
STATUTORY RULES OF NORTHERN IRELAND

2007 No. 234

The Day Care Setting Regulations (Northern Ireland) 2007

PART III

CONDUCT OF THE DAY CARE SETTING

Care and welfare of service users

- 13.**—(1) The registered person shall ensure that the day care setting is conducted so as—
- (a) to promote and make proper provision for the care and welfare of service users;
 - (b) to make proper provision for the supervision of service users.
- (2) The registered person shall so far as practicable enable service users or their representatives to make decisions with respect to the care they are to receive.
- (3) The registered person shall, for the purpose of providing care to service users, so far as practicable, ascertain and take into account their wishes and feelings.
- (4) Subject to paragraph (5), the registered person shall make suitable arrangements where necessary for the handling, safe keeping, safe administration and disposal of medicines used in the day care setting to ensure that—
- (a) any medicine which is kept in a day care setting is stored in a secure place;
 - (b) medicine which is prescribed is administered as prescribed to the service user for whom it is prescribed, and to no other service user; and
 - (c) a written record is kept of the administration of any medicine to a service user.
- (5) Paragraph (4) does not apply to medicine which—
- (a) is stored by the individual for whom it is provided in such a way that others are prevented from using it; and
 - (b) may be safely self-administered by that individual.
- (6) In this regulation, “prescribed” means—
- (a) ordered for a service user for provision to him under Part VI of the Health and Personal Social Services (Northern Ireland) Order 1972(1); or
 - (b) prescribed for a service user under [^{F1} regulations 214 or 215 of the Human Medicines Regulations 2012] .
- (7) The registered person shall make suitable arrangements to minimise the risk of infection and toxic conditions and the spread of infection in the day care setting.
- (8) The registered person shall make suitable arrangements to ensure that the day care setting is conducted—
- (a) in a manner which respects the privacy and dignity of service users;

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Day Care Setting Regulations (Northern Ireland) 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) with due regard to the sex, religious persuasion, ethnic origin, and cultural and linguistic background and any disability of service users.
- (9) The registered provider and registered manager (if any) shall, in relation to the conduct of the day care setting—
 - (a) maintain good personal and professional relationships with each other and with service users and persons employed in the day care setting; and
 - (b) encourage and assist persons employed in the day care setting to maintain good personal and professional relationships with each other and with service users.

F1 Words in [reg. 13\(6\)\(b\)](#) substituted (14.8.2012) by [The Human Medicines Regulations 2012 \(S.I. 2012/1916\)](#), [reg. 1\(2\)](#), [Sch. 34 para. 119](#) (with [Sch. 32](#))

Commencement Information

I1 Reg. 13 in operation at 30.4.2007, see [reg. 1](#)

Further requirements as to care and welfare

- 14.**—(1) The registered person shall ensure as far as reasonably practicable that—
- (a) all parts of the day care setting to which service users have access are free from hazards to their safety;
 - (b) any activities in which service users participate are free from avoidable risks; and
 - (c) unnecessary risks to the health or safety of service users are identified and so far as possible eliminated; and
 - (d) suitable arrangements are in place for the training in first aid of appropriate persons employed in the day care setting.
- (2) The registered person shall make suitable arrangements to provide a safe system for moving and handling service users.
- (3) The registered person shall make arrangements, by training persons employed in the day care setting or by other measures, to prevent service users being harmed or suffering abuse or being placed at risk of harm or abuse.
- (4) The registered person shall ensure that no service user is subject to restraint unless restraint of the kind employed is the only practicable means of securing the welfare of that or any other service user and there are exceptional circumstances.
- (5) On any occasion on which a service user is subject to restraint, the registered person shall record the circumstances, including the nature of the restraint. These details should also be reported to the [F2RQIA] as soon as is practicable.

F2 Words in [Regulations](#) substituted (11.4.2014) by [Health and Social Care \(Amendment\) Act \(Northern Ireland\) 2014 \(c. 5\)](#), [Sch. para. 1\(1\)\(a\)](#) (with [Sch. para. 1\(2\)](#))

Commencement Information

I2 Reg. 14 in operation at 30.4.2007, see [reg. 1](#)

Assessment of service users

- 15.** The registered person shall not provide care or services to a service user in the day care setting unless he is satisfied that where appropriate—

- (a) the needs of the service user have been assessed by a suitably qualified or suitably trained person;
- (b) the registered person has obtained a copy of the assessment;
- (c) there has been appropriate consultation regarding the assessment with the service user or a representative of the service user as appropriate;
- (d) the registered person has confirmed in writing to the service user that having regard to the assessment the day care setting is suitable for the purpose of meeting the service user's needs in respect of his day care; and
- (e) the day care setting is appropriate to the service user's needs.

Commencement Information

I3 Reg. 15 in operation at 30.4.2007, see [reg. 1](#)

Service user's plan

16.—(1) The registered person, where appropriate, shall ensure that a written care plan is prepared in consultation with the service user or the service user's representative as to how the service user's needs in respect of his day care are to be met.

- (2) The registered person shall ensure that—
 - (a) the service user's plan is available to the service user;
 - (b) the service user's plan is kept under review;
 - (c) after any appropriate consultation with the service user or his representative, the service user's plan is revised; and
 - (d) the service user is notified of any revision.

Commencement Information

I4 Reg. 16 in operation at 30.4.2007, see [reg. 1](#)

Review of quality of care

17.—(1) The registered person shall establish and maintain a system for—

- (a) monitoring the matters set out in Schedule 3 not less than annually; and
- (b) improving the quality of care provided in the day care setting.

(2) The registered person shall supply to the ^{F2}RQIA a report in respect of any review conducted by him for the purpose of paragraph (1) and make a copy of the report available to service users.

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

F2 Words in [Regulations](#) substituted (11.4.2014) by [Health and Social Care \(Amendment\) Act \(Northern Ireland\) 2014 \(c. 5\)](#), [Sch. para. 1\(1\)\(a\)](#) (with [Sch. para. 1\(2\)](#))

Commencement Information

I5 Reg. 17 in operation at 30.4.2007, see [reg. 1](#)

Facilities and services

18.—(1) Subject to regulation 4(3), the registered person shall provide facilities and services to service users in accordance with the statement of purpose.

(2) The registered person shall have regard to the size of the day care setting and the number and needs of service users—

- (a) provide, so far as is necessary, appropriate telephone and other communication facilities;
- (b) where necessary, provide for service users appropriate furniture, bedding and other furnishings and equipment suitable to the needs of service users;
- (c) so far as it is reasonable and practicable to do so, provide sufficient and suitable kitchen equipment, crockery, cutlery and utensils, and adequate facilities for the preparation and storage of food;
- (d) after consultation with the environmental health department of the district council for the district in which the day care setting is situated, make suitable arrangements for maintaining satisfactory standards of hygiene in the day care setting;
- (e) keep the day care setting free from offensive odours;
- (f) make suitable arrangements for the disposal of waste;
- (g) provide, where necessary, a place where the money and valuables of service users may be deposited for safe keeping, and make arrangements for service users or their representative to acknowledge in writing the return to them of any money or valuables so deposited;
- (h) where activities are provided by or on behalf of the day care setting, including training, occupation and recreation, there are arrangements to ensure that—
 - (i) activities are planned and provided with regard to the needs of the service users; and
 - (ii) service users or their representative are consulted about the planned programme of activities.

Commencement Information

I6 Reg. 18 in operation at 30.4.2007, see [reg. 1](#)

Records

19.—(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 day care setting.
- (2) The registered person shall maintain in the day care setting the records specified in Schedule 5.
- (3) The registered person shall ensure that the records referred to in paragraphs (1) and (2)—
- (a) are kept up to date; and
 - (b) are at all times available for inspection in the day care setting by any person authorised by the [F2RQIA] to enter and inspect the day care setting.
- (4) The records referred to in paragraphs (1) and (2) shall be retained for not less than 8 years from the date of the last entry.
- (5) The registered person shall ensure that information about a service user's care is handled confidentially and is only disclosed to those persons who need to be aware of that information in

order to care for 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 day care setting.

F2 Words in [Regulations](#) substituted (11.4.2014) by [Health and Social Care \(Amendment\) Act \(Northern Ireland\) 2014 \(c. 5\)](#), [Sch. para. 1\(1\)\(a\)](#) (with [Sch. para. 1\(2\)](#))

Commencement Information

I7 Reg. 19 in operation at 30.4.2007, see [reg. 1](#)

Persons employed

20.—(1) The registered person shall, having regard to the size of the day care setting, the statement of purpose and the number and needs of service users—

- (a) ensure that at all times suitably qualified, competent and experienced persons are working in the day care setting in such numbers as are appropriate for the care of service users;
- (b) ensure that the employment of any persons on a temporary basis in the day care setting will not prevent service users from receiving such continuity of care as is reasonable to meet their needs;
- (c) ensure that the persons employed to work in the day care setting—
 - (i) receive appraisal, mandatory training and other training appropriate to the work they are to perform;
 - (ii) are supported as appropriate to maintain their registration with the appropriate regulatory or occupational body;
 - (iii) are enabled from time to time to obtain training and/or further qualifications appropriate to the work they perform; and
 - (iv) are provided with a job description outlining their responsibilities.

(2) The registered person shall ensure that persons working in the day care setting are appropriately supervised.

Commencement Information

I8 Reg. 20 in operation at 30.4.2007, see [reg. 1](#)

Fitness of workers

21.—(1) The registered person shall not employ a person to work in the day care setting unless—

- (a) the person is fit to work in the day care setting;
- ^[F3](b) subject to paragraph (3), he has obtained in respect of that person the information and documents specified in Schedule 2;]
- (c) he is satisfied on reasonable grounds as to the authenticity of the references referred to in paragraph 3 of Schedule 2 in respect of that person.
^[F4]but this is subject to paragraphs (5) to (8).]

(2) The registered person shall not allow a person who is employed by a person (“the employer”) other than the registered person to work in a position where he may have regular contact with service users in the day care setting, unless—

- (a) he is fit to work in the day care setting;

- (b) the employer has obtained in respect of that person the information and documents specified in Schedule 2; and has confirmed in writing to the registered person that he has done so; and
- (c) the employer is satisfied on reasonable grounds as to the authenticity of the references referred to in paragraph 3 of Schedule 2 in respect of that person, and has confirmed in writing to the registered person that he is so satisfied;
- [^{F5}but this is subject to paragraphs (5) to (8).]
- (3) For the purposes of paragraphs (1) and (2), a person is not fit to work at a day care setting unless—
- (a) he is of integrity and good character;
- (b) he has qualifications or training suitable to the work that he is to perform, and the skills and experience necessary for such work;
- (c) he is physically and mentally fit for the purposes of the work he is to perform in the day care setting;
- (d) ^{F6}[^{F7}...] full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 2;
- [^{F8}(e) subject to sub-paragraphs (f) and (g), he is registered in the relevant part of the register;
- (f) sub-paragraph (e) does not apply to a person who, in order to perform the duties for which the person is so employed is required by any statutory provision, to be registered with any person or body other than the Northern Ireland Social Care Council and is so registered; and
- (g) sub-paragraph (e) does not apply to persons allowed to work as volunteers.]
- (4) The registered person shall ensure that all health care professionals working in the day care setting are covered by appropriate professional indemnity.
- [^{F9}(5) Where the conditions set out in paragraph (6) are satisfied and the registered person complies with the requirement set out in paragraph (7), the registered person may—
- (a) employ a person (“P”) to work in a day care setting, or
- (b) allow a person (“P”), who is employed by a person, referred to in paragraph (2) as the employer, to work in a position where P may have regular contact with service users in the day-care setting,
- even though the information and documents mentioned in paragraphs 2 to 7 of Schedule 2 other than details of registration with an appropriate professional regulatory body are not available and have not been obtained.
- (6) The conditions are that the registered person, in a case to which paragraph (5)(a) applies, or the employer, in a case to which paragraph (5)(b) applies—
- (a) has applied for whichever of the following certificates would be required to be obtained in respect of P under paragraph 2 of Schedule 2 in the absence of paragraph (5)—
- (i) a criminal record certificate pursuant to section 113A of the Police Act 1997, or
- (ii) an enhanced criminal record certificate pursuant to section 113B of that Act;
- (b) has requested the information and documents mentioned in paragraphs 3 to 7 of Schedule 2; and
- (c) where the work P is to perform is regulated activity relating to vulnerable adults, has obtained confirmation in writing from the Department of Justice that P is not included in the adults’ barred list maintained under Article 6(1)(b) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.

- (7) The requirements are that the registered person must—
- (a) ensure that, so far as is reasonably practicable, an appropriately qualified and experienced member of staff supervises P when P is on duty until the information and documents mentioned in paragraphs 2 to 7 of Schedule 2 have been obtained; and
 - (b) ensure that P does not escort service users away from the day care setting unless accompanied by the supervisory staff member of another appropriately qualified and experienced member of staff.
- (8) In paragraph (6) the reference to regulated activity relating to vulnerable adults has the same meaning as in the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.]

- F3** Reg. 21(1)(b) substituted (6.4.2009) by [The Establishments and Agencies \(Fitness of Workers\) \(Amendment No. 2\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/145\)](#), **reg. 6**
- F4** Words in [reg. 21\(1\)](#) inserted (2.4.2020) by [The Establishment and Agencies \(Fitness of Workers\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/60\)](#), regs. 1, **6(2)**
- F5** Words in [reg. 21\(2\)](#) inserted (2.4.2020) by [The Establishment and Agencies \(Fitness of Workers\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/60\)](#), regs. 1, **6(3)**
- F6** Words in [reg. 21\(3\)\(d\)](#) omitted (6.4.2009) by virtue of [The Establishments and Agencies \(Fitness of Workers\) \(Amendment No. 2\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/145\)](#), **Sch.**
- F7** Words in [Reg. 21\(3\)\(d\)](#) inserted (13.8.2008) by [The Establishments and Agencies \(Fitness of Workers\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/346\)](#), **reg. 6(2)(b)**
- F8** [Reg. 21\(3\)\(e\)-\(g\)](#) added (27.10.2017) by [The Northern Ireland Social Care Council \(Social Care Workers Prohibition\) and Fitness of Workers \(Amendment\) Regulations \(Northern Ireland\) 2017 \(S.R. 2017/207\)](#), regs. 1(1), **11(2)**
- F9** [Reg. 21\(5\)-\(7\)](#) re-inserted (2.4.2020) and [Reg. 21 \(8\)](#) inserted by [The Establishment and Agencies \(Fitness of Workers\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/60\)](#), regs. 1, **6(4)**

Commencement Information

- I9** Reg. 21 in operation at 30.4.2007, see [reg. 1](#)

Restrictions on acting for service users

22.—(1) Subject to paragraph (2), the registered person shall not pay money belonging to any service user into a bank account unless—

- (a) the account is in the name of the service user to which the money belongs; and
- (b) the account is not used by the registered person in connection with the carrying on or management of the day care setting.

(2) Paragraph (1) does not apply to money which is paid to the registered person in respect of charges payable by a service user for services provided by the registered person in the day care setting.

(3) The registered person shall ensure a record is kept of persons employed in the day care setting acting as the appointee or agent of a service user.

Commencement Information

- I10** Reg. 22 in operation at 30.4.2007, see [reg. 1](#)

Views of persons employed as to conduct of the day care setting

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

(2) The registered person shall make arrangements to enable persons employed to inform the registered person, the [F²RQIA] and the HSS trust in the area of which the day care setting is situated, in confidence of their views about any matter to which this regulation applies.

F2 Words in [Regulations](#) substituted (11.4.2014) by [Health and Social Care \(Amendment\) Act \(Northern Ireland\) 2014 \(c. 5\)](#), [Sch. para. 1\(1\)\(a\)](#) (with [Sch. para. 1\(2\)](#))

Commencement Information

I11 Reg. 23 in operation at 30.4.2007, see [reg. 1](#)

Complaints

24.—(1) The registered person shall establish a procedure (“the complaints procedure”) for receiving, managing and responding to complaints made to the registered person by 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 is 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 and upon request to any representative 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 to 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 [F²RQIA]; and
- (b) the procedure (if any) that has been notified by the [F²RQIA] to the registered person for the making of complaints to the [F²RQIA] relating to the day care setting.

(8) The registered person shall supply to the [F²RQIA] at its request a statement containing a summary of the complaints made during the preceding twelve months and the action that was taken in response.

F2 Words in [Regulations](#) substituted (11.4.2014) by [Health and Social Care \(Amendment\) Act \(Northern Ireland\) 2014 \(c. 5\)](#), [Sch. para. 1\(1\)\(a\)](#) (with [Sch. para. 1\(2\)](#))

Commencement Information

I12 Reg. 24 in operation at 30.4.2007, see [reg. 1](#)

Guidance for social care workers and health care professionals

25. The registered person shall ensure that, where a social care worker or health care professional is employed by the registered person—

- (a) the Codes of Practice for Social Care Workers and Employers of Social Care Workers and any other code prepared by the Northern Ireland Social Care Council (NISCC), a Code of Professional Conduct, Standards for Performance, Conduct and Ethics, and any other code of ethics or professional practice prepared by the Nursing and Midwifery Council or other body which is responsible for regulation of members of a health care profession is made available, as appropriate, in the day care setting;
- (b) he is supported to meet and maintain the standards and requirements of the relevant codes of practice; and
- (c) appropriate action is taken when he does not meet the expected standards of conduct in line with the relevant codes of practice.

Commencement Information

I13 Reg. 25 in operation at 30.4.2007, see [reg. 1](#)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Day Care Setting Regulations (Northern Ireland) 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Rule associated Parts and Chapters:

Whole provisions yet to be inserted into this Rule (including any effects on those provisions):

- reg. 21(5)-(7) added by [S.R. 2008/346 reg. 6\(2\)\(c\)](#)