

Policy Circular

Document No 28/07

Owner: Social Work Team

Subject: Agency Care

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

Version: 5 of 5

Last Amended: 6 December 2011

Date Reviewed: 6 December 2011

Next Review: 17 November 2012

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.

Independent Living Fund

Equinox House, Island Business Quarter, City Link, Nottingham NG2 4LA

Tel: 0845 601 8815 or 0115 945 0700, Fax: 0115 945 0945, Textphone: 0845 601 8816

Email: funds@ilf.org.uk, Website: www.dwp.gov.uk/ilf

The Independent Living Fund is an Executive Non-Departmental Public Body of the Department for Work and Pensions

The national authorities responsible for registration are listed at the end of this policy (5.0):

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 Regularity 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

6.0 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

7.0 History Date Reviewed

10 June 2010

17 May 2011

6 December 2011

Equality Impact Assessment

Full Assessment Template

This template guides you through a process of conducting a full Equality Impact Assessment. You should only do this once you have completed a Screening Template to decide whether a full assessment is necessary.

Title of policy, project, function or service:

Employing Care through an Agency

Short description of aims and objectives

Where a user employs an agency the ILF will require that this be registered where registration is required by the appropriate regulatory authority. If the agency is unregistered the ILF may cease payments.

Reasons for conducting a full Equality Impact Assessment (tick which apply)

- One or more groups may be negatively affected by the new policy, function, service, project or changes to policy. A full assessment will help us reduce the negative impact
- The area of work may present an opportunity for positively promoting equality and an EIA will help us maximise this impact
- We do not have enough information to make a decision and need to carry out further research/consultation

Stage 1: What is the impact?

Please detail what negative/positive impacts the policy, function, service, project or change has on each of the areas listed below:

Equality Group	Negative impact	Positive opportunity to promote equality and eradicate discrimination
Age		The policy treats all users equally and provides a greater degree of support and protection to ILF users.
Disability	Potential impact	
Race	Potential impact	
Gender		
Transgender		
Sexual orientation	Potential impact	
Religion or belief	Potential impact	

Questions (please answer all those applicable)

If the policy is likely to have a negative impact on certain equality groups, what are the reasons?	Potentially certain groups of users may be more likely to use unregistered agencies because of cultural or religious sensitivities. Where there is not a registered agency locally available or there is little understanding of the legal requirements within a given community it may be more likely that agencies are not registered. As the ILF will withdraw funding unless the agency is registered this may have a greater impact on certain protected groups.
Are any groups affected in a different way to others?	As Above
What practical changes could help reduce any adverse impact on particular equality groups?	The policy allows users time to make adjustments to their arrangements
What research or consultation have you used to support these findings?	The registration of an agency providing regulated activity is a legal requirement.
How does the policy promote equality and address existing patterns of discrimination and	The policy ensures that all groups of users are protected from the risks associated with unregistered agency

inequality?	care
Could the policy be changed to maximise the promotion of equality? If so, how?	There will be monitoring of the policy to ensure that users receive sufficient support
Do you need to consult or conduct further research before proceeding?	No. Currently appears not to be available to support the reasons for the possible negative impact on people with certain protected characteristics from the regulatory authorities. ILF experience would suggest this may be the case. Monitoring the impact of the policy may provide evidence to support this.

Stage2: Taking action

Now you have identified the impacts, decide what action/s you will take next. This could include further consultation and research, or action taken to reduce negative impacts and maximise positive impacts. Please detail below:

All agencies in the UK must be registered; this policy ensures that the ILF support users in employing legitimate care. Registered agencies are subject to meeting standards set out by the appropriate regulatory authorities i.e. Care Quality Commission in England, Care and Social Services Inspectorate Wales, Social Care and Social Work Improvement Scotland, and in Northern Ireland – the Regulation and Improvement Authority.

The policy offers protection to individuals by ensuring that they only employ registered agencies. Where an individual is not employing a registered agency then the ILF will ensure that there is a sufficient period to allow the user to change agencies or allow the agency to be registered correctly.

Assessors and staff will be trained in the policy and advised on best procedure and practice.

This support will minimise the risk of users ceasing to be eligible for ILF funding.

Stage 3: Making a decision

If you are in a position to change or introduce the policy, project or service, detail your decision-making:

In encouraging compliance the ILF will be ensuring that both users and agencies are supported and that government funded support is used for legitimate purposes.

There is a risk in not implementing the policy that outweighs any concern that some users may be put into a position where they have to change their provider.

What are the main effects and benefits?

The policy brings the ILF into line with recognised national standards

These standards are designed to protect users from risks associated with mismanaged agencies. Such risks might include neglect and exploitation.

If you are not in a position to go ahead, what actions are you going to take?

NA

Stage 4: Publishing the Equality Impact Assessment

Jennifer Davis and Keith Turner

EIA completed by

- EIA sent to Equality Impact Assessment Board (EIAB)
- EIA approved by EIAB

EIA approved by

Jesse Harris

- Actions added to ILF Equality Scheme Action Plan
- EIA sent to Communications Team for website publication

Date completed

28 September 2011

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