To consider

Agreeing a consistent approach to candour and reporting of errors

Issue

1 In the Government’s response to the Francis Report, we and the Nursing and Midwifery Council committed to working with other regulators to agree consistent approaches to candour and reporting of errors. We, together with the Nursing and Midwifery Council, consider that it would be sensible to establish a working group, including representatives from the other professional regulators, to facilitate this work.

Recommendations

2 The Strategy and Policy Board is asked to:

   a Note work to take forward a consistent approach to candour and reporting of errors.

   b Approve the establishment of the Working Group on professional duty of candour for health professionals.

   c Consider the Terms of Reference, which will be tabled at the meeting as Annex B.

   d Consider any further issues arising from the Working Group’s first meeting on 3 February 2014, which will be tabled at the meeting as Annex C.
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3 In his report on the failings at Mid Staffordshire NHS Foundation Trust Hospital, Robert Francis identified openness, transparency and candour as key themes of relevance to the quality of care in the NHS as a whole.

4 He found that there is a requirement not only for clinicians to be candid with patients about avoidable harm, but for safety concerns to be reported openly and truthfully, and for organisations to be accurate, candid and not provide misleading information to the public, regulators and commissioners. However, current requirements for openness, transparency and candour do not cover uniformly and consistently the areas in which these are needed. As the requirements are currently recognised, they are ‘piecemeal and disjointed, and inevitably do not cover the whole of the ground which should be addressed’.¹

5 Good medical practice is clear about the requirement for doctors to be open, honest and transparent. We also include further discussion of this in explanatory guidance, education standards, registration requirements and revalidation. A full overview of this is at Annex A.

6 Francis concluded that steps must be taken to evidence the importance of candour by the creation of a uniform duty with serious sanctions available for non-observance and recommends (in recommendations 181–184 of his report) a statutory duty of candour on healthcare providers, directors of healthcare organisations and all registered medical professionals (including doctors and nurses) accompanied by a criminal offence overseen by the Care Quality Commission (CQC).

7 The Government, in its response to Francis, stated that, ‘a new spirit of candour and transparency will be essential for exposing poor care’ and to ensure problems are identified quickly and openly. As part of the commitments made, the Government has included a contractual duty of candour in the NHS Standard Contract and has also committed to introduce, ‘a statutory duty of candour on health and care providers to inform people if they believe treatment or care has caused death or serious injury, and to provide an explanation’, which will have an accompanying criminal sanction.

8 Currently, the Government do not intend to introduce an individual professional duty of candour, possibly due to concern about the unintended consequences of

¹ Francis Report, Chapter 22, 158 - 159
any attached criminal sanctions. However, the Government has stated a commitment to strengthen the professional duty of candour.

9 The Professional Standards Authority (PSA) was asked by the Secretary of State for Health to consider what more could professional regulators do to encourage candour, and published advice in October 2013, which informed the agreement we reached with the Government about what we will do to further promote and encourage professional candour among medical practitioners. The Government’s most recent response to Francis, *Hard Truths*, states that we will:

a Work with other regulators to agree consistent approaches to candour and reporting errors, including a common responsibility across the professionals to be candid with patients when a mistake occurs whether serious or not.

b Issue new guidance to make it clear professionals’ responsibility to report ‘near misses’ for errors that could have led to death or serious injury, as well as actual harm, at the earliest opportunity.

c Review professional codes of conduct to bring them into line with this new guidance.

d Review guidance to panels taking decisions on professional misconduct to ensure they take proper account of whether or not professionals have raised concerns promptly.

*Working with other regulators to agree consistent approaches to candour*

10 In order to address our commitment to developing a consistent approach to candour across professional regulation, together with the Nursing and Midwifery Council, we have agreed that it would be helpful to form a working group with other professional regulators to agree consistent approaches to candour and reporting or errors, including a common responsibility across doctors and nurses, and other health professions to be candid with patients when mistakes occur whether serious or not.

11 All nine professional regulators have indicated they would participate in the proposed group and a preliminary meeting has been scheduled to take place on 3 February 2014. The terms of reference, to be tabled at Annex B, will be discussed. Each of the regulators is agreeing these terms of reference in accordance with their own Council’s governance arrangements.

12 At the first meeting, the PSA has agreed to present the research and information that informed its advice to the Secretary of State about how professional regulators can encourage candour. In addition to the proposed terms of reference, the Group will be discussing a forward work programme, which we anticipate will begin with issuing a joint statement on a consistent approach to candour. Early indication of this work programme, with any
additional agreed actions will be circulated for discussion as an additional Annex before the Board meeting on 13 February 2014.
Supporting information

How this issue relates to the corporate strategy and business plan

13 Strategic aim 1 of the 2014 – 2017 Corporate Strategy: Make the best use of intelligence about doctors and the healthcare environment to ensure good standards and identify risks to patients.

Other relevant background information

14 The creation of this Group has been agreed by our Chief Executive in conversation with the Chief Executive of the NMC. The creation of the Group has been discussed with the Secretary of State for Health and at a roundtable discussion on professional candour that took place on 29 January 2014.

How the action will be evaluated

15 The Group will be accountable to the Chief Executives Steering Group and we will report regularly on progress to the Strategy and Policy Board.

How the issues differ across the four UK countries

16 The discussion of candour is currently largely and England-centric discussion. As the work of the Group progresses, it will be mindful of the impact of any decisions in a four country context. The Group will invite experts from the devolved countries to ensure clear understanding of any impact of changes and any particular features or changes to our standards on a doctor’s duty of candour.

What equality and diversity considerations relate to this issue

17 We are aware that there are groups of vulnerable patients, some of whom have protected characteristics, who are at increased risk of poor treatment from health professionals. Additionally, there are certain characteristics that increase the risk of doctors being involved in our fitness to practise procedures and some groups of doctors may need more support in delivering the best care to patients. The Group will consider whether any changes may have a disproportionate impact on any of these groups.

If you have any questions about this paper please contact:
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The GMC and Candour

Standards

1. We are clear in our standards about the requirement for doctors to be open and honest with patients. *Good medical practice* (GMP) 2013 paragraph 55 states:

   ‘You must be open and honest with patients if things go wrong. If a patient under your care has suffered harm or distress, you should:

   a put matters right (if that is possible)
   b offer an apology
   c explain fully and promptly what has happened and the likely short-term and long-term effects.’

2. We also make a clear statement about doctors encouraging candour at paragraph 24:

   ‘You must promote and encourage a culture that allows all staff to raise concerns openly and safely.’

3. We consider several other paragraphs of GMP relevant to openness, transparency and candour and have provided a full discussion of these in our submission to the Professional Standards Authority which has provided advice to the Secretary of State about how professional regulation can further encourage candour.

4. In addition to our core guidance, we have several pieces of explanatory guidance, which include standards related to candour and honesty:

   a *Leadership and management for all doctors.*
   b *Raising and acting on concerns about patient safety.*
Education, registration and revalidation

5 Reference to GMP is involved in every step a doctor must take in education or when registering or revalidating.

6 In the final declaration a doctor must make when applying for registration, they must confirm that they have read our core guidance, GMP, and ‘understand that my actions may be judged against the standards and principles it contains’ by signing the declaration. When a doctor applies for entry onto the Specialist or GP Register or for a Licence, they are also asked to make the same declaration. Additionally, the letter a doctor receives informing them of their entry to the register reminds them of their obligations to meet the standards expected for good medical practice and refers them to GMP and other guidance and learning materials on our website.

7 GMP is at the core of revalidation. Usually, once every five years we receive a recommendation from each doctor’s responsible officer (RO), confirming that the doctor has been participating in annual appraisal that considers the whole of their practice and reflects the requirements of the GMC’s Good medical practice framework for appraisal and revalidation. The recommendation also confirms that there are no unaddressed concerns about the fitness to practise of the doctor.

8 The revalidation recommendation the RO makes also confirms that the doctor concerned has presented and discussed appropriate supporting information at annual appraisals in accordance with the requirements of the GMC’s supporting information for appraisal and revalidation. One piece of supporting information that all doctors are required to collect and discuss at appraisal is a review of complaints and compliments. While this may not be directly relevant to the duty of candour, it does encourage openness and learning from past mistakes.

9 We set out the knowledge, skills and behaviours that medical students learn at UK medical schools: these are the outcomes that new UK graduates must be able to demonstrate. We also set the standards for teaching, learning and assessment. These outcomes and standards are laid down in Tomorrow’s Doctors (2009).

Paragraph 6 sets out the responsibilities of medical students, which includes raising concerns about any aspect of other’s conduct which is inconsistent with good professional practice.

a Outcome 3, ‘the doctor as professional’, is particularly relevant, including explicit reference to the graduate knowing and keeping to GMC and the graduate being able to be, ‘...trustworthy and honest, act with integrity, maintain confidence...’ (paragraph 20).
Finally, medical students must make a declaration on health and conduct when applying for provisional registration, which emphasises the importance of students being candid when making the declaration.

Embedding standards

While the standard for a doctor to be open, transparent and candid is clearly laid out in our standards, we are committed to doing more to being proactive and promoting our standards and professionalism among doctors, trainees and medical students for example through the Regional Liaison Service, who have met with almost 13,000 doctors 6,000 students and educators and 700 patients and patient representatives so far this year; student engagement strategy; and the development of social media tools.