

**APPLICATION FOR URGENT PROCEDURE UNDER ARTICLE 21 OF THE
HEALTH AND PERSONAL SOCIAL SERVICES (QUALITY, IMPROVEMENT AND
REGULATION) (NORTHERN IRELAND) ORDER 2003**

Applicant

Regulation and Quality Improvement Authority
of
5 Lanyon Place
Belfast

The Registered Person

Ms Florence Tanyanyiwa

The Agency

Gosna Care Agency Ltd
Russell Business Centre
Office 109
40-42 Lisburn Road,
Belfast
BT9 6AA

WHEREAS:-

A: On the 21st day of October 2019, the Agency, namely Gosna Care Agency Ltd, being a regulated agency for the purposes of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (2003 Order) was subject to an inspection conducted by Inspectors from RQIA authorised under Article 35 of the 2003 Order.

The inspection process together with the a follow up Enforcement Decision Making meeting held on the 22nd October 2019 and subsequent meeting of a properly convened Decision Making Panel held on the 23rd October, 2019 has determined that the Registered Person has failed to comply with a number of requirements and

specified regulations herein below as set out in the Domiciliary Care Agencies Regulations (Northern Ireland) 2007 as amended.

1. Registered person — general requirements and training

11. (1) *The registered provider and the registered manager shall, having regard to the size of the agency, the statement of purpose and the number and needs of the service users, carry on or (as the case may be) manage the agency with sufficient care, competence and skill.*

(2) *If the registered provider is—*

(a) an individual, he shall undertake;

(b) an organisation, it shall ensure that the responsible individual undertakes; or

(c) a partnership, it shall ensure that one of the partners undertakes, from time to time such training as is appropriate to ensure that he has the experience and skills necessary for carrying on the agency.

(3) *The registered manager shall undertake from time to time such training as is appropriate to ensure that he has the experience and skills necessary for managing the agency.*

2. 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—*

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

(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 volunteer

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;

(d) so as to ensure the safety and security of service users' property, including their home

4. Staffing

16 (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

5. 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.

B. STATUTORY AUTHORITY

Article 21 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 provides:-

Urgent procedure for cancellation etc.

21. (1) If—

(a) the Regulation and Improvement Authority applies to a justice of the peace for an order—

(i) cancelling the registration of a person in respect of an establishment or agency;

(ii) varying or removing any condition for the time being in force by virtue of this Part; or

(iii) imposing an additional condition; and

(b) it appears to the justice that, unless the order is made, there will be a serious risk to a person's life, health or well-being,

the justice may make the order, and the cancellation, variation, removal or imposition shall have effect from the time when the order is made.

(2) An application under paragraph (1) may, if the justice thinks fit, be made without notice.

(3) As soon as practicable after the making of an application under this Article, the Regulation and Improvement Authority shall notify the Department and the appropriate authority of the making of the application.

(4) An order under paragraph (1) shall be in writing.

(5) Where such an order is made, the Regulation and Improvement Authority shall, as soon as practicable after the making of the order, serve on the person registered in respect of the establishment or agency—

(a) a copy of the order; and

(b) notice of the right of appeal conferred by Article 22.

C. REASONS

For the reasons set out in the attached Statement signed by Kieran Murray dated the 23rd October 2019 and the outcome the DPM as set out above, it is the belief of RQIA that should the cancellation of the registration of the Registered Person not be effected forthwith, there will be a serious risk to the health and well-being of a number of service users currently being provided care by the Agency.

Current enforcement activity has been ongoing in respect of the Registered Person since 27th August 2019. Within this period, there has been opportunity for the registered person to make such improvements and provide necessary assurances to RQIA of compliance with the prescribed regulations.

In addition to this, a review of the enforcement activity history in respect of the Registered Person and Agency has highlighted previous failings in respect of both non-compliance of the Regulations and failures to meet the required departmental minimum standards for Domiciliary Care Agencies.

The seriousness of the risks identified include, but are not limited to:-

- Inconsistencies in reported number of service users by the Registered Person and those commissioned by the relevant Health and Social Care Trust;
- Agency staff being allowed to continue to provide care in the absence of appropriate AccessNI checks and potential for abuse to occur in respect of vulnerable adults;

- Inconsistent approach to recruitment processes, requirements for care staff to be registered with the Northern Ireland Social Care Council, putting service users potentially at risk in relation to standards of care expected;
- Risk to service users of not being provided with appropriate information relating to staff carrying out their care on the basis of misrepresentation in relation to staff employed and staff who are actually being supplied by the Agency to provide the care.

Having regard to this and also to the number of service users affected, it is reasonable and proportionate that such cancellation be given without notice.

A right of Appeal will remain available to the Registered Person.

D ORDER FOR CANCELLATION

In accordance with Article 21 of the 2003 Order, the RQIA now seeks an Urgent Procedure Order for the Cancellation of the registration of the Registered Person in respect of the Agency.

Signed Theresa Nixon

Theresa Nixon
Director of Assurance
RQIA

Dated this 23 day of October 2019

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Applicant

Regulation and Quality Improvement Authority
of
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The Registered Person

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The Agency

Gosna Care Agency Ltd
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40-42 Lisburn Road,
Belfast
BT9 6AA

It is Ordered that the registration of the Registered Person in respect of the Agency, is cancelled under Article 21 of The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.

Signed



Justice of the Peace

Adrian Huston JP
Justice of the Peace - Belfast
13 Cabin Hill Gardens
BELFAST BT5 7AP
028 90806080 mail@huston.co.uk

Dated this 23rd day of October 2019

Note:

The Regulation and Quality Improvement Authority (RQIA) shall, as soon as practicable after the making of this Order, serve on the Registered Person a copy of this Order.

STATEMENT OF KIERAN MURRAY, BANK INSPECTOR, RQIA

STATEMENT OF:

Kieran Murray
(Name)

Bank Inspector
(Designation)

Regulation and Quality Improvement Authority (RQIA)
(Organisation)

I declare that this statement consisting of three pages, each signed by me, is true to the best of my knowledge and belief.

Dated this 23rd **Day of** October 2019

I am employed as a bank inspector in the Regulation and Quality Improvement Authority (RQIA). I have been a registered nurse for 34 years and have been a bank inspector with RQIA since June 2016.

The RQIA is the independent body that regulates and inspects the quality and availability of Northern Ireland's health and social care (HSC) services. RQIA was established in 2005 under The Health and Personal Social Services (Quality Improvement and Regulation) (Northern Ireland) Order 2003.

This statement relates to the care and services provided by Gosna Care Agency Ltd based at Russell Business Centre, Office 109, 40-42 Lisburn Road, Belfast, BT9 6AA.

On 15 October the Northern Ireland Social Care Council (NISCC) contacted RQIA to advise that the Home Office had raised concerns with them regarding possible illegal work practices (unregistered individuals were using other people's work permits whilst allegedly working in Gosna Care Agency Ltd).

Amanda Jackson Senior Inspector communicated this to the South Eastern Health and Social Care Trust (SEHSCT) and arranged to meet with the contracts department of the trust along with myself on the 21 October 2019 to discuss the current concerns and the performance management of this contract by the trust. During this discussion the SEHSCT confirmed that the agency continues to be under a performance review due to non-reporting of incidents relating to short call times, variances in the rotas, the undertaking of tasks not outlined on the timetable of service (TTS) and communication issues.

The SEHSCT has ceased sending new referrals to Gosna Care Agency Ltd.

Amanda Jackson and I completed an unannounced inspection on 21 October 2019 between 14.30 and 18.50 hours on the back of intelligence provided to RQIA by NISCC and the SEHSCT. The Registered Person/Registered Manager was available during the inspection.

Signature: 

We identified concerns in relation to staff recruitment (Regulation 13) and staff induction (Regulation 16). We were unable to confirm the accuracy of the staff rotas as the names of the care workers who had undertaken visits to service users did not correspond with the names of the workers on the rotas.

The Domiciliary Care Agencies Regulations (Northern Ireland) 2007

Regulation 11 (1)

Registered person – general requirements and training

Regulation 14 (a) (b) (d)

Conduct of agency

The Registered Person has been supported since registration to meet the required legislative requirements. The Registered Person has been advised on several occasions of the correct procedures required to be in place to ensure that the care delivered is safe and effective. However the evidence seen is that the Registered Person is knowingly allowing staff to care for vulnerable people without the appropriate checks and training being undertaken.

Regulation 18 (1) (2)

Provision of information to service users

The information provided by the Registered Person indicated a lack of knowledge regarding the number and details of the care staff employed by the agency. This poses a risk to service users as they will be unaware of who is attending their home to provide personal care.

The Domiciliary Care Agencies Regulations (Northern Ireland) 2007 and The Northern Ireland Social Care Council (Social Care Workers Prohibition) and Fitness of Workers (Amendment) Regulations (Northern Ireland) 2017

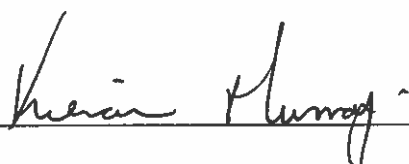
Regulation 13 (d) (e)

Fitness of domiciliary care workers supplied by an agency

We found that two members of staff were employed by the agency without having applied to be registered with NISCC. One of these staff members was providing private care to a service user in Great Britain.

There was no evidence of AccessNI checks or full recruitment records for one member of staff who was providing care and this poses an unacceptable risk to vulnerable adults. We found it difficult to verify the information provided by the Registered Person during the inspection.

Signature: _____



Regulation 16 (5) (a)

Staffing

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;**

We found two members of staff were employed by the agency without any evidence that a three day structured induction and shadowing had taken place.

The Registered Person is acting outwith the regulatory requirements despite RQIA highlighting and discussing the provider's legal responsibility on previous occasions.

It is my professional opinion there is a serious risk to the health and well-being of service users who are provided care by staff from Gosna Care Agency Ltd. The assurances provided to date by the provider have been insufficient to address the risks identified. This opinion is shared by my colleague Amanda Jackson, senior inspector, who was present throughout the inspection. It is my professional opinion that RQIA should seek urgent procedures to cancel the registration of Ms Florence Tanyanyiwa in respect of Gosna Care Agency Ltd.

The risk to the health and well-being of services users being provided care by Gosna Care Agency Ltd was considered by a panel comprising RQIA's Chief Executive and two RQIA board members on 23 October 2019. This panel approved the decision to make an application to the ~~Fay Magistrate~~ for the urgent cancellation of the registration of Ms Florence Tanyanyiwa in respect of Gosna Care Agency Ltd.

JUSTICE OF THE PEACE
M. [Signature]

Signature: *Karen [Signature]*