

Policy 3 Agency Care

Version: 3

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1. Background

[The Regulation of Care \(Scotland\) Act 2001](#), the [Public Services Reform \(Scotland\) Act 2010](#) and [The Health and Personal Social Services \(Quality, Improvement and Regulation\) \(Northern Ireland\) Order 2003](#), confirm that agencies providing certain services including personal care and support, must be registered.

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 providing a regulated activity without being registered is operating illegally.

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

We have listed the Scottish authorities responsible for registration at section 6 of this policy.

2. Registration of agencies

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

Where an agency is not registered, ILF Scotland will advise the recipient of our policy and ask the recipient to refer the agency to the appropriate regulatory body. In order to continue to receive ILF Scotland funding, the recipient will have to find an alternative provider. This may be a registered agency or a personal assistant. ILF Scotland will continue to provide funding for a period of up to three months to allow the recipient to make these arrangements.

If the agency that the recipient is employing is in the process of being registered, ILF Scotland will continue to fund, subject to registration proceeding within three months.

3. Introduction agencies

Some care agencies provide an introduction service whereby they recruit carers and match them to recipients, charging for this service. ILF Scotland can pay agency introductory fees.

The recipient may become the employer and be responsible for any employer costs. In some circumstances, the introduction agency may refer a self-employed PA. **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. Agency care and relatives of the recipient

Should a recipient or their partner set up a care agency, ILF Scotland will not fund support from that agency. It will allow recipient to use ILF Scotland funding to pay for support provided from a care agency set up by a relative other than the recipient's partner.

If a relative living in the same household as the recipient is employed by a care agency and delivers support to the recipient, ILF Scotland can fund this.

5. VAT

The [Value Added Tax Act 1994](#) (applicable across the UK) exempts the supply by a state-regulated private welfare institution of care, designed to promote the physical or mental welfare of disabled persons, from VAT. This does not include the supply of accommodation or catering except where it is ancillary to the provision of care.

All registered care agencies are exempt from VAT and so should not charge VAT on care and support services. ILF Scotland will only agree to pay towards care and support provided by registered agencies. If a recipient pays VAT on agency service charges, ILF Scotland will not reimburse this. If ILF agrees to fund other VAT eligible services, the recipient should clearly identify what these are and ILF Scotland will cover the cost.

An introduction agency service may be eligible for VAT. ILF Scotland can cover this cost.

6. Regulatory authorities

[Care Inspectorate, Scotland](#)

7. History

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