

The Royal College of Nursing (RCN) Scotland welcomes the opportunity to provide written evidence to the Health and Sport Committee on the Health (Tobacco, Nicotine etc. and Care)(Scotland) Bill.

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### ***Duty of Candour***

Broadly, we support the creation of a legal requirement for health and social care organisations to inform people (or their carers/families) when they have been harmed as a result of the care or treatment they have received and support the principles of transparency, however, it should prompt an organisational shift and p

culture of openness, learning and ongoing improvement to the benefit of all those who use our health services.

A statutory duty would, we believe, be more effective at achieving a consistent approach across all health and care services than the related guidance.

It is clear from the Policy Memorandum and the Bill that the intent of the Duty of Candour is an organisational . not an individual . duty. As long as this is the case, we broadly support the principle of the Bill, but raise a number of points for clarity in answer to Question 6 (below).

### ***Ill-treatment and wilful neglect***



So, while we broadly support the statutory duty of candour, we believe the new culture of openness as a result should be allowed to become embedded before further consideration is given as to whether making wilful neglect or ill treatment a criminal offence is necessary. We also find it slightly contradictory that both the Duty of Candour and Wilful Neglect are presented in a single Bill, when the fear of pr[...]

Rather than introduce a new criminal offence of ill-treatment or wilful neglect which would apply to individuals if things go wrong, the introduction of restorative justice should be considered, where the consent of the patient, health professionals and organisation is sought and the skills of a mediator or facilitator independent of the organisation are used.

As regards the Duty of Candour provisions:

We would like to see how the statutory duty of candour will fit in the current legislative and policy framework, i.e. how will it fit with [...]

There should be clarity and further guidance on the requirement to publicly report incidents to avoid identifying individuals and how to take [...]

The proposed definition of Duty of Candour is broad. This may cause difficulties with statutory interpretation, as well as with recognising such [...]

Given the integration of health and social care, where care provision will be increasingly flexible and may cross the boundaries between health and social care, there needs to be clarity about where duty of candour responsibilities lie between health boards, local authorities and integration joint boards.