



**SOUTH CENTRAL AMBULANCE SERVICE NHS
 FOUNDATION TRUST**

RISK, HEALTH AND SAFETY POLICY
Being Open and Duty of Candour Policy

DOCUMENT INFORMATION	
Author: Debbie Marrs Deputy Director of Quality and Patient care	Consultation & Approval: Staff Consultation Process: (21 days) ends: Quality And Safety Committee 9 June 14 (first review)
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DOCUMENT PROFILE and CONTROL.

Purpose of the document:

To ensure that the Trust meets its obligations to patients, relatives and the public in *Being Open and Duty of Candour*.

Department: Governance and Risk

Author/Reviewer:

Deputy Director of Quality and Patient care

Document Status:

Draft v1

Amendment History			
Date	*Version	Author/Contributor	Amendment Details
April 2016	V2	Laura Mathias	Section 7 updated responsible committee updated

Equality Analysis completed on	By
Staffside reviewed on	By

Title
Whistleblowing Procedure
Complaints Policy
Serious Incident Requiring Investigation Policy
Adverse incident reporting policy
NHSLA Risk Management Standards for Ambulance Services 2012/13

External	The Mid Staffordshire NHS Foundation Trust Public Inquiry Volume 3; Chapter 22. Robert Francis QC	Feb 2013
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1. Introduction

Candour is the quality of being open and honest. Patients should be well informed about all elements of their care and treatment, and ALL staff have a responsibility to be open and honest to those in their care.

All organisations should have and sustain a culture which supports staff to be candid. It cannot be an 'add on' or a matter of compliance, it will only be effective as part of a wider commitment to safety, learning and improvement. This will require a considerable commitment to supporting staff through induction, training and processes of review to create a culture of learning and improvement and avoiding temptations of defensiveness and blame.

The obligations and challenges of candour serve to remind us that for all its technological advances, healthcare is a deeply 'human' business. Systems and processes are necessary supports to good, compassionate care, but they can never serve as a substitute. Making a reality of candour is a matter of 'hearts and minds'. The commitment to being candid has to be about values rooted in genuine engagement of staff to 'do the right thing'

In September 2005 the National Patient Safety Agency (NPSA) issued a Safer Practice Notice advising all NHS organisations to implement a "Being Open Policy". In November 2009 a Patient Safety Alert was issued by the NPSA to ensure that providers of NHS funded care implemented the principles of *Being Open*. Compliance with the requirements is subject to assessment by the NHS Litigation Authority. The NHS Standard Contract 2014/15 specifically requires NHS provider organisations to implement and measure the principles of *Being open* under a contractual Duty of Candour. In addition, the Francis Report (2013) makes recommendations with regard to Openness, Transparency and Candour.

This policy describes how SCAS will demonstrate its openness with patients and relatives when mistakes are made.

Being open is a set of principles that healthcare staff should use when communicating with patients, their families and carers following an incident in which the patient was harmed (severe or moderate harm). The specific delivery of "*Being open*" communications will vary according to the severity grading, clinical outcome and family arrangements of each specific event. The Duty of Candour applies to those patient safety incidents which result in moderate harm, severe harm or death.

The Trust aims to promote a culture of openness, which it sees as a prerequisite to improving patient safety and the quality of a patient's experience.

This policy is to be implemented following all patient safety incidents where moderate, severe harm or death has occurred contractually and ethically.

Being open relies initially on its staff and the rigorous reporting of Patient safety incidents. The Trust endorses the Francis Report Recommendation 173; „**Every healthcare organisation and everyone working for them must be honest, open and truthful in all their dealings with patients and the public, and organisational and personal interests must never be allowed to outweigh the duty to be open, honest and truthful.**’ Therefore, staff who are concerned about the non-reporting or concealment of incidents, or about ongoing practices which present a serious risk to patient safety, are

encouraged to raise their concerns under the Trust's Whistleblowing Policy.

2. Scope

This document outlines the Trust's policy on openness and how SCAS meets its obligations to patients, relatives and the public by *Being open* and honest about any harm events that are made whilst trust staff care for, see and treat and transport patients.

This document is aimed at all staff working within the Trust and sets out the infrastructure which is in place to support openness between healthcare professionals and patients, their families and carers, following a patient safety incident.

3. Objectives and Purpose

The objectives of this policy is to evidence that a robust risk management system is in place which reflects the following:

- 3.1 A patient has a right to expect openness from their healthcare providers.
- 3.2 The Trust will learn from mistakes with full transparency and openness.
- 3.3 A proactive approach to patient safety with the onus on risk management systems and processes identifying incidents which require review and learning.
- 3.4 Working in partnership with all stakeholders
- 3.5 Staff do not intend to cause harm but unfortunately incidents do occur. When mistakes happen, patients/relatives/carers/others should receive an apology and explanation as soon as possible. Apologising is not an admission of liability and staff should feel able to apologise at the earliest opportunity.
- 3.6 Senior managers undertaking Serious Incident requiring investigation must follow the SCAS Serious Incident policy. They must ensure that appropriate support is offered to the patient/families/carers/others. A single point of contact will be identified with the patient/carer/relative to maintain communication and feedback of information about the incident.
- 3.7 Line managers should understand that an individual or team might require support during the investigation and, after discussion, should guide them to the appropriate support mechanism. Support for staff should be offered from the line manager and Occupational Health Services or the HR Directorate. This will include contact details of both external and internal support.
- 3.8 SCAS aims to comply with the requirements of the NHS Litigation Authority (NHSLA) Risk Management Standards for Ambulance Services.

4. Responsibilities

4.1 Trust Board

The Trust Board have responsibility to obtain assurance that the processes work effectively to support the board level public commitment to implementing the *Being open* principles and Duty of Candour.

4.2 Chief Executive

Chief Executive is ultimately responsible for the process of managing and responding to the *Being open* process and for the delegation of this role when required.

4.3 Executive Directors

The Executive Management Team is responsible for compliance with the *Being open* process. They are accountable to the Trust Board and the Chief Executive for the implementation of an effective Duty of Candour process.

4.4 Senior Management Team

The Senior Leadership Team is responsible for monitoring compliance with the *Being open* and Duty of Candour policy and implementing the associated process.

4.5 Patient Safety Group (PSG)

PSG will have overall responsibility for monitoring the *Being open* and Duty of Candour process.

- The group links with the Quality and Safety Committee and reports to the other relevant risk management committees and groups including the Patient Safety Group
- The group is responsible for ensuring continuous development of the *Being open* and Duty of Candour policy in accordance with national guidance
- The SIRI review group will also ensure this policy is adhered to
- The group will communicate up to board level
- The group (in conjunction with the SIRI review group) facilitates organisational learning and improvement as a result of effective *Being open* processes by making sure that any lessons learned are disseminated through the Trust.

4.6 The Assistant Director of Quality and Patient Care

The Assistant Director of Quality and Patient Care is responsible for monitoring compliance with and reporting on the effectiveness of the management of 'Being Open' to the PSG. A quarterly report will be produced for the group and data will be collated for submission to the commissioners.

It is the responsibility of all **Trust managers** to support staff so that they comply with this policy

All staff working within SCAS are expected to follow this policy and demonstrate the principles of Being open and Duty of Candour when a patient safety incident occurs.

5. Definitions

Patient Safety Incident

'..any unintended or unexpected incident that could have or did lead to harm for one or more patients receiving NHS-funded healthcare' (Seven Steps to Patient Safety, NPSA 2003).

This can be identified in the course of an incident report, complaint, and/or enquiry to Patient Experience Department or a legal claim.

Serious Incident

“Serious incidents are events in health care where the potential for learning is so great, or the consequences to patients, families and carers staff or organisations are so significant that they warrant using additional resources to mount a comprehensive response.” (Serious Incident Framework, NHS England 2015)

Openness – enabling concerns and complaints to be raised and disclosed freely without fear, and for questions to be answered.

Transparency – allowing information about the truth about performance and outcomes to be shared with staff, patients, the public and regulators.

Candour – any patient harmed by the provision of healthcare service is informed of the fact and an appropriate remedy offered, regardless of whether a complaint has been made or a question asked. (Francis 2013)

‘Moderate harm’ – any incident that resulted in a moderate increase in treatment and which caused significant but not permanent harm, to one or more persons receiving NHS funded care.

‘Severe harm’ – any incident that appears to have resulted in permanent harm to one or more persons receiving NHS funded care– related directly to the incident and not to the natural course of the patient’s illness or underlying condition.

‘Catastrophic or Death’ – any incident that directly resulted in the death of one or more persons receiving NHS funded care. Death must be related to the incident rather than the underlying condition or illness.

6. Clinical support and advice

Immediate clinical support and advice for staff involved in a patient safety incident is provided according to how serious the patient safety incident is classified. The incident is graded using the Trust’s DATIX system with support from operational managers and the Clinical and Quality Directorate as described below:

- The initial level of support is provided by local managers (working at station level) for staff involved in a patient safety incident who will give advice so that they are able to manage the incident in real time, as soon as possible after the incident has happened. This includes advising on the Being Open/Duty of Candour process and general guidance about how to communicate with patients, relatives and carers.
- The second level of support is provided by Head of Operations/111/PTS managers and may include Education managers. Further escalation may be required depending on the severity of the incident. Where support is needed from the Trust’s senior operational managers then the Operations Directors/PTS manager/EOC Assistant Director/111 Assistant Director may be required.
- A further level of support can be provided by the Assistant Medical Directors in conjunction with the medical Director. Out of hours the Duty Director and Silver and Gold on call can assist.

7. Being Open and Duty of Candour Procedure

- 7.1 The patient or their family/carer must be informed that a suspected patient safety incident has occurred within at most **10 working days** of the incident being reported to the local systems, and sooner where possible.
- 7.2 SCAS will review all DATIX incidents resulting in moderate or severe harm as reported to the NRLS with a view to ascertain where duty of candour is required
- 7.3 The Clinical Governance team will liaise with operational managers to inform them that a duty of candour applies to particular incidents where moderate or severe harm is suspected
- 7.4 The initial notification must be verbal and face to face, where possible, and will be followed by a letter from the appropriate manager.
- 7.5 An apology must be provided – an apology for any suspected harm caused must be provided verbally and in writing.
- 7.6 The nominated operational manager will normally be the Head of Operations as the most senior person responsible for the patient's care and/or someone with the experience and expertise in the type of incident that has occurred. This person will be supported by at least one other member of staff within the department or Clinical and Quality directorate. If the incident is serious and a confirmed harm of moderate or above.
- 7.7 If the patient or family are aware of the incident then the immediate actions as stated above should be followed by a letter.

The letter should be sent to the patient and/or relatives and others inviting them to meet with the nominated staff, offering them a choice of venues and times and advising of the independent advocacy service available to support and assist them (in accordance with the Trusts Complaints Policy and Serious Incident Policy.)

The patient and/or the relatives and others should be given the opportunity to choose:

- Whom they would prefer to meet with;
- Where and when the meeting will be held;
- Whether they would like to bring a friend to the meeting;
- The date, time and venue should be confirmed in writing including email.

- 7.8** The meeting is held as soon as possible after the incident, taking into account the patient's and/or the relative's and others' wishes.
- 7.9** Any meeting should be held in deference to the patient/relative/advocate's wishes. The same applies as to any venue; it is usually for the patient/relative to decide and for the trust to accommodate.
- 7.10** The local management team will be kept up to date on progress with the investigation and contacts with the patient and family.

7.11 Procedure for the Nominated Investigations Manager

At the meeting with the patient and/or relatives and others, the nominated staff from the investigating team should follow the procedure below.

- Apologise for what happened;
- If known, explain what went wrong and where possible, why it went wrong;
- Give the patient and/or relatives an opportunity to ask as to why they thought it went wrong and an error occurred. This may include relevant personal circumstances should staff agree these can be shared;
- Inform the patient and/or relative(s) and others what steps are being/will be taken to prevent the incident recurring;
- Provide opportunity for the patient and/or relatives and others to ask any questions;
- Agree with the patient and/or relatives and others any future meetings as appropriate.

8. Documentation

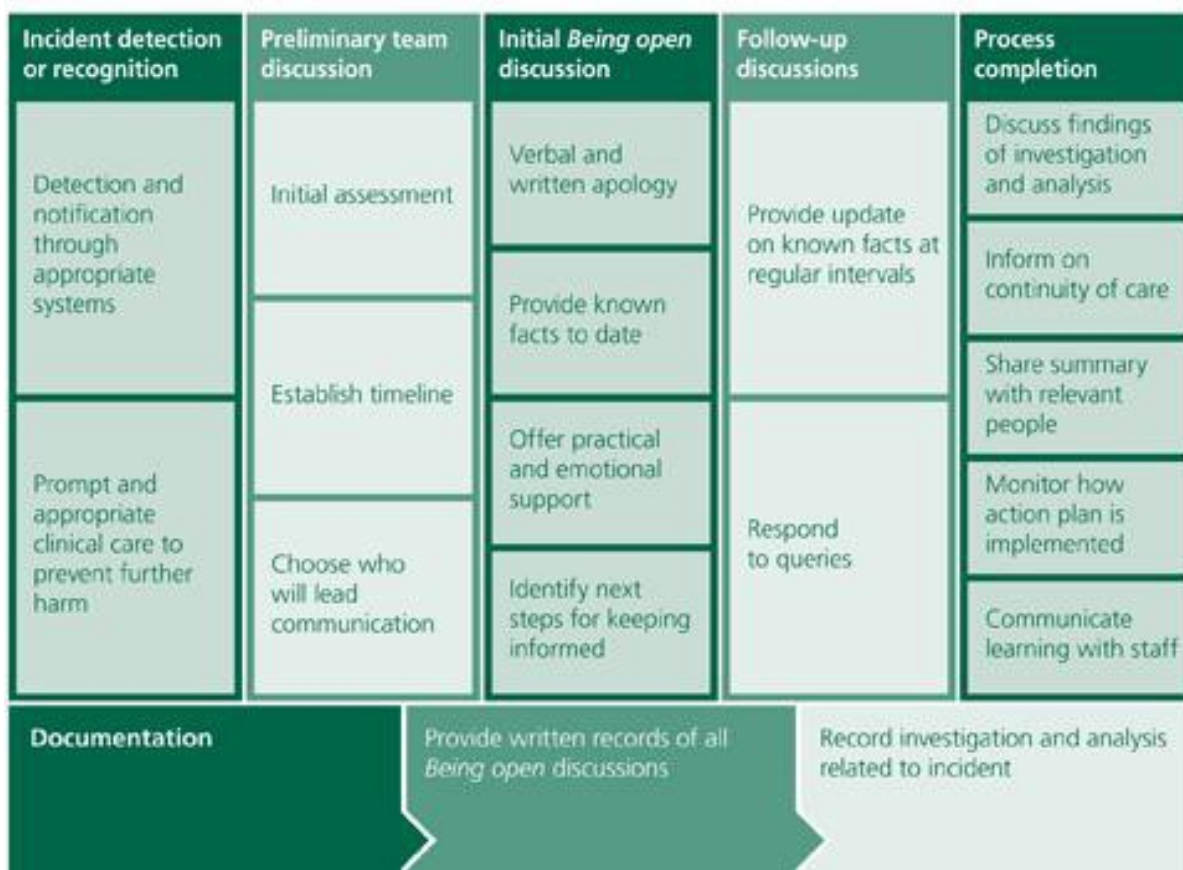
The requirements for documenting all communication are set out below:

- the record of an open and honest apology;
- sharing any facts that are known and agreed with the patient/carers;
- an invitation to the patient/carers to participate in the investigation and to agree how they will be kept informed of the progress and results of that investigation;
- an explanation of any likely short and long-term effects of the incident;
- a clear response to questions the patient/carer may have;
- an offer of appropriate practical and emotional support to the patient/carer;
- An auditable record of contacts will be maintained with the Root Cause Analysis

9. Monitoring of this policy

- Compliance with this policy will be monitored through the use of feedback from patients/relatives and via the review of closed investigation files. The SIRC review group and Patient Safety Committee will review closure of cases.
- Contractual duty of candour is monitored via commissioners through contract review.
- Any identified areas of non-adherence or gaps in assurance arising from the monitoring of this policy will result in recommendations and proposals for change to address areas of non-compliance and/or embed learning.
- Responsibilities of staff will be monitored through attendance at meetings, management of systems, development of reports and the appraisal process.

Overview of the *Being open* process



NPSA. (2009). *Being Open*. p.3

Stage 1: Patient safety incident detection or recognition - This covers how patient safety incidents are identified; the prompt and appropriate clinical care and prevention of further harm; and who to notify about the patient safety event.

Stage 2: Preliminary team discussions - This covers the preliminary team discussion to establish the basic clinical and other facts; undertaking the initial assessment to determine the level of response required; the timing of the discussion with the patient, their family and carers; and choosing who will be the lead in communicating with the patient, their family and carers

Stage 3: The initial Being open discussion - This covers the content of the discussion and what should not occur: speculation, attribution of blame, denial of responsibility and provision of conflicting information from different individuals.

Stage 4: Follow-up discussions - This covers the subsequent discussions with the patient, their family and carers.

The Principles of Being Open

Being open involves apologising when something has gone wrong, Being open about what has happened, how and why it may have happened, and keeping the patient and their family informed as part of any subsequent review.

Principle of Acknowledgement

All patient safety events should be acknowledged and reported as soon as they are identified. In cases where the patient, their family and carers inform healthcare staff that something has happened, their concerns must be taken seriously and should be treated with compassion and understanding by all staff. The Trust recognises that denial of a person's concerns or defensiveness will make future open and honest communication more difficult.

Principles of Truthfulness, Timeliness and Clarity of Communication

Information about a patient safety incident must be given in a truthful and open manner by an appropriately nominated person. Communication from Operational/Clinical staff must only be from Ambulance Operation manager grade staff or above. Communication should also be timely, informing the patient, their family and carers what has happened as soon as is practicable, based solely on the facts known at that time. It will be explained that new information may emerge as the event investigation takes place and that they will be kept up to date. Patients, their families and carers and appointed advocates should receive clear, unambiguous information and be given a single point of contact for any questions or requests they may have.

Principle of Apology

Patients, their families and carers should receive a meaningful apology - one that is a sincere expression of sorrow or regret for the harm that has resulted from a patient safety event or that the experience was poor. This should be in the form of an appropriately worded agreed manner of apology, as early as possible. Both verbal and written apologies should be given. **Saying sorry is not an admission of liability and it is the right thing to do.** Verbal apologies are essential because they allow face to face contact, where this is possible or requested. A written apology, which clearly states the organisation is sorry for the suffering and distress resulting from the patient safety event, will also be given.

Principle of Professional Support

Principle of Risk Management and Systems Improvement

Root Cause Analysis (RCA) or similar techniques should be used to uncover the underlying causes of patient safety events. Investigations at any identified level will however focus on improving systems of care, which will be reviewed for their effectiveness. *Being open* is integrated into patient safety incident reporting and risk management policies and processes.

Principles of Clinical Governance

Being open involves the support of patient safety and quality improvement through the Trust's clinical governance framework, in which patient safety incidents are investigated and analysed, to identify what can be done to prevent their recurrence. It is a system of accountability through the chief executive to the board to ensure that these changes are implemented and their effectiveness reviewed. Findings are disseminated to staff so they can learn from patient safety incidents. Audits are an integral process, to monitor the implementation and effects of changes in practice following a patient safety incident.

Principle of Confidentiality

Details of a patient safety incidents should at all times be considered confidential. The consent of the individual concerned should be sought prior to disclosing information beyond the clinicians involved in treating the patient. The Trust will anonymise any incident it publishes but still seek the agreement of those involved.

Where it is not practical or an individual refuses consent to disclosure, disclosure may still be lawful if justified in the public interest or where those investigating the patient safety event have statutory powers for obtaining information. Communications with parties outside of the incident lead and those involved in the investigation will be on a strictly need to know basis and, where practical, records are secure and anonymised where released. Where possible, it is good practice to inform the patient, their family and carers about who will be involved in the investigations before it takes place, and give them the opportunity to raise any objections.

Principle of Continuity of Care

The Trust acknowledges that patients are entitled to expect they will continue to receive all usual treatment and continue to be treated with respect and compassion.

Equality Impact Assessment Form Section One – Screening

Name of Function, Policy or Strategy: Duty of Candour

Officer completing assessment: Laura Mathias

Telephone: 07826 890093

1. What is the main purpose of the strategy, function or policy?
To ensure that the Trust meets its obligations to patients, relatives and the public in <i>Being Open and Duty of Candour</i> .
2. List the main activities of the function or policy? (for strategies list the main policy areas)
To define the contractual Duty of Candour To illustrate how the Trust will meet this Duty To give assurance that this Duty will be fulfilled To outline who is responsible for implementation of the Duty
3. Who will be the main beneficiaries of the strategy/function/policy?
The Trust Patients and their families
1. Use the table overleaf to indicate the following:- a. Where do you think that the strategy/function/policy could have an adverse impact on any equality group, i.e. it could disadvantage them? b. Where do you think that there could be a positive impact on any of the groups or contribute to promoting equality, equal opportunities or improving relations within equality target groups?

		Positive Impact	Negative Impact	Reasons
GENDER	Women	Y	NA	This policy applies to anyone affected by a patient harm incident irrespective of gender
	Men	Y	NA	
RACE	Asian or Asian British People	NA	Y	Possible language barriers which could impede communication and understanding of an incident and investigation.
	Black or Black British People	NA	Y	
	Chinese people	NA	Y	The presence of a translator, where applicable, should be considered and offered.
	People of Mixed Race	NA	Y	
	White/white other	NA	NA	
DISABILITY	Disabled people	NA	Y	People with learning difficulties or diagnosis of dyslexia, poor eyesight etc. may need additional support with documentation supplied as part of the Duty
SEXUAL ORIENTATION	Lesbians, gay men and bisexuals	Y	NA	This policy applies to anyone affected by a patient harm incident irrespective of sexual orientation
AGE	Older People (60+)	NA	Y	Some people may find the experience distressing and emotional support should be offered
	Younger People (17 to 25) and children	NA	Y	
RELIGION/BELIEF	Faith Groups	Y	NA	This policy applies to anyone affected by a patient harm incident irrespective of religion or belief
	Equal Opportunities and/or improved relations			Yes – ensuring that a fair and consistent process is followed for all Trust staff.

Notes:

Faith groups cover a wide range of groupings, the most common of which are Muslims, Buddhists, Jews, Christians, Sikhs and Hindus. Consider faith categories individually and collectively when considering positive and negative impacts.

The categories used in the race section refer to those used in the 2001 Census. Consideration should be given to the specific communities within the broad categories such as Bangladeshi people and to the needs of other communities that do not appear as separate categories in the Census, for example, Polish.

5. If you have indicated that there is a negative impact, is that impact:		
	Yes	No
Legal (it is not discriminatory under anti-discriminatory law)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Intended	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Level of Impact	High	Low
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If the negative impact is possibly discriminatory and not intended and/or of high impact then please complete a thorough assessment after completing the rest of this form.		
6(a). Could you minimise or remove any negative impact that is of low significance? Explain how below:		
<p style="color: red;">The use of translators should be considered and offered, where relevant</p> <p style="color: red;">Emotional support should be offered alongside the investigation</p> <p style="color: red;">Additional support for users with learning difficulties or diagnosis of dyslexia, poor eyesight etc. should be offered – this could include a support worker or offering documentation in other formats such as large text, Braille or audio</p>		
6(b). Could you improve the strategy, function or policy positive impact? Explain how below:		
<p style="color: red;">Offering the policy in different languages, if required</p> <p style="color: red;">Offering the policy in alternative formats i.e. large text, audio</p>		
7. If there is no evidence that the strategy, function or policy promotes equality, equal opportunities or improves relations – could it be adopted so it does? How?		
NA		

Please sign and date this form, keep one copy and send one copy to the Trust's Equality Lead.	
Signed:	L Mathias
Name: Laura Mathias
Date: 12 th May 2015

South Central Ambulance Service NHS Foundation Trust
Unit 7 & 8, Talisman Business Centre, Talisman Road, Bicester, Oxfordshire, OX26 6HR

Equality Impact Assessment Form Section Two – Full Assessment

Name of Function, Policy or Strategy: Duty of Candour

Officer completing assessment: Laura Mathias

Telephone: 07826 890093

Part A

- Looking back at section one of the EqIA, in what areas are there concerns that the strategy, policy or project could have a negative impact?

Gender	
Race	x
Disability	x
Sexual Orientation	
Age	x
Religion/Belief	

- Summarise the likely negative impacts:-

Possible language barriers which could impede communication and understanding of an incident and investigation.

The presence of a translator, where applicable, should be considered and offered.

People with learning difficulties or diagnosis of dyslexia, poor eyesight etc. may need additional support with documentation supplied as part of the Duty

Some people may find the experience distressing and emotional support should be offered

- Using the table below, give a summary of what previous or planned consultation on this topic, policy, function or strategy has or will take place with groups or individuals from the equality target groups and what has this consultation noted about the likely negative impact?

Equality Target Groups	Summary of consultation planned or taken place
Gender	
Race	Standard 21 days consultation across the Trust

Equality Target Groups	Summary of consultation planned or taken place
Disability	Standard 21 days consultation across the Trust
Sexual Orientation	
Age	Standard 21 days consultation across the Trust
Religion/ Belief	

4. What consultation has taken place or is planned with Trust staff including staff that have or will have direct experience of implementing the strategy, policy or function?

Standard 21 days consultation across the Trust, consultation with the community

5. Check that any research, reports, studies concerning the equality target groups and the likely impact have been used to plan the project and guide or indicate what research you intend to carry out:-

Equality Target Groups	Title/type of/details of research/report
Gender	NA
Race	NA
Disability	NA
Sexual Orientation	NA
Age	NA
Religion / Belief	NA

6. If there are gaps in your previous or planned consultation and research, are there any experts/relevant groups that can be contacted to get further views or evidence on the issues?

Yes (Please list them and explain how you will obtain their views)

.....
.....

No

Part B

Complete this section when consultation and research has been carried out

- 7a. As a result of this assessment and available evidence collected, including consultation, state whether there will be a need to be any changes made/planned to the policy, strategy or function.
- 7b. As a result of this assessment and available evidence, is it important that the Trust commissions specific research on this issue or carries out monitoring/data collection?

(You may want to add this information directly on to the action plan at the end of this assessment form)

No changes required.....

.....

8. Will the changes planned ensure that negative impact is:

Legal?

(not discriminatory, under anti-discriminatory legislation)

Intended?

Low impact?

9a. Have you set up a monitoring/evaluation/review process to check the successful implementation of the strategy, function or policy?

Yes

No

9b. How will this monitoring/evaluation further assess the impact on the equality target groups/ensure that the strategy/policy/function is non-discriminatory?

Details:

Staff comments will be considered and amendments made, if needed

Community consultation

.....

Please complete the action plan overleaf, sign the EQIA, retain a copy and send a copy of the full EQIA and Action Plan to the Trust's Equality Lead.

Signed: L Mathias

Name: Laura Mathias

Date: 12th May 2015

