

THE REGULATION AND QUALITY IMPROVEMENT AUTHORITY

FAILURE TO COMPLY NOTICE

Name of Registered Establishment or Agency: Cushendall Dental Surgery	FTC Ref: FTC/IHC-DT/11702/2016-17/01(E)
Address of Registered Establishment or Agency: c/o Glens of Antrim Medical Centre, 2 Gortaclee Road, Cushendall, BT44 0TE	
Name of Registered Person: Mr Seamus B. Killough	Issue Date: 08 September 2016
Regulation not complied with: The Independent Health Care Regulations (Northern Ireland) 2005 Regulation 19 (2) A person is not fit to work in or for the purposes of an establishment, or for the purposes of an agency unless – (d) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 2 SCHEDULE 2 INFORMATION REQUIRED IN RESPECT OF PERSONS SEEKING TO CARRY ON, MANAGE OR WORK AT AN ESTABLISHMENT OR AGENCY (2) Either – (a) Where a certificate is required for a purpose relating to registration under Part III of the Order, or the position falls within section 115 (3) or (4) of the Police Act 1997 (a), an enhanced criminal record certificate issued under section 115 of that Act.	
Specific failings to comply with regulations: During the announced inspection on 4 August 2015, when recruitment and selection of staff was a theme, it was identified that no new members of staff had been recruited since registration with RQIA. The process for the recruitment and selection of staff, should staff need to be recruited was discussed with Mr Killough. Mr Killough confirmed that he understood what information was required to be obtained prior to any new staff commencing employment at the practice.	

This included the need to ensure that an enhanced AccessNI check was undertaken and received prior to commencement of employment of a staff member.

During the announced inspection on 24 August 2016 it was identified that one staff member had commenced employment in Cushendall Dental Surgery on 24 August 2015, some three weeks after the previous announced inspection. A review of the records evidenced that not all of the documents relating to recruitment process were available for review at the premises. At this stage it was not clear whether or not an AccessNI enhanced disclosure check had been undertaken for this member of staff prior to commencement of employment. Mr Killough confirmed during the inspection that he was aware of the legislative requirements for staff recruitment as outlined in Schedule 2 of The Independent Health Care Regulations (Northern Ireland) 2005.

Following the inspection, RQIA received confirmation, by electronic mail, on 24 August 2016, that Mr Killough had checked the information retained at his home and that the personnel file for the member of staff contained, amongst other things, an enhanced AccessNI disclosure certificate dated June 2013.

On receipt of the information, RQIA contacted Mr Killough to seek further clarification as the date on the enhanced AccessNI disclosure certificate for the member of staff did not correspond with the date of the staff member's employment in the practice. During the call it was established that what Mr Killough had on file was not, in fact an enhanced AccessNI disclosure certificate but a document from an umbrella body, which confirmed that an AccessNI enhanced disclosure check had been completed in respect of the staff member's employment in another dental practice in June 2013. This information confirmed that the staff member had been employed by Mr Killough for a period of one year without an appropriate AccessNI enhanced disclosure check having been undertaken.

The fact that AccessNI enhanced disclosure certificates are not currently portable in Northern Ireland was discussed with Mr Killough during the inspection on 24 August 2016. Mr Killough confirmed at this time that he was aware that AccessNI checks were portable in Great Britain but not in Northern Ireland.

Following the date of the inspection and 7 September 2016, RQIA received and reviewed several items of correspondence from Mr Killough, in relation to his recruitment processes. RQIA also sought assurances from Mr Killough during a meeting at its offices on 7 September 2016 that the processes for recruitment and selection of staff were robust. Assurances were not provided, either within the correspondence reviewed or during this meeting, that the recruitment processes were robust.

RQIA is concerned that the safeguards to protect and minimise risk to patients, during recruitment, are being compromised.

Action required to comply with regulations:

- The registered person must ensure that at all times staff are recruited and employed in accordance with statutory legislation and mandatory requirements. This includes the receipt of a satisfactory Access NI enhanced disclosure check prior to commencement of employment.
- The registered person must ensure that the staff recruitment policy and procedure makes reference to the need to obtain all the required information as listed within Regulation 19 (2) and Schedule 2 of The Independent Health Care Regulations (Northern Ireland) 2005.
- The registered person must implement robust monitoring systems to ensure that the recruitment process is compliant with statutory legislation and mandatory requirements.
- The registered person must ensure that all staff involved in the recruitment process receive training or refresher training in safeguarding of children and adults.

The registered person may make written representations to the Chief Executive of RQIA regarding the issue of a failure to comply notice, within one month of receipt of this notice.

Date by which compliance must be achieved is 2 December 2016.

Signed.......... **Director of Regulation and Nursing**

This notice is made under The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 and The Independent Health Care Regulations (Northern Ireland) (2005)

It should be noted that failure to comply with some regulations is considered to be an offence and RQIA has the power under regulations to prosecute for specified offences.