

Summary and overview of National Disability Authority's report

Review of the implementation of regulations and inspections in residential services for adults and children with disabilities



Údarás Náisiúnta Míchumais
National Disability Authority

I. Overview

- All participants interviewed welcomed and recognised the need for regulation and inspection in the disability residential sector
- Of the 18 outcomes HIQA inspect against¹
 - About two thirds of outcomes (61%) were found to be compliant or substantially compliant
 - About one in ten outcomes was found as major non-compliant
 - About 7% of residents live in centres found as compliant or substantially compliant on all outcomes²
 - In the National Disability Authority's sample of 192 reports about 6% of those reports showed major or moderate non-compliance on all of the outcomes inspected against.
- Health and safety and risk management was the area most frequently judged as majorly or moderately non-compliant
- Higher levels of non-compliance were found in larger centres - those catering for over ten residents
- Residents reported a lack of information on the inspection process, and a lack of feedback to them on the outcome of the inspection of their service
- The cost of addressing concerns raised by HIQA inspectors is very significant, with a HSE estimate of €57m. additional expenditure for 2015

2. Background

The National Disability Authority (NDA), at the request of Minister Kathleen Lynch TD, conducted an independent review of the experience of regulation, standards and inspections of residential services for people with disabilities, with a particular focus on the first year of operation. Such residential services are provided for just under 9,000 people with disabilities at approximately 1,200 locations. Designated centres range from large congregated settings to

¹ To assist inspectors in the process of assessing compliance with the Regulations and National Standards, HIQA has developed a set of 18 Outcomes that reflect the National Standards that cover the overall requirements. Further information is available at:

<http://hiqa.ie/system/files/Guidance-for-designated-centres-on-the-inspection-process.pdf>

² This relates to the review of 936 reports i.e. those published by HIQA on the 17 August 2015

community group homes to supported independent living. Sometimes, a group of residences is treated as a single designated centre.³ The relevant Regulations and Standards came into force in November 2013 and the Health Information and Quality Authority (HIQA) began inspections from that date.

What services are covered by inspection system

The services covered by the process encompass residential services for adults and for children, and include institutions and residential campuses, community group homes, other residential support services, and facilities offering overnight respite care.

Policy backdrop

An important policy backdrop is the Government policy to support people with disabilities to live in ordinary homes in the community, and to progressively close institutions and residential campuses.⁴ The key objective is that people with disabilities will be actively and effectively supported to live full, inclusive lives of their choosing in the community and society. They will be able to exercise meaningful choice, equal to those of other citizens, when choosing where and with whom they live. People with disabilities will have the right to direct their own life course. Critical success will be for people with disabilities “living ordinary lives in ordinary places”.

Approach to the National Disability Authority’s review

The National Disability Authority’s Review included quantitative and qualitative analysis of published reports, and engagement with key participants in the process, including residents, family members, staff, service provider managements, HIQA, the HSE, and disability organisations. A sample of 192 reports covering the first year was selected for in-depth analysis. This was complemented by a summary statistical analysis of all HIQA published reports as of 17 August 2015.

³ Designated centres are different to “locations”. For full list of designated centres see www.hiqa.ie

⁴ See report of HSE Working Group **Time to Move on from Congregated Settings** (2011). Government policy is to close all centres catering for ten or more residents, and that any new residential facilities shall have a maximum of four residents.

3. HIQA approach to inspection

Initial HIQA focus on registration

During the first year of inspections, HIQA's focus has been on ensuring compliance with the regulations and registering designated centres. While acknowledging quality improvements and good practice in some designated centres, HIQA also noted that there are significant levels of non-compliance in other designated centres. Consequently, a key focus has been on addressing these non-compliance issues.

For the future, HIQA confirmed that it is its intention to conduct thematic inspections in disability services as part of the inspection process.

Assessing compliance

Compliance with standards and regulations is assessed by HIQA under 18 outcomes representing different aspects of residents' well-being, and compliance with governance and safety requirements. Inspections for registration generally assessed against all 18 outcomes. Inspections to monitor ongoing regulatory compliance generally concentrated on a core set of seven outcomes which HIQA consider would indicate a safe service and one that meets the needs of the assessed care and support needs of residents, plus one or two other areas. Reports distinguish four grades of compliance are distinguished ranging from full compliance to major non-compliance, that is,

- Compliant
- Substantially compliant/ Minor non-compliant
- Moderate non-compliant
- Major non-compliant

4. Key findings

Compliance levels

The National Disability Authority's statistical analysis of HIQA reports found that levels of non-compliance were significant, i.e. service providers were found to be major non-compliant with 9% of the outcomes and 30% with moderate non-compliance. About half of all the outcomes inspected against were found by inspectors to be compliant and about two thirds to be either compliant or substantially compliant. About one in ten outcomes was found to be non-compliant to a major degree.

Proportion of outcomes inspected by level of compliance

	Compliant	Substantially compliant/ Minor non-compliant	Moderate non-compliant	Major non-compliant	No. of reports	No. of centres
NDA sample, Year 1 reports	45%	16%	30%	9%	192	163
All reports to Published 17 August 2015	50%	14%	27%	10%	936	666

Those centres found to be fully compliant on all inspected outcomes accounted for about 7% of all residents.

At the other end of the scale, about 6% of all reports on designated centres were found to be non-compliant to a major or moderate level on every outcome they were inspected on.

Improvement in compliance levels as learning took place

Compliance levels were lower in the first six months of inspection, which confirms reports of initial lack of readiness by many providers for the requirements of the inspection process. The compliance level improved over the second six months of the inspection process, and has stabilised thereafter.

The outcomes with the highest **compliance** levels over the first year were

- Family and personal relationships and links with the community
- Absence of the Person in Charge
- Notification of incidents
- General welfare and development
- Use of resources
- Communication

The outcomes with the highest rates of major non-compliance over the first year or inspections were, in ascending order:

- Health and Safety and Risk Management
- Safe and suitable premises
- Admissions and Contract for the Provision of Services
- Medication Management
- Workforce

- Governance and Management
- Safeguarding and Safety

Health and Safety and Risk Management (Outcome 7) was found to have the highest levels of major and moderate non-compliance. The detailed analysis of 192 reports highlighted specific breaches of regulations in this area in relation to fire risks, ongoing assessments of hazards and emergency procedures. The analysis of 936 reports which cover a longer period show some improvements in the areas of medication management, admissions and contract for the provision of services in particular.

Regulations breached most often, when inspected against

Detailed analysis of the sample of the first year's reports showed these as the top ten Regulations that were breached:

1. Premises (Regulation 17)
2. Admissions and contracts for the provision of services (Regulation 24)
3. Risk management procedures (Regulation 26)
4. Individual assessments and personal plan (Regulation 5)
5. Written policies and procedures (Regulation 4)
6. Complaints procedures (Regulation 34)
7. Statement of purpose (Regulation 3)
8. Fire precautions (Regulation 28)
9. Residents' rights (Regulation 9)
10. Medicines and pharmaceutical services (Regulation 29)

Factors associated with higher non-compliance

Size of centre

Larger designated centres – those with ten or more residents – were more likely to have a higher proportion of major or moderate non-compliant outcomes. These larger centres were home to about 70% of residents of inspected designated centres.

Operating in isolation

Small providers (with 4 or fewer designated centres) were more likely to have had higher levels of non-compliance. This negative effect was mitigated if the providers were members of an umbrella body.

Regional and inspector variation

In the National Disability Authority's sample, both specific regions and specific inspectors were statistically significant predictors of compliance levels. Therefore, there was variation both between inspectors and between regions in the sample.

Factors with no influence on compliance levels

The following issues were tested for in the National Disability Authority sample but showed no impact on compliance levels:

- the type of disability catered for by the service
- whether funded under section 38 versus section 39 of the Health Act
- whether the service provided respite or not
- announced or unannounced visit
- whether or not the designated centre was HSE run (once the size of centres was accounted for)
- being run by one of the largest five disability providers in Ireland
- whether the designated centre already had residents or not, or if there were vacancies

Readiness of the Disability Sector for regulation and inspection

Disability sector ill-prepared for a regulatory inspection process

Despite taking a range of preparatory actions for the introduction of regulations and inspection, the general sense from both providers and HIQA was that the disability sector seemed ill-prepared when the regulations were introduced and inspections began.

Administration and documentation raised as a challenge

It is clear from the review that regulation and inspection of disability services requires a level of administration that was not in place in organisations previously and that this element of regulation and monitoring has had a significant impact on staffing and resources.

Impact on resources

A number of service providers commented on the huge impact of the commencement of regulations and inspections on the disability sector, particularly in terms of resources and additional costs that are being incurred for registration and to achieve compliance.

5. Feedback on legislation and Regulations

The main points made by stakeholders consulted for the research were as follows:

Statutory definition of ‘designated centre’

There was a call for greater clarity in how this was defined in the Health Act 2007.

Regulations

Registration Regulations⁵ issues raised:

- Smaller designated centres were at a financial disadvantage in terms of registration fees
- Costs were incurred for making changes to registration throughout the year
- The Regulations did not make allowances to facilitate emergency placements

Care and Support Regulations⁶ issues raised:

- Regulations were criticised for being more appropriate to institutional settings than ordinary housing
- Fire Regulation standards appropriate to institutions were applied to ordinary housing
- The same Regulations applied to both full-time residential services and respite services
- A concern that implementation of the Regulations was not in keeping with the national policy to move people from institutional and congregated settings to ordinary homes in the community
- Concern about how regulations relating to medicines management and pharmaceutical services were interpreted
- A perceived lack of consistency between standards and regulations
- There had been inadequate consultation on the Regulations

⁵ The Health Act 2007 (Registration of Designated Centres for Persons (Children and Adults) with Disabilities) Regulations 2013

⁶ Care and Support of Residents in Designated Centres for Persons (Children and Adults with Disabilities) Regulations 2013

Service providers also called for more clarity on:

- Requirements for certain aspects of personal plans
- Discrepancy between HSE and HIQA guidance and regulations related to residents' finances
- Challenges for service provider organisations in relation to the role of the Person in Charge
- Regulation supportive of good management

6. Experience of the operation of the inspection process

Every person interviewed during the review, welcomed and recognised the need for regulation and inspection in the disability residential sector.

Views of residents

People living in designated centres raised a number of issues about HIQA inspection in their homes:

- Residents reported a range of positive and negative outcomes of inspections, for example, positive outcomes included changes in staffing levels and increased access to advocacy and supports. Negative outcomes included, for example, more house rules and the need for the house to be clean at all times
- Residents want information and education about the HIQA inspection process, and want to be consulted about it, and involved with inspections
- Getting their consent is important to them, around access to their bedrooms, access to their personal files and information, and contacts with their family members
- Residents want to communicate with inspectors. It is important that inspectors can engage with people who are non-verbal or who communicate in different ways
- Residents had some fears around inspections – partly lack of information, partly because of feeling 'frightened' by staff about the outcome if they communicated complaints or concerns to the inspector.
- Residents also found media reports of abuse such as Áras Attracta upsetting and worrying
- There appears to be no planned approach to communicating the outcome of inspections to the residents concerned in an appropriate way. Residents

reported an absence of information on the content of inspection reports on their homes, and the action plans being put in place to address issues raised

Institutionalised practices and culture

The issue of institutionalised practices emerged in almost all of the interviews with HIQA staff. A number of HIQA interviewees commented on the challenges facing large, campus-based services where these practices can persist.

Feedback on interaction with inspectors

Positive feedback from residents and their families

There was positive feedback from residents and family members on how they found the HIQA inspectors.

More mixed feedback from service providers

There was a wide variation in responses from service providers on how they found the HIQA inspectors. Descriptions of interactions ranged from being complimentary of the inspectors, using terms such as 'very helpful', 'respectful', 'accommodating' and 'approachable' to being an extremely negative experience in other settings with words, such as, 'intimidating', 'threatening' and 'challenging' used.

Importance of specialised disability inspectorate

Many service providers highlighted the importance of HIQA inspectors having a background and understanding of disability services. The background of the individual inspectors was perceived by service providers to affect their focus and approach to inspections.

Many stakeholders and service providers recognised that some of the inspectors had come from 'elder care' inspections. They expressed concern that the approach taken to inspections in nursing home settings was sometimes being replicated inappropriately in disability settings.

A specialist disability inspectorate is planned

HIQA told the National Disability Authority that the inspector team structure is being reconfigured to have one group inspecting older person's services and a different team of inspectors for disability services.

Other expressed service provider concerns

Other concerns expressed by service providers about aspects of HIQA inspections included perceptions of:

- A lack of consistency with interpretation of regulations
- A lack of a designated liaison person in HIQA for large service providers

- Inaccessible language in inspection reports
- A focus on “paperwork/documentation”
- Differences between verbal and written feedback reported
- Over-emphasis on risk assessment and risk management

7. Action plans and meeting the costs

When a centre is found to be non-compliant, within a short timeframe it is obliged to produce an Action Plan to achieve compliance.

Interviews with service providers raised issues around the process for implementation of action plans and the associated costs to providers.

CEOs and managers highlighted the practical dilemma faced by service providers, who are told by HIQA to act swiftly to resolve issues of non-compliance, but told by the funder, the HSE, ‘not to spend money we don’t have’.

Costs of implementation in 2014

Some large service providers reported spending up to €1 million in 2014 on foot of HIQA inspections. Other service providers gave figures of between €12,000 and €17,000 per designated centre to bring them in line with the regulations and standards.

A study by the National Federation of Voluntary Bodies on the costs associated with the registration and inspection process, and the implementation of the actions arising from HIQA inspection reports, has indicated that the costs for 2014/15 amount to approximately €25 million.

HSE calculations to date for 2014 show their spending in the region of €11.4 million in capital costs; an additional €4 million in staff costs; once off costs; and agency staff. Agency staff brings additional costs for VAT. The HSE reported that it has not received any additional funding in its budget allocation to address the issues relating to HIQA inspections. The HSE has estimated that the cost in 2015 of funding actions in Action Plans will be €57 million.

The costs quoted in this section are estimates and reflect the views of the representatives of the National Federation of Voluntary Bodies and the HSE at the time the interviews took place. The National Disability Authority has not independently assessed these cost estimates.

Good practice and continuous quality improvement

The process of HIQA inspections in disability residential services has just completed its second year of inspection. Given this short timeframe there were challenges for the National Disability Authority in identifying good practice through this review.

Residents were reassured that HIQA were protecting their rights and “glad someone was watching”. A number of residents also commented on what were some of the outcomes from the inspections

“ All the team here are much more driven – committed if you like”
but also that there is room for improvement with one resident
stating “It’s a starter in the right direction”

HIQA interviews noted that good practice could be promoted through greater interaction and sharing of expertise and learning between services providers. The National Federation of Voluntary Bodies also noted that since the introduction of the regulations there has been on-going inter-agency sharing of information and experience, leading to problem resolution across services.

In the course of the review a range of good practices were highlighted including in particular:

- A strong person centred approach
- Responsive leadership and willingness to change
- Outcomes focus
- Quality engagement with residents
- Residents involved in their local community
- Quality interactions between residents and staff
- Good communication supports
- Access to self-advocacy and independent advocacy services
- Competent staff, who are well supported and have access to ongoing training and up skilling