

## **First-tier Tribunal Care Standards**

### **The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care) Rules 2008**

**2024-01321.EA**  
**NCN: [2025] UKFTT 00824 (HESC)**

**Heard on 30 June 2025 remotely via video.**

**BEFORE**  
**Mr SJW Lewis (Judicial Member)**  
**Mrs L Jacobs (Specialist Member)**  
**Mr M Cann (Specialist Member)**

**BETWEEN:**

**Alpha Medical Care Limited**

**Appellant**

**v**

**Care Quality Commission**

**Respondent**

### **DECISION**

#### **The Appeal**

1. The Appellant company appealed (“the Appeal”) a decision by the Respondent (“the Decision”), set out in a written notice dated 1 November 2024, to cancel the Appellant’s registration as a service provider in respect of the regulated activity of personal care.
2. The relevant powers of cancellation are set out in section 17(1)(e) of the Health and Social Care Act 2008 (“the Act”) and regulation 6(1)(c) of the Care Quality Commission (Registration) Regulations 2009 (“the 2009 Regulations”).
3. The Decision was made on the basis that, at the time of the Decision, the Appellant was not carrying on the regulated activity of personal care and had not been for a continuous period of at least 12 months. In other words: it was considered dormant.

#### **Attendance and representation at the hearing**

4. The Appellant was not legally represented. Mr K Agyeman, a director of the

Appellant, attended to represent it. He was joined by Mr D Robson, who was set to be one of the Appellant's two witnesses, along with Mr Agyeman.

5. The Respondent was represented by Mr T Buxton. It was set to call one witness, Ms M Ziolkowska, one of its operations manager, who was present throughout the hearing. Two other individuals from the Respondent also attended the hearing to observe: Ms M Ahmed and Ms S Zaman.

## **Evidence**

6. A main bundle of written documents, running to 95 pages, had been prepared and provided to us. In addition, the Respondent provided a skeleton argument. We considered all of that documentary material.
7. In the end, due to developments summarised further below, it was not necessary to hear any live oral evidence during the hearing.

## **Legal framework and principles**

8. The Respondent was established in 2009 by the Act and is the independent regulator of health and social care in England.
9. The Respondent's main objective, in performing its functions, is set out in section 3(1) of the Act as being to "protect and promote the health, safety and welfare of people who use health and social care services". The Respondent is, pursuant to section 3(2) of the Act, to perform its functions for the general purpose of encouraging: the improvement of health and social care services; the provision of health and social care services in a way focused on the needs and experiences of people who use those services; and the efficient and effective use of resources.
10. Matters to which the Respondent must have regard in performing its functions are set out in section 4 of the Act. They include the need to ensure action taken by the Respondent, in relation to health and social care services, is proportionate to the relevant risks and is targeted only where it is needed.
11. The Act requires all providers of regulated activities in England to register with the Respondent and to comply with the requirements and fundamental standards set out in regulations made under the Act.
12. Section 17(1)(e) provides that the Respondent may cancel the registration of a service provider on any ground specified in regulations.

13. Regulation 6(1)(c) of the 2009 Regulations provides that the Respondent may cancel a registration if the service provider is not, and has not been for a continuous period of 12 months, carrying on that regulated activity.
14. Regulation 2 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, along with the Schedule 1 to the same Regulations, sets out a definition of the regulated activity of personal care.
15. The Respondent must establish the relevant facts on which it relies.
16. Pursuant to section 32 of the Act: on an appeal such as the current one the Tribunal may (a) confirm the decision or (b) direct that it is to cease to have effect.
17. We have had careful regard to the principles set out above and approached this matter with an open mind.

### **Further background and summary chronology**

18. For completeness: we should record that, in addition and separately, the Appellant has been registered with the Respondent since 2010 as a service provider to carry on another regulated activity (i.e. accommodation for persons who require nursing or personal care). The Decision did not relate to this separate service.
19. The Appellant has been registered with the Respondent, since 28 April 2022, as a service provider to carry on the relevant regulated activity of personal care from the following location: Alpha Community Supported Living, Office G29, Beacon House, Stokenchurch Business Park, High Wycombe, HP14 3FE.
20. On 24 March 2023, on 27 July 2023, and again on 10 July 2024, the Appellant confirmed to the Respondent, in writing, that it had not carried on the relevant regulated activity since registration in April 2022.
21. On 24 September 2024, the Respondent issued a notice of proposal to cancel the Appellant's registration as a service provider. On 1 November 2024, having received no representations from the Appellant, the Respondent duly issued the relevant notice of decision.
22. On 17 November 2024, the Appellant appealed the Decision.

### **Conclusions with reasons**

#### *The material development*

23. It had appeared, until Mr Agyeman provided an unexpected update at the start of the hearing, that the parties agreed with each other that the Appellant had not been carrying on the relevant regulated activity since registration and, as such, the key remaining question for us to consider in the hearing would be whether the Decision was proportionate in all the relevant circumstances.
24. However, towards the outset of the hearing, before any evidence had been heard, Mr Agyeman provided an update on recent developments. He indicated that on the evening/night of 25 June 2025, following agreement with the relevant local authority (the London Borough of Croydon), a service user ("Service User 1") had been "placed" on an emergency/respite basis with the Appellant. He told us that he had notified the CQC of this development on 27 June 2025 (a Friday).
25. We checked whether Mr Buxton was aware of this (potentially very significant) development. He was not. We therefore adjourned for an hour or so to enable him some time to consider matters, take instructions, liaise with the Appellant, etc.
26. After that adjournment, Mr Buxton provided an update but asked for a little longer to further consider the matter and in particular some relevant documents which the Appellant had just sent across. We adjourned for a further 40 minutes or so.
27. After that second adjournment, Mr Buxton provided us with a further update. The Respondent had had sufficient time to consider the current position in light of recent developments. Mr Buxton provided some helpful detail, but, in summary, the new information provided this morning had now led to a material change in the Respondent's position. The Respondent – having had sight of relevant documentation, including some from or in relation to the relevant local authority, and having been able to talk further with both Mr Agyeman and Mr Dobson – was satisfied that the Appellant has, since 25 June 2025, been providing personal care, as defined in the relevant legislation, to Service User 1 following an emergency placement from the London Borough of Croydon. More specifically: the Respondent was satisfied that the Appellant has been providing (a) physical assistance to Service User 1 in connection with washing or bathing and/or (b) prompting, together with supervision, of Service User 1 in relation to washing or bathing. As such, the "dormancy clock" has been reset as it were, and the necessary pre-conditions for cancellation are no longer made out.
28. In light of the above, Mr Buxton confirmed that the Respondent no longer objected to the Appeal and invited us to allow the Appeal.
29. Mr Agyeman confirmed that he agreed with the Respondent's position and had

nothing further of substance to add.

### *Our analysis*

30. The new information, and the recent underlying development regarding Service User 1, has materially and substantially changed the position legally.
31. It is now common ground between the parties that the relevant regulated activity is being carried on, in relation to Service User 1, by the Appellant, and has been since 25 June 2025. In all the circumstances, including the Respondent's position, we accept that to be the likely position. That, in turn, means there is no longer any objective justification to cancel the Appellant's registration. The essential criteria set out in regulation 6(1)(c) of the 2009 Regulations is no longer met. Further or alternatively, it would not, in all the circumstances, and having regard to the interests of Service User 1, be proportionate now to cancel the registration.
32. In our judgment, in light of the above, the Appeal must be upheld. That is not to say that the Decision was unreasonable or disproportionate at the time it was made. It may well have been both reasonable and proportionate at that time, given that the Appellant had been dormant since its registration over two and a half years earlier. For the avoidance of any doubt therefore: even though the Appeal succeeds, nothing in this decision document should be read as a criticism of the Respondent's process or decision-making. On the contrary, we record our thanks to the Respondent, and Mr Buxton in particular, for its pragmatic and helpful approach to the new information received at the outset of the hearing.

### **Decision**

The appeal is upheld. Accordingly, the Decision (i.e. the Respondent's decision, set out in the written notice dated 1 November 2024, to cancel the Appellant's registration) shall now cease to have effect.

**Judge SJW Lewis**  
**First-tier Tribunal (Health, Education and Social Care)**

**Date Issued: 07 July 2025**