
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

13. 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; and
- (d) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 3.

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.

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 Regulation and Improvement Authority 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.

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.

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.

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.
- (2) The registered person shall ensure that the information specified in paragraph (1) is, where appropriate, provided to the service user’s relatives or carers.

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.

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.

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 Regulation and Improvement Authority.

(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.

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 Regulation and Improvement Authority; and
- (b) the procedure (if any) which has been notified by the Regulation and Improvement Authority to the registered person for making complaints to the Regulation and Improvement Authority 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 Regulation and Improvement Authority 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.

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 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, 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 Regulation and Improvement Authority 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 Regulation and Improvement Authority 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 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 the agency arranges to be provided.

(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 the agency arranges to be provided.

(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 service users and their representatives.

CHAPTER 2

PREMISES

Fitness of premises

25. Subject to regulation 5(3), the registered person shall not use the premises for the purpose 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.

CHAPTER 3

FINANCIAL MATTERS

Financial position

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

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

- (a) the annual accounts of the agency, certified by an accountant; and
- (b) 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.

CHAPTER 4

NOTICES TO BE GIVEN TO THE REGULATION AND IMPROVEMENT AUTHORITY

Notice of absence

27.—(1) Where—

- (a) the registered provider, being 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 one month 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 running the agency during that absence;
- (d) the name, address and qualifications of the person who will be managing the agency during that 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 a result of an emergency, the registered provider shall give notice of the absence within one week of its occurrence specifying the matters set out in paragraph (2)(a) to (e).

(4) Where—

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

has been absent from the agency 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 set out 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

28. 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 takes place or are 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) where the registered provider is a partnership, there is any change in the membership of that partnership;
- (e) 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; or
 - (iii) there is any change in the identity of the responsible individual;
- (f) where the registered provider is an individual, a trustee in bankruptcy is appointed;
- (g) where the registered provider is a company or partnership, a receiver, manager, liquidator or provisional liquidator is appointed; or
- (h) the registered provider acquires additional premises for the purposes of the agency.

Appointment of liquidators etc.

29.—(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 in any case where there is no registered manager; and
- (c) not more than 28 days after 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 in respect of an agency; or

(c) the trustee in bankruptcy of a registered provider in respect of an agency.

Death of registered person

30.—(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 must 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 manage the agency during any period in which, in accordance with paragraph (3), they carry on the agency without being registered in respect of it.