

Legal Aspects of Professional Home Care

In 2011, the Commission published a [*Report on Legal Aspects of Professional Home Care*](#) (LRC 105-2011) (Third Programme of Law Reform, Project 29), which followed from its [*Consultation Paper on Legal Aspects of Carers*](#) (LRC CP 53-2009). The Report recommends that the Health Information and Quality Authority (HIQA), established under the Health Act 2007, should be given additional regulatory and inspection powers to ensure that appropriate legal standards are in place for undertakings providing professional home care (the Report does not propose that the HIQA regulatory and inspection system would apply to informal carers, such as family members). Under the *Health Act 2007*, HIQA is the regulatory and standard-setting body for the residential nursing home setting. In 2009, HIQA published national standards for the residential care setting. These standards cover 5% of the over 65 category. The *Health Act 2007* does not, however, empower HIQA to set comparable standards for the provision of health care in the home setting, which would cover the remaining 95% of the over 65 category (though, of course, not all this group require home care).

The main recommendations in the Report are: (1) HIQA should be empowered to regulate and monitor undertakings that provide professional home care (whether public sector or private sector, and whether for-profit or not-for-profit). (2) While the main beneficiaries of the proposed new HIQA regulation would be likely to be those over 65, the proposed system should apply to professional home care provided to any adult over the age of 18 in their own home. (3) HIQA national standards for professional home carers should be specifically tailored for the home care setting, building on 2008 draft HSE home care guidelines and existing HIQA standards for nursing homes. (4) The proposed standards should have regard to specific principles, including the right of the care recipient to independent living, privacy, dignity, quality of care and protection from abuse. (5) There should be a specific register of professional home carers. (6) The terms and conditions of home care arrangements should be agreed between professional home carers and recipients, and this would be recorded in a care contract in order to offer the maximum protection to the care recipient. (7) The care contract should contain clear policies and procedures, in plain language, relating to the handling by a professional carer of money and personal property of the care recipient. The Report contains a draft Health (Professional Home Care) Bill to implement these recommendations.