

THE REGULATION AND QUALITY IMPROVEMENT AUTHORITY

FAILURE TO COMPLY NOTICE

Name of Registered Establishment or Agency: Keady Dental Surgery	FTC Ref: FTC/IHC-DT/11547/2016-17/01
Address of Registered Establishment or Agency: 56 Kinelowen Street, Keady, BT60 3SU	
Name of Registered Persons: Mr Eamon Mallon and Mrs Anne Marie Mallon	Issue Date: 24 March 2017
Regulation not complied with: The Independent Health Care Regulations (Northern Ireland) 2005 as amended 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 1. Positive proof of identity including a recent photograph. 2. Either – (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 (b) in any other case, a criminal record certificate issued under section 113A of the Police Act 1997. 3. Two written references relating to the person, including a reference from the person's present or most recent employers, if any.	

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.
5. Documentary evidence of any relevant qualifications or accredited training.
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 announced inspection on 28 January 2015 it was identified that a member of staff had commenced employment without the required AccessNI enhanced disclosure check having been received. Mr Mallon was advised that an AccessNI enhanced disclosure check must be undertaken and received for each new staff member prior to commencement of employment and a requirement was made.

During the announced inspection on 19 November 2015 two personnel files of staff recruited since registration were reviewed. Not all documentation relating to recruitment of staff was available for inspection and not all of the information as listed in Schedule 2 of the Independent Health Care Regulations (NI) 2005 as amended, had been obtained and retained for the staff employed. However, the requirement in relation to AccessNI enhanced disclosure checks had been addressed. A recommendation was made to address the other recruitment issues.

During the announced inspection on 13 March 2017 it was identified that two staff members had commenced employment in Keady Dental Surgery since the previous inspection on 19 November 2015.

A review of the records evidenced that not all of the documents relating to the recruitment process had been obtained prior to commencement of employment.

One of the staff members had commenced employment in Keady Dental Surgery on 30 March 2016. However, a satisfactory AccessNI enhanced disclosure check had not been received until 19 May 2016, some six weeks later. The second staff member had commenced employment in Keady Dental Surgery in September 2016. However, application for an AccessNI enhanced disclosure check had not been made until 23 February 2017, some five months following commencement of employment and at the time of the inspection a satisfactory AccessNI enhanced disclosure check had still not been received, some six months following commencement of employment.

In addition, not all of the information as listed in Schedule 2 of the Independent Health Care Regulations (NI) 2005 as amended, had been obtained and retained for the identified staff.

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 persons 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 persons 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 persons must implement robust monitoring systems to ensure that the recruitment process is compliant with statutory legislation and mandatory requirements.
- The registered persons must ensure that all staff involved in the recruitment process receive training or refresher training in safeguarding of children and adults.

The registered persons 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 26 May 2017

Signed.....*Hone Goodman*.....*For* 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.