

Stakeholder Report Part 2: Regulation of Care (Jersey) Law 2014 – Draft Regulations

REGULATION OF CARE (STANDARDS AND REQUIREMENTS) (JERSEY) REGULATIONS 201-

Explanatory Note

These Regulations would set out the requirements imposed on persons seeking registration as care providers under the Regulation of Care (Jersey) Law 2014 (“the Law”) and on those registered under that Law (registered providers and registered managers, known collectively as “registered persons”).

Part 1 and *Regulation 1* contain the definitions of terms used in the Regulations that are not already defined in the Law.

Part 2 is about registration. *Regulation 2* sets out the criteria that makes a person fit to be registered and *Regulation 3* prescribes the conditions that the Health and Social Care Commission (“the Commission”) must impose upon registration. *Regulation 4* contains special rules where the regulated activity carried on by the registered provider occurs at more than one location.

Part 3 sets out the service requirements. *Regulation 5* states that the regulated activity (which is an activity regulated by the Law and described in its Schedule 1) must meet the published standards for compliance. *Regulation 6* covers the proper conduct of the service.

Regulation 7 requires a registered person to act in an open and transparent way and *Regulation 8* requires that person to ensure care receivers are treated with respect and are appropriately involved in decisions about their own treatment. *Regulation 9* sets out the steps to be taken by registered persons to protect care receivers against the risks of receiving inappropriate or unsafe care.

Regulation 10 requires registered persons to prepare a personal plan for each care receiver, which has to be maintained as part of that person’s care record, the plan and record being available for inspection by the Commission.

Regulation 11 requires registered persons to take proper health and safety measures and *Regulation 12* imposes requirements on them to safeguard care receivers from abuse.

Regulation 12 imposes requirements with respect to cleanliness and infection control and *Regulation 14* ensures adequate nutrition and hydration is provided to care receivers. *Regulation 15* imposes requirements with respect to the management of medicines. *Regulation 16* requires proper arrangements to be made for the provision of various health, social or personal services and for the registered person to work collaboratively with other agencies in the interests of the care receiver.

Regulation 17 limits the use of control or restraint, requires the establishment of a policy on this matter and the maintenance of records of use and reporting non-compliance to the Commission.

Regulation 18 requires registered persons to ensure the suitability of workers and maintain adequate records. *Regulation 19* requires premises and equipment to be suitable, safe, adequate and of the appropriate standard.

Regulation 20 requires a registered person (other than one employed directly by the care receiver) to establishing a system of regularly reviewing and if necessary improving the quality of care provided and to publish a report on each review.

Part 4 contains more general requirements. *Regulation 21* requires registered persons to inform the Commission of changes to supplied information and *Regulation 22* requires them to notify the Commission of events posing a risk of harm to care receivers. *Regulation 23* requires a procedure to be in place for handling complaints.

Regulation 24 requires the keeping of records relating to the regulated activity and *Regulation 25* requires it to be run in a way that is financially viable (a requirement that does not apply to a regulated activity run by the States or a registered person employed directly by a care receiver). *Regulation 26* requires the provision of information about charges.

Regulation 27 imposes stipulations where care services are commissioned by the States or other agency. *Regulation 28* imposes requirements to notify the Commission when the registered manager is due to be absent for 28 days or more.

Part 5 covers children's homes and support services. *Regulation 29* imposes requirements to provide for the education and leisure of children. *Regulation 30* outlaws certain disciplinary measures in respect of children.

Regulation 31 requires a registered provider to appoint an independent person to visit and report on regulated activities carried on in children's homes and *Regulation 32* makes further provision about the visits and reports.

Part 6 contains miscellaneous provisions. *Regulation 33* requires the Commission to carry out certain inspections of regulated activities. *Regulation 34* imposes the requirements of the Regulations on all registered persons. *Regulation 35* provides for contravention of the Regulations to be an offence punishable by a fine of up to £50,000, subject to a registered person's being able to address less serious contraventions following the serving of an improvement notice by the Commission.

Regulation 36 provides the title by which the Regulations are to be cited and provides for them to come into force....



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REGULATION OF CARE (STANDARDS AND REQUIREMENTS) (JERSEY) REGULATIONS 201-

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Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Regulations 9(1), 10, 11, 14, 16 and 30(3), and after having consulted the Health and Social Care Commission and in accordance with Article 14(9), have made the following Regulations –

PART 1

INTRODUCTORY

1 Interpretation

In these Regulations –

“barred list” means the children’s barred list or the adults’ barred list maintained under section 2 of the Safeguarding Vulnerable Groups Act 2006 (of Parliament) or any corresponding list maintained under an equivalent enactment in another jurisdiction;

“care” means nursing care or social care;

“care receiver” means a person in receipt of care;

“child” means any person under the age of 18;

“children’s home” means a home care service (within the meaning of paragraph 1 of Schedule 1 to the Law) that provides residential accommodation only to children;

“independent person” means the person appointed as such under Regulation 31(1);

“Law” means the Regulation of Care (Jersey) Law 2014;

“personal plan” has the meaning assigned by Regulation 10(1);

“representative” means any person appearing to the registered person to act on behalf of the care receiver or who has an interest in his or her welfare;

“Statement of Purpose” means the document referred to in Regulation 3(1)(c).

PART 2

REGISTRATION

2 Fitness criteria

- (1) A person is a fit person to be registered as the provider of, or a manager in relation to, a regulated activity if the person is –
 - (a) of good character;
 - (b) has the qualifications, skill, knowledge or experience necessary for providing or managing the regulated activity as the case may be; and
 - (c) is not taken to be unfit for such registration under paragraph (2).
- (2) A person is taken to be unfit to be registered as the provider of, or a manager in relation to, a regulated activity if the person –
 - (a) has been sentenced to a term of imprisonment (whether immediate or suspended and wherever imposed, provided that it was imposed for conduct that would be an offence in any part of the British Islands), without the option of paying a fine; and is, in the reasonable opinion of the Commission, unsuitable to be so registered;
 - (b) appears on a barred list;
 - (c) has ever been declared bankrupt in Jersey or elsewhere; or
 - (d) is disqualified for holding office as a company director in Jersey or elsewhere.
- (3) A person is taken to be unfit to be registered as a manager in relation to, a regulated activity if the person –
 - (a) is required by his or her terms of service as a manager to be registered with a professional body and does not hold that registration; or
 - (b) is not physically and mentally fit to manage the regulated activity.
- (4) In the case of a person that is a body corporate, the requirements of this Regulation apply in the case of every director, board member, trustee or other office holder of that body and a reference to “person” is a reference to each such person.

3 Conditions of registration

- (1) The Commission must impose the following conditions upon the registration of a provider –
 - (a) that provider has an address in Jersey;
 - (b) that the provider supplies the address of each location from which the regulated activity operates;
 - (c) that the provider has submitted to the Commission a Statement of Purpose that includes such information as to what are the services of and where and to whom they are provided that the Commission required under Article 4(3) of the Law, and that a copy of the Statement is provided to –

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- (i) an inspector appointed by the Commission,
 - (ii) any person working in the service,
 - (ii) any care receiver and his or her representatives, and
 - (iv) any person involved in arranging care for a care receiver;
- (d) a condition that limits the care that the provider provides only to certain descriptions of care receivers;
 - (e) where the regulated activity is a care home service, the maximum number of care receivers who can be accommodated in the home and where both nursing care and personal care or personal support are provided, the maximum number of care receivers for whom nursing care and personal care or personal support is provided;
 - (f) where the regulated activity is a care home service, the maximum number and description of care receivers who may be accommodated in particular rooms (which may vary depending on the type of care provided);
 - (g) where the regulated activity is a home care service, the maximum number of care receivers for whom care is provided and where both nursing care and social care are provided, the maximum number of care receivers for whom each type of care is provided;
 - (h) where the regulated activity is an adult day care service, the maximum number of care receivers who can be accommodated on the premises at any one time and where both nursing care and social care are provided, the maximum number of care receivers for whom each type of care is provided;
 - (i) in relation to any regulated activity, the age of the care receivers;
 - (j) that the provider operates the regulated activity in accordance with the Statement of Purpose.
- (2) It is a further condition of registration as a manager that the manager demonstrate to the satisfaction of the Commission that he or she has undertaken such training and continuing professional development so as to ensure that he or she maintains the experience and skills necessary to manage the regulated activity.
 - (3) A registered person must pay the annual fee required by Article 9 of the Law by 31st January each year.

4 More than one registered manager

- (1) Where a registered provider provides a regulated activity at more than one separate location in Jersey, the provider must have a registered manager for each such location.
- (2) It is a condition of registration of a registered provider mentioned in paragraph (1) that the provider must ensure that no registered manager is the registered manager for more than one location.
- (3) However, the Commission, having regard to the particular circumstances of the regulated activity, may permit a registered provider to have the same registered manager for the regulated activities carried on at 2 or more locations as the Commission so specifies.

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- (4) A registered provider may be the registered manager of only one location at which a regulated activity is carried on.

PART 3

SERVICE REQUIREMENTS

5 Requirement to meet standards for compliance

The registered person must ensure that the regulated activity is of such quality as to meet the standards for compliance in respect of the regulated activity for which the person is registered that are published under Article 15(1) of the Law.

6 Conduct of service

- (1) A registered person must ensure that the regulated activity is conducted so as to make proper provision for care receivers in respect of their health, safety and welfare and that the particular needs of each care receiver (whether as to education, treatment, supervision or otherwise) are identified and met.
- (2) The registered manager must lead and manage the service in a way that is consistent with the approach and ethos, and delivers the outcomes, set out in the Statement of Purpose.
- (3) Before making any decisions about a care receiver with respect to the matters mentioned in paragraph (1), a registered person must –
- (a) consider the need to safeguard and promote the welfare of the care receiver; and
 - (b) as far as is practicable ascertain and have regard to the wishes and feelings of the care receiver or his or her representative.
- (4) A registered person must ensure that the regulated activity is operated so as to maintain good personal and professional relationships with both workers and care receivers.

7 Openness and transparency

- (1) A registered person must act in an open and transparent way in relation to care and treatment provided to care receivers.
- (2) A registered person must notify a care receiver or his or her representative of any unintended or unexpected serious incident affecting the care receiver's health or well-being and provide reasonable support to such person in relation to the incident.

8 Respect and involvement

A registered person must make appropriate and adequate arrangements to –

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- (a) ensure that care receivers are treated with dignity and respect, are afforded privacy and enabled and supported to be as independent and autonomous as practicable;
 - (b) enable care receivers to make or participate in making decisions about their support, care or treatment; and
 - (c) enable care receivers to manage their own care or treatment where this is appropriate.

9 Care and welfare

- (1) A registered person must take proper steps to ensure that care receivers are protected against the risks of receiving inappropriate or unsafe care by –
 - (a) assessing and keeping under regular review the care receiver’s care, welfare, treatment and health needs, and, where practicable, doing so with the assistance of the care receiver or his or her representative;
 - (b) only providing care to care receivers if the care that the registered person is able to provide under the terms of his or her registration is suitable for their needs and circumstances;
 - (c) planning and delivering care or support and, where appropriate, treatment in such a way as to –
 - (i) meet the particular needs of the care receiver, including where relevant, any educational needs,
 - (ii) have due regard to good practice and in particular any guidance issued by an appropriate professional body, and
 - (iii) avoid unlawful discrimination, including, where necessary, making reasonable adjustments in the provision of care to meet the care receiver’s needs.
- (2) A registered person must have in place procedures to deal with emergencies and mitigate the risks to care receivers arising from those emergencies.

10 Personal plans and care records

- (1) A registered person must, in consultation with the care receiver or his or her representative, prepare a written plan, known as the “personal plan”, setting out how the care receiver’s health, safety and welfare needs are to be met.
- (2) The registered person must –
 - (a) give the care receiver, or with the consent of the care receiver, his or her representative, access to the care receiver’s personal plan; and
 - (b) review and where appropriate revise the plan if requested to do so by the care receiver or his or her representative and whenever there is a significant change in the care receiver’s health, safety, welfare or support needs.

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- (3) A registered person must prepare and maintain a care record that is sufficiently detailed, contemporaneous and relevant as to ensure that a care receiver's health, safety and welfare needs and circumstances are properly documented, and this record must include the personal plan together with the documentation relating to the assessment of the care receiver's needs.
 - (4) The care receiver or, with the care receiver's consent his or her representative, may access the care receiver's personal plan or care record.
 - (5) Personal plans and care records must be available at all time for inspection so as to enable the Commission to judge the effectiveness of the assessment, planning, delivery and evaluation of the care or support offered.

11 Health and safety

A registered person must ensure that adequate arrangements are in place to protect the health and safety, including fire safety, of care receivers, workers and, where relevant, visitors.

12 Safeguarding

- (1) A registered person must safeguard care receivers from abuse by –
 - (a) establishing, maintaining and adhering to a written policy in relation to the safeguarding of care receivers unless the registered person is an individual directly employed by, or personally in receipt of any reward from, the care receiver for the care provided;
 - (b) taking reasonable steps to identify risk of abuse and prevent its occurrence;
 - (c) responding appropriately to any allegation of abuse;
 - (d) ensuring workers have adequate training in safeguarding;
 - (e) adhering to any safeguarding guidance and policy developed for Jersey;
 - (f) participating in investigations where appropriate;
 - (g) taking immediate action to prevent any worker who has harmed or poses a risk of harm to a care receiver from having contact with that or any other care receiver;
 - (h) taking all reasonable steps to avoid having as a worker any person on the barred list or who has received a caution or conviction for an offence against a care receiver in any jurisdiction if the conduct would be an offence in Jersey if it had taken place in Jersey.
- (2) A registered person must share information with other registered persons, regulatory bodies and law enforcement agencies where to do so would assist in safeguarding care receivers from harm.

13 Cleanliness and infection control

- (1) Where premises are provided as part of the regulated activity the registered person must –

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- (a) maintain the premises clean and free from offensive odours;
 - (b) maintain appropriate standards of cleanliness and hygiene in relation to the premises, furnishings, sundries and equipment;
 - (c) make appropriate arrangements for the regular laundering of linen and clothing.
- (2) A registered person must protect care receivers, workers and other persons from exposure to health care associated infections by –
- (a) having in place systems to assess the risk of, and detect and control the spread of infection, including having suitable arrangements for the handling and disposal of general and clinical waste;
 - (b) where necessary providing appropriate treatment and care for persons affected by a health care associated infection; and
 - (c) ensuring that workers are trained and provided with sufficient and appropriate personal protective equipment.

14 Nutrition and hydration

Where food and drink are provided as part of the regulated activity the registered person must provide –

- (a) sufficient quantities of food and drink to meet care receivers' needs;
- (b) food that is wholesome and nutritious and suitable for the needs of the person consuming it, including the person's cultural or religious dietary requirements;
- (c) a variety and choice of food that is properly prepared and presented;
- (d) support to enable care receivers to eat and drink sufficient amounts for their needs.

15 Management of medicines

- (1) A registered person must ensure that care receivers are supported to enable them, so far as it is practicable and safe to do so, to manage their own medication.
- (2) A registered person must protect care receivers from the unsafe use and management of medicines, including making appropriate arrangements for the safe handling, ordering, storage, security, administration, recording and disposal of medicines.
- (3) The registered person must ensure that any worker involved in the dispensing and management of medicines has appropriate training.

16 Shared responsibilities

- (1) A registered person must make arrangements where necessary for care receivers to receive medical, dental and other health, social or personal services.
- (2) Where responsibility for the care and treatment of a care receiver is shared with or transferred to any other person or agency, a registered person must

work collaboratively with that other person or agency so as to ensure the health, safety and welfare of the care receiver.

- (3) For the purposes of paragraph (2) a registered person must request and share information relating to the care receiver with the other person or agency so as to ensure as far as practical, the registered person receives sufficient information from that other person or agency about the care receiver.

17 Control and restraint

- (1) A registered person may use control or restraint only where it is applied lawfully and is in the best interests of the care receiver.
- (2) A registered person must prepare and implement a policy ensuring that there are proper arrangements in place so that any use of control or restraint complies with paragraph (1).
- (3) A registered person must maintain a record of the use of control or restraint and must notify the Commission immediately if the action taken does not comply with paragraph (1).

18 Workers

- (1) A registered person must ensure that every worker is –
 - (a) a fit person and otherwise of integrity and good character;
 - (b) suitably qualified, skilled, competent and experienced for the duties to which he or she is assigned; and
 - (c) mentally and physically fit for those duties.
- (2) For the purposes of paragraph (1)(a) a person is treated as not being a fit person if the person –
 - (a) has been sentenced to a term of imprisonment (whether immediate or suspended), without the option of paying a fine; and is, in the reasonable opinion of the registered manager of the regulated activity unsuitable to work in that regulated activity;
 - (b) appears on the barred list or has been convicted of an offence against a care receiver in any jurisdiction if the conduct would be an offence in Jersey if it had taken place in Jersey.
- (3) When determining the qualifications, skills and number of persons required to work in the regulated activity, the registered person must take into consideration –
 - (a) the size and nature of the regulated activity;
 - (b) the statement of aims, objectives and purposes of the regulated activity; and
 - (c) the needs of the care receivers.
- (4) The registered person must –
 - (a) ensure that at all times suitably qualified, skilled, competent and experienced people are working in the regulated activity in such

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- numbers as are appropriate and sufficient to meet the needs and ensure the health, welfare and safety of care receivers;
- (b) ensure that the employment of any person on a temporary basis will not prevent care receivers from receiving such continuity of care as is reasonable to meet their needs;
 - (c) ensure that workers receive appropriate training, professional development, supervision and appraisal to enable them to provide care and treatment to care receivers to a safe and appropriate standard;
 - (d) provide assistance and support to workers, including, where appropriate, time off work to obtain relevant qualifications and training;
 - (e) where relevant, support workers to maintain their registration with an appropriate regulatory or occupational body and, when required, provide that body with evidence of the worker's fitness to practise;
 - (f) have in place a disciplinary procedure that enables the registered person to take appropriate action where necessary to protect the safety or welfare of care receivers; and
 - (g) have in place a policy that enables workers to report concerns about the provision of the regulated activity to a designated senior manager or the Commission and afford such workers adequate protection from being disadvantaged as a result of making a report in compliance with the policy.
- (5) The registered person must have in place and adhere to a recruitment policy, undertake where appropriate such criminal records checks for workers as are appropriate for each worker's role and obtain and keep such information as is specified by the Commission so as to enable so far as possible for the requirements of this Regulation to be met.
- (6) The registered person must maintain an adequate record for each worker (which must include the information mentioned in paragraph (5)).

19 Premises and equipment

- (1) Where the regulated activity involves the provision of premises or equipment the registered provider must ensure they –
- (a) are fit for purpose;
 - (b) are safe and suitable for the regulated activity;
 - (c) achieve the aims and objectives set out in the Statement of Purpose; and
 - (d) meet the requirements of paragraph (2).
- (2) The premises must –
- (a) be located and be of such a design and layout as to meet the number and needs of care receivers;
 - (b) be designed to maximise and facilitate the privacy, dignity and independence of care receivers;

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- (c) be of sound construction and kept in a good state of repair externally and internally;
 - (d) have adequate heating, lighting and ventilation; and
 - (e) be decorated and maintained to a standard appropriate for the regulated activity.
- (3) Without limiting the generality of paragraph (1), a registered provider must –
- (a) ensure that the premises are furnished and equipped to a standard that is appropriate to the needs for the care receiver and in accordance his or her personal plan;
 - (b) provide sufficient and suitable kitchen equipment, crockery, cutlery and utensils and adequate facilities for the preparation and storage of food;
 - (c) provide and maintain sufficient and suitable clinical, nursing or other equipment for the general use of care receivers necessary to meet their health and personal needs;
 - (d) where appropriate provide adequate facilities, equipment, crockery, cutlery and utensils for care receivers to prepare their own food and ensure that these facilities are fit for use by care receivers;
 - (e) where appropriate provide adequate and suitable facilities for care receivers to wash, dry and iron their own clothes if they wish;
 - (f) ensure that there are provided at appropriate places sufficient numbers of WCs and wash basins, and baths and showers fitted with a hot and cold water supply;
 - (g) ensure that care receivers have access to a telephone on which to make and receive calls in private along with suitable access to other forms of communication technology;
 - (h) take adequate precautions against the risk of fire, including the provision of suitable fire safety equipment;
 - (i) provide an adequate and safe means of escape from the premises in cases of emergency.

20 Reviewing quality of service

- (1) A registered person other than an individual directly employed by, or personally in receipt of any reward from, the care receiver for the care provided, must establish a system for regular review and, if necessary, improvement of the quality of care provided.
- (2) In undertaking the review the registered person must –
 - (a) consult care receivers or their representatives, workers for the regulated activity and health and other professionals who serve the needs of care receivers; and
 - (b) take into account the outcome of any complaint or other investigation into the conduct of the regulated activity.
- (3) A registered person must publish a report on any review carried out under this Regulation.

- (4) Where the registered provider is not the registered manager and except where Regulation 32 applies, the registered provider must arrange for a representative of the provider to report monthly on the quality of the care provided and compliance with the registration requirements under the Law and these Regulations.
- (5) Reports compiled under paragraph (4) must be provided to the registered person and be available for inspection by the Commission.

PART 4

GENERAL REQUIREMENTS

21 Provision of updated information and review of Statement of Purpose

- (1) A registered person must inform the Commission of any changes to the information supplied when the person applied to be registered or to that information as subsequently updated by virtue of this Regulation.
- (2) The information provided under paragraph (1) may be provided to the Commission by way of an annual return and where there has been no such change the registered person must submit a return so advising the Commission.
- (3) A registered provider must keep the Statement of Purpose under review and revise it where appropriate to do so.
- (4) Where the Statement of Purpose has been revised, the registered provider must notify the Commission of the revision within 28 days.

22 Notification of incidents, accidents and other events

A registered person must notify the Commission of such incidents, accidents or other events that have posed or may pose a risk of harm to care receivers as the Commission may specify in such manner as the Commission may specify.

23 Complaints

- (1) A registered person must have in place effective procedures for identifying, receiving, handling and responding appropriately to complaints and comments.
- (2) The procedures must include the keeping of adequate records of the nature of any complaint, the investigation and the outcome.
- (3) The registered person must inform the complainant of the outcome of his or her complaint and, where appropriate, any action taken as a consequence of it and must make this information available to the Commission on request.

24 Service records

- (1) A registered person must establish and maintain such records applicable to the regulated activity (“service records”) as the Commission shall determine and such other records as are required under any other enactment.
- (2) The service records must be kept in a secure place and be available for inspection by the Commission at any time.
- (3) Service records must be kept for at least 5 years –
 - (a) if the record relates to a worker or a care receiver, from when the person to whom the record relates is no longer at the regulated activity;
 - (b) in any other case, from the last entry made in the record.

25 Financial viability

- (1) A registered provider must operate the regulated activity in such a way to ensure that it is financially viable, able to meet the aims and objectives set out in any Statement of Purpose and the requirements of the Law and these Regulations.
- (2) A registered provider must demonstrate compliance with paragraph (1) by –
 - (a) maintaining detailed accounts and providing certificated copies of them to the Commission every year; and
 - (b) demonstrating to the Commission that the regulated activity has adequate insurance cover.
- (3) The registered provider must notify the Commission of any substantial and imminent risk to the viability of the regulated activity and provide such relevant information as the Commission may require.
- (4) This Regulation does not apply to a regulated activity operated by a Department of the States or by a registered person who is an individual directly employed by, or personally in receipt of any reward from, the care receiver for the care provided.

26 Charges

- (1) A registered person must publish the scale of charges for the regulated activity, including any additional charges not covered by its standard charge.
- (2) Paragraph (1) does not apply to a regulated activity operated by a registered person who is an individual directly employed by, or personally in receipt of any reward from, the care receiver for the care provided.
- (3) However, that individual must when requested to do so by the Commission provide the Commission with information about the charges made to care receivers.

27 Commissioned services

- (1) Where care services are commissioned by the States or other agency the registered person must ensure that the contractual arrangement with the commissioning body includes a detailed specification of the requirements of that service.
- (2) In particular the contract must set out how the registered person can raise concerns about any deficits in care or risks to care receivers –
 - (a) that relate to an insufficiency in the amount or type of care provided or an inability to meet the terms of the contract to deliver the personal plan; and
 - (b) in the case of a home care service, that relate to the environment, lack of equipment or other limitations.
- (3) Where the registered person becomes aware of any of the concerns mentioned in paragraph (2) the registered person must notify them to the Commission as well as to the commissioning body.

28 Absence of manager

- (1) A registered person must notify the Commission in writing whenever the registered manager intends to be absent from the regulated activity for a continuous period of 28 days or more.
- (2) The notice must be given not later than one month before the start of the intended absence and must give details of –
 - (a) the length or expected length of the absence;
 - (b) the reason for the absence;
 - (c) the arrangements that have been made for running the regulated activity during that absence; and
 - (d) the name, address and qualifications of the person who will be responsible for the regulated activity during the absence.
- (3) However, if the absence arises unexpectedly notice may be given within a week of the start of the absence giving the details required by paragraph (2).
- (4) Where a registered manager has left or intends to leave the regulated activity the registered provider must inform the Commission within a week of the absence of –
 - (a) the arrangements that have been made for the running of the regulated activity until a replacement registered manager is appointed;
 - (b) the name, address and qualifications of the person who will be responsible for the regulated activity until a replacement registered manager is appointed;
 - (c) the arrangements that have been made to appoint a new registered manager; and
 - (d) the proposed date by which the appointment is expected to have been made.

- (5) Where the regulated activity consists of home care provided by a registered person who is an individual directly employed by, or personally in receipt of any reward from, the care receiver for the care provided, that registered person must inform the Commission of his or her planned or unplanned absence and the arrangements that have been put in place to ensure that the care receiver's needs continue to be met during the absence.
- (6) If a registered manager is intended to be absent for more than 12 weeks the Commission may require the registered provider to have another registered manager covering the role until the first registered manager returns or is replaced on a permanent basis as the case may be.

PART 5

CHILDREN'S HOMES AND SUPPORT SERVICES

29 Education, employment and leisure activity

- (1) Where the regulated activity consists of a children's home, or a child is provided with home care and is not living with his or her parent, the registered person must ensure that proper provision is made for the education and leisure of any child who is a care receiver.
- (2) In particular, the registered person must promote the child's educational attainment by –
 - (a) ensuring access to, and making use of, appropriate educational facilities;
 - (b) making provision and opportunities for private independent study;
 - (c) maintaining effective links with schools;
 - (d) facilitating and encouraging leisure interest and activities; and
 - (e) where a child is over compulsory school age, assisting and supporting the child with further education, training or employment.

30 Behaviour management, discipline and restraint

- (1) A registered person must ensure that no child who is a care receiver is subject to any of the following as a disciplinary measures –
 - (a) any form of corporal punishment;
 - (b) any deprivation of food or drink;
 - (c) any restriction on contact with, or visits to, or from friends, parents or other relatives other than in accordance with a court order;
 - (d) any restriction on contact with or visits to or from his or her solicitor, appointed guardian, assigned social worker, independent person, inspector authorized by the Commission or any other authorized or appointed person, whether or not the person's authority derives from any enactment.



- (2) The registered person must prepare, implement, review and where necessary revise a behavioural management policy that includes the management of unexplained absence and absconding.
- (3) The registered person must keep a record of the date and circumstances of any measures of control, restraint or discipline used on a child.

31 Appointment of independent persons

- (1) A registered provider must appoint, at the registered provider's expense, a person (the "independent person") to visit and report on any regulated activity that the registered provider carries on that is a children's home.
- (2) If the registered provider carries on more than one children's home, the registered provider may appoint the same person as the independent person for all or any of those homes.
- (3) Subject to paragraphs (4) and (5), the registered provider may not appoint the following as an independent person –
 - (a) if the registered provider is a Department or agency of the States, a person who is employed by that Department or agency in connection with the carrying on of its social services functions relating to children;
 - (b) if the registered provider is not a Department or agency of the States, a person who has a financial interest in the registered provider or receives any payment from the registered provider in connection with the provision of services to the registered provider;
 - (c) a person involved in preparing the personal plan of any child placed at the care home, or a person responsible for managing or supervising that person;
 - (d) a person responsible for commissioning or financing services provided by the home;
 - (e) a person with a financial interest in the home; or
 - (f) a person who has, or has had, a connection with –
 - (i) the registered person,
 - (ii) a person working at the home, or
 - (iii) a child,which the registered provider considers to give rise to doubts about that person's impartiality (for the purposes of producing the independent person's report under Regulation 32(4)).
- (4) A worker for the registered provider is not, by reason only of that employment, disqualified under paragraph (3)(a), (b) or (f) for appointment as an independent person if the worker is employed solely to examine and scrutinise critically –
 - (a) the way that a home is carried on or managed; and
 - (b) the quality of care provided for children.
- (5) If the registered provider is a Department or agency of the States, a person appointed by that Department or agency as an independent reviewing officer is not, by reason only of that appointment, disqualified under

paragraph (3)(a), (c) or (f) for appointment as an independent person in relation to a children's home carried on by that Department or agency.

- (6) The independent person must declare any actual or potential conflict of interest (whether of the type mentioned in paragraph (3) or otherwise) to the registered provider without delay and, if reasonably practicable, before conducting a visit to the home.
- (7) If the registered provider becomes aware of a potential conflict of interest in relation to the independent person before or during the independent person visiting the home under Regulation 32, the registered provider must –
 - (a) make arrangements to cancel the visit without delay; and
 - (b) appoint a different independent person to visit the home.

32 Independent person: visits and reports

- (1) The registered person must ensure that an independent person visits the children's home at least once each month.
- (2) When the independent person is carrying out a visit, the registered person must help the independent person –
 - (a) if he or she consents, to interview in private such of the children, their parents, relatives and persons working at the home as the independent person requires; and
 - (b) to inspect the premises of the home and such of the home's records (except for a child's case records, unless the child and the Minister consent) as the independent person requires.
- (3) A visit by the independent person to the home may be unannounced.
- (4) The independent person must produce a report about a visit (the "independent person's report") which sets out, in particular, the independent person's opinion as to whether –
 - (a) children are effectively safeguarded; and
 - (b) the conduct of the home promotes children's well-being.
- (5) The independent person's report may recommend actions that the registered person may take in relation to the home and timescales within which the registered person must consider whether or not to take those actions.
- (6) If the independent person becomes aware of a potential conflict of interest (whether under Regulation 31(3) or otherwise) after a visit to the home, the independent person must include in the independent person's report –
 - (a) details of the conflict of interest; and
 - (b) the reasons why the independent person did not notify the registered provider of the conflict of interest before the visit.
- (7) The independent person must provide a copy of the independent person's report to the Commission, the Minister, the registered provider and, if applicable, the registered manager.

- (8) In this Regulation “Minister” means the Minister for Health and Social Services.

PART 6

MISCELLANEOUS

33 Requirement for Commission to carry out certain inspections

- (1) The Commission must carry out inspections at least once every 12 months of regulated activities for one or more of the following purposes –
- (a) to monitor compliance with the Law and these Regulations;
 - (b) to review and evaluate the effectiveness of the regulated activity against its published standards; and
 - (c) to encourage improvement in the provision of the regulated activity.
- (2) However this Regulation does not apply in the case of a regulated activity carried on by a registered person who is an individual directly employed by, or personally in receipt of any reward from, the care receiver for the care provided.

34 Compliance with Regulations

Where there is more than one registered person, unless these Regulations provide otherwise, every requirement of these Regulations applies to each registered person.

35 Offences and improvement notices

- (1) A person who –
- (a) contravenes these Regulations; and
 - (b) fails to comply with an improvement notice within the time period specified in the notice for compliance with it,
- commits an offence.
- (2) An improvement notice is a notice –
- (a) informing the registered person that these Regulations have been contravened;
 - (b) specifying the time frame within which remedial action must be taken; and
 - (c) explaining the consequences of a failure to take that remedial action.
- (3) A person who contravenes these Regulations where, as a result of the contravention, a care receiver has suffered, or was at significant risk of suffering, serious harm commits an offence.
- (4) Where the Commission has served an improvement notice under this Regulation it must publish the fact.

- (5) A person who commits an offence under this Regulation is liable to a fine of £50,000.

36 Citation and commencement

These Regulations may be cited as the Regulation of Care (Standards and Requirements) (Jersey) Regulations 201- and come into force...

