Southern Ultrasound Ltd.

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Policy and Procedure for 'Being Open – Duty of Candour'

Communicating patient safety incidents with patients and their carer's.

CONTENTS

VERSION CONTROL

Version 1	24th August 2018	Policy Creation

INTRODUCTION

The National Patient Safety Agency's (NPSA) "Being Open" Safer Practice Notice and associated Policy established a priority to improve patient/service user safety through a commitment to improving communication between healthcare organisations and patients/service users and/or carer's, when a patient/service user is moderately harmed, severely harmed or has died as a result of a patient (service user) safety incident.

Whilst the duties and responsibilities of the NPSA has now been absorbed into NHS improvement, the fundamental principle remains true.

We define a patient safety incident as: any unintended or unexpected incident that could have or did lead to harm for one of more patients receiving health care, investigation or treatment.

This is in line with the preferred term of the National Patients Safety Agency and is synonymous with established Untoward Incident Reporting and Investigation Procedures. One notable difference is that 'incidents' referred to in the Procedure include incidents involving staff, equipment, confidentiality breaches as well as patients. Although the 'Being Open' policy focuses specifically on patient safety incidents the general principles can be extracted to other types of incidents where a timely apology and an honest and open communication of the facts surrounding an incident are required. Throughout this document we use the terms patient safety incident and incident interchangeably

'Being Open' means, apologising and explaining what has happened to service users and/or their relatives/carer's involved in an incident. It ensures communication is open and honest and occurs as soon as possible following an incident.

Although this policy relates predominantly to the management of incidents, the same principles of openness and honesty should be used when dealing with complaints or claims.

Effective communication with patients begins at the start of their care and should continue throughout their time with the healthcare organisation. This should be no different when a patient safety incident occurs. Openness about what happened and discussing incidents promptly, fully and compassionately can help patients cope better with the after-effects. Patient safety incidents also incur extra costs through litigation and further treatment; openness and honesty can help prevent such events becoming formal complaints and litigation claims. Openness when things go wrong is fundamental to the partnership between patients and those who provide their care.

As stated in the National Health Service Litigation Authority (NHSLA) circular 02/022, and the Welsh Risk Pool (WRP) Technical Note 23/2002, an apology is not an admission of liability. Furthermore the importance of being open is emphasised by the NHSLA Scheme, and the General Medical Council's Good Medical Practice

Depending on the seriousness or potential seriousness of the incident, Being Open may involve a single member of staff talking to a 'victim' or may require further investigation and a formal Company process. The local staff will need to decide what is required, but regardless an initial apology from the local staff member will be required.

In November 2015 the duty for NHS organisations to be open and honest when a patient is harmed became statute. **Duty of Candour** duties must be evoked when patients experience moderate or severe harm. The duty is overseen by The Care Quality Commission (CQC) and the processes detailed in this policy reflect requirements set out in CQC Regulation 20: Duty of candour.

KEY ELEMENTS OF 'BEING OPEN'

For healthcare organisations and teams, 'Being Open' involves:

- acknowledging, apologising and explaining when things go wrong;
- conducting a thorough investigation into the incident and reassuring patients and/or their carer's that lessons learned will help prevent the incident recurring;
- providing support to cope with the physical and psychological consequences of what happened.

For healthcare staff, 'Being Open' has several benefits including:

- satisfaction that communication with patients and/or their carer's following a patient safety incident has been handled in the most appropriate way;
- improving the understanding of incidents from the perspective of the patient and/or their carer's;
- the knowledge that lessons learned from incidents will help prevent them happening again; having a good professional reputation for handling a difficult situation well and earning respect among peers and colleagues.

For patients, a MORI survey (commissioned by the Department of Health) of 8,000 people in the UK found that nearly 400 had experienced a patient safety incident. These people wanted the NHS to respond in the following ways:

- 34% wanted an apology or explanation;
- 23% wanted an enquiry into the causes;
- 17% wanted support in coping with the consequences;
- 11% wanted financial compensation;
- 6% wanted disciplinary action;
- 9% provided another response, or didn't respond.

Other research has shown that patients are more likely to forgive medical errors when they are discussed fully in a timely and thoughtful manner, and that being open can decrease the trauma felt by patients following a patient safety incident.

SCOPE

Although Southern Ultrasound promotes openness in all cases where appropriate, it is not a requirement of this policy that 'near misses', no harm and low harm incidents follow 'Being Open' practices and procedures.

The Policy should only be applied to patient/service user safety incidents which result in harm. Judgement of staff must be used to determine the seriousness of the circumstances.

Research has shown that applying such practices to no harm or low harm incidents can lead to added stress to the patient/service user, compromised confidence in standards of care, can have negative effects on staff confidence and morale, and decreased public confidence in the NHS. It is therefore advised that in these cases an apology and explanation is given by the staff providing care locally.

TEN PRINCIPLES OF 'BEING OPEN'

'Being Open' is a process rather than a one off event. With this in mind the following principles have been drawn up to underpin the policy and procedure. The degree of seriousness of the incident will affect how far through the tree the process is taken.

1. Acknowledgement

Acknowledge & Report incident as soon as identified. Take patient and/or carer reports of incidents seriously immediately. Be compassionate and understanding.

2. Truthfulness, Timeliness, Clarity of Communication

Give information to patients and/or carers in a truthful and open manner. Give a step-by-step explanation considering individual needs. Be timely in delivery of information. **State the facts only**. Explain that new information may come to light during any investigation; and keep patients and/or carers up to date. Give clear, unambiguous information and identify single point of contact for queries. Avoid jargon.

3. Apology

Give a sincere expression of sorrow or regret to patients and/or carer's, appropriately worded in an apology, as soon as possible. Give written and verbal apology. Verbal apology must not be delayed by any factors including fear, apprehension, lack of staff etc. Delays will increase patient anxiety, anger and frustration. Identify most appropriate staff member to give apology (consider seniority, relationship to patient, experience and expertise).
The communication needs of the recipient should be considered and addressed.

4. Recognising Patient and Carer Expectations

Patients carers can expect to be informed of a serious incident and the issues surrounding it in a face-to-face meeting with representatives from the Company, and should be treated with sympathy, respect and consideration. Maintain confidentiality at all times. Provide information on Southern Ultrasound' Complaints Procedures. Provide support appropriate to individual needs including use of an advocate or translator. Give information re: support agencies i.e. PALS.

5. Staff Support

Staff should feel supported throughout any investigation process and will not be unfairly exposed to punitive disciplinary action, increased medico-legal risk or threat to registration. If action is necessary against staff member, Southern Ultrasound' will advise staff member immediately to allow them to seek advice and/or representation.

6. Risk Management and Systems Improvement

In serious incidents, Southern Ultrasound' shall investigate to uncover underlying causes of the incident. Focus on improved systems of care, to be reviewed for effectiveness.

7. Multidisciplinary Responsibility

'Being Open' applies to all Southern Ultrasound' staff, particularly those in key roles regarding patient care. To ensure MDT approach, identify clinical and managerial opinion leaders as champions. Senior Managers and must participate in incident investigations and clinical risk management.

8. Clinical Governance	‘Being Open’ requires support of patient safety and quality improvement process through clinical governance frameworks to ensure lessons are learned. Accountability through the Board of Directors ensures implementation of changes and effectiveness reviews. Findings should be disseminated to staff to facilitate learning. Establish practice-based systems, continuous learning programmes and audits to monitor implementation and effects of change
9. Confidentiality	Give full consideration to patient confidentiality and staff privacy. Incident information should be considered confidential at all times. Consent from the individual must be sought prior to any disclosure. Where this is not possible, consent is still legal and justifiable if it is in the public interest. Communication outside of the clinical team should be on a strictly need to know basis and records should be, where possible, anonymous. Inform the patient and/or carer who will be involved in the investigation before it takes place. See Staff Code of Confidentiality for Person Identifiable Information in Information Governance Policies and Procedures.
10. Continuity of Care	Patients are entitled to expect they will continue to receive all usual treatment, and to be treated with respect and compassion. If the patient expresses a desire to be treated by a different team, arrangements should be made.

PROCEDURE

Note: The following parts of this policy & procedure relate to incidents where something more than a simple explanation and apology by the local staff member is required.

All media issues/enquiries must be referred to the Company Director – no unauthorised statements should be given to the Press. If it is likely that that a complaint or claim may be made against the Company as a result of the incident, the staff member inform a company Director immediately.

1. Identifying a user-safety incident has occurred

A patient/service user safety incident can be identified by:

- A member of staff at the time of the incident.
- A member of staff retrospectively when an unexpected outcome is detected.
- A patient/service user and/or their carer's who expresses concern or dissatisfaction with the patient's/service user's healthcare either at the time of the incident or retrospectively.
- Incident detection systems such as incident reporting or medical records review.
- Other sources such as detection by other patients/service users, visitors or non-clinical staff.

As soon as a patient safety incident is identified, the top priority is prompt and appropriate clinical care and prevention of further harm. Where necessary, the patient should be referred for appropriate treatment. This should occur whenever reasonably practicable after discussion with the patient and with appropriate consent.

2. Preliminary Team Discussion

The service line manager should be informed of all issues where the Being Open policy has been enacted.

The Service Line Manager will need to: -

- Establish the basic clinical and other facts;
- Assess the incident to determine the level of immediate response;
- Identify who will be responsible for discussion with the patient/service user and/or their carer's;
- Consider the appropriateness of engaging patient/service user support at this early stage. This includes the use of a facilitator, a patient/service user advocate or a health and/or social care professional who will be responsible for identifying the patient's/service user's needs and communicating them back to the health and/or social care team;
- Identify immediate support needs for the health and/or social care staff involved;
- Ensure there is a consistent approach by all team members around discussions with the patient/service user and/or their carer's.
- Establish what other healthcare/social care organisations, healthcare/social care teams need to be engaged and receive communication regarding the review of the incident.

3. Preliminary meeting with the patient and/or carer

The meeting should normally be led by a staff member who is the most senior person responsible for the patient's care and/or someone with experience and expertise in the type of incident that has occurred should lead the meeting.

The person taking the lead should be supported by at least one other member of staff, such as the risk manager, or member of the healthcare team treating the patient.

Ask the patient and/or their carer's who they would like to be present.

Consider each team member's communication skills; they need to be able to communicate clearly, sympathetically and effectively.

Hold a pre-meeting amongst healthcare professionals so that everyone knows the facts and understands the aims of the meeting.

This preliminary meeting should be held as soon after the incident as possible.

- Consider the patient's and/or their carer's circumstances.
- Offer them a choice of times and confirm the chosen date in writing.
- Do not cancel the meeting unless absolutely necessary.
- Use a quiet room where you will not be distracted by work or interrupted.
- Do not host the meeting near to the place where the incident occurred if this may be difficult for the patient and/or their carer's.

4. How to approach the patient/carer affected during the preliminary meeting

- Staff need to adhere to Southern Ultrasound' and their individual professional Codes of Conduct when meeting with people affected by an incident complaint or claim.
- Do not use jargon or acronyms: use clear, straightforward language.
- Consider the individual needs of patients/families and carer's, for example, linguistic or cultural needs.
- Introduce and explain the role of everyone present to the patient and/or their carer's and ask them if they are happy with those present.
- Acknowledge what happened and apologise on behalf of the team and the organisation. Expressing regret is not an admission of liability.
- Stick to the facts that are known at the time and assure them that if more information becomes available, it will be shared with them.
- Do not speculate or attribute blame.
- Suggest sources of support and counselling.
- Check they have understood what you have told them and offer to answer any questions.
- Provide a named contact who they can speak to again.

5. Follow up

- Clarify in writing the information given, reiterate key points, record action points and assign responsibilities and deadlines.
- The patient's notes should contain a complete, accurate record of the discussion(s) including the date and time of each entry, what the patient and/or their carer's have been told, and a summary of agreed action points.
- Where required, the Initial Service Management Review (ISMR) report and the full investigation report will contain information on the engagement and communication with the service user/carer's/families following the incident.
- Maintain a dialogue by addressing any new concerns, share new information once available and provide information on counselling, as appropriate.

More detailed guidance can be found in the National Patient Safety Agencies full guide on 'Being Open: Communicating patient safety incidents with patients and their carer's.

POLICY MONOTORING AND REVIEW

The Being Open Policy will be monitored by the Board of Directors, who shall asses effectiveness by the following processes:

- Incident reviews at Board Meetings
- Review of Feedback Reports
- Annual incident trend analysis reports to the Board of Directors

REFERENCES

- 'Being Open': Communicating Patient Safety Incidents with Patients and their Carers. National Patient Safety Agency. 2005.
- National Health Service Litigation Authority (2002). Litigation Circular:02/02. Apologies and explanations. Issued 11 February 2002. Available at www.nhsla.com
- Welsh Risk Pool (2001). Technical Note 23. Apologies and Explanations. Approved 26 July 2001.
- NHSLA Risk Management Standards Mental Health and Learning Disability Trusts. May 2007. Criteria 1.5.10.
- General Medical Council (2001). Good Medical Practice. Available at http://www.gmc-uk.org
- Department of Health (2003) Making Amends. London: The Stationary Office.
- National Patient Safety Incident Decision Tree. Available at: http://www.npsa.nhs.uk/patientsafety/improvingpatientsafety/incidentdecisiontree/
- National Patient Safety Alert. NPSA/2009/PSA003. 19 November 2009

DISTRIBUTION & AWARENESS PLAN

All staff are made aware of the policy as part of their induction training. If there are any significant changes to the policies that affect the way in which staff initiate or respond, these are communicated to them via team briefs and staff meetings.

A copy of the policy is available to all staff via the Company's on-line Governance Framework folder, and can be accessed 24/7 from any location with Web Access. A hard copy version is retained at all sites of operation and is to be found on the company website

APPROVAL & REVIEW

This policy has been approved by the undersigned and will be reviewed annually and any time there is a change in the Law or guidance recommendations.

Policy Created: 24/08/18 Policy Last Reviewed: V1 13/03/2019

Kevin Rendell Director

APPENDIX 1 : EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment has been performed on this policy and procedure. The EIA demonstrates the policy is robust; there is no potential for discrimination or adverse impact. All opportunities to promote equality have been taken

		Yes/No	Comments
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of:		
	Race	No	
	Ethnic origins (inc. gypsies and travellers)	No	
	Nationality	No	
	Gender	No	
	Culture	No	
	Religion or belief	No	
	Sexual orientation including lesbian, gay and bisexual people	No	
	Age	No	
	Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?	NA	
4.	Is the impact of the policy/guidance likely to be negative?	NA	
5.	If so, can the impact be avoided?	NA	
6.	What alternatives are there to achieving the policy/guidance without the impact?	NA	
7.	Can we reduce the impact by taking different action?	NA	