echogenicity

v1.0

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Being Open Policy and Procedure

Scanning Cornwall's Hearts

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1. Policy Statement

Echogenicity seeks to promote a culture of openness, which is a prerequisite for improving patient safety and the quality of healthcare systems. Adherence to this policy will help ensure that communication between Echogenicity, patients and their carers is both honest and timely.

It is the policy of Echogenicity to comply with all national policies and guidance regarding openness & to provide information for patients and their carers in a transparent and nondefensive manner.

Openness and honesty towards patients and their carers is actively supported by Echogenicity.

2. Aims and Scope

This policy is aimed at all healthcare staff responsible for patient care and aims to ensure that an infrastructure is in place to promote openness and honesty between healthcare professionals & patients and/or their carers, following an incident.

Adherence to this policy will help patients and/or carers feel confident in Echogenicity's communication and provision of information, and help healthcare professionals feel supported in delivering it.

Although Echogenicity's Incident Reporting &Management Policy encourages staff to report all patient safety incidents, including those where there was no harm or it was a prevented patient safety incident (near miss), this policy only relates to those incidents that are graded moderate, severe and death as defined in Echogenicity's Trust's Incident Reporting Policy and Procedures Manual.

The principles of this policy will also be incorporated into complaints and claims handling Policies & Procedures.

3. Ten Principles of Being Open

3.1 Acknowledgement

All patient safety incidents should be acknowledged and reported as soon as they are identified. In cases where the patient, their family and carers inform healthcare staff when something untoward has happened,it must be taken seriously from the outset. Any concerns should be treated with compassion and understanding by all healthcare professionals. Denial of a patient's concern will make subsequent open and honest communication more difficult.

3.2 Truthfulness, Timeliness and Clarity of Communication

Information about a patient safety incident must be given to patients, their families and carers in a truthful and open manner by an appropriately nominated person. Patients should be provided with a stepby-step explanation of what happened. Communication should consider individual needs, be delivered openly and provide patients, their families and carers with information as soon as practicable.

It is essential that any information given is based solely on the facts known at the time. Healthcare professionals should explain that new information may emerge as an incident investigation is undertaken, and that patients, their families and carers will be kept upto-date with the progress of an investigation.

Patients, their families and carers should receive clear, unambiguous information and be given a single point of contact for any questions or requests they may have. They should not receive conflicting information from different members of staff, and the use of medical jargon, which they may not understand, should be avoided.

Apology

Patients, their families and carers should receive a meaningful apology – one that it is a sincere expression of sorrow or regret for the harm that has resulted from a patient safety incident. This should be appropriately worded and delivered as early as possible.

Echogenicity will decide on the most appropriate member of staff to give verbal and written apologies to patients, their families and carers, based on the specific circumstances of the incident. Who this should be will be based on seniority, relationship to the patient, and experience and expertise in the type of patient safety incident that has occurred.

Verbal apologies are essential because they allow face-toface contact between the patient, their family and carers and the healthcare team. This should be given as soon as staff are aware an incident has occurred. A written apology which clearly states that Echogenicity is sorry for the suffering and distress resulting from

the incident, should also be given, usually after the investigation into the incident has concluded.

It is important not to delay giving a meaningful apology. This need not await setting up a formal multi-disciplinary Being Open discussion with the patient, their family and carers. Staff are encouraged to seek help and advice if fearful or apprehensive, or staff availability may compromise an early apology. Delays are likely to increase the patient's, their family's and their carers' sense of anxiety, anger or frustration.

3.3 Recognising Patient and Carer Expectations

Patients, their families and carers can reasonably expect to be fully informed of the issues surrounding a patient safety incident, and its consequences, in a facetoface meeting Echogenicity's staff. They should be treated sympathetically and with respect and consideration. They should be provided with support in a manner appropriate to their individual needs. This involves consideration of special circumstances including the need for a patient advocate or a translator.

Where appropriate, information on PALS and other relevant health groups like Cruse Bereavement Care, Action against Medical Accidents (AvMA), social workers, religious representatives, or Independent Complaints Advocacy Service (ICAS), should be given to the patient, their family and carers as soon as it is possible.

3.4 Professional Support

Echogenicity aims to create an environment in which all staff, whether directly employed or independent contractors, are encouraged to report patient safety incidents. Staff should feel upported throughout the incident investigation process because they too may have been traumatised by being involved. They will not be unfairly exposed to punitive disciplinary action, increased medicolegal risk or any threat to their registration.

To ensure a robust and consistent approach to incident investigation, staff should follow Echogenicity's approach to incident investigation described in the Incident Reporting Policy and Procedures Manual.

Where there is a reason for Echogenicity to believe a member of staff has committed a punitive or criminal act, Echogenicity will take steps to preserve its position, and advise the member(s) of staff at an early stage to enable them to obtain separate legal advice and/or representation.

Staff will be be encouraged to seek support from relevant professional bodies such as the General Medical Council, Royal Colleges, Medical Defence Union (MDU), Medical Protection Society (MPS) and the Nursing and Midwifery Council (NMC).

3.6 Risk Management and Systems Improvement

Root Cause Analysis techniques will be used to uncover the underlying causes of a patient safety incident. These investigations will focus on improving systems of care, which will then be reviewed for their effectiveness.

3.7 Multidisciplinary Responsibility

Echogenicity recognises that most healthcare is delivered through multidisciplinary teams, and that this needs to be reflected in the way that patients, their families and carers are communicated with when things go wrong. This will ensure that the process of Being Open is consistent with the philosophy that incidents usually result from systems failures and rarely from the actions of an individual.

Both senior managers and senior clinicians must participate in incident investigation and clinical risk management.

3.8 Clinical Governance

The Being Open policy requires the support of patient safety and quality improvement processes through the clinical governance framework. Investigation findings from patient safety incidents will be analysed and shared to help prevent their recurrence and the ensure organisational learning.

It also involves a system of accountability through the Chief Executive to ensure that changes are implemented and their effectiveness is reviewed.

Continuous learning programmes and audits will be developed that allow Echogenicity to learn from the patient's experience of Being Open, and that monitor the implementation and effects of changes in practice following a patient safety incident.

3.9 Confidentiality

Details of a patient safety incident should at all times be considered confidential. Respect must be given to patients, their families and carers and staff to ensure privacy and rights of confidentiality. The consent of the individual concerned should be sought prior to disclosing information beyond the clinicians involved in treating the patient. Where this is not practical or an individual refuses to consent to disclosure, it may still be lawful if justified in the public interest, or where those investigating the incident have statutory powers for obtaining information.

Communications with parties outside the clinical team should also be on a strictly needtoknow basis, and where practical, records should be anonymous. In addition, it is good practice to inform the patient, their family and carers about who will be involved in an investigation before it takes place and give them the opportunity to raise any concerns.

3.10 Continuity of Care

Patients are entitled to all usual treatment and to continue to be treated with dignity, respect and compassion. If a patient expresses a preference for their healthcare needs to be taken over by another team, appropriate arrangements should be made to facilitate this whenever possible.

4. Key Elements of Being Open

4.1 Effective communication with patients begins at the start of their episode of care and should continue throughout their time in Echogenicity's care. Openness about safety incidents, and their prompt, full & compassionatel disclosure can help patients cope better with the after effects, and avoid costs of litigation and formal complaints. Openness when things go wrong is fundamental to the partnership between patients and those who provide their care.

4.2 For the Trust Being Open involves:

- acknowledging, apologising and explaining when things go wrong
- conducting a thorough investigation into the incident and reassuring patients, their families and carers that lessons learned will help prevent the incident recurring
- providing support to cope with the physical and psychological consequences of what happened Saying sorry is not an admission of liability and is the right thing to do. Patients have a right to openness in their healthcare.

4.3 Early identification of the patient's practical and emotional needs is of paramount importance. This may include:

- Respecting any special restrictions on openness that the patient wishes •Identifying whether the patient does or does not wish to know every aspect of what went wrong, and if they do not reassuring the patient that information will always be made available if they later change their mind
- Providing repeated opportunities for the patient, their family and carers to obtain information about the patient safety incident
- Providing information to patients in different formats
- Facilitating inclusion of the patient's family and carers in discussions about the patient safety incident where the patient agrees
- If the patient is unable to participate in decision making or if the patient has died as a result of the incident, ensuring that the patient's family and carers are provided with access to information to assist in making decisions, having due regard for confidentiality
- Explaining the role of HM Coroner
- Documenting all discussion with patients, their families and carers
- Explaining Echogenicity's complaints procedure

5. Roles and Responsibilities

The Roles and Responsibilities must be read and considered in conjunction with the appropriate policies relating to incident reporting, management of complaints and claims handling.

5.1 Echogenicity – actively promotes an open and fair culture that fosters peer support and discourages the attribution of blame.

5.1 The Chief Executive – ensures that a written apology is sent to the patient, family member or carer at the end of each relevant incident investigation.

5.2 The Chief Executive – has responsibility for championing the Being Open agenda.

5.3 The Chief Executive – has responsibility for the development, implementation and enforcement of the Being Open Policy, including educating all healthcare staff about Being Open, ensuring they understand that apologising to patients, their families and carers, is not an admission of liability

5.4 The Chief Executive – is responsible for ensuring that healthcare professionals who are involved in a serious patient safety incident are supported in the Being Open process, including the organisation of formal or informal debriefing of the clinical team involved in the patient safety incident.

6. Particular Patient Circumstances

Modifications to the Being Open approach will be required in the following situations:

- When a patient dies
- Children and young people
- Patients with mental health issues
- Patients with cognitive impairment
- Patients with learning disabilities
- Patients with different language or cultural considerations
- Patient with different communication needs
- Patients who do not agree with the information provided

6.1 When a patient dies

When a patient dies following a patient safety incident it is even more crucial that communication is sensitive, empathetic and open. It is important to consider the emotional state of bereaved relatives or carers and to involve them in deciding when it is appropriate to discuss what has happened. The patient's family and carers will probably need information on the processes that will be followed to identify the cause(s) of death and emotional support. Establishing open channels of communication may allow the family and/or carers to better indicate if they need bereavement counselling or assistance at any stage.

Usually, the Being Open discussion and any investigation occur before a Coroner's inquest, but in certain circumstances the Trust may consider it appropriate to wait for the Coroner's inquest before holding the Being Open discussion with the patient's family and carers. The Coroner's report on postmortem findings is a key source of information that will help to complete the picture of events leading up to the patient's death. In any event, an apology should be issued as soon as possible after the patient's death, together with an explanation that the Coroner's process has been initiated and a realistic timeframe of when the family and carers will be provided with more information.

6.2 Children and Young People:
Echogenicity only scans adults N/A.

6.3 Patients with Mental Health Issues

Being Open for patients with mental health issues should follow normal procedures, unless the patient also has cognitive impairment, see para 6.4.

The only circumstances in which it is appropriate to withhold patient safety information from a patient with mental health issues is when advised to do so by a consultant psychiatrist who feels it would cause adverse psychological harm to the patient. However, such circumstances are rare and a second opinion (by another consultant psychiatrist) would be needed to justify withholding information from the patient.

Only in exceptional circumstances is it appropriate to discuss patient safety incident information with a carer or relative without the express permission of the patient. Staff are advised to discuss such a proposed action with The Chief Executive.

6.4 Patients with Cognitive Impairment

Some individuals have conditions that limit their ability to understand what is happening to them. Any patient with a cognitive impairment should, where possible, be involved directly in communications about what has happened.

An advocate with appropriate skills should be available to the patient to assist in the communication process. See para 6.5 – patients with learning disabilities, for details of appropriate advocates.

They may have authorised a person to act on their behalf through a lasting power of attorney (LPA) which includes the power to make welfare decisions. In this case, steps must be taken to ensure that this person is involved in the decisionmaking about the medical care and treatment of the patient.

The Being Open discussion will be conducted with the holder of the power of attorney (if it includes the power to make welfare decisions). Where there is no such person, a clinician may act in the patient's best interest in deciding who is an appropriate person with whom to discuss information regarding the welfare of the patient and the incident.

6.5 Patients with Learning disabilities

Where a patient has difficulties in expressing their opinion verbally, an assessment should be made about whether they are also cognitively impaired, see para 6.4. If the patient is not cognitively impaired they should be supported in the Being Open process by alternative communication methods (eg given the opportunity to write questions down, use of a picture library). An advocate, agreed with the patient, should be appointed. Appropriate advocates may include carers, family or friends of the patient. The advocate should assist the patient during the Being Open process, focussing on ensuring that the patient's views are considered and discussed. Echogenicity acute liaison learning disability team should be contacted in the first instance about advocacy support – contact details can be found on the safeguarding adults intranet site.

6.6 Patients with different language or cultural considerations

The need for translation & advocacy services and consideration of special cultural needs (such as for patients from cultures that make it difficult for a woman to talk to a male about intimate issues) must be taken into account when planning to discuss patient safety incident information. It would be worthwhile to obtain advice from an advocate or translator before the meeting on the most sensitive way to discuss the information. Avoid using 'unofficial translators and/or the patient's family or friends,. Information on how to contact the interpreting and translation service can be found on RCHT's intranet site – type 'interpreting' into the search engine.

6.7 Patients with different communication needs

A number of patients will have particular communication difficulties, such as a hearing impairment. Plans for the meeting should fully consider these needs. Knowing how to enable or enhance communications with a patient is essential to facilitating an effective Being Open process. This involves focussing on the needs of the patient, their family and carers and being personally thoughtful and respectful. Information on how to contact the interpreting and translation service, which includes British sign language, can be found on the RCHT's intranet site – type 'interpreting' into the search engine.

6.8 Patients who do not agree with the information provided Sometimes, despite the best efforts of healthcare staff or others, the relationship between the patient, their family and carers and the healthcare professional breaks down. They may not accept the information provided or may not wish to participate in the Being Open process. In this case, the following strategies may assist:

- Deal with the issue as soon as it emerges
- Where the patient agrees, ensure their family and carers are involved in discussions from the beginning
- Ensure the patient has access to support services
- Where the senior health professional is not aware of the relationship difficulties, provide mechanisms for communicating information, such as the patient expressing their concerns to other members of the clinical team
- Offer the patient, their family and carers another contact person with whom they may feel more comfortable. This could be another member of the team or the individual with overall responsibility for patient safety
- Use a mutually acceptable facilitator to help identify the issues between the healthcare organisation and the patient, and to look for a mutually agreeable solution

- Ensure the patient, their family and carers are fully aware of the formal complaints procedures
- Write a comprehensive list of the points that the patient, their family and carers disagree with and reassure them you will follow up these issues

7. Strengthening Being Open by Supporting Staff

7.1 When a patient safety incident occurs, healthcare professionals involved in the patient's clinical care, and those with the responsibility for Being Open discussions may require emotional support and advice.

8. Organisational Issues

It is important to consider the legal implications when engaging with Being Open, specifically data protection and freedom of information requirements. These are laid out in Section 10 of Echogenicity's Serious Incident Policy and Procedure. Staff should be aware that saying sorry to patients &/or their carers is not an admission of liability.

Where a patient makes information public it is permissible to confirm its accuracy or to make a simple statement that the information is incorrect,. This must be done via the Chief Executive. Where additional information is to be disclosed, for example, to correct statements made to the media, the patient and his/her representatives should be advised of any forthcoming statement and the reasons for it. Patient consent should be sought, but if it is not given, disclosure may still be warranted in the public interest. In these circumstances advice must be sought from the Chief Executive who will handle any disclosure to the media.

Where it is likely that a patient safety incident occurred due to negligence and/or there is an indication that legal proceedings will be brought, the Chief Executive will notify the NHS Litigation Authority.

9. Dissemination and Implementation of the Policy

9.1 The policy will be disseminated to those staff listed as the target audience on the front of this policy.

9.2 The policy will be filled in Echogenicity's Head office and all staff will be made aware of its existence and have access to it.

9.3 The principles of Being Open will be covered in the corporate clinical induction programme

9.4 Echogenicity's patient safety information leaflets for both staff and patients will reinforce the importance of Being Open.

10. Monitoring the Effectiveness of the Policy

The Chief Executive is accountable for monitoring and reviewing the effectiveness of this policy through monthly reporting of the progress of incident investigations.

11 Equality and Diversity Statement

11.1 All patients, employees and members of the public should be treated fairly and with respect, regardless of age, disability, gender, marital status, membership or nonmembership of a trade union, race, religion, domestic circumstances, sexual orientation, ethnic or national origin, social & employment status, HIV status, or gender reassignment.

11.2 All Echogenicity polices and procedures must comply with the relevant legislation (non exhaustive list) where applicable:

- Equal Pay Act (1970 and amended 1983)
- Sex Discrimination Act (1975 amended 1986)
- Race Relations (Amendment) Act 2000
- Disability Discrimination Act (1995)
- Employment Relations Act (1999)
- Rehabilitation of Offenders Act (1974)
- Human Rights Act (1998)
- Trade Union and Labour Relations (Consolidation) Act 1999
- Code of Practice on Age Diversity in Employment (1999)
- Part Time Workers Prevention of Less Favourable Treatment Regulations (2000)
- Civil Partnership Act 2004
- Fixed Term Employees Prevention of Less Favourable Treatment Regulations (2001)
- Employment Equality (Sexual Orientation) Regulations 2003

- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Age) Regulations 2006
- Equality Act (Sexual Orientation) Regulations 2007

12. Equality Impact Assessment Statement

12.1 NUH is committed to ensuring that none of its policies, procedures, services, projects or functions discriminate unlawfully. In order to ensure this commitment all policies, procedures, services, projects or functions will undergo an Equality Impact Assessment.

13.0 Environmental Impact Assessments

13.1 The purpose of an Environmental Impact Assessment is to make sure that when carrying out its public functions (or implementing policies and practices related to those functions) the trust considers the likely impact of the policy in causing change to the environment, and whether this change is harmful or helpful. This may involve direct effects such as changes in the use of resources, waste levels, or energy, (as some examples). Further guidance on environmental impacts may be found in: Sustainable Development Environmental Strategy for the National Health Service (www.dh.gov.uk) and Sustainable Operations on the Government Estate (www.defra.gov.uk).

14. We Are Here for You Mission Statement

Echogenicity is committed to providing the highest quality of care to our patients, so we can pledge to them that 'we are here for you'. Echogenicity supports a patient centred culture of continuous improvement delivered by our staff.

15 References

15.1 Being Open – Communicating with patients, their families and carers following a patient safety incident, National Patient Safety Agency (NPSA/2009/PSA003)

15.2 Being Open – Saying sorry when things go wrong, NPSA 2009

15.3 Seven Steps to Patient Safety, National Patient Safety Agency

15.3 Involve and Communicate with Patients and the Public, National Health Service Litigation Authority (NHSLA) circular 02/02

15.4 General Medical Council, Good Medical Practice
15.5 Recommendations from the Fifth Shipman Inquiry Report

15.6 Striking the Balance, NHSLA

15.7 Mental Capacity Act Code of Practice, Department of Health

For linked policies, please see documentation control sheet.