



PRESS RELEASE

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REPORTING ADVERSE EVENTS TO BE MANDATORY (BUT NOT TO PATIENTS)

The Government are to introduce a legal requirement to report adverse events in health or social care in England to the regulator, but have run into a storm over the absence of a corresponding legal duty to inform patients (or their next of kin). The Liberal Democrats are opposing the new regulations unless a corresponding 'duty of candour' is introduced at the same time, as are patients' groups.

Under draft regulations for registration with the Care Quality Commission (CQC) laid before parliament this week, any provider of health or social care in England will be legally obliged to report adverse events which cause harm to the CQC (or the National Patient Safety Agency in the case of NHS bodies). The patient safety charity, Action against Medical Accidents (AvMA), whilst welcoming the concept of mandatory reporting of adverse events, have reacted with dismay that no corresponding duty to inform patients is introduced. AvMA have been campaigning for a legal 'Duty of Candour' (called 'Robbie's Law' after the boy in a well known case of alleged cover up) and had been assured by Health Minister, Ann Keen, that this was being actively considered.

AvMA Chief Executive, Peter Walsh, said:

"It is quite incredible that the Department of Health can not see how unacceptable it would be to make it a legal requirement to report incidents to an anonymous reporting system but not to make it a legal requirement to be open and honest with patients. It sends out completely the wrong message about how seriously the Department takes the need for a genuinely open and fair patient safety culture. It is right to make reporting to the system mandatory. There is worryingly low levels of reporting at present, especially from primary care. However, there needs to be a legal duty of candour to the patient. England is lagging behind in this regard".

Several countries have successfully introduced a legal 'duty of candour' including France, Denmark, New Zealand, Sweden, Slovenia, Hungary, Cyprus, Estonia, as well as several States in Canada and the USA. In England, a legal duty of Candour was recommended by the Chief Medical Officer, Sir Liam Donaldson, in 'Making Amends' (2003). The Government have never given a satisfactory explanation for not implementing this recommendation.

The proposal for a legal duty of candour enjoys widespread support. Harry Cayton, Chair of the Council for Healthcare Regulatory Excellence (the regulator of health professional regulators) said:

“We support the introduction of a duty of candour in the CQC’s registration requirements, which would mean that the ethical responsibility of health professionals would be shared by organisations delivering healthcare services”.

Ruth Marsden, Vice Chair of the National Association of LINks members, said:

“NALM is committed to the protection of patients in health care and believes that there should be a legal ‘duty of candour’ which places a duty of all health care professionals to be open and frank with patients. We are disturbed that the opportunity to introduce a legal ‘duty of candour’ has been side-stepped by Government, which has decided to introduce a requirement to report adverse events in health or social care in England to the regulator but not the patients and carers who should be at the centre of health care.

We will be demanding that the Government amends the draft regulations for Care Quality Commission (CQC) laid before Parliament this week to include a duty of candour to patients as well as regulators”.

Claire Rayner, President of the Patients Association, said:

“This is an issue that should have been dealt with years ago. As one who has personally suffered iatrogenic damage I know the sense of helpless anger it (failure to be open and honest) induces”.

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