



Safety and Quality

TOOL 10

Open Disclosure

Patient considerations



Government
of South Australia

SA Health

Open disclosure describes the way clinicians communicate with and support patients/consumers, their family, carers and/or support person, who have experienced harm during health care.

Open disclosure is a patient right, and is anchored in professional ethics, considered good clinical practice, and is part of the care continuum.

Patient considerations:

After experiencing harm, patients/consumers expect prompt acknowledgement and open communication. It is important that patients/consumers, their family, carers and/or support person are shown empathy, openness and honesty, and are given reassurance and support.

Patient/consumers, their family, carers and/or support person should be encouraged to ask questions.

Patient/consumer information

Patient/consumer information has been developed to provide information on the open disclosure process.

Resources include:

- > a brochure for patients/consumers on open disclosure
- > a guide for patients/consumers beginning an open disclosure process
- > a flowchart for patients/consumers on the open disclosure process
- > frequently asked questions for patients/consumers on open disclosure and the process.

Further information is available in Tools 4–7 patient/consumer information.

Key patient considerations:

- > communication (verbal and written) and consider patient needs including:
 - children
 - mental health conditions
 - interpreter for the cultural and linguistically diverse
 - aboriginal and torres strait islander liaison officer
 - hearing or vision impaired
 - people with a disability
 - cognitive impairment
- > show empathy, openness, honest and give reassurance
- > advocacy and support
- > reimbursement of out-of-pocket expenses
- > avoidance of repeat harm to another
- > other individual circumstances

Communication

Effective communication with patients commences from the beginning on an episode of care and continues throughout their care. There is an ethical responsibility for clinicians to maintain honest and open communication with patients/consumers, their family, carer and/or support person, especially if care doesn't go to plan.

Ensuring that communication after an incident is open, honest and timely is important to improving patient safety. Open disclosure is already occurring in many areas of the health system, and the Open Disclosure policy and guideline forms a basis for more consistent and effective communication following an incident. This includes communication between clinicians and:

- > patients/consumers, family, carer and/or support person
- > their colleagues and peers
- > the non-clinical workforce.

Communicating early

Communicating early as part of the open disclosure process is paramount, all care (including how well the patient/consumer– clinician relationship is established) can influence the outcome of open disclosure. This may include the following:

- > ensuring that the consent process is thorough and the patient understands all the aspects of the procedure and treatment
- > formally nominating support person/s
- > engendering trust through open communication and other behaviours
- > providing information on the roles and responsibilities of patients/consumers in decision-making (while at the same time respecting any decision to defer this to the healthcare team)
- > providing information on open disclosure in the event that things go wrong
- > documenting all relevant information in the patient record and on the Safety Learning System (SLS) Incident Management module.

Communication is essential

Communication is essential to ensure good clinical outcomes. Health service organisations need to create an environment that facilitates open and effective communication.

Some people may require a different style of communication to help them understand what has happened or is happening to them. It is the health service organisation's responsibility to work with the patient/consumer, their family, carer and/or support person (or people who understand the patient's communication needs) to determine the best way to communicate with the patient.

The following outcomes include:

- > ensuring early identification of the patient's needs by documenting at the time of admission:
 - the name of the patient's nominated contact, this person may not be the same as the patient's next of kin or other support person.
 - whether the patient may require an interpreter.
- > encouraging patients / consumers to be actively involved in their care, and to notify the clinical team of any issues or conditions that may affect their care
- > providing assurance that ongoing care plan will be developed in consultation with the patient/consumer, their family, carer and/or support person and that the plan will be followed through
- > providing information about open disclosure at the beginning of the episode of care
- > include the patient's family, carer and/or support person in discussions about an incident, where the patient agrees
- > provide information about the incident to the patient/consumer, their family, carer and/or support person
- > provide information about the open disclosure process to the patients/consumers, their family, carer and/or support person, verbally and in writing, and in a language or communication style that they understand throughout the process
- > ensure that, if a patient/consumer chooses to refrain from active engagement in their care and defer decision making to the clinical team, the patient remains informed of the care process at all times.

Particular patient circumstances

The approaches to open disclosure can vary depending on the patient's personal circumstances.

When a patient dies

It is crucial that communication with people who were close to the patient is sensitive, empathic and open.

- > establish open channels of communication to allow support persons to indicate if counselling or other assistance is needed
- > in the cases of untimely, unexpected or unexplained death, explain the process for reporting to the coroner and provide them with information they can expect to receive, and the timeframes for the coronial process
- > ensure families', carers and other persons are kept up to date with what is happening, and that personal contact is maintained by the health care service throughout the coronial process.

Children

When an incident involves a child, the clinical team will, together with parents need to make informed but complex assessments of what the child should be told.

In the case of young people who may have legal competency, the involvement of parents in the process will be comparable to that of consent for treatment involving the child, and the team will need to weigh up the young person's maturing.

- > assess the involvement of young people in the open disclosure process on a case-by-case basis, taking account of whether the child is mature enough to receive the information and having regard to the wishes of the young person and the parents, where appropriate.

Patients with a mental health conditions

Disclosure of information relating to treatment, including open disclosure of incidents, applies equally to people with a mental health condition.

- > consider the timing of the disclosure, with the clinical team's assessment on how this will affect the patient's health and their ability to understand what is said.

Patients with cognitive impairment

Patient with cognitive impairment should be involved directly in communications about what has happened to them.

Consider carefully in assessing whether disclosure of an incident and the decisions to be made to (or by) a third party in the absence of the patient's informed consent to do so.

- > work with the relevant support or other persons to determine the most accessible type and format of communication for the individual
- > a third party who understands the communication needs of the patient / consumer may be required to assist
- > legal guardian, or attorney appointed under an enduring power of attorney

Aboriginal and Torres Strait Islander patients

Aboriginal and Torres Strait Islander people include a diversity of cultural and linguistic groups. Some indigenous people experience barriers to communication with clinicians such as language differences, and differences in principles and beliefs regarding health and other matters.

Every effort needs to be made to ensure that the appropriate people (in the context of the patient's / consumer's, their family, carer and / or support person needs and with their agreement) are included in discussions regarding the incident and their investigation and management.

If available, an Aboriginal / Indigenous Liaison Officer should be involved from the outset to ensure the process occurs in a culturally appropriate manner.

Culturally and linguistically diverse patients

Ensuring appropriate and effective communication is an important consideration particularly when patients / consumers, their family, carer and / or support person come from culturally and linguistically diverse backgrounds to the clinician.

For example, the patient / consumer may have difficulty understanding medical terms, even if they are otherwise proficient in English. Similarly, English may be the second language of the patient / consumer, their family, carer and / or support person and or the clinician.

When a patient has difficulty communicating in English, or at the patient's request, a professional interpreter should be engaged.

Patients with other requirements

Other communication difficulties may arise and arrangements should be made to facilitate communication. For example, a person who is deaf may require an interpreter or a person with impaired vision may require written material in a larger font.

Advocacy and support

Patients / consumers will often need help and support after experiencing an incident. Support may be provided by family members, carers, support person, social workers, religious representatives and trained patient advocates.

Where more detailed long-term emotional support is required, the health service organisation must ensure the patient, their family and carers, support person are advised how to access appropriate counselling or support services.

Health service organisations should provide patients, their family, carers and/or support person with the following:

- > **information** (including contact details) about service provided by social workers, religious representatives and trained patient advocates who can provide emotional support and help patients, their family, carer and support person identify issues of concern, provide information about appropriate community services and support patients meeting with these services.
- > **contact details of a staff member** (the health service contact) who will maintain an ongoing relationship with the patient / consumer, their family, carer and/or support person. Where possible restrict telephone usage to arrange meetings or conveying specific information. More detailed discussion or explanation should be conducted in face-to-face meetings.
- > **information about how to make a complaint**, including contact details for the relevant health service, and the patient's / consumer's (and their nominated contact person), right to access their medical record.

Substitute patient support

Patients often present unaccompanied for treatment or health care. If unaccompanied patient who has not identified a nominated contact person is harmed, the clinician or health service organisation should take reasonable steps to identify the patient's family, carers, or other persons who may be able to:

- > provide support to the patient / consumer during open disclosure, whilst ensuring, where possible, that that patient's privacy and wishes are respected
- > be the point of contact for the health service organisation and participate in the open disclosure process in the event of a patient death.

The person(s) can have a role in communicating to their extended family and other relevant individuals.

If the patient does not have access to a support person, the health service should ask if they wish someone to be appointed to fulfil this role.

It may be difficult to appoint somebody within the health service who is sufficiently removed from the incident. A person external to the health service may be identified to fulfil this role.

Reimbursement of out-of-pocket expenses

Open disclosure is most effective if it is coupled with restorative action. This includes a pledge of practical support for patients / consumers, families, carers and/or support person to cope with the effects of harm. Those who have been harmed often indicate that bearing the cost of care and out-of-pocket expenses can be determining factors in initiating litigation. Out of pocket expenses may include, but not limited to, transport, child care, accommodation and meals.

An open disclosure process can break down because of delays in practical support following harm. A prompt offer of reimbursement for out-of-pocket expenses incurred as a direct result of the incident sends a strong signal of sincerity.

It is generally accepted that practical support made on ex gratia basis does not imply responsibility or liability. The context for financial reimbursement will vary, and health service organisations and clinicians should liaise with legal counsel, insurers and other stakeholders and refer to local guidelines for providing assistance to harmed patients, their family, carers and/or support person when preliminary investigation indicates that this would be appropriate.

It is recommended that reimbursement of out of pocket expenses only be undertaken on written legal advice and after consultation with the insurer (particularly if the insure is to meet the cost).

Ongoing care: cost and other considerations

Patients who have been harmed will often require ongoing treatment or care, which may be provided at the same health service organisation, or at another. Agreeing on matters of ongoing treatment, such as billing and other costs (eg transport in rural areas), is important given the potential for disagreement to undermine open disclosure.

Ongoing treatment costs need to be discussed openly and in a timely fashion, based on individual needs and circumstances. The circumstances will depend on factors including the incident resulting in harm, or specific regulations such as those governing Medicare billing.

Health care organisations should engage in these discussions with the patient / consumer, their family, carer and/or support person, as soon as practicable after harm is identified.

Health service organisations and individual clinicians should clarify any relevant restrictions and requirements around ongoing care with their indemnity insurer(s) prior to engaging in these discussions (particularly if the insurer is to meet the cost).

Saying sorry

Further information is available in Tool 2 Saying Sorry – A guide to expressing regret during open disclosure

Patient/consumer information has been developed to provide information on the open disclosure process. Resources include:

- > A brochure for patients/consumers on open disclosure (Tool 4)
- > A guide for patients/consumers beginning an open disclosure process (Tool 5)
- > A flowchart for patients/consumers on the open disclosure process (Tool 6)
- > Frequently asked questions for patients/consumers on open disclosure and the process. (Tool 7)

Further information is available in Tools 4 – 7 Patient/consumer information.

Patient evaluation of the open disclosure process

Patients / consumers, their family, carer and / or support person should be given the opportunity to provide feedback on the open disclosure process. The option of a face-to-face interview, where appropriate, and / or standardised open disclosure evaluation survey should be provided. Sensitivity around how this is conducted will be required.

Further information is available in Tool 15 Patient / consumer evaluation survey.

Survey results should be reported to the organisation's management at regular intervals, along with internal open disclosure measures.



For more information

SA Health
Safety and Quality Unit
Telephone: 08 8226 6539
www.sahealth.sa.gov.au/safetyandquality

For Public Use: I2-1A



www.ausgoal.gov.au/creative-commons

© Department for Health and Ageing, Government of South Australia.
All rights reserved. FIS:16054.13 July 2016.



**Government
of South Australia**

SA Health