



### There is no need to register with the Care Quality Commission:

- *If you are employed directly by the service user, or you have an agreement to work directly with an individual.*

Regulated Activity of 'personal care' sets out an exemption relating to PAs. The exemption applies in cases where a carer (PA) is employed by an individual or a related third party without the involvement of an employment agency or employment business and working wholly under the direction and control of that individual or related third party in order to meet the individual's own personal care requirements. There is a definition of what a 'related third party' means and this is set this out on page 14 in the CQC guidance Scope of Registration (The CQC Scope of Registration details a list of regulated activities that a person and / or provider must not carry out unless they are registered with CQC to do so. It is an offence to carry out a regulated activity without being registered with CQC.)

- *Just because you carry out Delegated Healthcare Tasks.*

Personal assistants (PAs) employed by individuals or a related third party and who accept and carry out delegated health care tasks do not need to be registered with CQC. A delegated healthcare task is a task of a clinical nature which a registered healthcare professional allocates to a competent person (e.g. a PA); this RCN publication outlines roles and responsibilities.

OACP is liaising with Oxford Health to check support and training available to PAs.

- *If you work with another, or multiple, Personal Assistant(s) to cover your absence due to occasional holiday or sickness.*

Where a PA who is engaged in a contract directly with an individual or client arranges for another PA to cover their role, for example during a period of annual leave or sickness they do not need to be CQC registered.

- *If you or an organisation, introduce a carer to an individual, but who then have no 'on-going role in the direction or control of the service provided'.*

To determine whether a partnership, agency or collaborative should be registered consideration needs to be given as to whether there is 'an on-going role in the direction or control of the service provided'.

- *If you have an individual user trust, set up to make arrangements for nursing care, or personal care on behalf of someone.*

It is the trustees of the trust not the provider of the service which is exempt. See Regulation 4(4) of the Care Quality Commission (Registration) Regulations 2009.

- *If you are a family member, or someone in a personal relationship, where any health or social care activity provided in the course of that family or personal relationship is provided for no commercial consideration.*

A family relationship can include people treating each other as if members of the same family, so long as they are living in the same household. A personal relationship means a relationship between or among friends, including family friends.

#### **You should consider CQC registration:**

- *If you are a Registered Nurse (RN) who is employed by individuals, or a related third party, depending on the type of care you are delivering as part of that employment.*  
The CQC scope of registration provides an exemption "...where a person, or a related third part on their behalf, makes their own arrangement for nursing care or personal care, and the nurse or carer works directly for them and under their control without an agency or employer involved in managing or directing the care provided".  
All health care professionals employed directly by an individual or related third party (e.g. a PHB holder), should check whether they need to be registered as an individual provider with CQC, particularly if they are being employed in their professional capacity to carry out clinical care or treatment that could fall under "treatment of disease, disorder or injury".

- *If you are making arrangements for substitution (PA cover) on a regular basis with a number of individuals.*  
Where a group of PAs work with a range of individuals (in an informal partnership) and regularly swap shifts amongst themselves, they should seek their own legal advice concerning whether their model of working brings them within the scope of CQC registration. *Such a group may wish to contact CQC to discuss the full detail of the arrangement.*

#### **You, or your organisation, must be registered with CQC:**

- *If you are employed by an agency to work with one or more service users, and the agency provides Regulated Activity;*
- *If your role as a Registered Nurse (RN) includes tasks that relate to the regulated activity of treatment of disease, disorder or injury, you will need to register with the CQC as an individual provider.*
- *If the ongoing role of a person or organisation who introduces a carer to an individual who needs care, includes ANY of the following activity:*
  - Monitors the service provided to the individual and, as a result of this monitoring, takes responsibility for replacing the care worker for any reason;

- Seeks the views of the individual receiving the service, or acts as their advocate and, as a result, advises or directs changes to the activity of the care worker (such as changes to the frequency of visits, or the type of care provided, or the way in which the care worker performs the agreed tasks);
- Arranges a rota of care workers so that visits and care are provided when required by the individual;
- Continues to charge for the service being provided by the care worker, excluding where arrangements have been made to enable a one-off introduction fee to be paid by instalments;
- Agrees to organise cover for any sickness or leave that may arise – other than when the individual makes an independent request to the provider to introduce another care worker to cover leave or sickness;
- Reviews the care plan, including making changes as necessary, in consultation.

It is an offence to carry out Regulated Activity without being registered. This advice note is provided in good faith and is based on:

- Care Quality Commission's advice note on CQC exemption to Regulated Activity for Personal Assistants: [www.skillsforcare.org.uk/Employing.../PA-working-and-CQC-registration.pdf](http://www.skillsforcare.org.uk/Employing.../PA-working-and-CQC-registration.pdf)
- Care Quality's Commission publication, The Scope of Registration (March 2015): <http://www.cqc.org.uk/file/4525>
- Care Quality Commission (Registration) Regulations 2009: <http://www.cqc.org.uk/file/4981>

OACP reserves the right to alter this advice note without prior notice as regulation and case-law changes.

*Oxfordshire Association of Care Providers*  
*May 2017*

## Decision Tree for Regulated Activity or Exemption

