

# Regulation 4: Requirements where the service provider is an individual or partnership

## Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 4

The intention of this regulation is to ensure that people who use services have their needs met because the service is provided by an appropriate person.

To meet the requirements of this regulation, providers must register with CQC under Section 10 of the Health and Social Care Act 2008. The registered provider or partners of the registered provider must:

- Be of good character.
- Be able to properly perform tasks that are intrinsic to their role.
- Have the necessary qualifications, competence, skills and experience to carry on the regulated activity or supervise its management.
- Be able to supply CQC with documents that confirm their suitability (see the information and documents identified in [Schedule 3](#) of the regulations).

CQC cannot prosecute for a breach of this regulation or any of its parts but we can take regulatory action. See the [offences section](#) for more detail.

CQC must refuse registration if providers cannot satisfy us that they can and will continue to comply with this regulation.

## The regulation in full

4.—

1. This regulation applies where a service provider (P) is an individual or a partnership.
2. P must not carry on a regulated activity unless P is fit to do so.
3. P is not fit to carry on a regulated activity unless P is—
  - a. an individual who carries on the regulated activity, otherwise than in partnership with others, and satisfies the requirements set out in—
    - i. paragraph (4), and
    - ii. paragraph (5), or
  - b. a partnership and—
    - i. each of the partners satisfies the requirements set out in paragraph (4), and
    - ii. P satisfies the requirement set out in paragraph (6).

4. The requirements referred to in paragraph (3)(a)(i) and (b)(i) are that, if P is an individual, that individual or, if P is a partnership, each of the partners—
  - a. is of good character,
  - b. is able by reason of their health, after reasonable adjustments are made, of properly performing tasks which are—
    - i. where P is an individual, intrinsic to the carrying on of the regulated activity, or
    - ii. where P is a partnership, intrinsic to their role in the carrying on of the regulated activity, and
  - c. is able to supply to the Commission, or arrange for the availability of, information relating to themselves specified in Schedule 3.
5. The requirement referred to in paragraph (3)(a)(ii) is that P has the necessary qualifications, competence, skills and experience to carry on the regulated activity.
6. The requirement referred to in paragraph (3)(b)(ii) is that, through the combination of the qualifications, competence, skills and experience of the partners, P has the necessary qualifications, competence, skills and experience to carry on the regulated activity.
7. In assessing an individual's character for the purposes of paragraph (4)(a), the matters considered must include those listed in Part 2 Schedule 4.

## Guidance

This sets out the guidance providers must have regard to against the relevant component of the regulation.

**4(1)** This regulation applies where a service provider (P) is an individual or a partnership.

**4(4)** The requirements referred to in paragraph (3)(a)(i) and (b)(i) are that, if P is an individual, that individual or, if P is a partnership, each of the partners—

**4(4)(a)** be of good character;

### Guidance on 4(4)(a)

- When assessing whether an individual or partner is of good character, providers must follow robust processes to make sure that they gather all available information to confirm that the individual or partner is of good character, and must have regard to the matters outlined in [Schedule 4, Part 2](#) of the regulations. It is not possible to outline every character trait an individual should have but we would expect to see that the processes followed take account of honesty, trustworthiness, reliability and respectfulness.
- If a provider discovers information that suggests an individual or partner is not of good character after they have been appointed to a role, they must take appropriate and timely action to investigate and rectify the matter.
- Where a provider considers the individual or partner to be suitable despite the existence of information relevant to issues identified in Schedule 4 Part 2, the provider's reasons should be recorded for future reference.

**4(4)(b)** is able by reason of their health, after reasonable adjustments are made, of properly performing tasks which are—

**(i)** where P is an individual, intrinsic to the carrying on of the regulated activity, or

**(ii)** where P is a partnership, intrinsic to their role in the carrying on of the regulated activity

### Guidance on 4(4)(b)

- This aspect of the regulation relates to the ability of individuals to carry out their role. This does not mean that people who have a long-term condition, a disability or mental illness cannot be appointed. When appointing relevant individuals, the provider must have processes for considering a person's physical and mental health in line with the requirements of the role.
- All reasonable steps must be made to make adjustments for individuals to enable them to carry out their role. These must be in line with requirements to make reasonable adjustments for employees under the Equality Act 2010.

**4(5)** The requirement referred to in paragraph (3)(a)(ii) is that P has the necessary qualifications, competence, skills and experience to carry on the regulated activity.

### Guidance on 4(5)

- Individuals must be appropriately skilled with the necessary qualifications, competence, knowledge and experience. They must be able to demonstrate the competency required to carry on the regulated activity and to manage it where there is no registered manager.
- Individuals must have appropriate knowledge of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Part 3), relevant best practice and guidance and understand the consequences of failing to take action on set requirements.
- The provider must have appropriate processes for assessing and checking that the individual holds the required qualifications and has the competence, skills and experience required to undertake the role. These processes must be followed in all cases and relevant records kept.

**4(6)** The requirement referred to in paragraph (3)(b)(ii) is that, through the combination of the qualification, competence, skills and experience of the partners, P has the necessary qualifications, competence, skills and experience to carry on the regulated activity

### Guidance on 4(6)

- Providers must ensure that the qualifications, competence, skills and experience of all the partners, taken together, will ensure that they are able to carry on the regulated activity in a satisfactory manner.
- The partnership should demonstrate that, together, they have appropriate knowledge of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (Part 3) and understand the consequences of failing to take action on set requirements.
- The provider must have appropriate processes for assessing and checking that between them, the partners have the required qualifications and the competence, skills and experience to undertake the role. These processes must be followed in all cases and relevant records kept.