



Huw Irranca-Davies MS  
Chair  
Legislation, Justice and Constitution Committee

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14 April 2023

Dear Huw,

Thank you for your letter dated 31 March 2023, requesting a response to questions raised at the Legislation, Justice and Constitution Committee meeting on the 27 March 2023.

I want to thank you for raising these important points and I trust my response provides the clarity and reassurance requested in relation to the Duty of Candour Procedure (Wales) Regulations 2023.

**We note that a consultation was undertaken during the autumn of 2022. Please can you:**

**a) Explain why the Regulations were then not laid before the Senedd until 9 March 2023?**

The consultation closed 16 December 2022 after a short extension to enable some additional key stakeholders the opportunity to respond. We received over 130 responses and some 1200 comments.

This took time to analyse effectively and required us to communicate with some of the respondents to discuss their comments to ensure we captured accurately the helpful suggested amendments they had made. These respondents included primary care stakeholder organisations and the BMA Cymru Wales. These responses then needed careful consideration and where amendments were made, these needed further development. For example, the BMA Cymru Wales highlighted concerns about the resource inequity between Health Board complaints teams and Primary Care providers directly effecting their ability to respond in a timely manner to Duty of Candour incidents. We therefore changed the written response time expected to 5 working days after the date of the In-person notification (previously it had stated within 2 working days).

**b. Confirm that guidance regarding the Regulations was not sent to relevant organisations until week commencing 20 March 2023, and explain why this was the case?**

The final Statutory Guidance, supporting materials and Regulations were sent to the NHS bodies the week commencing the 20 March 2023, however, it should be noted that a final

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

draft was also shared with executive leads for the duty of candour in all NHS bodies (HB's, NHS Trusts and SHA's) who make up the Implementation Board for the Duty of Candour and Quality on 24 February 2023. These executive leads for HB's also share responsibility for primary care services. Additionally, a representative from the National Strategic Programme for primary care for Wales is also a member and was advising throughout the development and implementation phases.

The consultation version of the guidance and Regulations was shared with all stakeholders and NHS bodies since September 2022 and conversations with these stakeholders around the content of the guidance and Regulations were had throughout this period. This collaborative model continued throughout the development of duty of candour here in Wales. All Primary care contractor representative organisations participated in the formation of the guidance through stakeholder events over the previous 2 years.

The statutory guidance was shared and understood by the NHS bodies to whom the duty came in to force from the 1<sup>st</sup> of April 2023.

It is important to recognise that the duty of candour represents an incremental change building upon the exiting putting things right guidance and Regulations which primary care providers and NHS bodies have been subject to since 2011.

**c. Explain why the Welsh Government wishes for the Regulations to come into force on 1 April 2023?**

In view of the policy objectives underpinning both Duties, and the associated benefits of such duties for the health service and the people of Wales; the decision was taken rightly to proceed to implement the Duties on the 1 April as planned. This was also the consensus in the feedback from the NHS bodies.

**There does not appear to be an implementation period to help relevant organisations ensure they have the correct and required processes in place. Please can you:**

**a). Confirm that this is the case, and explain why not?**

There has been an extensive implementation programme from 2021 overseeing NHS preparation lead by an NHS and Welsh Government Steering Group and since Autumn 2022 an NHS Implementation Board has been leading NHS preparedness. The membership of which is made up of lead executives from NHS Health boards, NHS Trusts and Special Health Authorities, who are charged with ensuring their organisation is ready for the implementation of both the duties of Candour and of Quality. This has been a highly successful model with critical engagement and leadership necessary to help organisations have the correct processes in place.

Significant stakeholder training and engagement sessions have been ongoing since autumn 2022 to enable NHS bodies Executives Boards and Senior Management teams be fully prepared for the incoming Duty of Candour. All NHS organisations have provided assurance through written letters to the national clinical director in Welsh Government and during their Joint Executive Team (JET) /Integrated Quality, Planning and Delivery (IQPD) meetings that their preparation was underway and that they were confident they would be prepared to begin the duty on the 1 April. It should also be noted that the implementation date has been shared publicly since September 2022.

The combination of these points answers the question as to why there is not an additional implementation period after the Duties are enacted and become legally binding.

**b. Confirm whether such a period was considered?**

An implementation period was not considered necessary as WG was working in partnership with all NHS Bodies through their executive members and other key stakeholders present at the Implementation Board in the run up to 1 April 2023. It is of note that the Health and Care Quality and Engagement (Wales) Act received Royal Assent on 1 June 2020.

**Will the Welsh Government ensure there are review processes in place so that the relevant guidance can be amended should any issues with the operation of the new system be identified, and can you confirm the timings of any such review?**

Normal review process is in place with the aim to review the guidance 5 years after implementation. There is continued support and oversight of NHS bodies through the Welsh Government Joint Executive Team (JET) meetings and the newly formed Candour Network which also includes primary care representatives.

In conclusion I hope that this letter has answered fully the questions posed to the Committee by the BMA Cymru Wales and that adequate reassurance has been provided in terms of the careful preparatory work and support to NHS organisations to implement the duty of candour.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

**Eluned Morgan AS/MS**

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Minister for Health and Social Services