person.
- Provision of support through mentorship, coaching and supervision.
- Learning provided in way appropriate to the staff role and the most effective training method.

Do you think all staff should be trained for in these ways?

YES NO

**Comments:**

## **Public Consultation on the Duty of Candour and Being Open Framework**

Thank you for taking the time to respond to the consultation questions and in sharing your views. Your feedback is vital for shaping these proposals in improving honesty and openness in health and social care in Northern Ireland.

**Any further comments on these proposals to improve openness?**

## **Annex A - Privacy Notice**

### **Privacy Notice – ‘Being Open Framework’ Consultation (DoH)**

Data Controller Name: Department of Health (DoH)

Address: Castle Buildings, Stormont Estate, BELFAST, BT4 3SG

**Email: [being.open@health-ni.gov.uk](mailto:being.open@health-ni.gov.uk)**

Data Protection Officer Name: Charlene McQuillan

Telephone: 02890 522353

**Email: [DPO@health-ni.gov.uk](mailto:DPO@health-ni.gov.uk)**

Being transparent and providing accessible information to individuals about how we may use personal data is a key element of the Data Protection Act (DPA) and the UK General Data Protection Regulation (UK GDPR). The Department of Health (DoH) is committed to building trust and confidence in our ability to process your personal information and protect your privacy.

### **Purpose for processing**

We will process personal data provided in response to consultations for the purpose of informing the development of our policy, guidance, or other regulatory work in the subject area of the request for views. We will publish a summary of the consultation responses and, in some cases, the responses themselves but these will not contain any personal data. We will not publish the names or contact details of respondents but will include the names of organisations responding.

If you have indicated that you would be interested in contributing to further Department work on the subject matter covered by the consultation, then we might process your contact details to contact you.

## **Lawful basis for processing**

The lawful basis we are relying on to process your personal data is Article 6(1)(e) of the UK GDPR, which allows us to process personal data when this is necessary for the performance of our public tasks in our capacity as a Government Department.

We have not requested any special category data as part of this consultation. (Special category data is data which reveals racial or ethnic origin, political opinions, religious belief, health or sexual life/orientation).

## **How will your information be used and shared?**

We process the information internally for the above stated purpose. We do not intend to share your personal data with any third party. Any specific requests from a third party for us to share your personal data with them will be dealt with in accordance the provisions of the data protection laws.

## **How long will we keep your information?**

We will retain consultation response information until our work on the subject matter of the consultation is complete, and in line with the Department's approved Retention and Disposal Schedule Good Management, Good Records (GMGR).

## **What are your rights?**

- You have the right to obtain confirmation that your data is being processed, and access to your personal data;
- You are entitled to have personal data rectified if it is inaccurate or incomplete;
- You have a right to have personal data erased and to prevent processing, in specific circumstances;

- You have the right to 'block' or suppress processing of personal data, in specific circumstances;
- You have the right to data portability, in specific circumstances;
- You have the right to object to the processing, in specific circumstances; and
- You have rights in relation to automated decision making and profiling.

### **How to complain if you are not happy with how we process your personal information**

If you wish to request access, object or raise a complaint about how we have handled your data, you can contact our Data Protection Officer using the details above.

If you are not satisfied with our response or believe we are not processing your personal data in accordance with the law, you can complain to the Information Commissioner at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire SK9 5AF

**[casework@ico.org.uk](mailto:casework@ico.org.uk)**