

# The Hardest Word

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Bradford Teaching Hospitals NHS Foundation Trust were fined £1,250 for breaching Regulation 20 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, which stipulates that as soon as 'reasonably practicable' after becoming aware that a notifiable safety incident has occurred, a healthcare provider must notify the patient affected (the service user) or persons on their behalf where the service user is under 16, lacks capacity or has died.

The present case involved delays in diagnosing a baby boy's condition leading to missed opportunities to admit him to hospital. The Trust recorded the baby's care as a notifiable safety incident but did not inform his family with an apology until October 2016. Professor Ted Baker, Chief Inspector of Hospitals for the CQC confirmed "*The action that we have taken against Bradford Teaching Hospitals does not relate to the care provided to this baby, but to the fact that the trust was slow to inform the family that there had been delays and missed opportunities in the treatment of their child. Patients or their families are entitled to the truth and to an apology as soon as practical after the incident – which didn't happen in this case.*"

The penalty came three months after the charity Action against Medical Accidents (AvMA) published its 'Regulating the Duty of Candour' report in October 2018. The report analysed 59 CQC inspections of NHS trusts in 2017 and concluded "*...it is worrying to see that many reports show incomplete compliance with the duty of candour (for example conversations aren't recorded or there is evidence of an apology but not a written one). The duty of candour must be adhered to in full... The superficial analysis of the duty of candour found in primary and private care reports must be rectified in order to have a more effective enforcement procedure. The CQC had done very little itself to raise awareness of the fact that it was taking regulatory action regarding non-compliance with the duty of candour.*"

Regulation 22 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 provides a defence for healthcare providers if they can prove that they took all reasonable steps and exercised all due diligence to prevent the breach. It should be noted that Bradford Teaching Hospitals NHS Foundation Trust has been under the CQC spotlight since 2014 when concerns were raised over staffing levels and, whilst in 2016 it noticed some 'real improvements in some of the core services', in 2018 the Trust remained under the 'Requires Improvement' rating. This may have made it more difficult for the Trust to prove that 'all reasonable steps' were taken to delay the four-month delay.

Sorry may be the hardest word. But we often regret not saying it sooner.

## Contact

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