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An tÚdarás Um Fhaisnéis
agus Cáilíocht Sláinte

Opening statement to the Joint Committee on Health

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Chairperson, members, I wish to thank you for the invitation to address the Joint Committee on Health this afternoon. I am accompanied by my colleagues Mary Dunnion, Director of Regulation and Chief Inspector of Social Services; and Finbarr Colfer, Deputy Chief Inspector of Social Services.

An overview of the regulation of designated centres for people with disabilities

We were invited to the committee to discuss the regulation of services for adults and children with disabilities. HIQA commenced the regulation of this sector in 2013 and has since carried out thousands of inspections and spoken to tens of thousands of residents, patients and staff. The knowledge and experience gathered through this work means we are well placed to offer some insights into the systemic issues facing our health and social care services.

The Health Act 2007, which established HIQA, sets out the definition of a 'designated centre' and provides the basis for the regulation of such centres. The Health Act also established the distinct role of the Office of the Chief Inspector of Social Services, which has the statutory responsibility for monitoring and inspecting designated centres against the national regulations and standards. The post holder is employed by HIQA and is directly accountable to the Oireachtas.

The Chief Inspector is responsible for the registration of designated centres for people with disabilities. Services are only allowed to operate if they are registered by HIQA. Registration includes inspection activity whereby the standard of care in a service and the levels of compliance with the national regulations are assessed. This process entails speaking to residents and staff, observing care practices and evaluating the fitness of the service provider to deliver the service.

As I mentioned earlier, HIQA commenced regulation of designated centres for people with disabilities in 2013 with a view to all services being registered by 2016. It soon became clear to us that a significant number of disability services were not sufficiently prepared for the introduction of regulation. It was apparent that not all services would achieve registration by 2016 and thus by order of the Minister for Health the deadline was extended to 2018.

The situation today

At present, there are just over 1,100 designated centres for people with disabilities providing approximately 9,000 beds. 26% of these designated centres remain to be registered, 209 of which are governed and provided by non-statutory providers, while 71 centres are run by the HSE.

There are a variety of reasons why certain designated centres for people with disabilities fail to achieve the required level of compliance to allow for them to be registered. These include:

- inadequate safeguarding measures
- poor governance arrangements
- institutionalised and outdated staff practices
- inappropriate placement of people
- poor physical infrastructure and living environments.

Some of these issues can be resolved by ensuring that the registered provider and managerial staff are competent, by reorganising and or enhancing current resources and by safely transitioning residents from congregated, institutional style settings. In fact, our inspectors have witnessed substantial improvements in the quality of people's lives once good management and oversight arrangements have been put in place and when residents have moved into the community. However, the recurring issues of poor governance, inadequate safeguarding measures and institutional staff practices are more difficult to overcome and require courage, strong leadership and a commitment to changing the culture of an organisation.

Notwithstanding these challenges, there is much good work being done. We have seen a gradual improvement over the past few years and most providers have a positive attitude to regulation. As is the experience in nursing homes, I would expect that good providers of disability services will now seek to move beyond basic compliance with the regulations and improve their services to meet the national standards as mandated by the Minister of Health in 2013.

HIQA's overview report on the regulation of social care and healthcare services in 2016, published yesterday, highlights ongoing challenges faced in these sectors, but also emphasises the fact that many people are receiving a good quality of service. This is reflected in the positive feedback we receive on inspection, in our own inspection reports and in the move towards increased compliance in certain areas.

Without a doubt, regulation has improved the lives of people with disabilities living under the care of the State. Deirdre Carroll, former chief executive of Inclusion Ireland, recently pointed out that while some people criticise HIQA's inspections of residential centres, they have been one of the most important contributors to improvements in services.

Safeguarding

In terms of safeguarding, it is quite apparent that some services must take this issue more seriously, particularly by ensuring that Garda vetting is in place for all staff and volunteers. Legislation introduced in 2016 strengthened the requirements for service providers to ensure that their staff are appropriately vetted; however, some services are neglecting to do so and are thereby failing in their legal responsibility to safeguard residents.

HIQA frequently reflects on how we as the State's health and social care regulator can ensure that services are safer and better for all. Regulation of services provides a level of protection by obliging of providers to maintain compliance with regulations and standards, and through the use of periodic inspection. However, we believe that the area of safeguarding needs to be further strengthened through the introduction of legislation. This would enshrine adult safeguarding in law and acknowledge the State's responsibility to protect those who may be at risk. HIQA strongly supports the Adult Safeguarding Bill which was introduced to the Seanad last month.

Accountability

In terms of accountability, while providers are ultimately accountable for the quality of the service they provide, funders of services also bear responsibility and must ensure that public funds are spent to the benefit of the people in receipt of care services. The State distributes large sums of money to various organisations in exchange for the provision of services. However, there is often insufficient oversight of how this money is used or the outcomes it achieves.

The introduction of an oversight regime in Ireland has the potential to deliver a range of benefits, including better experiences for those using services, improved service planning, greater accountability, better value for money and greater efficiency. HIQA is working collaboratively with the HSE to develop such a framework.

Protecting vulnerable people

Government policy has directed regulation of services into areas where vulnerable people are in receipt of health and social care services. These include residential services for children, older people and people with a disability. These people are in the care of the State because they are deemed at risk of harm or abuse. During the course of our work, we continue to identify other service types where we believe similar vulnerabilities exist.

We cannot ignore the fact that there are many people in Irish society, such as the homeless, prisoners, migrants or asylum seekers in Direct Provision who have an entitlement to safe care and to be protected from abuse. HIQA does not yet have a

legal mandate to engage in these services, yet we firmly believe that all vulnerable people in our society have a right to access high-quality and safe health and social care services. The continued absence of assurance in respect of the rights and needs of these vulnerable groups has the potential to create new hidden populations in our country.

The future of health and social care regulation

I would now like to take this opportunity to talk to the committee about some of our thinking on the future direction of regulation in social care.

To be effective, regulation must respond to people's needs. It must also adapt to changing circumstances or risk becoming defunct and meaningless. HIQA constantly seeks to improve regulatory practice and explores how care could potentially be regulated into the future.

As such, we recently developed a series of discussion papers exploring the regulation of health and social care services. The paper on disability services, which was shared with the committee in advance of today's meeting, considers the current care and support models for people with disabilities and looks at future potential models of regulation.

The paper looks at the current legal definition of a designated centre for people with disabilities in Ireland, as set out in the Health Act. As I stated earlier, this definition relates to the physical location where care and support is provided. It is also based on a model which delivers care and accommodation, primarily in a long-term residential setting.

Increasingly, HIQA inspectors are finding that some emerging models of care, particularly in relation to people with disabilities, do not fall under the definition of a designated centre and are therefore unregulated. One example of this is where people are moved out of a congregated setting to services that have no regulatory oversight.

Other examples include homecare, sheltered housing, assisted living, convalescence or step-down care and personal assistants. Again, as these services do not come under the definition of a designated centre they are not subject to regulation.

It is important to note that service users in these unregulated sectors may be just as vulnerable as those being cared for in designated centres. They also have the same right to high-quality care. As such there is a need to review and expand regulation to have oversight and provide public assurance on the different models of care and service delivery.

Ireland is behind the curve internationally and must re-evaluate the current approach to regulation in order to protect and promote the rights of all people accessing health and social care services. The Disability (Miscellaneous Provisions) Bill 2016 must be passed to address the remaining legislative barriers to Ireland's ratification of the UN Convention on the Rights of Persons with Disabilities. Similarly, resources must be made available to allow for the full commencement of the Assisted Decision-Making (Capacity) Act 2015, which will strengthen the rights of vulnerable people to live lives free from abuse.

Conclusion

Today I have provided an overview of the regulation of designated centres for people with disabilities and outlined some of the challenges facing the sector. The experience in residential services for people with disabilities is somewhat mixed — while many are receiving a good service and enjoying a good standard of living, a significant number of people are experiencing a quality of life that is well below that which would be expected in modern Ireland. In some cases HIQA has assessed the care being provided as unsafe.

In addition, we need to think about how care for people with disabilities could potentially be regulated in the future. New models of nursing and social care are evolving that are currently not subject to independent regulatory oversight. We must consider what services should be regulated to ensure that the rights of vulnerable people are respected and that they are provided with care that is safe and of the highest quality. This discussion should form part of a broader discussion on how we, as a nation, plan and deliver services to meet the needs of the population.

I would like to thank the committee for inviting us here this afternoon. We are happy to take any questions you may have.

ENDS

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