



Public consultation on a draft Policy Framework for Open Disclosure in the Irish Health and Social Care Sector

About us

FODO Ireland is the representative professional body for primary eye care providers in Ireland. Our members provide more than half of all primary eye care. We exist to ensure members can deliver accessible patient-focused eye care to people of all ages and means in their local communities.

Optometry Ireland, The Association of Optometrists, is the member organisation for Optometrists who provide eyecare in all settings in Ireland. We serve members in the delivery of eyecare nationally. Optometry Ireland also offers a free mediation service to members of the public.

Summary

As representatives of primary eye care providers, optometrists and dispensing opticians in Ireland, we are broadly supportive of the policy framework for open disclosure, but there are areas in which we believe the framework to be disproportionate to the risk and/or level of harm to patients within primary eye care.

Suggested amendments

In primary eye care, levels of clinical risk are recognised to be low. 2019 research from the General Optical Council (the UK's main eye care regulator) found that "Optometrists and dispensing opticians continue to be viewed as low risk", with little to no change over the previous decade¹.

PAS does not yet apply in primary care and, even if it did, we believe support for patients and for health and care staff, should be proportionate to the risk/harm of the care and the care setting in question.

Many primary eye care providers are small practices providing essential local access for patients to sight testing and early case finding services, and fitting spectacles and contact lenses. In our view, the principles of open disclosure are correct, but the potential costs of the current proposals are not proportionate to risk.

It is for this reason that we believe that primary eye care providers should be able to undertake the 'low-level response' process as part of the same episode of care in which the incident took place, whilst ensuring that patients understand where they can go for additional support or to escalate the matter if they wish.

We also do not believe that it would be proportionate to require primary eye care practices to provide an annual report to the Minister for Health, most of which would be 'nil returns'. It would

¹ <https://optical.org/media/55zjedes/risk-in-the-optical-professions-2019.pdf>

make more sense for our regulator, CORU, which would be required to ensure compliance with the framework, to report annually on incidents in primary eye care which have involved fitness to practise, how well open disclosure operated in those cases and what is being done to minimise the risk of any such events recurring in future.

Our detailed answers to the questions in the survey are below. Please note, we use the term 'primary eye care' referring to sight testing, fitting lenses, dispensing and other clinical services provided by local optometry practices.

Section 1: Your Details

Are you completing this survey on behalf of an organisation or in a personal capacity?

Organisation

Personal Capacity

If completing on behalf of an organisation, what type of organisation?

Health and Social Care Provider

Health and Social Care Service Regulator

Professional Regulator

Advocacy Organisation

Academic Institution/ Higher Education Institute

Other – Membership associations representing primary eye care providers, optometrists and dispensing opticians.

Section 2: Importance of Open Disclosure (This section relates to Chapters 1 & 2 of the draft Framework)

2.1 Open Disclosure (This is described in Chapter 1 of the draft Framework under subsection 1.2)

“Open disclosure is an open, consistent, compassionate, and timely approach to communicating with patients and, where appropriate, their relevant person following patient safety incidents. It includes expressing regret for what has happened, keeping the patient informed, and providing reassurance in relation to on-going care and treatment, learning, and the steps being taken by the health services provider to try to prevent a recurrence of the incident”

Question 1: Should an open disclosure policy be in place in all health and social care services?

Strongly Agree

Agree

Disagree

Strongly Disagree

Don't know

We strongly support the principles of open disclosure in health and social care services. However, as the consultation recognises, many systems are already in place and we would suggest that the requirement for primary eye care businesses and practises should be to review their own processes against this Framework and amend existing policies to bring them into line in sector sensitive ways, rather than through required adoption of a strict one-size-fits-all national policy.

2.2 Relevant organisations should adopt the Framework (This is covered in Chapter 2 of the draft Framework under subsection 2.1, item 2.1.3)

“It is the responsibility of each relevant organisation to adopt the Framework and to embed positive open disclosure cultures and behaviours into practice. Individual organisations will need to identify mechanisms and initiatives that support the consistent, coherent, and sustainable implementation of open disclosure in line with the principles of this Framework.”

Question 1: Should all professional regulators, health and social care service regulators, and education bodies should promote and support the embedding of the Open Disclosure Framework?

Strongly Agree

Agree

Disagree

Strongly Disagree

Don't know

We welcome the clarity in the Act that undertaking open disclosure and offering an apology in line with the provisions of the Act does not invalidate insurance, constitute an admission of liability or fault, and is not admissible in proceedings. This must be made clear in the promotion of open disclosure principles by regulators and education providers to embed the culture without fear across health and social care services.

Section 3: Principles of Open Disclosure (This section relates to Chapter 3 of the draft Framework)

3.1 The principles (This is presented in Chapter 3 of the draft Framework under subsection 3.1)

The Principles underpinning this Framework are:

Principle 1: Open, Honest, Compassionate, and Timely Communication

Principle 2: Patient/Service User and Support Person’s Entitlement in Open Disclosure

Principle 3: Supporting Health and Social Care Staff

Principle 4: Promoting a Culture of Open Disclosure

Principle 5: Open Disclosure for Improving Policy and Practise in Health and Social Care

Principle 6: Clinical and Corporate Governance for Open Disclosure

Question 1: How important are the principles of Open Disclosure as outlined in the Framework?

Very Important

Important

Somewhat Important

Not Important

Don't know

Question 2: Please rank the principles in order of priority with 1 being the highest priority and 6 as the lowest priority.

1	Principle 1: Open, Honest, Compassionate, and Timely Communication
2	Principle 2: Patient/Service User and Support Person’s Entitlement in Open Disclosure
4	Principle 3: Supporting Health and Social Care Staff
3	Principle 4: Promoting a Culture of Open Disclosure
6	Principle 5: Open Disclosure for Improving Policy and Practise in Health and Social Care
5	Principle 6: Clinical and Corporate Governance for Open Disclosure

3.2 Promoting a supportive culture (This is covered in Chapter 3 of the draft Framework under subsection 3.4., item 3.4.1)

“A supportive culture is critical to effective open disclosure...The health and social care system must avoid a “blame culture”, which seeks to place responsibility for patient safety incidents and adverse events on individual health and social care staff, in favour of a “just culture”, which promotes psychological safety.”

“A just culture is one based on fairness, which recognises the capacity for human error and the role of system and environmental factors in adverse events and patient safety incidents, and in which everyone seeks to learn and improve. It includes ensuring people are accountable for their actions and responsible for learning”

Question 1: Should organisations promote a 'just culture' and avoid a 'blame culture' to follow the principles of open disclosure?

Strongly Agree

Agree

Disagree

Strongly Disagree

Don't know

Question 2: In your experience, what are the factors that help promote a just culture? (Max 100 words)

1. *Taking fear out of the process for professionals rather than teaching fear in. For example, the open acknowledgement and promotion by all agencies and employers that*
 - *the duty of care continues especially when an error has been made, including openness to enable the patient to make informed decisions about next steps*
 - *human error can occur in the best regulated of systems and that, despite everyone's best intentions and systems designed not to allow errors to happen, they sometimes will*
 - *this is very likely to occur in anyone's life-time career in clinical practice; doctors are trained to expect and handle this, but other professions are psychologically less well prepared*
 - *individuals will not be blamed for identifying errors and coming forward, instead they will help prevent other people making similar mistakes and will enable systems (large or small) to be changed to 'design out' such errors in future*
 - *systems and insurance cover are in place to assist patients and practitioners if things do go wrong*
 - *clinical audit and fitness to practise systems are designed to protect patients, not to scapegoat professionals who, unless manifestly and consistently incompetent or dishonest, can usually be helped by honest reflection and training.*
2. *Modelling the behaviours of openness and insightful learning by senior clinicians and managers.*

Question 3: In your experience, does the health sector in Ireland operate within a "just culture" or a "blame culture"? (Max 100 words)

Traditionally the culture has been one of blame. This is changing and more enlightened ideas are now being taught and practised but there is still some way to go.

Section 4: Open Disclosure for Health Service Providers (This section relates to Chapter 4 of the draft Framework)

4.1 What do patients/service users and their support persons want when a patient safety incident or adverse event occurs? (This is described in Chapter 4 of the draft Framework under subsection 4.6, item 4.6.5)

When a patient safety incident or adverse event occurs, patients/service users and their support persons want the following:

- 1) An acknowledgment of what happened

- 2) An explanation of what happened and why
- 3) An apology and reassurance as to their ongoing treatment and care
- 4) The steps being taken to prevent a recurrence of the incident

Question 1: Do you agree with this statement?

Strongly Agree

Agree

Disagree

Strongly Disagree

Don't know

Question 2: Please rank these elements of open disclosure in order of priority with 1 being highest priority and 4 as the lowest priority

1	An acknowledgment of what happened
2	An explanation of what happened and why
3	An apology and reassurance as to their ongoing treatment and care
4	The steps being taken to prevent a recurrence of the incident

Question 3: In your opinion, are there other elements/components of open disclosure not listed here that are of particular importance to patients/service users? (Max 100 words)

We support, and believe patients would welcome, a more tiered and proportionate response. Not all "open disclosure" requires a formal process.

We believe, and think patients would welcome, the low-level response to include the option of delivering the open disclosure process as part of the episode of care in which the incident took place. This would reduce cost and time-expense for the patient and their support person, and also unnecessary bureaucracy for the provider, whilst ensuring the patient understands where they can go for additional support or to escalate the matter, including returning to the practice for further discussion or to see a more senior clinician if they wish.

4.2 Independent Support Services (The Independent Support Services are described in Chapter 4 of the draft Framework under subsection 4.4, item 4.4.6)

The Patient Advocacy Service is available to support patients/service users and their families who have been affected by patient safety incidents and adverse events in acute public hospital settings and public nursing homes. The services of the Patient Advocacy Service will be expanded in time to support patients /service users of other publicly funded health and social care services.

Health and social care service providers falling outside the scope of the Patient Advocacy Service must arrange for similar independent support services to support patients/service users and their

families who have been affected by patient safety incidents and adverse events. Such independent support services must be appropriately qualified and have sufficient experience to support patients/service users and their families. The support service must be independent of the health and social care service provider.

Question 1: Do you think the role of the Patient Advocacy Service is important in the open disclosure process?

Very Important

Important

Somewhat Important

Not Important

Don't know

However, where PAS does not apply and independent support services are required, this must be proportionate to the risk/harm of the care provided and the care setting. Just as for patient complaints, it is best for most low-risk open disclosure issues to be managed in-house e.g. by a senior clinician or manager provided the patient is informed that they can escalate the matter if they are not satisfied. Otherwise, the potential costs on optical practices, most of which are small businesses, would be disproportionate and unaffordable. It is the principles of open disclosure which are key, whereas delivery should be proportionate to risk and the type of care provided.

Question 2: During the open disclosure process, do you think being offered independent advocacy support is beneficial for patients and families? (Max 100 words)

It depends on the nature of the harm/risk of harm. In primary eye care, this would be disproportionate to the comparatively low levels of risk.

Question 3: In your experience are there any benefits for health and social care service providers when they offer independent support to patients during the open disclosure process? (Max 100 words)

4.3 Support for Health and Social Care Staff (The Supports for Health and Social Care Staff are described in Chapter 4 of the Framework under Section 4.5).

"It is important to identify the staff involved in and/or affected by the patient safety incident or adverse event and to ensure that they are being supported in the immediate aftermath of the incident and on an ongoing basis for as long as is required, in recognition of the impact of such incidents on staff.

All staff delivering health and social care must be:

- a) encouraged, facilitated, empowered, and obliged to recognise and report patient safety incidents and adverse events.
- b) provided with training and education in open disclosure and communication skills.
- c) prepared to participate in open disclosure.
- d) supported through the open disclosure process by the health and social care provider."

Question 1: Do you agree with this statement?

Strongly Agree

Agree

Disagree

Strongly Disagree

Don't know

However, again we believe this must be proportionate to the risk/harm of the care provided and the care setting and therefore we welcome the clarification that low-level responses will not require all the steps described.

Question 2: In your opinion, are there any other supports for health and social care staff that should be included? (Max 100 words)

We do not think so, provided that the support (or offer of support as this may not always be desired) is ongoing where appropriate, and not a one-off, in line with good human resources practice.

Section 5 Open Disclosure for Non-Health Service Providers (This section relates to Chapter 5 of the draft Framework)

5.1 Professional Code of Conduct, Ethics, and Guidance (This is explained in Chapter 5 of the draft Framework under subsection 5.2)

“Professional regulatory bodies must include clear and unequivocal obligations for open disclosure in codes of conduct, ethics, and guidance for regulated practitioners aligned to the definitions and terminology as outlined in the Framework.”

Question 1: Do you agree with this statement?

Strongly Agree

Agree

Disagree

Strongly Disagree

Don't know

We welcome the clarification within the proposals that CORU already includes such requirements for Optometrists and Dispensing Opticians and therefore that minimal change is required.

Question 2: In your opinion, are there any other existing regulatory mechanisms that could help to strengthen compliance with this framework? (Max 100 words)

No, we have no experience of the duties at 4.3 not working for patients and staff where things have gone wrong.

5.2 Approval, accreditation, and monitoring of undergraduate and postgraduate education and training programmes with clinical components. (This is explained in Chapter 5 of the draft Framework under subsection 5.2)

“In the approval, accreditation, and monitoring of undergraduate education and training programmes with clinical components and postgraduate training programmes with clinical components, the professional regulators must ensure that educational bodies have embedded communication skills, patient safety incident and adverse event management, and open disclosure into all programmes.”

Question 1: Do you agree that it is important to embed open disclosure in all undergraduate and postgraduate training programmes?

Strongly Agree

Agree

Disagree

Strongly Disagree

Don't know

Open disclosure is as much about culture as it is about rules and frameworks. All education and training should be framed, shaped by and imbued with this culture, including by example of leaders, educators and trainers. To this extent we agree that open disclosure should be part of training programmes.

Question 2: What do you think are the benefits of such an approach would be? (Max 100 words)

More confident clinicians, elimination of system errors which could cause harm and better care for patients.

Question 3: What do you think are the potential challenges with such an approach? (Max 100 words)

The ideal would be for mistakes not to occur in the first place and therefore we teach that mistakes are to be avoided wherever possible, but this leads to a feeling that mistakes are to be feared, and that blame and sanctions may follow. This encourages people not to be open if errors do occur. Fortunately, most errors in primary eye care are very low risk, so open disclosure should be easier to embed into the professional culture of eye care through education.

5.3 Embedding of the principles of open disclosure in Health and social care service regulators' standards and guidelines (This is explained in Chapter 5 of the draft Framework under subsection 5.4)

“Health and social care service regulators must embed the principles of open disclosure, as outlined in the Framework, into their standards and guidelines for health and social care service providers and assess compliance as part of the inspection of services.”

Question 1: Do you agree that all health and social care service regulators should embed open disclosure in their regulatory standards and guidelines?

Strongly Agree

Agree

Disagree

Strongly Disagree

Don't know

We agree insofar as assessment of compliance means to check that policies are aligned to the national framework.

Question 2: What do you think are the benefits of such an approach? (Max 100 words)

Should help enhance and reinforce the culture of openness, honesty, trust, audit, reflective learning and professionalism amongst clinicians.

Question 3: What do you think are the potential challenges with such an approach? (Max 100 words)

Not to embed open disclosure as something to be feared, a punishment or humiliation or which will inevitably lead to professional sanction.

Section 6: Drivers for Change (This section relates to Chapter 6 of the draft Framework)

6.1 Drivers that contribute to the embedding of a “just culture” (This is explained in Chapter 6 of the draft Framework under subsection 6.1)

The draft Framework identifies 5 drivers which will contribute to embedding a “just culture” of open disclosure in the Irish health services:

- a) Learning and Continuous Improvement
- b) Communication, Engagement, and Feedback
- c) Leadership
- d) Training and Development
- e) Open Disclosure Champions

Question 1: How important do you think are these primary drivers to embedding a ‘just culture’ of open disclosure?

Very Important

Important

Somewhat Important

Not Important

Don't know

Question 2: Please rank the drivers for change in the order of priority with 1 being the highest priority and 5 as the lowest priority.

2	Learning and Continuous Improvement
3	Communication, Engagement and Feedback
1	Leadership
4	Training and Development
5	Open Disclosure Champions

Question 3: Are there any other factors that you consider to be drivers of change in promoting open disclosure? (Max 100 words)

Section 7: Monitoring and Evaluation (This section relates to Chapter 7 of the draft Framework)

7.1 Aggregated report to be compiled by DOH and presented to Minister for Health (This is explained in Chapter 7 of the draft Framework under subsection 7.2)

"The mechanisms and indicators for monitoring and evaluation of open disclosure will depend on the type of organisation and its functions. Health and social care service providers, health and social

care service regulators, professional regulators, and education bodies all have a role to play by collecting and analysing data on open disclosure."

"Health and social care service providers, health and social care service regulators, and professional regulators will be required to submit an annual report each year to the Minister for Health outlining how they are complying with each of the sections of the Framework with the option to offer an explanation for any circumstances in which they are not complying."

Question 1: Do you agree with this approach to monitoring the effectiveness of the Framework?

Strongly Agree

Agree

Disagree

Strongly Disagree

Don't know

This would not be appropriate for all health and social care providers and would be disproportionate in primary eye care where most annual reports would be 'nil returns'. This would generate a pointless exercise which would add needlessly to costs for both providers and the DOH without patient benefit.

In the case of primary eye care it would make more sense for our regulator, CORU, which is required to ensure compliance with the framework, to report annually on

- what it has done to promote open disclosure in primary eye care*
- incidents in primary eye care which have merited fitness to practise investigations*
- how well open disclosure operated in those cases and to what effect (i.e. what has been done to minimise the risk of any such events recurring in future).*

Question 2: Will such an approach be sufficient to embed Open Disclosure in the health and social care sector? If yes, why, or if no, why not? (Max 100 words)

No, it will overburden many systems. Our alternative proposed above should be sufficient to embed Open Disclosure in primary eye care.

Question 3: In your opinion, is it likely that there will be widespread compliance in the health sector with such an approach? If yes, why, or if no, why not? (Max 100 words)

Yes, with our suggested revised approach above. The primary eye care sector is generally very safety conscious and compliant with all elements of professional regulation. CORU requirements, including about open disclosure, will very much be at the forefront of practitioners' and employers' minds and everyone understands that honesty and openness are part of practice patient safety systems and highly valued professional traits when any investigation by the regulator is undertaken. CPD and staff events can be used as refresher training.

7.2 Reporting requirements for Health and Social Care Service Providers e.g Health Service Executive, Private Hospitals etc. (This is explained in Chapter 7 of the draft Framework under subsection 7.3)

Health and social care service providers' annual reports should include the following information:

- a) Development and implementation of open disclosure policy.
- b) Development and implementation of open disclosure training for all clinical and non-clinical staff including agency staff.
- c) Evidence of the availability of support structure for all staff clinical and non-clinical including agency staff.
- d) The number of trained clinical and non-clinical staff including agency staff.
- e) The number of appointed and trained clinical and managerial open disclosure champions.
- f) The number of open disclosure events initiated and closed.
- g) Examples of learning from open disclosure events.

Question 1: When thinking about the importance of embedding a culture of open disclosure, please rank these reporting requirements in order of priority: (1-7) with 1 being the highest priority and 7 being the lowest priority

1	Development and implementation of open disclosure policy
2	Development and implementation of open disclosure training for all clinical and non-clinical including agency staff
5	Evidence of the availability of support structures for all staff including clinical, non-clinical and agency staff
6	The number of trained clinical and non clinical and agency staff
7	The number of appointed and trained clinical and managerial open disclosure champions
3	The number of open disclosure events initiated and closed
4	Examples of learning from open disclosure events

NB However, we do not accept the premise of this question; we believe the requirement to submit an annual report is disproportionate for some providers (eg primary eye care) and will add unnecessary bureaucracy for government and providers without patient or public benefit – see answers under section 7.1

Question 2: What else, if anything, should be captured in the reporting of Health and Social Care Service Providers? (Max 100 words)

We do not accept the premise of this question; we believe the requirement to submit an annual report is disproportionate for some providers (eg primary eye care) and will add unnecessary bureaucracy for government and providers without patient or public benefit – see answers under section 7.1

7.3 Reporting requirements for Health and Social Care Service Regulators eg. Health Information and Quality Authority, Mental Health Commission etc. (This is explained in Chapter 7 of the draft Framework under subsection 7.4)

The health and social care service regulators' annual report will focus on the implementation of the requirements of the Framework in the designated centres and other relevant services and registered mental health services and will include the following information:

- a) Development and implementation of open disclosure policy.
- b) Development and implementation of open disclosure training for all clinical and non-clinical staff including agency staff.
- c) Availability of support structure for all clinical and non-clinical staff including agency staff.
- d) Appointment and training of open disclosure champions
- e) Examples of learning from open disclosure events in the services regulated

Question 1: When thinking about the importance of embedding a culture of open disclosure, please rank these reporting requirements in order of priority with 1 being the highest priority and 5 as the lowest priority

1	Development and implementation of open disclosure policy
2	Development and implementation of open disclosure training for all clinical and non-clinical including agency staff
4	Availability of support structures for all clinical, non-clinical and agency staff
5	Appointment and training of open disclosure champions
3	Examples of learning from open disclosure events in the services regulated

NB However, we do not accept the premise of this question; we believe the requirement to submit an annual report is disproportionate for some providers (eg primary eye care) and will add unnecessary bureaucracy for government and providers without patient or public benefit – see answers under section 7.1

Question 2: What else, if anything, should be captured in the reporting of Health and Social Care Service Regulators? (Max 100 words)

We do not accept the premise of this question; we believe the requirement to submit an annual report is disproportionate for some providers (eg primary eye care) and will add unnecessary bureaucracy for government and providers without patient or public benefit – see answers under section 7.1

7.4 Reporting requirements for Professional Regulators eg. Irish Medical Council, Nursing and Midwifery Board of Ireland etc. (This is explained in Chapter 7 of the draft Framework under subsection 7.5)

The professional regulators' annual report will include the following information:

- a) Details of Open disclosure embedded in the code of conduct/ethics.
- b) Number of approved academic health and social care programmes with clinical components incorporating open disclosure training.
- c) Number of approved CPD courses on open disclosure.

Question 1: When thinking about the importance of embedding a culture of open disclosure, please rank these reporting requirements in order of priority with 1 being the highest priority and 3 as the lowest priority

1	Details of Open Disclosure embedded in the code of conduct/ethics
2	Number of approved academic health and social care programmes with clinical components incorporating open disclosure training
3	Number of approved CPD courses on open disclosure

Question 2: What else, if anything, should be captured in the reporting of professional regulators? (Max 100 words)

As suggested in our proposals under Section 7.1:

- *what the regulator has done to promote open disclosure*
- *how well open disclosure has operated in fitness to practise investigations and to what effect.*

Section 8: Additional Information

Question: Do you have an additional comments or feedback on any aspect of the Framework? (Max 300 words)

We believe the principles of Open Disclosure should be embedded throughout primary eye care as an essential element of good professional practice, safe provision of care and continuous quality improvement. The best way of bringing this about is to encourage the profession to adopt Open Disclosure as the norm through good and sustained communications, education and training including at undergraduate level and through CPD for existing registrants. There is already a volume of regulation and compliance on optical providers; it is important therefore that Open Disclosure is not seen as just more regulation to be reported on and boxes to be ticked but as part of good practice and good care which all aspire to deliver. That calls for more sophisticated communication from government and regulators about the high standards we aspire to.