



# Duty of Candour Policy

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SI Panel	January 2015	Emma de Carteret, Interim Head of Quality Governance
Version	Date	Comments (i.e., viewed, or reviewed, amended approved by person or committee)
V1.1	January 2016	Amendments recommended by commissioners
V2.0	March 2016	Approved by Executive Leadership Board
V3.0	November 2017	Approved by Executive Leadership Board

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V6.0	November 2021	Approved by Compliance and Risk Group

## POL019 – Duty of Candour Policy

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<b>Valid Until Date</b>	March 2024
<b>Equality Analysis</b>	October 2019
<b>Linked procedural documents</b>	Claims Policy Complaints Policy Investigation Guidance Management of Incidents Policy Learning from Deaths Policy Whistleblowing Policy Risk Management Strategy Serious Incident Policy Safeguarding Policy NHS England Serious Incident Framework (2015)
<b>Dissemination requirements</b>	All staff via intranet
<b>Part of Trust's publication scheme</b>	Yes

The East of England Ambulance Service NHS Trust has made every effort to ensure this policy does not have the effect of unlawful discrimination on the grounds of the protected characteristics of: age, disability, gender reassignment, race, religion/belief, gender, sexual orientation, marriage/civil partnership, pregnancy/maternity. The Trust will not tolerate unfair discrimination on the basis of spent criminal convictions, Trade Union membership or non-membership. In addition, the Trust will have due regard to advancing equality of opportunity between

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people from different groups and foster good relations between people from different groups. This policy applies to all individuals working at all levels and grades for the Trust, including senior managers, officers, directors, non-executive directors, employees (whether permanent, fixed-term or temporary), consultants, governors, contractors, trainees, seconded staff, homeworkers, casual workers and agency staff, volunteers, interns, agents, sponsors, or any other person associated with the Trust.

All Trust policies can be provided in alternative formats.

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## 1. Introduction

The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 describe statutory provisions regarding Duty of Candour (Regulation 20).

The regulation makes it a statutory requirement that health service providers act in an open and honest way to patients, and their families or carers, should their care not go to plan, and harm was caused to the patient as a result.

Being open about what happened and discussing patient safety events promptly, fully, and compassionately with patients and/or their carers can:

- Help patients and/or relatives heal following an adverse event.
- Provide an environment where patients and/or their carers, healthcare professionals and managers feel supported when things go wrong.
- Allow patients, their family, or their carers be involved in the investigation to ensure their opinions and ideas for improvements are included.

## 2. Purpose

The purpose of this policy is to describe the Trust's approach to discharging the Duty of Candour.

## 3. Duties

### *3.1 The Trust Board*

The Trust Board will be assured that the processes in place regarding Duty of Candour work effectively and is committed to promoting a culture of openness within the Trust.

### *3.2 The Chief Executive Officer*

The Chief Executive has overall responsibility for integrated governance, including risk management and clinical governance within the Trust which includes the process, management, and

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response to the Duty of Candour process. The Chief Executive delegates the responsibility for patient safety to the Director of Nursing, Clinical Quality, and Improvement.

### ***3.3 The Director of Nursing, Clinical Quality, and Improvement***

The Director of Nursing, Clinical Quality, and Improvement is accountable for ensuring that the Trust discharges its Duty of Candour in line with legislation.

### ***3.4 Patient Safety Lead***

The Patient Safety Lead is responsible for overseeing the incident and serious incident process and for ensuring that Duty of Candour is implemented in a timely manner and documented accordingly. The Patient Safety Lead will provide support and guidance to those managers discharging Duty of Candour on behalf of the Trust.

### ***3.5 Safety Team***

The Safety Team is responsible for monitoring serious incidents and potential serious incidents and will liaise with local management teams to ensure that the need for Duty of Candour is recognised and completed as per the policy.

### ***3.6 Heads of Departments and General Managers***

All managers working within the Trust are expected to follow the Duty of Candour Policy and have a responsibility for ensuring that all patient safety events are acknowledged and reported as soon as they are identified in line with the Trust's Management of Incidents Policy. They should be aware that an individual member (or members) of staff might require support during the investigation and provide the appropriate help and guidance for them which may in some cases come from external agencies.

Senior managers are responsible for planning and discharging Duty of Candour as per this policy in relation to incidents occurring in their locality/area of work.

### ***3.7 All staff***

All members of staff should make themselves familiar with this policy and the process to discharge their professional Duty of Candour.

This includes providing an immediate apology, rectifying any immediate concerns for the patient's safety and explain the issue will be raised with managers for investigation.

All members of staff must report any adverse incidents via the incident reporting system and, in instances where Duty of Candour is required on behalf of the Trust. This should be escalated to the manager on duty at the time of the incident.

### ***3.8 Patient Safety Group (PSG)***

The PSG will receive reports from the Safety Team on Duty of Candour to monitor compliance and identify any areas of concern, acting where appropriate.

### ***3.9 Compliance and Risk Group (CRG)***

The CRG shall receive reports, by exception, when any notable events occur relating to the Duty of Candour. The CRG shall receive a bimonthly report from the PSG, where the Duty of Candour can be discussed if required.

### ***3.10 Quality Governance Committee (QGC)***

The QGC is directly accountable to the Board and seeks to provide assurance relating to systems and procedures relating to patient safety.

The Committee will receive reports relating to the Duty of Candour process and issues highlighted to provide assurance to the Board, or to raise concerns.



#### 4. Definitions

**Duty of Candour** – the statutory duty to be open and honest with patients, or their families, when something goes wrong which appears to have caused, or had the potential to have caused, harm.

**Patient Safety Event** – an adverse event which caused, or had the potential to have caused, harm to a patient.

**Serious Incident** – a patient safety event which meets the criteria set out in the NHS England SI Framework, 2015.

#### 5. Identifying the need for Duty of Candour

As soon as a patient safety event is identified where harm has occurred, the priority is to ensure appropriate clinical care is provided and action taken to prevent further harm. Whenever practicable, appropriate discussion and patient consent should be gained prior to providing additional treatment.

The following table outlines the parameters for implementing the Duty of Candour:

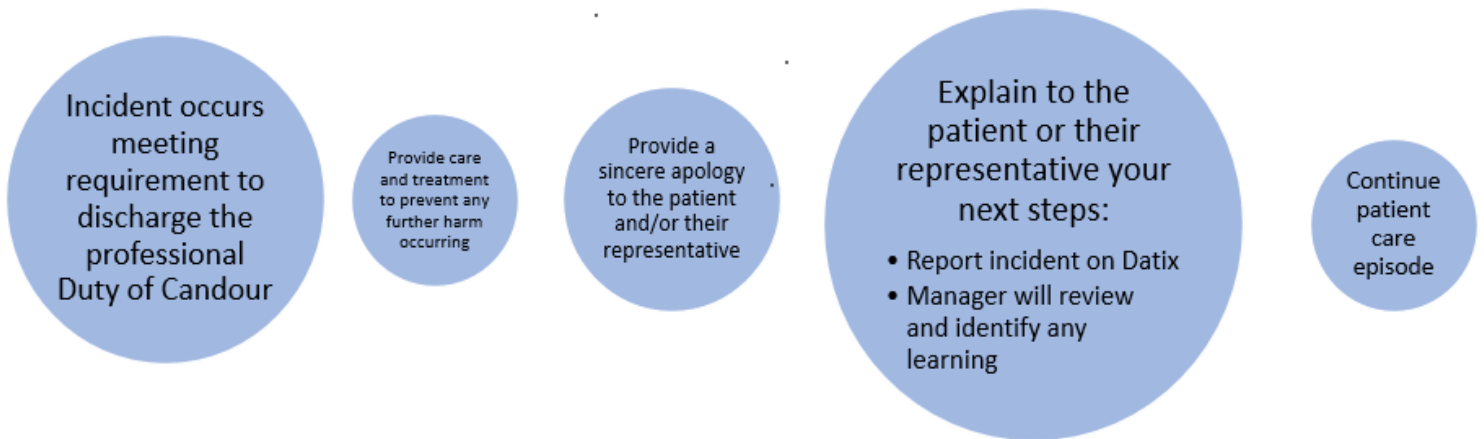
Incident	Action
<b>No Harm (including near misses) or low harm</b>	The Trust considers it best practice to inform patients when something has gone wrong and apologise at the time of the event. No written apology will be provided.
<b>Moderate, Severe, or catastrophic harm</b>	A verbal apology will be given as soon after the event as possible. A written letter of apology will be sent by the manager or safety team. A copy of the investigation report will be provided on completion of the investigation if those involved indicate that they would like to see a copy.

Further information relating to harm definitions can be found [here](#).

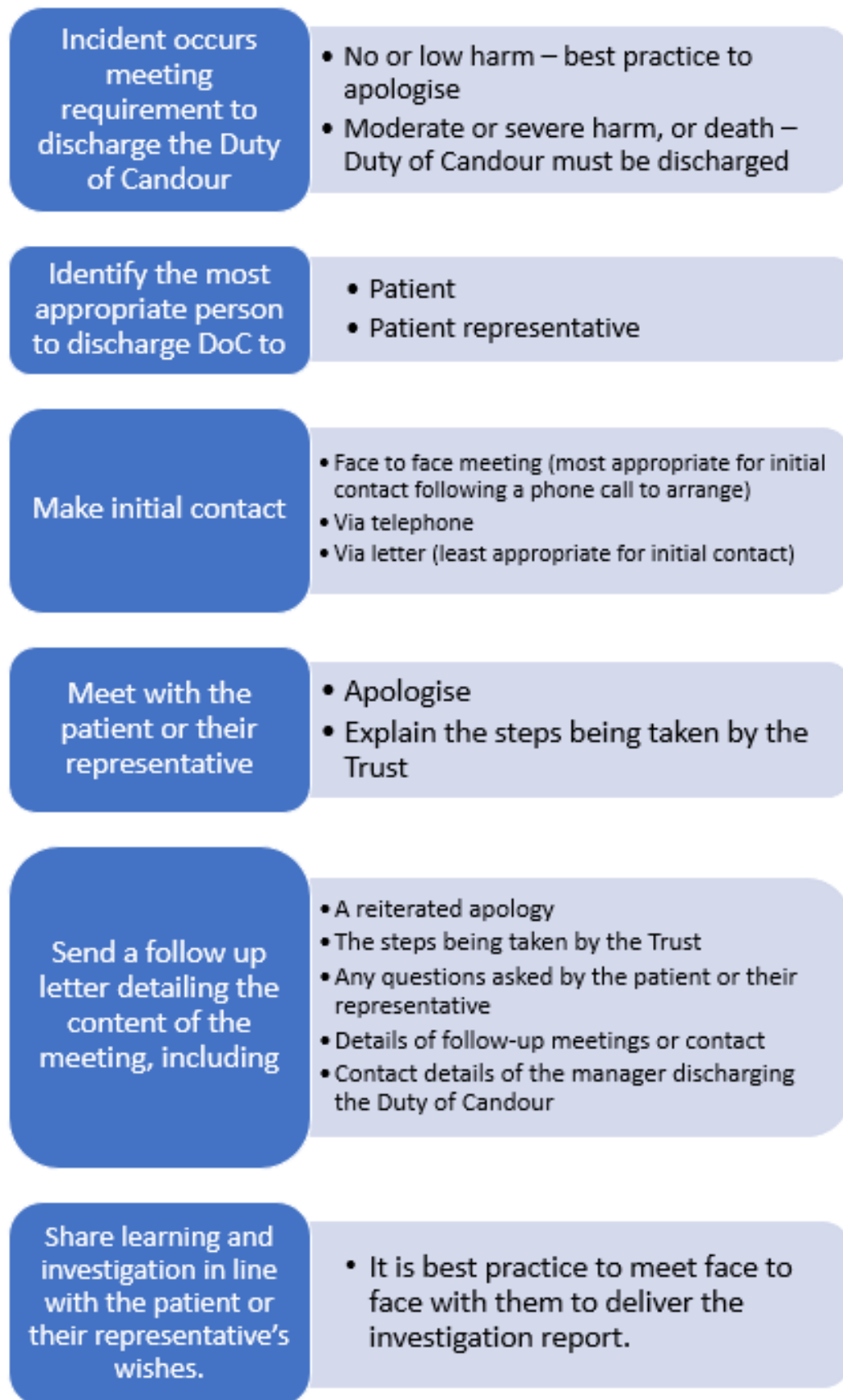
## 6. The Duty of Candour Process

The following flowcharts demonstrate the responsibilities any member of Trust staff should follow, after the need to implement the Duty of Candour has been identified:

### Professional Duty of Candour (witnessed incident):



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**Organisational Duty of Candour (post-incident report):**



### *6.1 Who to inform*

Wherever possible, Duty of Candour discussions must be held with the patient directly. This is not always possible, such as when the patient has died, or due to their circumstances or their age, or if the patient wishes someone else to represent them.

In instances where discussions are held with the patient, no consent is required. The manager must satisfy themselves that they are speaking with the patient. In all other instances, suitable consent must be gained prior to discussions commencing and should be requested in the initial contact.

Further information about gaining consent can be found in the [Mental Capacity Act Policy](#).

### *6.2 Making initial contact*

Wherever possible, discussions should be held in person and, as such, an initial telephone call to briefly explain the need to meet and make arrangements is deemed as best practice. If there is uncertainty as to the most appropriate person to communicate with, or telephone contact details are not available, an initial letter should be sent asking the person to make contact so that Duty of Candour can be discharged.

### *6.3 Initial Duty of Candour meeting*

The individual delivering the Duty of Candour message to the patient, or their representative should be a senior member of staff, ideally responsible for the area in which the incident occurred. They should have a good grasp of the facts relevant to the incident and be aware of any interim findings so far in the investigation. Where possible, the senior manager should be supported by the investigating manager during this meeting to ensure the views of the patient and their representative are considered during the subsequent investigation.

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The meeting must include:

- Introductions of all present and an explanation of why the meeting was arranged.
- An apology
- A detailed and honest account of all the facts that the Trust currently has about the incident, and what action has been taken so far.
- An explanation of the level of investigation that is being conducted, how this will occur and the anticipated timescales.
- A discussion to determine any questions or concerns that the patient or representative specifically wish to be investigated.
- Agreement between parties of how often to be kept updated on the progress of the investigation.
- Gathering of facts from the patient or their representative as appropriate.
- Confirmation that a written summary of the meeting will be provided in a letter.

The content of the meeting must be documented in written notes and attached to the incident record.

The facts must be communicated clearly, avoiding confusion, and must not either apportion blame or deny responsibility.

Any areas where there is disagreement should be deferred to a subsequent meeting after the investigation has completed. Where the incident investigation is still in progress then the patient/relatives/representatives, and/or the patient's carers, will be informed that more information will become available and new facts may emerge as the investigation progresses.

The meeting should provide an overview of the incident reporting and investigation process, how to contact the patient advice and liaison service (PALS) team and the complaints procedure.

Where there are legal restrictions on the disclosure of information, these restrictions need to be made clear to all meeting attendees. An explanation of the next steps needs to be given.

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The patient/relatives/representatives and/or the patient's carers should again be signposted to sources of emotional support or help that is available to them.

### *6.4 Follow up letter*

Following completion of the initial Duty of Candour meeting, a summary of the discussion must be presented to the patient or their representative in a letter format. This shall be sent as soon as is practical after the meeting occurred and a copy stored in the relevant incident record. The Duty of Candour letter template shall be used.

### *6.5 Subsequent discussions and sharing findings*

Similar considerations to the initial meeting need to be taken for any preliminary follow-up and subsequent meetings or correspondence. Factual feedback needs to be given on progress-to-date and information provided on the investigation process. There should be no speculation or attribution of blame.

On conclusion of the investigation, the full findings of the investigation shall be shared with the patient or their representative, with a copy of the approved report provided to them if they wish to receive a copy. This will include the actions to be taken as a result of the investigation and the timeframes for completion. If the patient or their relative wishes to receive assurance in relation to completion of the actions, this will be offered in the form of a follow up letter.

If this is to be the last discussion, the patient/relative/representative and/or the patient's carers should be asked if they are satisfied with the investigation and a note made in the records.

Contact details will be provided to the patient/relatives/representatives and/or the patient's carers so that if further issues arise these can be linked back to the relevant case.

## **7 Support**

The Trust recognises the importance of appropriate support to

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patients and their relatives during difficult times. The Trust representative is responsible for discussing support needs with the patient or relatives and consider whether it would be appropriate to offer further support, i.e. through their GP, registered charities and other relevant organisations. If this is indicated, the member of staff could liaise with the safety team for appropriate signposting to the relevant service.

It is also acknowledged that staff involved in an incident involving requiring Duty of Candour implementation may require additional support. This will be accessed initially through their line manager, and other options include occupational health, the unions, the Employee Assistance Programme, or, in the case of complaints and PALS issues, the patient experience lead.

### **8 Documentation of Duty of Candour**

The Trust requires all communication relating to an incident, complaint, PALS enquiry or a claim to be documented, to establish a clear record of contact. Should a deviation be made from best practice, any rationale or reason for this must be documented.

Records of all meetings, telephone calls and letters sent must be kept, and attached to the relevant incident on the Trust's incident reporting system.

A copy of the notes of any meetings with patients, their family and/or carers will be provided to all of the individuals present, for their own records.

The Duty of Candour record for each meeting will contain the following information:

- The time, place, date, and names of the attendees.
- Questions raised by the patient, family and/or carers or their representatives, and the answers given.
- Plans for follow-up as discussed.
- Copies of letters sent to patients, carers, and the GP.
- Copies of any statements taken.

## **9 Working across organisations**

The Trust will work collaboratively with other NHS and local authority partners in any investigation and subsequent action plans. There will be open communication with healthcare organisations, healthcare teams, staff, and patients and/or their carers to facilitate robust investigations and learning.

## **10 Erroneous identification**

It is possible that upon investigation of an incident, initially thought to have caused harm, it is identified that this decision was made erroneously. In such circumstances the principles of truthful, timely and open communication continue to apply, with full and consistent explanations being provided to the staff involved, patient and/or carer and any relevant organisations. Similarly, the identification and dissemination of any learning points continues to be an important part of the Duty of Candour Policy.

## **11 General principles of openness and honesty**

In order to ensure that the Trust complies with the general principles of openness, honesty and transparency, the Trust commits to the following:

- Publication of summaries of serious complaints via the public website and staff intranet (subject to patient/family approval).
- Publication of Discovery Interviews with patients via the public website and staff intranet (subject to patient/family approval).
- Sharing of key issues and learning from Serious Incidents, patient safety issues and complaints with the national ambulance groups to maximise service improvements wherever possible.



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- Publication of trends and themes across the organisation to enable staff to assist in safety improvements.

## 12 Standards/Key Performance Indicators

1. Number of incidents and complaints with moderate or severe harm levels, or death.
2. Of these:
  - Average initial contact remains under 10 days
  - Follow up letter completed (100%, unless valid reason exists for why this was not completed)

It must be narrated within the incident record if there is a valid reason that any of the KPIs are not met.

## 13 Equality Impact Assessment

The East of England Ambulance Service NHS Trust has made every effort to ensure this policy does not have the effect of discriminating, directly or indirectly, against employees, patients, contractors, or visitors on the grounds of race, age, nationality, ethnic (or national) origin, gender, sexual orientation, marital status, religious belief, or disability. This policy will apply equally to full and part time employees. All East of England Ambulance Service NHS Trust policies can be provided in large print or Braille formats if requested, and language line interpreter services are available to individuals who require them.

## 14 Associated documents

Claims Policy  
Complaints Policy  
Investigation Guidance  
Management of Incidents Policy  
Learning from Deaths Policy  
Whistleblowing Policy

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Risk Management Strategy  
Serious Incident Policy  
Safeguarding Policy  
NHS England Serious Incident Framework (2015)

**Appendix 1 – Equality Analysis**

<b>EIA Cover Sheet</b>																			
Name of process/policy	Duty of Candour Policy																		
Is the process new or existing? If existing, state policy	Existing																		
Person responsible for process/policy	Patient Safety Lead																		
Directorate and department/section	Nursing, Clinical Quality & Improvement																		
Name of assessment lead or EIA assessment	Patient Safety Lead																		
Has consultation taken place?	No																		
Was consultation internal or external? (please state below):																			
The assessment is being made on:																			
Please tick whether the area being assessed is new or existing.	<table border="1"> <tbody> <tr> <td>Guidelines</td> <td></td> </tr> <tr> <td>Written Policy involving staff and patients</td> <td style="text-align: center;">x</td> </tr> <tr> <td>Strategy</td> <td></td> </tr> <tr> <td>Changes in practice</td> <td></td> </tr> <tr> <td>Department changes</td> <td></td> </tr> <tr> <td>Project plan</td> <td></td> </tr> <tr> <td>Action Plan</td> <td></td> </tr> <tr> <td>Other (Please State)</td> <td></td> </tr> <tr> <td>Training Programme</td> <td></td> </tr> </tbody> </table>	Guidelines		Written Policy involving staff and patients	x	Strategy		Changes in practice		Department changes		Project plan		Action Plan		Other (Please State)		Training Programme	
Guidelines																			
Written Policy involving staff and patients	x																		
Strategy																			
Changes in practice																			
Department changes																			
Project plan																			
Action Plan																			
Other (Please State)																			
Training Programme																			

## Equality Analysis

### What is the aim of the policy/procedure/practice/event?

To document the Trust's commitment to delivering the statutory Duty of Candour and requirements of members of staff discharging it.

### Who does the Policy/Procedure/practice/event impact on?

Race	X	Religion/ Belief	X	Marriage/Civil Partnership	X
Gender	X	Disability	X	Sexual Orientation	X
Age	X	Gender re-assignment	X	Pregnancy/Maternity	X

### Who is responsible for monitoring the policy/procedure/practice/event?

Patient Safety Lead

### What information is currently available on the impact of this policy/procedure/practice/event?

No impact – the Duty of Candour Policy has a positive effect on everyone included within legislation.

### Do you need more guidance before you can make an assessment about this policy/procedure/practice/event?

No

Do you have any examples that show that this policy/procedure/practice/event is having a positive impact on any of the following protected characteristics? No

Race		Religion/ Belief		Marriage/Civil Partnership	
Gender		Disability		Sexual Orientation	

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Age		Gender re-assignment		Pregnancy/Maternity	
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**If yes, please provide evidence/examples:**

Are there any concerns that this policy/procedure/practice/event could have a negative impact on any of the following characteristics. No

If so, please provide evidence/examples:

Race		Religion/ Belief		Marriage/Civil Partnership	
Gender		Disability		Sexual Orientation	
Age		Gender re-assignment		Pregnancy/Maternity	

Please provide evidence:

**Action Plan/Plans – SMART**

N/A

**Evaluating Monitoring Plan/How will this be monitored**

N/A

## Appendix 2 – Monitoring Table

What	Who	How	Frequency	Evidence	Reporting arrangements	Acting on recommendations	Change in practice and lessons to be shared
KPIs	Patient safety lead	Dashboard report to: PSG QGC	Bimonthly	Dashboard report / minutes	Dashboard report	Patient safety lead	Shared in the monthly safety communication