

**2007 No. 221**

**HEALTH AND PERSONAL SOCIAL SERVICES**

**The Adult Placement Agencies Regulations  
(Northern Ireland) 2007**

*Made* - - - - - *29th March 2007*

*Coming into operation* *30th April 2007*

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The Department of Health, Social Services and Public Safety makes the following regulations in exercise of the powers conferred upon it by Articles 2 (2), 23(1), (2) (a), to (c) and (f) to (j), (7)(a) to (h) and (j), 25(1), 30, 31(1), 32 and 48(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003(a).

In accordance with Article 23 (8) it has consulted with such persons as appropriate.

## PART 1 GENERAL

### **Citation and commencement**

1. These Regulations may be cited as the Adult Placement Agencies Regulations (Northern Ireland) 2007 and shall come into operation on 30th April 2007.

### **Interpretation**

2. In these Regulations—

“the 1997 Act” means the Police Act 1997(b);

“adult placement agency” means a voluntary organisation or undertaking carried on by an HSS Trust or Board or other person, the activities of which consist of or include:

- (a) arranging for placing a person in need, with an adult placement carer for the provision of care and support (which may include accommodation);
- (b) recruiting and training adult placement carers;
- (c) supporting and monitoring placements,

but does not include arrangements made by a person solely for the provision of care and support for his relative;

“adult placement carer” means a person who enters into an agreement with an adult placement agency to provide care or support for persons in need, which may include accommodation in the carers home;

“agency” means an adult placement agency carried on by a registered provider;

“agency premises” means premises where the management of the agency is carried on;

“approval panel” means the panel appointed by an adult placement agency for the purpose of approving applications to the agency from prospective carers;

“Board” means a Health and Social Services Board;

“carer agreement” shall be construed in accordance with regulation 16;

“complaints procedure” shall be construed in accordance with regulation 22;

“home”, where a person has more than one home, means the home where the person ordinarily resides;

“the Order” means the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;

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(a) S.I. 2003/431(N.I. 9)  
(b) 1997 c. 50

“organisation” means a body corporate or any unincorporated association other than a partnership;

“placement” means an arrangement whereby an adult is provided with care or support by an adult placement carer;

“placement agreement” shall be construed in accordance with regulation 12;

“placing authority” means a Health and Social Services Trust or Health and Social Services Board or other person with responsibility for commissioning personal social services for service users;

“registered manager” means a person who is registered under Part III of the Order as the manager of the agency;

“registered person” means any person who is the registered provider or the registered manager in respect of the agency;

“registered provider” means a person who is registered under Part III of the Order as the person carrying on the agency, and references to carrying on an agency shall be construed accordingly;

“relative”, in relation to a service user means—

- (a) the service user’s spouse or civil partner;
- (b) any parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of the service user, or of his spouse, or civil partner;
- (c) the spouse or civil partner of any relative within sub-paragraph (b) of this definition;

and for the purpose of determining any such relationship a service user’s step child shall be treated as his child, and references to “spouse” include a former spouse and a person who is living with the service user as husband or wife and references to “civil partner” include a former civil partner and a person who is living with the service user as if they were civil partners;

“representative” means, in relation to a service user, a person, other than the registered person or a person employed by the agency, who with the service user’s express or implied consent, takes an interest in the service user’s health and welfare;

“responsible individual” has the meaning given to it in regulation 7(2)(c)(i) of these Regulations;

“service user” in relation to an agency, means an adult who may be or is placed by the agency;

“service user’s plan” means the plan prepared in accordance with regulation 19;

“social worker” shall be construed in accordance with section 2 of the Health and Personal Social Services Act (Northern Ireland) 2001(a);

“staff” in relation to an agency, means persons, other than adult placement carers, who work for the purposes of the agency;

“statement of purpose” means the written statement compiled in accordance with regulation 3;

“vulnerable adult” has the same meaning as in the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003(b);

“work” includes work of any kind, whether paid or unpaid, and whether under a contract or apprenticeship, under a contract for services, or otherwise than under a contract.

### **Statement of purpose**

**3.—**(1) The registered provider shall compile in relation to the adult placement agency a written statement (in these Regulations referred to as the “statement of purpose”) which shall consist of a statement as to the matters listed in Schedule 1.

(2) The registered provider shall supply a copy of the statement of purpose to the Regulation and Improvement Authority and shall make a copy of it available for inspection by any service user and any representative.

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(a) 2001 c. 3 (N.I.)  
(b) 2003 No. 417 (N.I. 4)

(3) Nothing in this regulation, or in regulation 27, shall require or authorise the registered provider to contravene, or not to comply with—

- (a) any other provision of these Regulations; or
- (b) the conditions for the time being in force in relation to the registration of the registered provider under Part III of the Order.

### **Service user's guide**

**4.**—(1) The registered person shall produce a written guide to the agency (in these Regulations referred to as the “service user's guide”) which shall include—

- (a) a summary of the statement of purpose;
- (b) a statement explaining the process whereby arrangements are made for the placing of service users, including how adult placement carers are chosen to provide care or support to service users and how the placement is made;
- (c) a statement of the range of care and support provided by the adult placement carers;
- (d) a statement of the fee, or range of fees, payable by or in respect of service users for the provision of each type of care and support provided under the agency including a statement of any services for which there may be an extra charge not included within the stated fee or range of fees;
- (e) the standard terms and conditions for the provision of the care and support for service users, including the terms governing the termination of the placement and the notice period required to terminate the placement;
- (f) a summary of the complaints procedure established in accordance with regulation 22; and
- (g) the address and telephone number of the registered provider and of the Regulation and Improvement Authority.

(2) The registered provider shall—

- (a) make a copy of the service users guide available on request for inspection at the agency premises by every service user and any representative;
- (b) supply a copy of the service user's guide to the Regulation and Improvement Authority and each service user or his representative.

(3) The registered provider shall provide on request access to a copy of the most recent inspection report and information on how to access earlier inspection reports.

### **Review of statement of purpose and service user's guide**

**5.** The registered person shall—

- (a) keep under review and, where appropriate, revise the statement of purpose and the content of the service user's guide; and
- (b) notify the Regulation and Improvement Authority and service users of any such revision within 28 days.

### **Agency documents**

**6.** The registered provider shall ensure that there is a statement that he is registered in respect of the agency under Part III of the Order in all correspondence and other documents prepared in connection with the agency's business.

## PART II

### REGISTERED PERSONS

#### **Fitness of registered provider**

- 7.—(1) A person shall not carry on an agency unless he is fit to do so.
- (2) A person is not fit to carry on an agency unless the person—
- (a) is an individual who carries on the agency—
    - (i) otherwise than in partnership with others, and satisfies the requirements set out in paragraph (3);
    - (ii) in partnership with others, and he and each of his partners satisfies the requirements set out in paragraph (3);
  - (b) is a partnership and each of the partners satisfies the requirements set out in paragraph (3);
  - (c) is an organisation and—
    - (i) the organisation has given notice to the Regulation and Improvement Authority of the name, address and position in the organisation of an individual who is a director, manager, secretary or other officer of the organisation and is responsible for supervising the management of the agency; and
    - (ii) that individual satisfies the requirements set out in paragraph (3).
- (3) The requirements are that—
- (a) he is of integrity and good character;
  - (b) he is physically and mentally fit to carry on the agency;
  - (c) full and satisfactory information is available in relation to him in respect of the matters specified in Schedule 2.
- (4) A person shall not carry on an agency if—
- (a) he has been adjudged bankrupt or sequestration of his estate has been awarded and (in either case) he has not been discharged and the bankruptcy order has not been annulled or rescinded; or
  - (b) he has made a composition or arrangement with his creditors and has not been discharged in respect of it.

#### **Appointment of manager**

- 8.—(1) The registered provider shall appoint an individual to manage the agency where—
- (a) there is no registered manager in respect of the agency; and
  - (b) the registered provider—
    - (i) is an organisation or a partnership; or
    - (ii) is not a fit person to manage an agency; or
    - (iii) is not, or does not intend to be, in full-time day to day charge of the agency.
- (2) Where the registered provider appoints a person to manage the agency, he shall forthwith give notice to the Regulation and Improvement Authority of—
- (a) the name of the person so appointed; and
  - (b) the date on which the appointment is to take effect.

#### **Fitness of registered manager**

- 9.—(1) A person shall not manage an agency unless he is fit to do so.
- (2) A person is not fit to manage an agency unless—
- (a) he is of integrity and good character;
  - (b) having regard to the size of the agency, its statement of purpose and the number and needs of service users and adult placement carers—
    - (i) he has the qualifications, skills and experience necessary to manage the agency; and
    - (ii) he is physically and mentally fit to do so; and

- (c) full and satisfactory information is available in relation to him in respect of the matters specified in Schedule 2.

#### **Registered person — general requirements and training**

**10.**—(1) The registered provider and the registered manager shall, having regard to the size of the agency, its statement of purpose and the number and needs of service users and adult placement carers, carry on or manage the agency (as the case may be) with sufficient care, competence and skill.

- (2) If the registered provider is—
  - (a) an individual, he shall undertake;
  - (b) an organisation, it shall ensure that the responsible individual undertakes; or
  - (c) a partnership, it shall ensure that one of the partners undertakes,

from time to time such training as is appropriate to ensure that he has the experience and skills necessary for carrying on the agency.

(3) The registered manager shall undertake from time to time such training as is appropriate to ensure that he has the experience and skills necessary for managing the agency.

#### **Registered person — notification of offences**

**11.** Where the registered person or the responsible individual is convicted of any criminal offence, whether in Northern Ireland or elsewhere, he shall forthwith give notice in writing to the Regulation and Improvement Authority of—

- (a) the date and place of the conviction;
- (b) the offence of which he was convicted; and
- (c) the penalty imposed on him in respect of the offence.

## **PART III**

### **ADULT PLACEMENTS AND ADULT PLACEMENT CARERS MAKING, MONITORING AND TERMINATION OF PLACEMENTS**

#### **Making of placements, placement agreements and limitation of placements**

**12.**—(1) The registered provider shall not make a placement of a service user with an adult placement carer unless the provider has entered into a written placement agreement with the carer (in these Regulations referred to as “a placement agreement”) which complies with the conditions specified in paragraph (2).

- (2) The conditions are—
  - (a) that—
    - (i) the service user or, where appropriate, his representative; and
    - (ii) the placing authority (if any),are parties to the placement agreement;
  - (b) that the placement agreement specifies the number of service users, which shall not in any event exceed 3, that the adult placement carer may have placed with him at any one time under that and any other placement agreement;
  - (c) that the placement agreement specifies which elements of the service user’s plan are to be met by the adult placement carer;
  - (d) that the placement agreement provides that the specification described in sub-paragraph (c) may be amended as a consequence of an amendment to the service user’s plan;
  - (e) that the placement agreement provides that it may be amended as a consequence of a review undertaken under regulation 13 or a care review undertaken under regulation 19;

- (f) that, where possible, the placement agreement names an individual who is neither a member of staff of the agency nor the adult placement carer and whose role is to support the service user in expressing his views and wishes in relation to the placement;
- (g) that the placement agreement reflects the obligations of the registered person under regulation 20;
- (h) that the placement agreement specifies the records to be kept by the adult placement carer in relation to the service user's plan and requires the adult placement carer to keep those records up to date, in good order and in a secure manner, and to return them to the registered provider if the placement is terminated; and
- (i) that the placement agreement specifies—
  - (i) details of the service user's plan;
  - (ii) the room to be occupied by the service user in the adult placement carer's home;
  - (iii) the fees payable in respect of the placement, details of who is responsible for the payment of those fees, and the method of payment;
  - (iv) the qualifications (if any) and experience of the adult placement carer;
  - (v) the terms and conditions in respect of the accommodation, care or other services to be provided;
  - (vi) suitable arrangements to assist the service user with mobility in the adult placement carer's home, where required;
  - (vii) the procedure to be followed where an adult placement carer acts as agent for, or receives money from, the service user.
- (3) The registered person shall not make a placement of a service user unless he has—
  - (a) ascertained and taken into account the service user's wishes and feelings; and
  - (b) whenever practicable, provided the service user with comprehensive information and suitable choice as to the placements that may be available to the service user.
- (4) The registered person shall encourage and take suitable steps to enable service users to make decisions with respect to placements.
- (5) The registered person shall not place any service user in premises in which there is any person living there who is unfit to be in the proximity of the service user.

### **Monitoring and review of placements**

- 13.**—(1) The registered person shall monitor a placement for the purpose of considering whether the adult placement carer is meeting his obligations under the placement agreement.
- (2) The registered person must review the placement agreement—
    - (a) at least once within the first year of the placement;
    - (b) whenever a significant alteration is made to the service user's plan; and
    - (c) in any event, within a year of the last review.
  - (3) In monitoring and reviewing a placement, the registered person shall seek the views of the service user or, where appropriate, the service user's representative and the placing authority (if any).

### **Termination of placements**

- 14.**—(1) Without prejudice to regulation 15(2) (Fitness of adult placement carers), the registered provider shall terminate a placement in any case in which the adult placement carer is not complying, or is not reasonably likely to comply, with his obligations under the placement agreement.
- (2) Except in cases of emergency, the registered provider shall not terminate a placement without first consulting—
    - (a) the service user to whom the placement relates, or his representative; and
    - (b) where relevant, the placing authority.

## ADULT PLACEMENT CARERS

### **Fitness of adult placement carers**

**15.**—(1) The registered provider shall not enter into a carer agreement with an adult placement carer unless the carer is fit to be an adult placement carer.

(2) The registered provider shall terminate a carer agreement in any case where the adult placement carer is not, or is no longer, fit to be an adult placement carer.

(3) A person is not fit to be an adult placement carer unless—

- (a) he is of integrity and good character;
- (b) he is physically and mentally fit to meet his obligations under the agreement;
- (c) he has the skills, competence and experience necessary to meet his obligations under the agreement;
- (d) full and satisfactory information is available in relation to him in respect of the matters specified in Schedule 3;

### **Carer agreements**

**16.**—(1) The registered provider shall enter into a written agreement with an adult placement carer (in these Regulations referred to as “the carer agreement”) which complies with the conditions specified in paragraph (2).

(2) The conditions are that the carer agreement—

- (a) defines the respective roles and responsibilities of the registered provider and the adult placement carer;
- (b) sets out the requirements of the adult placement carer’s working practice;
- (c) specifies the insurance cover to be maintained by the adult placement carer which shall include household, public liability and, where appropriate, motor vehicle insurance;
- (d) specifies the procedure to be followed after an allegation of abuse, neglect or other harm has been made;
- (e) specifies that a service user is not to be subject to physical restraint unless restraint of the kind employed is the only practicable means of securing the welfare of that, or another, service user;
- (f) specifies that any allegation of a type mentioned in paragraph (d) of this paragraph or the use of any physical restraint upon a service user is to be reported to the registered person;
- (g) specifies the circumstances in which an adult placement carer may administer or assist in the administration of a service user’s medication; and
- (h) requires the adult placement carer to notify the registered person within 24 hours of the occurrence of an incident described in paragraph (3), and any such notification which is given orally shall be confirmed in writing within 3 days of the oral report.

(3) The incidents are—

- (a) the death of any service user, including the circumstances of his death;
- (b) the outbreak of any infectious disease which in the opinion of a medical practitioner attending a service user is sufficiently serious to be so notified;
- (c) any serious injury to a service user;
- (d) any serious illness of a service user;
- (e) any event within the placement which adversely affects the care, health, welfare or safety of any service user;
- (f) any theft or burglary within the placement;
- (g) any incident which—
  - (i) occurs in connection within the placement; and
  - (ii) is reported to, or investigated by, the police;
- (h) any allegation of misconduct by a service user or his representative in relation to the adult placement carer or a member of his family;

- (i) any unexplained absence of more than 12 hours of a service user from the adult placement carer's home.

### **Adult placement carers — training**

17. The registered person shall make arrangements to ensure that an adult placement carer receives appropriate training so as to assist such a carer to continue to meet his obligations under the carer agreement.

### **Adult placement carer handbook**

18.—(1) The registered person shall prepare an adult placement carer handbook and provide a copy of it to every adult placement carer providing, or intending to provide, a placement.

- (2) The handbook must include a statement as to—
  - (a) the aims and objectives of the agency as set out in the statement of purpose;
  - (b) the role and responsibilities of adult placement carers;
  - (c) the role and responsibilities of any care manager and any social worker responsible for a service user;
  - (d) the complaints procedure;
  - (e) the procedure for terminating the agreement;
  - (f) the fees payable to the adult placement carer and details of when and by whom such fees will be paid, and the method of payment;
  - (g) any other information that the registered person considers necessary to enable the adult placement carer to meet his obligations under the carer agreement.
- (3) The handbook must also specify—
  - (a) the procedure to be followed where an adult placement carer acts as agent for, or receives money from, the service user;
  - (b) the procedure to be followed after an allegation of abuse, neglect or other harm has been made;
  - (c) that a service user is not to be subject to physical restraint unless restraint of the kind employed is the only practicable means of securing the welfare of that, or another, service user;
  - (d) that any allegation of a type mentioned in paragraph (b) of this sub-paragraph or the use of any physical restraint upon a service user is to be reported to the registered person;
  - (e) the circumstances in which an adult placement carer may administer or assist in the administration of a service user's medication;
  - (f) the records to be kept by the adult placement carer in relation to the service user's plan.

## **SERVICE USER'S PLAN**

### **Service user's plan**

19.—(1) Subject to paragraph (2), the registered person shall not make a placement of a service user unless—

- (a) an assessment of the needs of the service user in respect of his care and welfare has been undertaken; and
- (b) a written plan ("the service user's plan") has been produced for the purposes of the placement indicating how those needs are to be met.

(2) If it has not been practicable to comply with paragraph (1) prior to the commencement of a placement, the registered person shall comply with sub-paragraphs (a) and (b) of paragraph (1) as soon as reasonably practicable after the commencement of a placement.

(3) The registered person shall keep the service user's plan under review and amend it as appropriate.

- (4) In producing or amending a service user's plan, the registered person shall—

- (a) ensure the service user's plan is consistent with any care plan for the service user produced by or on behalf of a placing authority;
  - (b) consult the service user or, where appropriate, his representative and any placing authority, care manager or social worker responsible for the service user.
- (5) The registered person shall make the service user's plan available to the service user or his representative.

## PART IV

### CONDUCT OF ADULT PLACEMENT AGENCIES

### OPERATION OF ADULT PLACEMENT AGENCY

#### **General conduct of adult placement agency**

**20.**—(1) The registered person shall make suitable arrangements to ensure that the agency is conducted, and that care or support (including any accommodation) is provided—

- (a) so as to ensure the safety of service users;
- (b) so as to ensure that a placement is not made in an emergency unless that is in the interests of the service user in question, and the needs of the adult placement carer and other household members have been considered;
- (c) so as to safeguard service users against abuse, harm or neglect;
- (d) so as to promote the independence of service users;
- (e) so as to ensure the safety and security of service users' property;
- (f) in a manner which respects the privacy, dignity and wishes of service users, and the confidentiality of information relating to them; and
- (g) with due regard to the sex, sexual orientation, age, religious persuasion, racial origin, cultural and linguistic background and any disability of service users, and to the way in which they wish to conduct their lives.

(2) The registered person shall, in relation to the conduct of the agency—

- (a) maintain good personal and professional relationships with each other and with adult placement carers, service users and staff;
- (b) encourage and assist staff to maintain good personal and professional relationships with both adult placement carers and service users;
- (c) encourage and assist adult placement carers to maintain good personal and professional relationships with service users.

(3) The registered person shall make appropriate arrangements to ensure that the views of service users and adult placement carers are taken into account in the conduct of the agency.

#### **Records**

**21.**—(1) The registered person shall—

- (a) maintain in respect of each service user a record which includes the information, documents and other records specified in Schedule 4 relating to the service user;
- (b) ensure that the record referred to in sub-paragraph (a) is kept securely in the principal office of the agency.

(2) The registered person shall maintain in the principal office of the agency the records specified in Schedule 3.

(3) The registered person shall ensure that the records referred to in paragraphs (1) and (2)—

- (a) are kept up to date;

- (b) are available at all times for inspection in the principal office of the agency by any person authorised by the Regulation and Improvement Authority to enter and inspect the premises; and
  - (c) ensure that service users are aware of arrangements to access their personal files.
- (4) The records referred to in paragraphs (1) and (2) shall be retained for a period of not less than 8 years from the date of the last entry.
- (5) The registered person shall ensure that information relating to a service user's care or welfare is treated confidentially and is only disclosed to those persons who need to be aware of that information in order to treat the service user effectively or minimise any risk of the service user harming himself or another person, or for the purpose of the proper administration of the agency.

### **Complaints**

**22.**—(1) The registered person shall establish a procedure (“the complaints procedure”) for considering complaints made to the registered person by an adult placement carer, a service user or his representative.

(2) The complaints procedure shall be appropriate to the needs of service users.

(3) The registered person shall ensure that any complaint made under the complaints procedure is fully investigated.

(4) The registered person shall, within 28 days after the date on which the complaint was made, or such shorter period as may be reasonable in the circumstances, inform the person who made the complaint of the investigative process, outcome and action (if any) that is to be taken.

(5) The registered person shall supply a written copy of the complaints procedure to every service user whom it has placed and to any person acting on behalf of a service user.

(6) Where a written copy of the complaints procedure is to be supplied in accordance with paragraph (5) to a person who is blind or whose vision is impaired, the registered person shall so far as it is practicable do so supply, in addition to the written copy, a copy of the complaints procedure in a form which is suitable for that person.

(7) The copy of the complaints procedure to be supplied in accordance with paragraph (5) shall include—

- (a) the name, address and telephone number of the Regulation and Improvement Authority; and
- (b) the procedure (if any) that has been notified by the Regulation and Improvement Authority to the registered person for the making of complaints to the Regulation and Improvement Authority in relation to the agency.

(8) The registered person shall supply to the Regulation and Improvement Authority at its request a statement containing a summary of the complaints made during the preceding twelve months and of the action that was taken in response to each complaint.

### **Review of quality of services**

**23.**—(1) The registered person shall establish and maintain a system for evaluating the quality of the services which are provided by the adult placement agency.

(2) At the request of the Regulation and Improvement Authority, the registered person shall supply to it a report, based upon the system referred to in paragraph (1), which describes the extent to which, in the reasonable opinion of the registered person—

- (a) good quality services for service users are provided by the adult placement agency;
- (b) the views of service users and their representatives are taken into account in deciding—
  - (i) what services to offer to them; and
  - (ii) the manner in which such services are to be provided; and
- (c) recommendations made or requirements imposed by the Regulation and Improvement Authority in relation to the adult placement agency over the period specified in the request, have been addressed.

(3) The report referred to in paragraph (2) shall be supplied to the Regulation and Improvement Authority within one month of receipt of the request referred to in that paragraph, and in the form and manner required by the Regulation and Improvement Authority.

(4) The report shall also contain details of the measures that the registered person considers it necessary to take in order to improve the quality and delivery of the services which are provided by the adult placement agency.

(5) The system referred to in paragraph (1) shall provide for consultation with service users and their representatives.

### **Improvement plan**

**24.**—(1) If requested to do so by the Regulation and Improvement Authority, the registered person shall produce a plan (the improvement plan) setting out the methods by which, and the timetable to which, the registered person intends to improve the services which are provided by the adult placement agency.

(2) The registered person shall provide a written copy of the improvement plan to the Regulation and Improvement Authority within one month of receipt of the request referred to in paragraph (1).

(3) A copy of the plan shall be made available to—

- (a) the adult placement agency's adult placement carers; and
- (b) service users and their representatives.

### **Visits by registered provider**

**25.**—(1) Where the registered provider is an individual who does not manage the agency, he shall visit the principal office of the agency in accordance with this regulation.

(2) Where the registered provider is an organisation or partnership, the principal office of the agency shall be visited in accordance with this regulation by—

- (a) the responsible individual or one of the partners, as the case may be;
- (b) another of the directors or other persons responsible for the management of the organisation or partnership; or
- (c) an employee of the organisation or the partnership who is not directly concerned with the conduct of the agency.

(3) Visits under paragraph (1) or (2) shall take place at least once every 12 months and shall be announced.

(4) The registered provider shall assist adult placement carers with whom it has placed a service user and such service users to provide their views about the agency for the purposes of visits carried out under this regulation.

(5) The person carrying out the visit shall—

- (a) interview, in private, such adult placement carers and service users and their representatives who wish to be interviewed;
- (b) inspect the records referred to in paragraph 4 of Schedule 4; and
- (c) prepare a written report on the conduct of the agency.

(6) An interview referred to in paragraph (5)(a) must take place in such reasonable place chosen by the person to be interviewed.

(7) The registered provider shall supply a copy of the report required to be made under paragraph (5)(c) to—

- (a) the Regulation and Improvement Authority ;
- (b) any registered manager; and
- (c) in the case of a visit under paragraph (2)—
  - (i) where the registered provider is an organisation, to each of the directors or other persons responsible for the management of the organisation; and
  - (ii) where the registered provider is a partnership, to each of the partners.

### **Staff views as to conduct of agency**

**26.**—(1) This regulation applies to any matter relating to the conduct of the agency so far as it may affect the care, welfare or safety of service users.

(2) The registered person shall make arrangements to enable staff to inform the registered person and the Regulation and Improvement Authority and the HSS trust in the area in which the agency is situated of their views about any matter to which this regulation applies.

## **PREMISES**

### **Fitness of premises**

**27.** Subject to regulation 3(3), the registered person shall not use premises for the purposes of an agency unless the premises are suitable for the purpose of achieving the aims and objectives of the agency set out in the statement of purpose.

## **STAFFING**

### **Fitness of staff**

**28.** The registered person shall ensure that no person is employed to work in or for the purposes of the agency unless—

- (a) he is of integrity and good character;
- (b) he has the qualifications, skills and experience necessary for the work he is to perform;
- (c) he is physically and mentally fit for the work he has to perform; and
- (d) full and satisfactory information is available in relation to him in respect of the matters specified in Schedule 2.

### **Staffing**

**29.**—(1) The registered person shall, having regard to the size of the agency, its statement of purpose and the number and needs of service users and adult placement carers, take all reasonable measures to ensure that—

- (a) at all times there are an appropriate number of suitably qualified, competent and experienced staff employed for the purposes of the agency; and
  - (b) appropriate information and advice are provided to staff about the needs of service users which may be met by the agency;
- (2) The registered person shall ensure that each member of staff—
- (a) is provided with a job description outlining his responsibilities;
  - (b) receives training and appraisal which is appropriate to his work;
  - (c) is enabled from time to time to obtain training and/ or further qualifications appropriate to his or her work; and
  - (d) is appropriately supervised.

### **Employment of staff**

**30.**—(1) The registered person shall—

- (a) ensure that all permanent appointments of persons to its staff are subject to the satisfactory completion of a period of probation;
- (b) operate a disciplinary procedure which, in particular—
  - (i) provides for suspension, and the taking of other action short of suspension, in relation to a member of staff where appropriate in the interests of service users and the proper operation of the agency; and
  - (ii) provides that a failure on the part of a member of staff to report an incident of abuse, or suspected abuse, of a service user placed by the agency to an appropriate person is a ground on which disciplinary proceedings may be instituted.

(2) For the purposes of paragraph (1)(b)(ii), an appropriate person is the registered person, a police officer or an employee of the Regulation and Improvement Authority.

### **Staff handbook**

**31.**—(1) The registered person shall prepare a staff handbook and provide a copy of it to every member of staff.

- (2) The staff handbook shall include a statement as to—
- (a) the conduct expected of staff, and disciplinary action which may be taken against them;
  - (b) the role and responsibilities of staff and adult placement carers;
  - (c) record keeping requirements;
  - (d) staff recruitment procedures; and
  - (e) training and career development opportunities and requirements.

## **FINANCIAL MATTERS**

### **Financial position**

**32.**—(1) The registered provider shall carry on the agency in such a manner as is likely to ensure that it will be financially viable for the purpose of achieving the aims and objectives set out in the statement of purpose.

(2) The registered person shall if the Regulation and Improvement Authority so requests, provide such information and documents to the Regulation and Improvement Authority as it may require for the purpose of considering the financial viability of the agency, including—

- (a) the annual accounts of the agency, certified by an accountant;
- (b) a reference from a bank expressing an opinion as to the registered provider's financial standing;
- (c) information as to the financing and financial resources of the agency;
- (d) where the registered provider is a company, information as to any of its associated companies;
- (e) a certificate of insurance for the registered provider in respect of liability which may be incurred by him in relation to the agency in respect of death, injury, public liability, damage or other loss.

(3) The registered person shall—

- (a) ensure that adequate accounts are maintained in respect of the agency and kept up to date;
- (b) ensure that the accounts give details of the running costs of the agency, including rent, payments under a mortgage and expenditure on salaries and wages of staff; and
- (c) supply a copy of the accounts to the Regulation and Improvement Authority at its request.

(4) In this regulation, a company is an associated company of another if one of them has control of the other, or both are under the control of the same person.

## **NOTICES TO BE GIVEN TO THE REGULATION AND IMPROVEMENT AUTHORITY**

### **Notification of incidents**

**33.**—(1) The registered person shall notify the Regulation and Improvement Authority and the placing authority if an incident described in paragraph (3) takes place.

(2) That notification must be made within 24 hours of the registered person being informed, or otherwise becoming aware, of the incident.

(3) The incidents are—

- (a) the death of any service user, including the circumstances of his death;
- (b) the outbreak within the adult placement carer's home of any infectious disease which, in the opinion of any medical practitioner attending persons in the home, is sufficiently serious to be so notified;
- (c) any serious injury to a service user;

- (d) any serious illness of a service user;
- (e) any event of which the adult placement carer is aware which adversely affects the care, health, welfare or safety of any service user;
- (f) any theft or burglary at the adult placement carer's home;
- (g) any incident which—
  - (i) occurs in connection with the placement; and
  - (ii) is reported to, or investigated by the police;
- (h) any allegation of misconduct by a service user in relation to the adult placement carer or a member of his family;
- (i) any unexplained absence of more than 12 hours of a service user from the adult placement carer's home.

(4) Any notification under this regulation which is given orally shall be confirmed in writing within 3 working days of the oral report.

(5) The registered person must ensure that members of staff are required to inform the registered person forthwith when they become aware of the occurrence of any of the incidents described in paragraph (3).

### **Notice of absence**

**34.**—(1) Where—

- (a) the registered provider, if he is an individual who manages the agency himself; or
- (b) the registered manager,

proposes to be absent from the agency for a continuous period of 28 days or more, the registered provider shall give notice in writing to the Regulation and Improvement Authority of the proposed absence.

(2) Except in the case of an emergency, the notice referred to in paragraph (1) shall be given no later than 28 days before the proposed absence commences, or within such shorter period as may be agreed with the Regulation and Improvement Authority and the notice shall specify—

- (a) the length or expected length of the absence;
- (b) the reason for the absence;
- (c) the arrangements which have been made for the running of the agency during that absence;
- (d) the name, address and qualifications of the person who will be managing the agency during the absence; and
- (e) in the case of the absence of the registered manager, the arrangements that have been, or are proposed to be, made for appointing another person to manage the agency during that absence, including the proposed date by which the appointment is to be made.

(3) Where the absence arises as the result of an emergency, the registered provider shall give notice of the absence within one week of its occurrence specifying the matters mentioned in subparagraphs (a) to (e) of paragraph (2).

(4) Where—

- (a) the registered provider, if he is an individual who manages the agency himself; or
- (b) the registered manager,

has been absent from the scheme for a continuous period of 28 days or more, and the Regulation and Improvement Authority has not been given notice of the absence, the registered provider shall without delay give notice in writing to the Regulation and Improvement Authority of the absence, specifying the matters mentioned in paragraph (2)(a) to (e).

(5) The registered provider shall notify the Regulation and Improvement Authority of the return to duty of the registered provider or (as the case may be) the registered manager not later than 7 days after the date of his return.

## **Notice of changes**

**35.**—(1) The registered person shall give notice in writing to the Regulation and Improvement Authority as soon as it is practicable to do so, if any of the following events is proposed to take place—

- (a) a person other than the registered person carries on or manages the agency;
- (b) a person ceases to carry on or manage the agency;
- (c) where the registered person is an individual, he changes his name;
- (d) the name or address of the principal office of the agency is changed;
- (e) where the registered provider is a partnership, there is any change in the membership of the partnership;
- (f) where the registered provider is an organisation—
  - (i) the name or address of the organisation is changed;
  - (ii) there is any change of director, manager, secretary or other similar officer of the organisation;
  - (iii) there is to be any change of responsible individual;
- (g) where the registered provider is an individual, a trustee in bankruptcy is appointed;
- (h) where the registered provider is a company or partnership, a receiver, manager, liquidator, or a provisional liquidator is appointed; or
- (i) the premises of the agency are significantly altered or extended or additional premises are acquired for the purposes of the scheme.

## **Appointment of liquidators etc.**

**36.**—(1) Any person to whom paragraph (2) applies must—

- (a) forthwith notify the Regulation and Improvement Authority of his appointment, indicating the reasons for it;
  - (b) appoint a manager to take full-time day-to-day charge of the agency in any case where there is no registered manager; and
  - (c) within 28 days of his appointment, notify the Regulation and Improvement Authority of his intentions regarding the future operation of the agency.
- (2) This paragraph applies to any person appointed as—
- (a) the receiver or manager of the property of a company or partnership which is a registered provider in respect of an agency;
  - (b) the liquidator or provisional liquidator of a company which is the registered provider of an agency; or
  - (c) the trustee in bankruptcy of a registered provider of an agency.

## **Death of registered person**

**37.**—(1) If more than one person is registered in respect of an agency, and a registered person dies, the surviving registered person shall without delay notify the Regulation and Improvement Authority of the death in writing.

(2) If only one person is registered in respect of an agency, and he dies, his personal representatives shall notify the Regulation and Improvement Authority in writing—

- (a) without delay of the death; and
- (b) within 28 days of their intentions regarding the future running of the agency.

(3) The personal representatives of the deceased registered provider may carry on the agency without being registered in respect of it—

- (a) for a period not exceeding 28 days; and
- (b) for any further period as may be determined in accordance with paragraph (4).

(4) The Regulation and Improvement Authority may extend the period specified in paragraph (3)(a) by such further period, not exceeding one year, as the Regulation and Improvement Authority shall determine, and shall notify any such determination to the personal representatives in writing.

(5) The personal representatives shall appoint a person to take full-time day-to-day charge of the agency during any period in which, in accordance with paragraph (3), they carry on the agency without being registered in respect of it.

## PART V MISCELLANEOUS

### **Compliance with regulations**

**38.** Where there is more than one registered person in respect of an agency, anything which is required under these Regulations to be done by the registered person shall, if done by one of the registered persons, not be required to be done by any of the other registered persons.

### **Offences**

**39.—(1)** A contravention or failure to comply with any of the provisions of regulations 3 to 35 shall be an offence.

(2) The Regulation and Improvement Authority shall not bring proceedings against a person in respect of any contravention, or failure to comply with those regulations unless—

- (a) subject to paragraph (4), he is a registered person;
- (b) notice has been given to him in accordance with paragraph (3);
- (c) the period specified in the notice has expired; and
- (d) the person contravenes any of the provisions of the regulations mentioned in the notice.

(3) Where the Regulation and Improvement Authority considers that the registered person has contravened any of the provisions of the regulations mentioned in paragraph (1), it may serve a notice on the registered person specifying—

- (a) in what respect in its opinion the registered person has contravened any of the regulations;
- (b) what action in the opinion of the Regulation and Improvement Authority, the registered person should take so as to comply with any of those regulations;
- (c) the period, not exceeding three months, within which the registered person should take any action; and
- (d) the period, not exceeding one month, within which the registered person may make representations to the Regulation and Improvement Authority about the notice.

(4) The Regulation and Improvement Authority may bring proceedings against a person who was once, but no longer is, a registered person, in respect of a failure to comply with regulation 21, and for this purpose, references in paragraphs (2) and (3) to a registered person shall be taken to include such a person.

### **Transitional provisions**

**40.—(1)** This regulation applies to persons who, by virtue of the provisions of the Order and these regulations, are required to be registered under Part III of the Order but who immediately prior to 30th April 2007 were not required to be so registered.

(2) Where paragraph (1) applies, a person who immediately prior to 30th April 2007, was carrying on or managing an adult placement agency may continue to carry on or manage the agency—

- (a) during a period of 12 months beginning on and including 30th April 2007; and
- (b) if, within that period, an application is made to the Regulation and Improvement Authority for registration under Part III of the Order until that application is finally disposed of or withdrawn.

(3) Where paragraph (2) applies, Articles 12 (1), (4), and (5) of the Order shall not apply to such a person.

(4) In this regulation “finally disposed of” means the date 28 days following the grant or refusal of registration and, if an appeal is made, the date when the appeal is finally determined or abandoned.

Sealed with Official Seal of the Department of Health, Social Services and Public Safety on 29th March 2007.

(L.S.)

*M. Briscoe*

Senior Officer of the Department of Health, Social Services and Public Safety

## INFORMATION TO BE INCLUDED IN THE STATEMENT OF PURPOSE

1. A statement of the overall aims and objectives of the adult placement agency.
2. The name and address of the registered provider and of any registered manager.
3. If the registered provider is not an organisation, his relevant qualifications and experience.
4. If the registered provider is an organisation the name and address and qualifications and experience of the responsible individual.
5. The relevant qualifications and experience of any registered manager.
6. The number, relevant qualifications and experience of the staff working for the purposes of the agency.
7. The status, constitution and organisational structure of the agency, which identify the lines of accountability, specific roles and responsibilities for areas of activity.
8. The age-range and sex of the service users in respect of whom the agency may make placements.
9. The range of needs that the agency is intended to meet through the making of placements.
10. The arrangements made for consultation with service users about the operation of the agency.
11. The arrangements made for contact between placements and their relatives, friends, representatives and the local community where practicable.
12. The arrangements for dealing with complaints.
13. The arrangements made for dealing with reviews of the service users plan referred to in regulation 19.

INFORMATION AND DOCUMENTS IN RESPECT OF PERSONS CARRYING ON,  
MANAGING OR WORKING FOR THE PURPOSES OF AN ADULT PLACEMENT AGENCY  
[EXCLUDING ADULT PLACEMENT CARERS]

1. Proof of the person's identity, including a recent photograph.
2. When Part V of the Police Act 1997 is commenced in Northern Ireland, either—
  - (a) where a certificate is required for a purpose which is prescribed by regulations under section 113B of the Police Act 1997 an enhanced criminal record certificate issued under that section; or
  - (b) in any other case, a criminal record certificate issued under section 113A of that Act .
3. Two written references relating to the person, including a reference from the person's present or most recent employer, if any.
4. Where a person has previously worked in a position whose duties involved work with children or vulnerable adults, so far as is reasonably practicable, verification of the reason why the employment or position ended.
5. Documentary evidence of any relevant qualifications or accredited training of the person and if applicable, registration with an appropriate professional regulatory body.
6. A full employment history, together with a satisfactory written explanation of any gaps in employment.
7. Evidence that the person is physically and mentally fit for the purposes of the work which he is to perform or, where it is impracticable for the person to obtain such evidence, a declaration signed by the person that he is so fit.

## INFORMATION AND DOCUMENTS IN RESPECT OF ADULT PLACEMENT CARERS

1. Proof of the person's identity, including a recent photograph.
2. When Part V of the Police Act 1997 is commenced in Northern Ireland either—
  - (a) where a certificate is required for a purpose which is prescribed by regulations under section 113B the Police Act 1997, an enhanced criminal record certificate issued under that section; or
  - (b) in any other case, a criminal record certificate issued under section 113A of that Act.
3. Two written personal references from persons (not being relatives of the adult placement carer) who have known the adult placement carer for at least 2 years.
4. A written reference from the person's present or most recent employer if any.
5. Details of health record.
6. Details of a check with the HSS trust in whose area the adult placement carer resides.
7. Where a person has previously worked in a position whose duties involved work with children or vulnerable adults, so far as reasonably practicable, verification of the reason why the position ended.
8. Documentary evidence of any relevant qualification, including where appropriate a valid driving licence.
9. A full employment history, together with a satisfactory written explanation of any gaps in employment.
10. A letter from a mortgage lender or landlord (as the case may be) confirming—
  - (a) that the adult placement carer has sought and obtained permission to undertake placements where such permission is required by the terms of any mortgage, lease or tenancy agreement; and
  - (b) that the adult placement carer is not in arrears with his mortgage payments, rent or (where applicable) service charges and that he is not in breach of the terms of his mortgage, lease or tenancy agreement.
11. A copy of the assessment report in respect of the adult placement carer prepared on behalf of an adult placement agency.
12. A written statement as to the suitability of a person for the role and responsibilities of an adult placement carer signed by the chair of the approval panel.

## RECORDS TO BE KEPT BY AN AGENCY

**Records**

1. The following information or documents in the form of an alphabetical index in respect of each adult whom the agency has placed—

- (a) full name, address and telephone number;
- (b) date of birth;
- (c) sex;
- (d) marital status;
- (e) next of kin including address and telephone number;
- (f) ethnic origin where the person agrees to provide that information;
- (g) the assessment referred to in regulation 19(1);
- (h) the service user's plan;
- (i) the placement agreement;
- (j) the date that the placement commenced and, where applicable, ceased;
- (k) details of placing authority and contact, details, including emergency out of hours contact details.

2. An alphabetical index of all persons working for the purposes of the agency, which shall include the following matters—

- (a) full name;
- (b) sex;
- (c) ethnic origin where the person agrees to provide that information;
- (d) date of birth;
- (e) home address;
- (f) qualifications and accredited training relevant to, and experience of, work involving vulnerable adults;
- (g) written confirmation that the information referred to in Schedule 2 is available in relation to the person.

3. An alphabetical index of all adult placement carers with whom the agency has placed an adult including—

- (a) full name;
- (b) sex;
- (c) ethnic origin where the person agrees to provide that information;
- (d) date of birth;
- (e) where relevant, the address of the premises to which the placement relates;
- (f) qualifications and accredited training relevant to, and experience of, work involving vulnerable adults;
- (g) a copy of the placement agreement;
- (h) a record of the monitoring undertaken in respect of the placement under regulation 13;
- (i) written confirmation that the information referred to in Schedule 3 is available in relation to the adult placement carer;
- (j) a copy of the carer agreement.

**Other Records**

4. A record of—

- (a) all accidents that have occurred during the course of placements made by the agency involving service users;
- (b) any use of physical restraint upon a relevant adult placed by the agency;

- (c) any allegation of abuse, neglect or other harm made by or in relation to a relevant adult whom the scheme has placed; and
- (d) any complaint made in relation to the agency, or to an adult placement carer working for the purposes of the agency.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (“the Order”), and apply in relation to adult placement agencies. Part II of the Order establishes the Northern Ireland Health and Personal Social Services Regulation and Improvement Authority (“the Regulation and Improvement Authority”) and Part III provides for the registration and inspection of establishments and agencies by the Regulation and Improvement Authority. The Order also provides powers to make regulations governing the conduct of establishments and agencies.

The Health and Personal Social Services (Quality, Improvement and Regulation) (2003 Order) (Specified Agency) Order (Northern Ireland) 2007 specified adult placement agencies for purposes of regulation under the Order.

In these regulations:

Regulation 2 includes the definition of an adult placement agency and an adult placement carer.

Regulation 3 provides that each agency must prepare a statement of purpose in relation to the matters set out in Schedule 1 and a service users guide to the agency must be produced (Regulation 4).

Regulations 7 to 11 make provisions about the fitness of persons carrying on and managing an agency and require satisfactory information to be obtained in relation to the matters specified in Schedule 2. In the case of an organisation it must nominate a responsible individual in respect of whom this information must be available (Regulation 7). Regulation 8 prescribes the circumstances where a manager must be appointed in respect of the agency, and Regulation 9 makes provision concerning the fitness of the manager. Regulation 10 imposes general requirements in relation to the proper conduct of the agency, and indeed for appropriate training.

Part III of the Regulations (12 to 19) make provision as to the making of placements by an agency. Regulations 12 and 13 deal with the conditions to which placement agreements must be subject and also provide for the monitoring and review of placements. Regulation 14 sets out the situations in which an adult placement agency must terminate a placement. Regulation 15 makes provision about the fitness of adult placement carers and requires satisfactory information to be obtained in relation to the matters specified in Schedule 3. Regulation 16 deals with the contents of the carer agreement, and in addition provision is made for the training of adult placement carers (Regulation 17), an adult placement carer handbook (regulation 18) and the production of a service user’s plan (regulation 19).

Provision is made in Part IV of the Regulations as to an agency’s conduct (Regulation 20), record keeping (Regulation 21 and Schedule 4) and complaints (Regulation 22). Provision is also made about the fitness of premises (Regulation 27) and about the fitness of staff (Regulation 28 and Schedule 2) and staffing (Regulation 29). Regulations also deal with financial management of the agency (Regulation 32) and the giving of notices to the Regulation and Quality Improvement Authority (Regulations 33 to 35).

Part V of the Regulations deal with miscellaneous matters. In particular, Regulation 39 provides for offences. A breach of Regulations 3 to 36 will be an offence on the part of the registered person. However no prosecution may be brought unless the Regulation and Quality Improvement Authority has given notice which sets out in what respect it is alleged the person is not complying with a regulation and what action (if any), and by when, the Regulation and Quality Improvement Authority considers it necessary in order to comply with the regulation.

Regulation 40 makes transitional provisions.

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