

Submission of evidence to the Hyponatraemia Inquiry Programme

March 2019

1. Introduction

- 1.1 The Professional Standards Authority for Health and Social Care ('the Authority') promotes the health, safety and wellbeing of patients, service users and the public by raising standards of regulation and voluntary registration of people working in health and care. We are an independent body, accountable to the UK Parliament. More information about our work and the approach we take is available at www.professionalstandards.org.uk
- 1.2 As part of our work we:
- Oversee nine health and care professional regulators and report annually to Parliament on their performance. This includes the Health and Care Professions Council, which regulates social workers in England
 - Conduct research and advise the four UK governments on improvements in regulation
 - Promote right-touch regulation and publish papers on regulatory policy and practice
 - Accredit voluntary health and care occupational registers to improve consumer protection and raise standards.

2. General comments

- 2.1 The Authority welcomes the opportunity to submit research and information on candour to the Hyponatraemia Implementation Programme of the Department of Health of Northern Ireland. We welcome Programme's approach in considering how best to implement a duty of candour. Since 2013, when the Authority was asked by the Secretary of State for Health for advice on candour, we have developed an evidence base into candour which we hope will be of use to the Duty of Candour workstream and its Being Open Subgroup. We submit three documents of evidence, they are listed in Part Three on the next page.
- 2.2 The Authority emphasises the psychological and emotional challenges practitioners can face when having to consider the implications of being candid. Unless this is recognised and support for practitioners put in place initiatives to create a culture of candour may not result in it becoming a natural part of professionals' practice to be open and transparent with patients and families, and instead could have limited effect or possibly a negative one such as becoming a 'box-ticking exercise'. Additionally, it is an essential requirement that there is a synergy between an organisational duty to be candid to be reinforced by the requirements for professionals to be candid. These

requirements must not be in tension or perceived to be in tension by professionals.

3. Our evidence

*Candour, disclosure and openness (2013)*¹

- 3.1 In the aftermath of the publication of the Francis Report into the tragic events of Mid-Staffordshire Foundation Trust the Secretary of State for Health requested us to advise how professional regulation can encourage candour in professionals.
- 3.2 As part of our advice to the Government we explored a sample of literature relevant to candour across a number of academic disciplines and geographical jurisdictions. *Candour, disclosure and openness* explores the factors which encourage and discourage candour. The literature we reviewed suggests that while being candid is almost universally acknowledged as 'the right thing to do', health professionals and social workers still struggle, for a variety of reasons, to be as open as they might be when things have gone wrong. Barriers to candour include toxic workplaces where blame cultures prevail, fears of litigation, psychological defences and negative impact on careers to suggest but a few.
- 3.3 The report suggested there is a positive role for employers to provide support to the practitioners themselves to allow them to come to terms with the mistake they are expected to disclose. Similarly, there may be a role for education in strengthening what academics refer to as ethical reasoning – which in layman's terms could be called 'moral courage'.

*Can professional regulation do more to encourage professionals to be candid when healthcare or social work goes wrong? (2013)*²

- 3.4 In order to produce the advice in *Can professional regulation do more to encourage professionals to be candid when healthcare or social work goes wrong?*, we reviewed research evidence, mapped professional regulators' existing provisions, examined current activity and consulted with stakeholders.
- 3.5 We identified a number of potential areas where professional regulation could be improved to encourage registrants to be more candid. These areas include focusing on education of trainees and students around candour and encouraging greater consistency and clarity in professional candour standards.
- 3.6 We followed this up with a report a year later to the Secretary of State for Health on the progress of regulators since our initial advice.³

¹ [*Candour, disclosure and openness Learning from academic research to support advice to the Secretary of State*](#), 2013, Professional Standards Authority

² [*Can professional regulation do more to encourage professionals to be candid when healthcare or social work goes wrong? Advice to the Secretary of State for Health*](#), 2013, Professional Standards Authority.

³ [*Progress on strengthening professional regulation's approach to candour and error reporting Advice to the Secretary of State for Health*](#), 2014, Professional Standards Authority.

*Telling patients the truth when something has gone wrong (2019)*⁴

- 3.7 Earlier this year we published *Telling patients the truth when something goes wrong* which evaluates what professional regulators we oversee have done to encourage candour in professionals. The paper also the barriers to candour and suggestions of how candour can be better encouraged amongst healthcare professionals.
- 3.8 The report is based upon:
- Questionnaire responses from organisations across healthcare from professional bodies to firms of solicitors
 - Discussion groups with staff from regulators and fitness to practise panellists. These were facilitated by Annie Sorbie, Lecturer in Medical Law and Ethics at Edinburgh University
- 3.9 The report finds that many barriers we found in previous research, such as toxic workplace cultures, remain and that there are also other factors like the timing of an apology that can assist the successful embedding of a candid culture. The report suggests candour can be better encouraged by healthcare stakeholders placing greater emphasis on more positive examples of candour and benefits derived from it (as opposed to focusing on negative aspects of lack of candour), greater use of case studies and a more joined up effort by healthcare organisations to approaching candour.

4. Further information

- 4.1 We are content for our name to be shared when publishing the evidence we have submitted above.
- 4.2 Please get in touch if you would like to discuss any aspect of this response in further detail. You can contact us at:

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⁴ [*Telling patients the truth when something goes wrong: Evaluating the progress of professional regulators in embedding professionals' duty to be candid to patients*](#), 2019, Professional Standards Authority.