



Opening statement by the Chief Inspector of Social Services

Joint Committee on
Disability Matters

31 March 2022

Chairman, Deputies, Senators, I would like to thank you for the opportunity to contribute to your deliberations on the implementation of the United Nations Convention on the Rights of People with Disabilities, particularly in relation to safeguarding. I am joined by my colleague, Finbarr Colfer, Deputy Chief Inspector of Social Services with responsibility for disability services.

The Health Act 2007 established HIQA as an independent authority to drive improvements in Ireland's health and social care services. We have a broad and growing remit; however, our core focus has always stayed the same: to drive improvements in the quality and safety of care provided to the public.

The Act sets out the services, also known as 'designated centres', that are subject to regulation, which include nursing homes, residential services for people with a disability, and children's special care units. HIQA's role as the independent regulator is to ensure that people living in designated centres are provided with a safe living environment and have a good quality of life.

The need for regulatory reform to support the implementation of the UNCRPD

Social care is evolving and based on our 15 years' experience as a regulator, we believe that changes to the legislative framework are required to better support people who may be vulnerable.

We have previously highlighted the need to reform the Health Act 2007 and associated regulations. For example, the Act contains a narrow definition of a designated centre which limits the regulatory protection for people with a disability to the confines of the centre's footprint. We need a broader definition that takes a more holistic view of the supports people with disabilities require, providing greater protection and enhancing their quality of life.

The 2013 regulations made under the Act, which set out the minimum legal requirements for the providers of disability services, also need to be reviewed to better reflect new and innovative approaches to meet the needs of people with disabilities. HIQA has made submissions to the Department of Health in relation to their work on deprivation of liberty arrangements, which are another key component for the implementation of the UNCRPD, and which should be reflected in the 2013 regulations.

Furthermore, we are informed that the relevant sections of the Assisted Decision Making (Capacity) Act 2015, under which the Decision Support Service was established, are due to be commenced in June of this year.

Safeguarding legislation

HIQA has also continued to campaign for the introduction of strong and effective adult safeguarding legislation to ensure that the most vulnerable people in our communities are protected. Everyone has the right to be safe and to live a life free from harm. Placing adult safeguarding on a statutory footing acknowledges the State's commitment to adults at risk, and the duty of civil society to adopt a zero tolerance approach to adult abuse.

In the absence of safeguarding legislation, HIQA is committed to using the current regulatory framework to minimise risk for people living in designated centres. However, ensuring that people with disabilities are free from exploitation, violence and abuse can only be achieved when all parties understand and exercise their responsibilities.

The primary responsibility for protecting people with disabilities in designated centres rests with providers, who must ensure that their staff can recognise and report any suspicions of abuse, and that residents are empowered to do the same. When suspicions are reported, it is essential that providers have measures in place to prioritise the protection of residents and to investigate these allegations. HIQA's role is to examine the safeguarding measures in place to ensure they are as robust as possible, and where there are inadequate arrangements, to require the provider to take action to improve them.

Another aspect of safeguarding relates to the accommodation of residents who do not wish to live together or who are living in large groups, sometimes in overcrowded environments. This has led residents in some centres to express their distress and unhappiness behaviourally. It has also, on occasion, led to residents hurting and harming themselves or their fellow residents, sometimes on an ongoing basis, and to residents living in fear of their peers. This is not acceptable and has been a major challenge for the disability sector.

Congregated settings

Sadly, we not only witness examples of residents abusing other residents, but also of sustained organisational abuse where the provider has failed to adequately protect residents and meet their needs. While this situation can occur in any setting, there is a higher risk of organisational abuse in congregated settings than in community-based houses.

Residents who live in congregated or campus-based settings often experience inequalities in terms of the quality and safety of their services, control over their own lives and their ability to independently exercise their rights and choices. While there has been a continued effort within the disability sector to reduce the number of large

congregated settings, many residents continue to be accommodated in these living arrangements. 2,419 people currently live in congregated settings, and while this is a reduction of 422 people on 2020, further work is required to ensure that the reliance on congregated settings is reduced.

Conclusion

Finally, I would like to assure the committee of HIQA's commitment to promote and protect the rights of people with a disability to live in a safe environment. I will continue to engage with the Department of Health and the Department of Children, Equality, Disability, Integration and Youth to support the development of safeguarding legislation, and to update the Health Act 2007 and associated regulations so that they continue to provide protection for people with disabilities and reflect changes in the legal landscape, including the implementation of the UNCRPD.

Thank you for your attention this morning. We look forward to answering any questions you may have.



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For further information please contact:

Health Information and Quality Authority
Dublin Regional Office
George's Court
George's Lane
Smithfield Dublin 7
D07 E98Y

Phone: +353 (0) 1 814 7400

Email: info@hiqa.ie

www.hiqa.ie

