

THE REGULATION AND QUALITY IMPROVEMENT AUTHORITY (RQIA)

FAILURE TO COMPLY NOTICE

<b>Name of Registered Establishment or Agency:</b>  Edelweiss Dental Strangford (RQIA ID: 020081)	<b>Name of Registered Person:</b>  Mr Klaus Viesteg
<b>Address of Registered Establishment or Agency:</b>  2 The Square, Strangford, BT30 7ND	
<b>Issue Date:</b> 27 April 2017	<b>FTC Ref:</b> FTC/IHC-DT/020081/2017-18/01
<b>Regulation not complied with:</b>  <i>The Independent Health Care Regulations (Northern Ireland) 2005 as amended</i>  <b>Regulation 19.—</b> <i>(2) A person is not fit to work in or for the purposes of an establishment, or for the purposes of an agency unless –</i> <i>(d) full and satisfactory information is available in relation to him in respect of each of the matters specified in Schedule 2.</i>  <b>SCHEDULE 2</b>  <b>INFORMATION REQUIRED IN RESPECT OF PERSONS SEEKING TO CARRY ON, MANAGE OR WORK AT AN ESTABLISHMENT OR AGENCY</b>  <ol style="list-style-type: none"><li><i>1. Positive proof of identity including a recent photograph.</i></li><li><i>2. Either –</i><ol style="list-style-type: none"><li><i>(a) where a certificate is required for a position that falls within Regulation 9 of the Police Act 1997 (Criminal Records) (Disclosure) Regulations (Northern Ireland) 2008 (a), an enhanced criminal record certificate issued under section 113B (b) of the Police Act 1997 which includes, as applicable, suitability information relating to adults (within the meaning of sections 113BB(2) of that Act) or suitability information relating to children (within the meaning of section 113BA(2) of that Act) or both; or</i></li><li><i>(b) in any other case, a criminal record certificate issued under section 113A of the Police Act 1997.</i></li></ol></li><li><i>3. Two written references relating to the person, including a reference from the person's present or most recent employers, if any.</i></li><li><i>4. Where a person has previously worked in a position whose duties which involved work with children or vulnerable adults, verification, so far as reasonably practicable, of the reason why he ceased to work in that position.</i></li><li><i>5. Documentary evidence of any relevant qualifications or accredited training.</i></li></ol>	

6. *A full employment history, together with a satisfactory written explanation of any gaps in employment.*
7. *Where he is a health care professional, details of his registration with the body (if any) responsible for regulation of members of the health care profession in question.*
8. *Details of any criminal offences –*
  - (a) *of which the person has been convicted, including details of any convictions which are spent within the meaning of Article 3 of the Rehabilitation of Offenders (Northern Ireland) Order 1978(a) and which may be disclosed by virtue of the Rehabilitation of Offenders (Exceptions) Order (Northern Ireland 1979)(b); or*
  - (b) *in respect of which he has been cautioned by a constable and which, at the time the caution was given, he admitted.*
9. *Confirmation that he is physically and mentally fit to fulfil his duties and responsibilities.*
10. *Details of any professional indemnity insurance.*

**Specific failings to comply with regulations:**

During the pre-registration inspection on 5 December 2014, it was identified that a member of staff had commenced employment without the required AccessNI enhanced disclosure check having been received. A recommendation was made requesting confirmation that a satisfactory AccessNI enhanced disclosure check was received in respect of the identified staff member.

During the announced inspection on 29 April 2015, it was confirmed that a satisfactory AccessNI enhanced disclosure check had been received for the staff member identified during the inspection on 5 December 2014. However, another member of staff had commenced employment without the required AccessNI enhanced disclosure check having been received. A requirement was made in relation to AccessNI enhanced disclosure checks. It was also identified that not all of the documents relating to recruitment as listed in Schedule 2 of the Independent Health Care Regulations (NI) 2005 as amended had been obtained and retained for the staff employed and a recommendation was made.

During the announced inspection on 31 March 2017, a review of the submitted staffing list and discussion with Mr Viesteg and staff confirmed that no new staff had commenced work in Edelweiss Dental Strangford since the previous inspection on 29 April 2015.

On 6 April 2017, almost one week following the inspection, Mr Viesteg contacted RQIA by telephone, confirming that he had not disclosed all relevant information in relation to staff who had been employed at Edelweiss Dental Strangford during the inspection. Mr Viesteg confirmed that two new members of staff had been employed in Edelweiss Dental Strangford since the previous inspection.

As a result of the information received via the telephone call, and a lack of robust evidence in relation to staff recruitment, a further visit to the practice was conducted on 11 April 2017 to conclude the inspection. It was confirmed that two members of staff had commenced employment since the previous inspection.

One of the staff members had been employed from September 2015 to December 2015. A review of the records for this staff member identified that an AccessNI enhanced disclosure check had been undertaken and some personnel records were retained. However, significant recruitment information was missing and it was not clear when the AccessNI enhanced disclosure check had been applied for or received or indeed if it related to Edelweiss Dental Strangford. It was confirmed that the second staff member had been employed from January 2016 to June 2016. There were no recruitment records retained in relation to this staff member.

RQIA is therefore concerned that the necessary safeguards to protect and minimise risk to patients, through robust effective recruitment practice, 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 AccessNI 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 as amended.
- 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 the date of serving this notice.**

**Date by which compliance must be achieved: 28 June 2017**

Signed  ..... Director of Regulation of Nursing

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

***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.***