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# Policy Circular

**Document No 28/07**

**Owner:** Social Work Team

**Subject:** Agency Care

- Registration of agencies
- Introduction agencies
- Relatives and care agencies

**Version:** 8 of 8

**Last Amended:** 6 March 2014

**Date Reviewed:** 6 March 2014

## 1.0 Background

Legislation in the UK requires that care agencies be registered if they are providing certain services including personal care.

The purpose of the legislation is to verify that agencies meet the government's required quality and safety standards. These standards ensure that agencies treat service users appropriately and that the service that they provide is safe.

A care agency that is not registered but is providing a regulated activity is not operating legally.

Agencies, providing only domestic cleaning services do not need to be registered.

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The national authorities responsible for registration are listed at the end of this policy (6.0).

This policy only applies to agencies engaged in the United Kingdom.

## **2.0 Registration of agencies**

Where a user is engaging an agency that is providing personal care or other regulated services the ILF will only provide funding if that agency is registered.

Where an agency is not registered the ILF will advise the user of our policy and refer the agency to the appropriate regulatory body. In order to continue to receive ILF funding the user will have to find an alternative provider. This may be a registered agency or a personal assistant. In recognition that this may take some time the ILF will continue to provide funding for a period of up to three months whilst these arrangements are being made.

If the agency that the user is employing is in the process of being registered then the ILF will continue to fund subject to registration proceeding.

## **3.0 Introduction agencies**

Some care agencies provide an introduction service whereby they recruit carers and match them to users, charging for this service. The user may become the employer and is responsible for any employer costs. In some circumstances the person being introduced is engaged on a self-employed basis.

ILF can pay agency introductory fees and any regular fees that currently form part of the package.

Introduction agencies that do not have any role managing or directing the care that a carer provides when an individual employs them for their care are exempt. However some 'introductory agencies' may need to be registered dependent upon the contractual arrangements they have entered into. The Employment Agencies Act 1973 does not regulate fees charged to employers by employment agencies.

If the person introduced to the user is self-employed, the user should check with the agency that this arrangement is acceptable to HMRC.

#### **4.0 Agency care and relatives of the user**

Should a user or their partner set up a care agency, the user cannot themselves receive care from that agency, as they would in effect be profiting from their ILF award.

Should a relative other than the user's partner set up a care agency, which then provided care to the user, the ILF will allow ILF monies to be used to pay for that service.

If a relative who lives in the same household as the user is employed by an agency to provide care to the user, the ILF will allow this arrangement.

It would not be right in such circumstances for the ILF to intervene if the agency is legitimate and appropriately registered as the user would not be the employer of the relative. The ILF would be removing a user's choice and control as well as the employment choice of the relative by refusing to support such arrangements.

#### **5.0 Transfer arrangement**

In partnership with a User's Local Authority the ILF will take steps to ensure the User's transfer to the Local Authority in 2015 is as smooth a process as possible. To assist this it will be beneficial for the ILF assessor to identify any ways in which the ILF package currently operates that may be out of line with the Local Authority way of operating.

Some Local Authority may not agree to funding being used to pay for care arrangements as detailed in point 4.0 of this policy. Where this is established to be the case it may be preferable for new support arrangements to be considered in preparation for transfer. If this is not possible or desirable the user should be made aware that their care arrangements are likely to change from July 2015.

#### **6.0 Regularitory authorities for the United Kingdom**

England: Care Quality Commission (CQC).

Wales: Care and Social Services Inspectorate Wales.

Scotland: Social Care and Social Work Improvement Scotland

Northern Ireland: Regulation and Quality Improvement Authority

## **7.0 Source**

Health and Social Care Act 2008  
Care Standards Act 2000  
Conditions of Grant Agreement  
Trustees' paper 93pap851  
Trustees' paper 93pap934  
Trustees meeting 9 June 2010  
Trustees meeting 20 July 2011  
SMB meeting 13 March 2013  
Trustees November 2013

## **8.0 History Date Reviewed**

10 June 2010  
17 May 2011  
6 December 2011  
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6 March 2014