
STATUTORY RULES OF NORTHERN IRELAND

2007 No. 235

**The Domiciliary Care Agencies
Regulations (Northern Ireland) 2007**

PART III

CONDUCT OF DOMICILIARY CARE AGENCIES

CHAPTER I

QUALITY OF SERVICE PROVISION

Fitness of domiciliary care workers supplied by an agency

[^{F1}13.—[^{F2}(1)] The registered person shall ensure that no domiciliary care worker is supplied by the agency unless—

- (a) he is of integrity and good character;
- (b) he has the experience and skills necessary for the work that he is to perform;
- (c) he is physically and mentally fit for the purposes of the work which he is to perform; ^{F3}...
- (d) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 3[^{F4};

[^{F5}but this is subject to paragraphs (2) to (4).]

- [^{F6}(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.]]

[^{F7}(2) Where the conditions set out in paragraph (3) are satisfied, the agency may supply a domiciliary care worker (“P”) to a service user even though the information and documents mentioned in paragraphs 2 and 4 to 12 of Schedule 3 other than details of registration with an appropriate regulatory body are not available.

- (3) The conditions are that the registered person must ensure that—
- (a) whichever of the following certificates would be required to be obtained in respect of P under paragraph 12 of Schedule 3 in the absence of paragraph (2) has been applied for—
 - (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) the information and documents mentioned in paragraphs 2 and 4 to 11 of Schedule 3 have been requested; and

- (c) confirmation has been obtained in writing from the Department of Justice that P is not included in the adults' barred lists maintained under Article 6(1)(b) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007.
- (4) Where the agency supplies a domiciliary care worker to a service user in the circumstances mentioned in paragraph (2), and the agency is acting otherwise than as an employment agency, the agency must—
- (a) ensure that, so far as is reasonably practicable, an appropriately qualified and experienced member of staff supervises P and is available to be contacted when P is on duty, until the information and documents mentioned in paragraphs 2 and 4 to 12 of Schedule 3 have been obtained; and
 - (b) contact the service user, or the service user's representative, at regular intervals and no less than once per month in order to monitor the service user's satisfaction with the care provided by P, and any complaints that may arise;
 - (c) inform the service user, or the service user's representative, of the position in relation to the information and documents, including when they are available; and
 - (d) terminate the supply of P to the service user where the registered person considers that the information or documents, when available, are not satisfactory.]

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| F1 | Reg. 13 substituted (6.4.2009) by The Establishments and Agencies (Fitness of Workers) (Amendment No. 2) Regulations (Northern Ireland) 2009 (S.R. 2009/145), regs. 1, 7(1) |
| F2 | Reg. 13(1): reg. 13 renumbered (2.4.2020) by The Establishment and Agencies (Fitness of Workers) Regulations (Northern Ireland) 2020 (S.R. 2020/60), regs. 1, 7(2)(a) |
| F3 | Word in reg. 13(c) omitted (27.10.2017) by virtue of 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), 12(2)(a) |
| F4 | Semicolon in Reg. 13(d) substituted for full stop (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), 12(2)(b) |
| F5 | Words in reg. 13(1) inserted (2.4.2020) by The Establishment and Agencies (Fitness of Workers) Regulations (Northern Ireland) 2020 (S.R. 2020/60), regs. 1, 7(2)(a) |
| F6 | Regs. 13(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), 12(2)(c) |
| F7 | Reg. 13(2)-(4) inserted (2.4.2020) by The Establishment and Agencies (Fitness of Workers) Regulations (Northern Ireland) 2020 (S.R. 2020/60), regs. 1, 7(2)(b) |

Commencement Information

- I1** Reg. 13 in operation at 30.4.2007, see **reg. 1**

Conduct of agency

14. Where the agency is acting otherwise than as an employment agency, the registered person shall make suitable arrangements to ensure that the agency is conducted, and the prescribed services arranged by the agency, are provided—

- (a) so as to ensure the safety and well-being of service users;
- (b) so as to safeguard service users against abuse or neglect;
- (c) so as to promote the independence of service users;
- (d) so as to ensure the safety and security of service users' property, including their homes;

- (e) in a manner which respects the privacy, dignity and wishes of service users, and the confidentiality of information relating to them; and
- (f) with due regard to the sex, religious persuasion, racial origin, and cultural and linguistic background and any disability of service users, and to the way in which they conduct their lives.

Commencement Information

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

Arrangements for the provision of prescribed services

15.—(1) Paragraphs (2) to (12) apply only to the supply of domiciliary care workers to service users by an agency which is acting otherwise than as an employment agency.

(2) The registered person shall, after consultation with the service user, or if consultation with the service user is not practicable, after consultation with the service user's representative, prepare or ensure that a written plan ("the service user plan") is prepared which shall—

- (a) be consistent with any plan for the care of the service user prepared by any Health and Social Services Trust or Health and Social Services Board or other person with responsibility for commissioning personal social services for service users;
- (b) specify the service user's needs in respect of which prescribed services are to be provided;
- (c) specify how those needs are to be met by the provision of prescribed services.

(3) The registered person shall—

- (a) make the service user's plan available to:
 - (i) the service user;
 - (ii) any representative of a service user who was consulted on its preparation or revision;
- (b) keep the service user plan under review;
- (c) where appropriate, and after consultation with the service user, or if consultation with the service user is not practicable, after consultation with the service user's representative, revise the service user plan; and
- (d) notify the service user or, where applicable, the service user's representative, of any such revision.

(4) The registered person shall, so far as is practicable, ensure that the prescribed services which the agency arranges to be provided to any service user meets the service user's needs specified in the service user plan prepared in respect of him.

(5) The registered person shall, for the purpose of providing prescribed services to service users, so far as is practicable—

- (a) ascertain and take into account the service user's, and where appropriate their carer's, wishes and feelings;
- (b) provide the service user, and where appropriate their carer, with comprehensive information and suitable choices as to the prescribed services that may be provided to them; and
- (c) encourage and enable the service user, and where appropriate their carer, to make informed decisions with respect to such prescribed services.

(6) The registered person shall ensure that where the agency arranges the provision of prescribed services to a service user, the arrangements shall—

- (a) specify the procedure to be followed after an allegation of abuse, neglect or other harm has been made;
 - (b) specify the circumstances in which a domiciliary care worker may administer or assist in the administration of the service user's medication, or any other tasks relating to the service user's health care, and the procedures to be adopted in such circumstances;
 - (c) include arrangements to assist the service user with mobility in his home, where required; and
 - (d) specify the procedure to be followed where a domiciliary care worker acts as agent for, or receives money from, a service user.
- (7) The registered person shall make arrangements for the recording, handling, safe keeping, safe administration and disposal of medicines used in the course of the provision of prescribed services to service users.
- (8) The registered person shall make suitable arrangements, including training, to ensure that domiciliary care workers operate a safe system of working, including in relation to lifting and moving service users and the operation of any special equipment.
- (9) The registered person shall make arrangements, by training or by other measures, to prevent service users being harmed or suffering abuse or neglect or being placed at risk of harm, abuse or neglect.
- (10) The registered person shall ensure that no service user is subject to physical 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.
- (11) On any occasion on which a service user is subject to physical restraint by a person who works as a domiciliary care worker for the purposes of the agency, the registered person shall record the circumstances, including the nature of the restraint.
- (12) The procedure referred to in paragraph (6)(a) shall in particular provide for—
- (a) written records to be kept of any allegation of abuse, neglect or other harm and of the action taken in response; and
 - (b) the [F8RQIA] to be notified of any incident reported to the police, not later than 24 hours after the registered person—
 - (i) has reported the matter to the police; or
 - (ii) is informed that the matter has been reported to the police.

F8 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

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

Staffing

16.—(1) Where an agency is acting otherwise than as an employment agency, the registered person shall, having regard to the size of the agency, the statement of purpose and the number and needs of the service users, ensure that—

- (a) there is at all times an appropriate number of suitably skilled and experienced persons employed for the purposes of the agency;
- (b) appropriate information and advice are provided to persons employed for the purposes of the agency, and are made available to them at their request, in respect of—

- (i) service users and their needs in respect of prescribed services; and
- (ii) the provision of prescribed services to service users;
- (c) suitable assistance and where necessary, appropriate equipment, is provided to persons working for the purposes of the agency, and is made available to them at their request, in respect of the provision of prescribed services to service users;
- (d) suitably qualified and competent persons are available to be consulted during any period of the day in which a person is working for the purposes of the agency; and
- (e) neither of the following circumstances, that is—
 - (i) the employment of any persons on a temporary basis for the purposes of the agency; and
 - (ii) any arrangements made for persons to work as domiciliary care workers on a temporary basis for those purposes,will prevent service users from receiving such continuity of care as is reasonable to meet their needs for prescribed services.
- (2) The registered person shall ensure that each employee of the agency—
 - (a) receives training and appraisal which are appropriate to the work he is to perform;
 - (b) receives suitable assistance, including time off, for the purpose of obtaining qualifications appropriate to such work; and
 - (c) is provided with a job description outlining his responsibilities.
- (3) The registered person shall take such steps as may be necessary to address any aspect of the performance of a domiciliary care worker which is found to be unsatisfactory.
- (4) The registered person shall ensure that each employee receives appropriate supervision.
- (5) Where an agency is acting otherwise than as an employment agency, the registered person shall ensure that—
 - (a) a new domiciliary care worker (“the new worker”) is provided with appropriately structured induction training lasting a minimum of three full working days; and
 - (b) during that induction training—
 - (i) the new worker is not supplied to a service user unless accompanied by another domiciliary care worker who is a suitably qualified and competent person;
 - (ii) a member of staff (“the staff member”) who is suitably qualified and experienced, is appointed to supervise the new worker;
 - (iii) the staff member (or another suitably qualified and competent person if the staff member is unavailable) will always be available to be consulted while the new worker is on duty; and
 - (iv) subject to the consent of the service user, the staff member makes arrangements to observe, on at least one occasion, the new worker carrying out his duties.

Commencement Information

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

Staff handbook

17.—(1) Where an agency is acting otherwise than as an employment agency, the registered person shall prepare a staff handbook and provide a copy to every member of staff.

- (2) The handbook prepared in accordance with paragraph (1) shall include a statement as to—
- (a) the conduct expected of members of staff, and disciplinary action which may be taken against them;
 - (b) the role and responsibilities of domiciliary care workers and other staff;
 - (c) record keeping requirements;
 - (d) recruitment procedures; and
 - (e) training and development requirements and opportunities.

Commencement Information

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

Provision of information to service users

18.—(1) The registered person shall ensure that before a domiciliary care worker is supplied to a service user, the service user is informed of—

- (a) the name of the domiciliary care worker to be supplied, and the means of contacting him;
- (b) the name of the member of staff of the agency who is responsible for the supply of that domiciliary care worker; and
- (c) where the agency is acting otherwise than as an employment agency, details of how he may contact the registered person, or a person nominated to act on behalf of the registered person.

[^{F9}(1A) Where the agency supplies a domiciliary care worker to a service user in the circumstances mentioned in regulation 13(2), and the agency is acting as an employment agency, the registered person must—

- (a) inform the service user of the information and documents mentioned in paragraphs 2 and 4 to 12 of Schedule 3 that are not yet available;
- (b) inform the service user when the information and documents are available.]

[^{F10}(2) The registered person must ensure, where appropriate, that the information specified in paragraph (1) and, where applicable, paragraph (1A) is provided to the service user's relatives or carers.]

F9 Reg. 18(1A) re-inserted (2.4.2020) by [The Establishment and Agencies \(Fitness of Workers\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/60\)](#), regs. 1, [7\(3\)\(a\)](#)

F10 Reg. 18(2) substituted (2.4.2020) by [The Establishment and Agencies \(Fitness of Workers\) Regulations \(Northern Ireland\) 2020 \(S.R. 2020/60\)](#), regs. 1, [7\(3\)\(b\)](#)

Commencement Information

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

Disclosure of Information

19. The registered person shall ensure that any personal information about a service user for whom a domiciliary care worker is supplied by the agency is not disclosed to any member of the agency's staff, or other person, unless it is necessary to do so in order to provide an effective service to the service user.

Commencement Information

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

Identification of workers

20. Where the agency is acting otherwise than as an employment agency, the registered person shall ensure that every domiciliary care worker supplied by the agency is instructed that, while attending on a service user for the purposes of the provision of prescribed services, he must present the service user with identification showing his name, the name of the agency and a recent photograph.

Commencement Information

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

Records

21.—(1) The registered person shall ensure that the records specified in Schedule 4 are maintained, and that they are—

- (a) kept up to date, in good order and in a secure manner;
- (b) retained for a period of not less than eight years beginning on the date of the last entry; and
- (c) at all times available for inspection at the agency premises by any person authorized by the [^{F8}RQIA].

(2) The registered person shall ensure that, in addition to the records referred to in paragraph (1), a copy of the service user plan and a detailed record of the prescribed services provided to the service user are kept at the service user’s home and that they are kept up to date, in good order and in a secure manner.

F8 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

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

Complaints

22.—(1) The registered person shall establish a procedure (“the complaints procedure”) for considering complaints made to the registered person by a service user or a service user’s representative.

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

(3) The registered person shall supply a written copy of the complaints procedure to every service user and, upon request, to the service user’s representative.

(4) Where a written copy of the complaints procedure is to be supplied in accordance with paragraph (3) 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.

(5) The copy of the complaints procedure to be supplied in accordance with paragraph (3) shall include—

- (a) the address and telephone number of the [F8RQIA]; and
- (b) the procedure (if any) which has been notified by the [F8RQIA] to the registered person for making complaints to the [F8RQIA] relating to the agency.

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

(7) The registered person shall, within the period of 28 days beginning on and including 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 action (if any) that is to be taken in response.

(8) The registered person shall maintain a record of each complaint, including details of the investigations made, the outcome and any action taken in consequence and the requirements of regulation 21(1) shall apply to that record.

(9) The registered person shall supply to the [F8RQIA] at its request a statement containing a summary of the complaints made during the preceding twelve months ending on the date of the request and the action taken in response.

F8 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

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

Assessment of quality of services

23.—(1) The registered person shall establish and maintain a system for evaluating the quality of the services which the agency arranges to be provided.

(2) At the request of the [F8RQIA], 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, the agency—

- (a) arranges the provision of good quality services for service users;
- (b) takes the views of service users and their representatives 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) has responded to recommendations made or requirements imposed by the [F8RQIA] in relation to the agency over the period specified in the request.

(3) The report referred to in paragraph (2) shall be supplied to the [F8RQIA] within one month of the receipt by the agency of the request referred to in that paragraph, and in the form and manner required by the [F8RQIA].

(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 the agency arranges to be provided.

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

F8 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](#)

Improvement plan

24.—(1) If requested to do so by the [^{F8}RQIA], 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 the agency arranges to be provided.

(2) The registered person shall provide a written copy of the improvement plan to the [^{F8}RQIA] within one month of receipt of the request referred to in paragraph (1).

(3) A copy of the plan shall be made available to service users and their representatives.

F8 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](#)

Changes to legislation:

There are currently no known outstanding effects for the The Domiciliary Care Agencies Regulations (Northern Ireland) 2007, CHAPTER I.