

Policy 3 Agency Care

Owner: ILF Scotland

Subject: **Agency Care**

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

Version: 1.0

Last Amended: 1 June 2015

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Next Review: 31 March 2020

1.0 Background

The Public Services Reform (Scotland) Act 2010 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 required quality and safety standards. These standards ensure that agencies treat recipients 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.

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

This policy only applies to agencies engaged in Scotland.

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2.0 Registration of agencies

Where a recipient is engaging with an agency that is providing personal care or other regulated services, ILFS will only provide funding if that agency is registered.

Where an agency is not registered, ILFS will advise the recipient of our policy and refer the agency to the appropriate regulatory body. In order to continue to receive ILFS funding the recipient 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 ILFS will continue to provide funding for a period of up to three months whilst these arrangements are being made.

If the agency that the recipient is employing is in the process of being registered then the ILFS 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 recipients, charging for this service. The recipient 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.

ILFS 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 on 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 recipient is self-employed, the recipient should check with the agency that this arrangement is acceptable to HMRC.

4.0 Agency care and relatives of the recipient

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

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

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

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

5.0 Regulatory authorities

Social Care and Social Work Improvement Scotland,

Care Inspectorate, Scotland