

Blackhall Nursery

Duty of Candour Policy

Background

The organisational duty of candour provisions of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (The Act) and the Duty of Candour Procedure (Scotland) Regulations 2018 set out the procedure that organisations providing care services are required by law to follow when unintended or unexpected harm occurs.

The Duty of Candour Procedure (Scotland) Regulations 2025 underpin our commitment to openness and transparency which are vital to the provision of safe, effective and person-centred health and social care. This includes early learning and childcare as provided by Blackhall Nursery.

Activating the Duty of Candour

The Duty of Candour must be activated as soon as possible after becoming aware that:

- an unintended or unexpected incident occurred in the provision of our service;
- in the reasonable opinion of a registered health professional not involved in the incident that the incident appears to have resulted in or could result in one of the outcomes listed in the Scottish Government's Organisational Duty of Candour Guidance March 2025.

Harm may not always be severe, but the duty should be considered in the following outcomes:

- an increase to a person's treatment
- changes to the structures of their body
- the shortening of life expectancy
- an impairment of the sensory, motor or intellectual functions of the person which has lasted, or is likely to last, for a continuous period of at least 28 days
- the person is experiencing pain or psychological harm which has been, or is likely to be, experienced by the person for a continuous period of at least 28 days

The final decision by Blackhall Nursery about whether to activate the Duty of Candour procedure for a particular incident will be informed by the views of a health professional who has not been personally involved. The health professional will require to have information provided to them:

- what was the incident?
- what was the outcome?
- what illness and underlying condition does the child have?

Although it is likely that Blackhall Nursery will already have a view on whether the procedure should be activated, the views of the registered health professional not involved with the incident form an important further step in the Duty of Candour procedure.

Should a decision be made not to activate the procedure, for whatever reason, this decision should be recorded to ensure there is a clear audit trail of decision making – see **Appendix B** - Duty of Candour Reporting Log.

Procedure start date

The procedure start date is the date that Blackhall Nursery receives confirmation from a registered health professional that, in their reasonable opinion, an unintended or unexpected incident appears to have resulted in, or could result in an outcome listed in Duty of Candour Procedure (Scotland) Regulations 2025 and that related directly to the incident rather than to the natural course of the child's illness or underlying condition.

The relevant person (i.e. the child's parent/carer) should be notified as soon as reasonably practicable but it should be considered good practice to notify the relevant person within 10 working days of the procedure start date.

This notification can be by various methods including telephone, face to face or by letter.

Our procedure:

- When an unintended or unexpected incident that results in harm or death occurs we will be open and accountable.
- We will apologise if there are any misunderstandings or if something goes wrong, without delay. By making an apology, we are not accepting blame, but we are acknowledging that harm was caused, a mistake has been made and we may be acknowledging emotions that are felt by the family or child.
- Our lead person (the Nursery Manager or Board Chair) will meet and discuss this with the appropriate parent/carer as soon as possible when we are aware that an event has happened, or harm has been confirmed. The lead person must **not** have been involved in the incident.
- We will listen and respond positively to complaints and discuss what actions will be taken to reduce the risk of this type of incident happening again to anyone else.
- We will produce an annual Duty of Candour report.
- All staff will be trained in Blackhall Nursery's Duty of Candour procedure to be able
 - to identify harm whether it is unintended or unexpected
 - to understand what has gone wrong
 - to know who to speak to, to discuss concerns/issues.

Reporting the Duty of Candour

The legislation requires care services and social work services to publish their own short Duty of Candour reports. Even if there are no incidents to which the duty applied, a short report will still be required, as it must contain information about staff training on the Duty of Candour.

The **Nursery Manager** will produce a report on meeting the Duty of Candour annually in April. This report will also be made available to the board of directors.

The **Care Inspectorate** will also include a recording system on their e-form site and a new question will be included in their notification forms "Does this incident trigger the Duty of Candour?" The Nursery Manager will be asked to collect data on how the Duty is being implemented and help embed awareness. The Nursery Manager will report and record these findings annually – see **Appendix A** for a report template.

The report will include an assessment of how the Duty was carried out and will provide:

- a record of the number of unexpected incidents that have resulted in death or harm
- the nature of the incident(s).
- a review of any policy and procedures and any changes made as a result of the incidents reported.

Staff training

All staff who work in Blackhall Nursery when children are in attendance will complete training on the Duty of Candour using the Care Inspectorate's e-module. This will form part of our staff mandatory training programme and our induction programme for new staff and will be refreshed every 3 years. The Duty of Candour forms part of professional practice and is included in the SSSC Codes of Practice for Social Service Employers and Social Service Workers.

Online training resources: <http://www.careinspectorate.com/index.php/duty-of-candour>

Appendix A – Duty of Candour Report Template

Appendix B – Duty of Candour Reporting Log

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FG/LS 05.04.2019/TW SM 05.01.2023 GS 10/25

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Registered in Scotland No 270878 Scottish Charity SC029338

Blackhall Nursery - Duty of Candour Report

All health and social care services in Scotland have a Duty of Candour. This is a legal requirement which means that when things go wrong and mistakes happen, the people affected understand what has happened, receive an apology, and that organisations learn how to improve for the future.

An important part of this Duty is that we provide an annual report about the Duty of Candour in our services. This short report describes how Blackhall Nursery has operated the Duty of Candour during the time between 1 April 20.... and 31 March 20.....

1. About Blackhall Nursery

Blackhall Nursery is a children's day care service in Edinburgh for up to 30 children aged 3-5 at any one time. We provide early learning and childcare to children in 6-hourly sessions 5 days a week, plus an option to extend the sessions by one hour per day at an extra cost. We are in partnership with the local authority which means that although we are an independent voluntary sector nursery, we receive funding for the hours offered to the children. We aim to ensure that we care for children in a way which supports them to grow and develop into confident individuals.

2. How many incidents happened to which the duty of candour applies?

In the last year, there were incidents to which the duty of candour applied. These are where types of incident have happened which are unintended or unexpected, and do not relate directly to the natural course of a child's illness or underlying condition

Type of unexpected or unintended incident	Number of incidents
A child has died	
A child has permanently less bodily, sensory, motor, physiologic or intellectual functions	
A child's treatment has increased because of harm	
The structure of a child's body changes because of harm	
A child's life expectancy becomes shorter because of harm	
A child's sensory, motor or intellectual function is impaired for 28 days or more	
A child experienced pain or psychological harm for 28 days or more	
A child needed health treatment in order to prevent them dying	
A child needing health treatment in order to prevent other injuries	

3. To what extent did Blackhall Nursery follow the Duty of Candour procedure?

When we realised the events listed above had happened, we followed the correct procedure in out of occasions. This means we informed the people affected, apologised to them, and offered to meet with them. In each case, we reviewed what happened and what went wrong to try and learn for the future.

4. Information about our policies and procedures

Where something happens that triggers the Duty of Candour, our staff report this to the Nursery Manager who has responsibility for ensuring that the Duty of Candour procedure is followed. The manager records the incidents and reports them as necessary to the Care Inspectorate. When an incident happens, the manager and staff set up a learning review. This allows everyone involved to review what happened and identify changes for the future.

All new staff learn about the Duty of Candour at their induction. We know that serious mistakes can be distressing for staff as well as people who use care and their families. We have occupational welfare support in place for our staff if they have been affected by a Duty of Candour incident. If it is identified that an incident arose because of staff misconduct, which would be extremely rare, it would be dealt with through our Disciplinary Policy.

5. What has changed as a result?

We will make changes as necessary to our policies and procedures as a result of the duty of candour. The changes that we wish to highlight:

Trigger incident:
Our response:

Trigger incident:
Our response:

6. Staff training

Staff Duty of Candour training has been completed as follows:

Staff initials	Date completed

7. Other information

As required, we have submitted this information to the Care Inspectorate but in the spirit of openness we will make it available to parents/carers on request.

This report was completed by:

Name: Position:

Signed: Date:

Blackhall Nursery - Duty of Candour Reporting Log

This log is intended to support staff in tracking the actions taken following an incident which might trigger a Duty of Candour report.

Date of incident	Time
Nature of incident (please provide an honest, factual account of what happened)	
Name of notified parent/carer Date Time Method (e.g. by telephone / in person) Name of staff member doing notification	
Duty of Candour procedure activated? Yes / No Date	
If no, give reasons why this decision was reached:	

Duty of Candour Procedure

A registered health professional* has confirmed that an unintended or unexpected incident appears to have resulted in / could result in (describe).....

.....

Meeting / telephone conversation (please delete as appropriate)

with parent(s)/carer(s).....to take
place on (date) covering the following areas:

Notes of meeting/conversation:

Reflect (stop and think about situation)

Regret (give a sincere apology, without blame)

Reason (explain why something has / has not happened. If you don't know why, say you will find out)

Remedy (explain what actions you are going to take to ensure that this won't happen again and what we have learned from the incident)

Signed: Date:

* A 'registered health professional' means a member of a profession to which Section 60(2) of the Health Act 1999 applies (i.e. doctor, dentist, optician, osteopath, chiropractor, pharmacist, nurse or midwife).

What occupational health do we have?