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How Do Social Care Managers In Disability Services Experience Regulation And Inspection?

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HOW DO SOCIAL CARE MANAGERS IN DISABILITY SERVICES EXPERIENCE REGULATION AND INSPECTION?

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Declaration

I declare that the attached work is entirely my own and that all sources have been acknowledged.

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Abstract

Regulation is one of the ways in which the State seeks to ensure that health and social care services are safe for those that are using them. The Health Information and Quality Authority (HIQA) is the regulatory body in Ireland charged by the State to assure the public that these services are safe.

This study set out to understand how social care managers, in the role of person in charge (PIC) of residential services for adults with disabilities, experience HIQA's regulatory process and to explore how these experiences impact on social care managers, and on service improvement more generally.

A literature review of relevant research in the area of regulation was undertaken to inform the study. Further, the study used a qualitative methodology, in the form of semi-structured interviews, to understand how social care managers in the role of PIC experience HIQA's regulatory process. A small, purposive sample of six PICs were interviewed to inform the study.

The findings show that participants in this study believe that the regulatory system is a necessary one, holding services accountable for their work and thereby improving the safety of the services for people using them. However, the findings illustrate that a number of the participants question whether they can ever achieve compliance with the expectations of the regulator, due to a lack of resources to achieve compliance, as well as inconsistencies of assessment of compliance between inspectors. Further, the findings also illustrate that the regulatory system has a complex set of impacts on social care services and the staff within them, often a personal and emotional impact, which the regulator could further seek to understand.

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Contents

1. Introduction

1.1 Introduction to the Study

In 2007, the Health Act established on a statutory basis the Health Information and Quality Authority (HIQA) "to promote safety and quality in the provision of health and personal social services for the benefit of the health and welfare of the public" (Health Act 2007, Part 2, Section 7). The Act gave HIQA regulatory powers, granting them the authority to register and inspect a range of social care services, including residential services for adults with disabilities (HIQA, 2019). The stated aim of HIQA in the registration and inspection of services for adults with disabilities is to "promote progressive improvements in quality and safety of residential services" (HIQA, 2013, p. 3). HIQA directly employs inspectors to undertake these inspections. These inspectors are drawn from a wide range of professional backgrounds, including medical, nursing, social work, social care, occupational therapy and health and safety.

This study examines how social care managers, in the role of person in charge (PIC) of residential services for adults with disabilities, experience HIQA's regulation and inspection process. For the purposes of this study, the regulatory process can be understood as directives issued by HIQA to regulated services that these services must implement in their day-to-day work. Compliance with these directives is assessed through inspection on a cyclical basis, or in response to risks identified in the service.

Further, the study explores how these experiences impact on PICs, and on service improvement more generally, and seeks to understand the complex interplay between the intended impact of regulation and inspection and its actual impact on those responsible for compliance.

For the purposes of this study "person in charge" means the person who is appointed by the registered provider of a residential service to manage that service. The regulations set out under the Health Act 2007 places responsibility on the provider to

ensure that the person in charge has the qualifications appropriate to fulfil the post of person in charge (HIQA, 2016).

1.2 Aims and Objectives of the Study

The aim of this study is to establish what social care managers (in the role of PIC in a residential centre for adults with disabilities) experience during HIQA's regulatory process, including the inspection event, and the impact this experience has on them, and on service improvement.

To achieve this aim, the researcher undertook a literature review which focused on the emergence and impact of regulation and regulatory processes in the social care sector. Through the use of semi-structured interviews, the researcher also explored the experiences of a small sample of social care managers working in the role of PIC in residential services for adults with disabilities. This approach provided participants in the study with an opportunity to explore their personal experience of the regulatory process and to provide insight into how these processes, particularly the inspection event, impacted on them and on service improvement.

The objectives of this study are:

1. To understand social care managers' experience of the regulatory process, with a particular focus on the inspection event

2. To assess what impact the regulatory process has on social care managers

3. To establish if social care managers believe that the regulatory process contributes to service improvement

4. To understand if there is a difference between the intended and actual impact of regulation and inspection.

1.3 Organisation of Chapters

There are six chapters in this dissertation including the Introduction. Chapter 2 provides a review of both academic literature and grey literature on the development of regulation and regulatory systems. This chapter defines regulation broadly as a process and describes in more detail the regulatory systems which have evolved to scrutinise the work of social care services. The review also assesses the relevant literature relating to the impact of the regulatory process on social care services, and the staff who deliver them. Chapter 3 describes the research design and methodology used in the study. It explains how the sample group was selected and recruited and how the data was gathered, analysed and then broken into themes. It also addresses the ethical issues involved in the study. In Chapter 4 the main research findings are presented based on the semi-structured interviews undertaken with the sample group. Chapter 5 provides a discussion of these findings, connecting them to the relevant literature discussed in Chapter 2. Chapter 5 also makes recommendations for policy and practice. Chapter identifies the strengths and limitations of this study and makes suggestions for future research.

2. Literature Review

2.1 Introduction

This chapter reviews the main characteristics of regulation and regulatory systems in general, as described in the literature. The review then presents research from academic and grey literature on the emergence of regulatory systems for social care services and their impact on both the services and the staff responsible for providing them.

For the purposes of this study, the regulatory process can be understood to encompass the following elements: the directives set out by the regulating authority (standards and guidance); processes for assessing how services are complying with these directives (inspection and monitoring); and processes for supporting compliance and improvement (reports and enforcement) (Furnival, Walshe & Boaden, 2017; Koornneef, 2010; Smithson et al., 2018).

2.2 Theoretical Context of the Study

Regulation is defined by Selznick as "sustained and focused control exercised by a public agency over activities which are valued by the community (Selznick as cited in Furnival et al., 2017, p. 517). This definition makes it clear that it is a third party that exercises this control, and in doing so realises socially desirable outcomes. These outcomes include improvements in how activities are carried out, assurance that the activities are safe and meeting a required standard, and the establishment of clear lines of accountability for those responsible for undertaking the activities (Furnival et al., 2017; OECD, 2000). Further, with regard to health and social care services specifically, Koornneef states that "regulations aim to both deter particular actions and behaviours and encourage compliance with desired outcomes" (2010, p. 2). Brown and Scott (2010) describe regulation as "among the central instruments through which governments deliver on policy priorities" (p. 3). Koornneef (2010) also points out that regulation is often put in place in response to an incident or a failure in health or social care services to provide protection to the public.

An important aspect of regulation theory is that compliance, or indeed non-compliance, with any regulation is the result of an interplay between public systems of regulation and, what Ayres and Braithwaite describe as, 'individual consciences' (1992, p. 3). Over time regulation has evolved from a system that relied very much on deterrence to one that fostered compliance and, finally, to a responsive model of regulation (Ayres & Braithwaite, 1992; Furnival et al., 2017; Koornneef, 2010). These three models can be understood in the following way:

- A deterrence model assumes that regulated services are "amoral actors" (Walshe & Shortell cited in Koornneef, 2010, p. 6) who will not comply with regulations unless forced to do so by the regulator. This model requires that the regulator adopt a command and control model with large numbers of inspectors engaged to assess and enforce compliance by formal means (OECD, 2000).

- A compliance model assumes that regulated services will seek to comply with regulation, insofar as they can. This model works from the belief that regulated services, and the staff in them, are well-intentioned and have internalised regulation into their systems of working and into their own conscience (Ayres & Braithwaite, 1992). This model requires that the regulator uses their experience and relationship with the regulated services to influence and support them in their attempts to comply with regulations.

- A responsive model is a hybrid of the deterrence and compliance approaches. It assumes that, in general, the regulated services intend to comply with the regulations, but it allows for instances where they are not doing so, either by omission or commission, and therefore enforcement is required by the regulator (Ayres & Brathwaite, 1992; Furnival et al., 2017). Koornneef describes responsive regulation as an approach where the regulator takes the strategic needs of the service into account and tailors the regulatory interventions so that they are responsive to the "culture, context and conduct of the regulated service" (2010, p. 6). This model allows the regulator to pick from a menu of interventions depending on the performance of the body being regulated.

Regardless of the model of regulation used, regulation has a wider range of impacts on these regulated organisations, and on those working within them, than one of simple cause and effect (Furnival et al., 2017; Koornneef, 2010; Smithson et al., 2018). As highlighted by Braithwaite, Healy and Dwan in Koornneef (2010) regulators fail to support meaningful change when they don't consider how complex organisational behaviour is, and the wider potential impacts of regulatory intervention.

2.3. Emergence of Regulation in Social Care Services

The literature review looks at the emergence of the regulation of social care and the drivers behind this, namely legislation and social policy. For several reasons the literature is drawn mainly from Ireland and the United Kingdom. Firstly, Ireland was governed by Britain up until 1922 and so legislation and social policy, and the provision of social care services, was derived from British law (Dukelow & Considine, 2017). Secondly, the laws made during British rule continued to be in effect after Ireland's independence, and so informed the provision of social policy and social care services in Ireland (Dukelow & Considine, 2017). Thirdly, looking to research in Ireland and Britain gave the study a manageable geographical focus given the limited scale and timeframe of the study.

As described in the theoretical framework, regulation can be understood as interventions by government to direct and control activities that are important to society (Furnival et al., 2017). While private industry has been subject to increasing regulation since the 1980s (Brown & Scott, 2010), the regulation of social care service in Ireland is relatively new (Jones & Smey Carston, 2016). A key finding that emerges from research in Ireland and the UK is that modern regulatory systems are essentially a product of modern neo-liberal politics, the features of which include a demand for greater accountability from the public sector, an increased focus on value-for-money and an expectation that services have standardised processes that deliver clear and measurable outcomes (Banks, 2011; Featherstone et al., 2012; Munro, 2004). One study from the UK argues that there has been a migration from the business sector into social care services of concepts of accountability and ensuring

that health and social care services, funded by public money, are effective, efficient and economic (Martin, Downe, Grace, & Nutley, 2010).

Although both Ireland and the UK have seen an increase in regulation and regulatory systems in the past 20 years (Featherstone et al., 2012; Jones & Smey Carston 2016), regulation and inspection have been a feature of these types of services since the nineteenth century (Campbell, 2017; Williamson, 1970). In Scotland, Campbell (2017) notes that the regulation of the asylum system in the nineteenth century had many features in common with those of social care services provided in both residential and community settings today. Campbell (2017) highlights that, as in the nineteenth century, in today's the social care services there is a disproportionate focus on inspecting and regulating buildings and routine processes, rather than assessing the experiences of people using the services and what they consider to be good quality care. This point has been highlighted by many other researchers who have examined regulatory systems of modern social care services (Banks, 2011; Clegg, 2008; Featherstone et al., 2012; Miller & Mor, 2008; Munro 2004; 2011).

In Ireland, the development of more formalised social care services for people with a mental illness or an intellectual disability began in the early nineteenth century, under British rule. Williamson (1970) describes a move away from the belief that these groups of people were in some way depraved and towards the belief in the "goodness of the individual" (p. 282). This change of beliefs brought a sense of pity from both altruists and policy makers, but also a desire to impose order on what were chaotic and disparate services (Williamson, 1970). During the nineteenth century a series of acts were passed to establish asylums for people with a mental illness or an intellectual disability (Williamson, 1970). These acts, and the asylums that were established as a result, had a two-fold purpose: firstly, to protect those believed to have mental illness and those with intellectual disabilities; and secondly, to take the burden off the community for looking after such groups (Linehan et al., 2014; Williamson, 1970).

These asylums had external inspectors whose role was to report on how public money was being spent (Campbell, 2017; Williamson, 1970). Annual reports from the inspections of the asylums in Ireland in the 1800s, and similar asylums in Scotland,

also frequently highlighted the unsuitability of the living conditions and made recommendations for improvements, whilst often acknowledging the lack of funding to do this (Campbell, 2017; Williamson, 1970).

In Ireland, the latter part of the nineteenth century saw services for people with intellectual disabilities separate from those with mental illness, with the first residential specifically for people with intellectual disabilities founded in 1869 in Stewarts Hospital, Dublin (Linehan et al., 2014; The National Federation for Voluntary Bodies, 2006).

Following Ireland's independence in 1922, the provision of social care services for people with intellectual disabilities, as well as other social care services, was largely taken on by religious orders. Linehan et al. (2014) indicate that while this was in some part due to the lack of resources of the new State, it was largely due to the reverence in which the State held the Catholic Church. From this point until the mid-1960s, there was little external scrutiny of these services and no public information on the needs of this population (Linehan et al., 2014). Inquiries, reports and policy papers in the area of disability from the 1960s onwards pointed to the need for the State to take on the coordination and regulation of disability services (Linehan et al., 2014; Pillinger, 2002). Despite this, the role of the State remained at a remove with very little coordination or oversight of the work of the many disability services in operation across the country (Linehan et al., 2014).

The first move towards the external oversight of social care services in Ireland began in 1999. Following a series of high-profile reports of abuse of children in the community and in residential care services for children[1], the Social Services Inspectorate (SSI), administered by the Department of Health and Children, was established to inspect and monitor social care services (Jones & Smey Carston, 2016). Although set up to inspect across the range of social care services for children and adults, the work of the SSI ultimately focused on children in care, primarily on inspection of residential care. This was mainly due to the fact that the regulations

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[1] These cases included the Kilkenny Incest Case (1993) and the Inquiry into the operation of Madonna House Report (1996).

underpinning the work of the Inspectorate were derived from the 1991 Child Care Act (2006; Jones & Smey Carston, 2016).

At this time, in the UK, a number of changes in the regulation of social care services were being called for following inquiries into tragic cases of abuse and deaths of those in receipt of social services, including the Victoria Climbie case and the Longcare Case (Featherstone et al., 2012; Jones & Smey Carston, 2016; Stanley & Manthorpe, 2004). A number of these inquiries judged that social care services had failed those most in need of care and protection and called for urgent reform and regulation of these services (Munro, 2011; Stanley & Manthorpe, 2004). This resulted in a proliferation of new regulation and regulatory bodies in the UK (Featherstone et al., 2012; Furness, 2009; Jones & Smey Carston, 2016).

In Ireland, it was in the context of an investigation into the tragic death of Peter McKenna, a man with an intellectual disability, in Lea's Cross Nursing Home, and the subsequent report by Professor Des O'Neill (HSE, 2006), that Ireland's first independent regulator of health and social care services, the Health Information and Quality Authority (HIQA), was established to improve health and social care services for people in Ireland. The mandate of HIQA included, for the first time, the setting of quality standards and the regulation of publicly funded social care services for children, adults with disabilities, and older people. Following the introduction of regulations for designated centres for people with disabilities in 2013, HIQA introduced a programme for the regulation and inspection of all designated centres[2] to assess their compliance with the regulations and standards (HIQA, 2019).

However, the development of these regulatory systems in both Ireland and the UK at the beginning of this century were not just a product of the terrible abuses and tragic deaths of children and adults in receipt of social care services. Internationally, alongside the demand for social care services to keep people safe (Miller & Mor, 2008), there was also increased demand for social care services to be accountable for how they undertook this work (Featherstone et al., 2012), to evidence that it was

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[2] This original regulatory programme was from three years extended to five years at the request of the Office of the Chief Inspector in a submission to the Department of Health to allow all service providers time to prepare for registration.

having positive effects on the lives of people using the service, and to prove that the work represented value-for-money (Martin et al., 2010).

2.4 Impact of Regulation on Social Care Services

The impact of regulatory systems on social care services, and the lives of people using them, is a much-contested area. Debate centres around the question of whether such systems improve the quality of services or whether instead it is simply a 'tick-box exercise' that the State uses to hold services to account if things go wrong (Gibson, 2017; Jones & Smey Carston, 2016; Martin et al., 2010). In reality, the answer lies somewhere in between (Furness, 2009; Smithson et al., 2018).

Research by Smithson et al. creates a framework for understanding the wide range of impacts that the regulatory system has on regulated health and social care services. The authors break these impacts down into eight separate but inter-related impacts: anticipatory, directive, organisational, relational, informational, stakeholder, lateral, and systemic (Smithson et al., 2018). Smithson et al. (2018) identify that the impacts that they have identified do not occur chronologically and that some of the impacts may overlap with each other. Four of these impacts - anticipatory, directive, organisational, and relational - were identified to be of particular relevance to the sample group in this study as these participants are directly responsible for evidencing compliance with regulations and standards, preparing for inspections, and responding to directives set out by regulator after the inspection. Each of these impacts will be discussed in relation to the findings which are set out in Chapter 4. The following is a brief description of each of the relevant impacts:

1. Anticipatory impact takes place when the service provider reviews the expectations that have been set out by the regulator (such as directives or guidance) and, in advance of the inspection, works to comply with these expectations (Smithson et al., 2018).

2. The directive impact of regulation is the action that the service provider takes as instructed by the regulator to ensure compliance with the regulations and standards (Smithson et al., 2018). These directives may be informal, such as advice provided to the service over the course of an inspection, or formal, such

as inspection reports issued by the regulator, or enforcement action taken by the regulator to bring the service into compliance with the regulations and standards.

3. Organisational impact relates to how the regulated service develops as a result of its interaction with the regulator (Smithson et al., 2018). While Smithson et al. describe how this interaction can impact on the leadership, culture and motivation within the organisation, they acknowledge that change is not always directly attributable to the interaction with the regulator and can be influenced by wider developments, such as national policy changes or media scandals.

4. Finally, Smithson et al. (2018) describe the relational impact of regulation - that is, the soft, informal methods of influence that the regulator uses to effect change and how those being regulated experience this form of influence. Research shows that the personal attributes of the inspector themselves, such as consistency, fairness, credibility, kindness and empathy, are key to this experience (Smithson et al., 2018; Furness, 2009).

2.4.1 Positive impact of the regulatory process

Furness' study gathered the views of 19 managers of registered older person's care homes across England to understand their experiences of the regulation and inspection of their services (Furness, 2009). The study found that participants believe that regulation has a positive impact on the safety of the people using their services by providing guidance and support to services (Furness, 2009). The study also found that the inspection aspect of regulation provided an opportunity for service users and relatives to make their views known, without having to bring them directly to the service provider.

Smithson et al.'s study (2018) on the impact of regulation in health and social care services in England shows that the regulatory system can hold to account services that are failing to keep people safe, and compel them to address poor practice, some of which a service may already be aware of but has failed to address. In this regard

Smithson et al. note that the "… inspection and rating approach was seen to drive change by providing legitimacy to particular points of view, creating consensus and building momentum around a change" (2018, p. 30). This study also found that the regulatory system can leverage increased resources for under-funded services (Smithson et al., 2018).

A Swedish study of inspection in children's residential services by Palsson (2018) highlighted that inspection can provide opportunities for practitioners to reflect on their work during an inspection process, with the inspector acting as a critical observer of the work. Smithson et al. (2018) also find that the regulatory system provides staff in health and social care services with opportunities to reflect on their work before, during and after inspection, opportunities which they may not have in busy day-to-day service delivery. This is further supported by Bevan (2008) whose research on regulation in health services finds that the move from self-regulation to external regulation has led to increased self-examination and self-improvement in these services.

A number of studies have also shown that regulation and standards, when not overly prescriptive, can provide staff in health and social care services with a frame of reference to understand their work and to undertake it in a way that meets the needs of service users (Furness, 2009; Munro, 2004; Smithson et al., 2018).

2.4.2 Negative impact of the regulatory process

Carston and Smey Jones (2016) recognise that regulation has had a positive impact for service users in general and has increased public trust in Ireland. However, they also suggest that regulation has placed an unnecessary bureaucratic burden on social care services to evidence compliance. This view is supported by Gibson (2017) who finds that, in English social work services, regulation has led to services spending an excessive amount of time gathering evidence of compliance, instead of spending time in direct work with people using the service. Looking again to Ireland, Gallagher and Edmondson (2015) argue that there is an inherent danger that social care services focus on activities that more easily evidence compliance with regulatory requirements, rather than on the "less easily measured elements of social care practice

that create experiences well regarded by users, staff and community members" (p. 58).

International research shows that services can engage in ritualistic compliance with regulation, that is, services appear to be complying with regulations, however, in reality, this compliance is superficial rather than embedded (Furness, 2009; Martin, et al., 2010; Miller & Mor, 2008; Perryman, 2010). Furness's study (2009) describes ritualistic compliance as a situation where service providers state that they will comply with regulation but with no real intention of doing so. Studies from the UK and the USA (Martin, et al., 2010; Miller & Mor, 2008) also describe a form of ritualistic compliance. These studies found that the fear of a negative inspection report - and the potential for escalated regulatory action[3], loss of reputation and loss of funding (Boyd et al., 2017) - can lead to managers and staff 'gaming the system', with services providing regulators with the compliance evidence they require, whilst not actually improving the services for the people that use them. This finding is echoed in other regulated sectors, such as education. Perryman's 2010 study of a UK school undergoing inspection found evidence of this ritualistic compliance, stating "Documentation is manipulated, perfect lessons devised, displays created, meeting records augmented, and briefings rehearsed." (2010, p. 182). The inherent danger with ritualistic compliance is that it may mask poor practice - the paperwork is good, but the experience of the service user is poor.

Sim and Vucetic (2018) describe auditing – a practice akin to inspection – as being able to "purify the 'mess of practice' for outside consumption and acceptance as being legitimate" (p. 52). Alongside this purification process, regulators in a number of jurisdictions are subject to increasing expectations from government and the public. Regulators are expected to add value for society by preventing poor practice, minimising risks to service users, improving service users' quality of life and addressing complex social problems (Rutz et al., 2013; Smithson et al., 2018). Based on their study of the regulation of a wide range of social care services for children and

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[3] Escalated regulatory action can be understood as the action taken by the regulatory body to bring a service into compliance with the regulations and standards. It may involve the regulator writing to service providers requiring them to take action, increasing inspection activity or developing a regulatory plan for the service (HIQA, 2019.

young people in the Netherlands, Rutz et al. (2013) suggest that regulators of social care services are unlikely to be able to meet all of these expectations, particularly the expectation of addressing complex social problems. To address this, the study suggests that the regulators oversimplify complex issues in order to find a solution to the problem, focusing instead on the achievement of concrete tasks. This finding is echoed by Jones and Smey Carston (2016) when they refer to regulators as "positivist, reductionist and rationalist" (p. 68), seeing social care services as a series of procedures and tasks to be completed to achieve a pre-determined outcome, rather than the reality of relationship-based practice that takes time to develop and is not easily evidenced in documentation.

It is this simplification of the "mess of practice" into simple discrete processes to facilitate regulation and inspection that many researchers have argued is most problematic. Studies in both England and America highlight that social care services are complex (Martin et al., 2010; Miller & Mor, 2008) and that checking if standard procedures and processes have been followed does not give a real sense of the quality of the work (Gibson, 2017; Miller & Mor, 2008). Researchers from England, the Netherlands and the USA converge in their suggestion that the regulatory system for social care is often too simplistic and systems-focused to address the complex issues that emerge in health and social care services (Martin et al., 2010; Miller & Mor, 2008; Rutz et al., 2013). Munro's research of the regulation of social work practice in the UK, provides an example of this "Monitoring the completion of assessment forms is far simpler than judging how fully and accurately they have been completed" (2004, p. 1086). When assessing the quality of work, the need for a skilled inspector is highlighted in a number of studies, recognising that it is easier to train someone to check records than it is to train them to be able to identify where there might be systemic issues with the quality of care in a service (Miller & Mor, 2008; Boyd, Addicott, Robertson, Ross & Walshe, 2017).

2.5 Emotional Impact of Regulation

One goal of this study was to gauge the emotional impact of regulation. The literature review found limited research of this impact on staff working in social care services. Clegg's review (2008) of inspection and audit in social care services in England

highlights that negative inspection reports and ratings can demoralise staff, placing the responsibility for addressing non-compliances on frontline staff who are least able to address structural inequalities. In their 2018 study, Smithson et al. highlight that interaction with the regulatory system can lead to feelings of fear and anxiety, with participants describing a type of "exam anxiety" (p. 42) in relation to the inspection process.

To further understand this emotional impact, the researcher turned to studies of other regulated services to ascertain if there is a typology of emotional impacts. Research on the emotional impact of regulation and inspection on those in the teaching profession in England found that the emotional impacts included fear and anger, a perceived loss of control, stress, and disaffection (Brimblecombe, Ormston, & Shaw, 1995; Perryman, 2007; 2010).

A quantitative study of 851 teachers in the UK whose schools had been inspected by the Office for Standards in Education, Children's Services and Skills (Ofsted)[4] looked at how these participants experienced the inspection process (Brimblecombe et al., 1995). The study outlines a number of emotional reactions to the inspection, as outlined above, concluding those participants' experience high levels of stress in anticipation of the inspection, with an intense focus on preparing paperwork and lesson plans designed to show the school in its best light.

A study by Perryman of teachers in the UK looked at the emotions expressed by the teachers in one school being inspected by Ofsted. The study found that "teachers experience a loss of power and control, and the sense of being permanently under a disciplinary regime can lead to fear, anger and disaffection" (Perryman, 2007, p. 173). The study found that negative emotions can lead to resistance to external scrutiny and a lack of belief in the benefits of the regulatory system. A later study by Perryman found that teachers hide problems that the school is experiencing and as such, real problems never get addressed as "Teachers conspire to unite against an external enemy" (2010, p. 182).

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[4] One of the responsibilities of Ofsted is to inspect a range of educational institutions, including state schools and some independent schools, against statutory regulations.

2.6 Regulation as a Social Process

Again, looking to the human dimension of regulation, Smithson et al.'s (2018) study of the regulation of health and social care services in England describes regulation as a social process. As the authors note, regulation is "not just what you do, it is who does it and how it is done that matters fundamentally to the way regulation works … the human interactions and social dimensions of inspection and ratings are very important indeed" (p. 42). Further research from England highlights that it is the credibility, authority and effectiveness of the regulatory body, and the inspectors from within it, that sustain the relationships between regulators and regulated services (Furness, 2009; Munro, 2011). The quality of these relationships contributes to both compliance with standards and a commitment to longer-term service improvement. Research shows that inspectors must build strong relationships over time that are perceived as authoritative, legitimate and fair so that services not only achieve compliance with regulation but actively work to improve the service (Ayres & Braithwaite, 1992; Furness, 2009; Smithson, 2018).

Brimblecombe et al.'s study (1995) found that participants believed that the attitude of the inspector before and during the inspection process was a very important factor in how they experienced the inspection. Participants highlighted that if an inspector had a reassuring and collaborative attitude, that they were much more likely to behave normally during the inspection, meaning that the inspector would see them work in a way that was more representative of how they normally work. However, if an inspector is cold and critical, participants stated that they were more likely to be nervous and make mistakes, thereby leading to a negative inspection report (Brimblecombe et al., 1995).

An important factor in maintaining a positive relationship between inspectors and regulated services is the need for the inspection process to be consistent. If a regulated service experiences variance between inspectors and their inspection decisions, it undermines their belief in the fairness and credibility of both the process and the inspector (Boyd et al., 2017; Smithson et al., 2018). This is echoed by Tyler, writing about trust and legitimacy in policing, a body that regulates the behaviour of wider society, when he suggests that the police are considered as "representatives of

community moral values" (2011, p. 255). He further posits that the legitimacy of an authority, and those within it, comes from the belief that they are "trustworthy, fair and concerned about the wellbeing of the people" (2011, p. 256).

2.7 Conclusion

The literature on the regulation of social care services describes the emergence of a regulatory system of oversight and scrutiny that aims to provide assurance to the public that people using these services are safe, that the service is of good quality and that public money is being well spent. The bureaucratic impact of regulation emerges strongly, bringing with it the inherent danger that regulated services only focus on undertaking activities that can be used to evidence compliance. What is clear from the research is that the regulatory system has a number of impacts on regulated services, and on the staff working in them, and that these impacts are far more complex than simple responses to directives set by the regulator. The literature shows that regulation has a human impact and can be a source of stress for those that are being regulated. It also shows that the attitude and experience of the inspector, alongside a consistent approach to assessment by the regulator, is very important in influencing compliance with regulations and bringing about a commitment to longer-term service improvement.

3. Methodology

3.1 Introduction

This chapter sets out the research design and methodology used in this study. It discusses the rationale for the research topic and explains how the data was gathered, analysed and themed. The chapter sets out the process of sample selection and recruitment. It also sets out the ethical issues identified in the study and how these were addressed by the researcher.

3.2 Aim of the Research

The aim of this study is to establish what social care managers (in the role of Persons in Charge of a residential centre for adults with disabilities) experience during the HIQA regulatory process and the impact on them and on service improvement.

3.3 Research Methods and Design

The study took a qualitative approach to gathering information which allowed participants to detail the component elements of their experience and to then explore their subjective experience of the process (Flick, 2018). The use of semi-structured interviews allowed the study to analyse the meaning that participants attach to their experience (Agee, 2009). This approach was chosen rather than a quantitative method such as a survey as the researcher recognised that, while a quantitative method would have provided a larger sample, it would not have provided an opportunity to ask follow-up questions, to clarify answers with participants or to challenge inconsistencies in the participant's narratives (Bryman, 2004).

A case study approach was also initially considered by the researcher, that is, interviewing one person who had been in the role of a PIC to explore his or her experience in-depth. However, the researcher anticipated that the use of multiple interviews would give richer data to compare and contrast, and allow for a wider understanding of the subject matter.

Using semi-structured interviews to gather data from participants allowed the researcher to develop a series of interview questions that followed on from the research question, whilst still giving the participants freedom to choose how they wanted to respond (Bryman, 2004). While all participants were asked the same interview questions, probing questions were adapted to elicit further information or to clarify points made by an individual participant. By using semi-structured interviews, responses could be compared across all interviews which assisted at the data analysis stage when identifying themes and sub-themes (Seymour & Meehan, 2018).

According to Flick (2018), in qualitative research the researcher herself is a research tool. In this study, the researcher has experience of developing national standards for health and social care services in the regulatory body, HIQA. The researcher has also reviewed services against standards (though not in the capacity of a HIQA inspector). Further, the researcher has experience of having her work scrutinised by an external auditor to ensure that it was fit for purpose. This experience contributed to the researcher's interest in how others experience the regulatory process. While the researcher attempted to gather data objectively from the participants there were factors that may have inhibited completely objective observations (Probert, 2006) as the researcher is not value-free and this inevitably influenced the research approach and the questions asked (Bergman & Coxon, 2005).

3.4 Data Collection Methods and Procedures

The study was piloted with one participant with experience of being a PIC. This provided an opportunity to test several elements of the methodology, such as the clarity and relevancy of the supporting documentation and the interview questions. By piloting the study, the researcher was also able to test if there was a clear question order and question thread (Bergman & Coxon, 2005). Following the pilot, the researcher updated the interview schedule (See Appendix 1 for a copy of the interview schedule), the information sheet (See Appendix 2 for a copy of the information sheet) and changed the question order to ensure the questions flowed and provided opportunities for probing, specifying and direct questions (Bryman, 2004).

Participants were recruited by contacting the Chair of Social Care Ireland's Disability Special Interest Group (SIG) and requesting that she disseminate the invitation to participate in the research to the membership of the SIG committee. The SIG Chair was provided with an information sheet that outlined the study's aims and methodology, the target group, management of confidentiality and anonymity, the researcher's details, and details of ethical approval. The Chair sent the request to eight SIG committee members. All eight of these members sent the request on to social care managers with relevant experience, reaching approximately 30 PICs. This approach meant that while there was purposive sampling, that is sampling people who had the requisite experience to answer the research question, there was also an element of snowball sampling in the study (Bryman, 2004).

Six PICs contacted the researcher directly for further details of the study. At this time the researcher reiterated that the study was confidential and provided details of its purpose, the duration of the interviews, and recording methods. Following this, copies of the information sheet, the interview guide and the consent form (See Appendix 3 for a copy of the consent form) were emailed to the participants.

Data collection took place between May and June 2019 and each interview took place at a location of the participants' choosing. The researcher recapped on the purpose of the study and how the interview would inform it. The participants were reminded of their right to withdraw at any stage of the study and that their data would not be used. Participants were reminded that interviews would be recorded and transcribed, and that they would have an opportunity to review and amend the transcriptions, if they requested to do so. Two of the participants requested a copy of their transcribed interviews, which were provided to them by email. Neither of the participants requested any amendments to their transcribed interviews.

Interviews lasted between 45 and 60 minutes in duration. At the opening of the interview participants were asked a small number of factual questions, such as number of years employed as a social care manager and how many inspections they had been in the role of a PIC. During the interview the researcher was mindful of Kvale's criteria for successful interviewers (Kvale cited in Bryman, 2004). This included allowing the participants to follow their own train of thought whilst at the same time

steering the interview towards what the researcher needed to find out for the purposes of the study. Further, the researcher reflected key points back to the participants, asking them to expand or explain a specific point occasionally. At the end of the interview the participants were offered an opportunity to add any further comments.

3.5 Data Sample

A sample group of six social care managers who had been in the role of PIC in a residential centre for adults with disabilities over the course of at least one HIQA inspection process were interviewed for this study. Their direct experience of being responsible for implementing regulations and standards, as well as preparing for inspection, participating in the inspection process, and being responsible for responding to any non-compliances found by the HIQA inspector, meant that this small number of participants could provide in-depth and high value data directly relevant to the study (Corbin & Strauss, 2008).

The length of service as a PIC in the sample group ranged from two years to 19 years, divided as follows: 2 years, 2.5 years, 3 years (three PICs) and 19 years. All six of the participants had previous experience as frontline social care workers in disability services prior to becoming a PIC. Four of the participants stated that they also had experience of being a person participating in management (PPIM) prior to becoming a PIC. Five of the participants were female and one of the participants was male. The services that the PICS worked in were in three different areas in Ireland, that is Dublin (four participants), South Leinster (1 participant) and the Midlands (1 participant). Participants were coded in numerical order in the interview schedule.

3.6 Data Analysis

Participant interviews were recorded on an audio-recording device. This allowed the researcher to transcribe them afterwards and provided an opportunity to listen more attentively to how the participant was answering the questions, as well as what they were saying.

The data was transcribed and reviewed in its entirety to familiarise the researcher with the overarching themes as they emerged. This created an opportunity for sense making

of the data and for a brief narrative analysis (Bryman, 2004). Following this, the data from each of the interviews was analysed systematically to identify any categories, sub-themes and themes that emerged. The data was tagged and analysed. An iterative review of the data was undertaken to understand it and ensure the coding and analysis accurately reflected the overall sense of what participants meant.

3.7 Ethical Issues

In this study there were two main ethical considerations. Firstly, the researcher is a staff member in HIQA, and although not working in the role of an inspector it was considered that this fact may influence participants' decisions around disclosing negative experiences of the HIQA regulatory process. Secondly, this is a small-scale study and so participants may have been concerned that there was a potential that they were identifiable in the final study (Bryman, 2004).

To address the first issue, care was taken at all stages of the process to assure participants of the independence of the researcher. This was done by including a biographical note in the information sheet sent to the Chair of the SIG. This note acknowledged that the researcher was a member of the HIQA Standards team but highlighted that, for the purposes of the study, she was a TU Dublin M.A. student undertaking a research study and therefore independent from HIQA. The information sheet documented that ethical approval had been provided by TU Dublin's Head of School of Languages, Law and Social Science and details of the research supervisor were also provided.

To address the second issue, methods to ensure confidentiality and anonymity were outlined in the information sheet and were further discussed when participants contacted the researcher. To ensure that the data gathered from the participants remained confidential and anonymous (Wiles, Crow, Heath & Charles, 2008), the researcher ensured that all data was held in a password protected file only accessible to the researcher. All data was anonymised, and numbers were used when transcribing the data, instead of using participant names or initials. Participants were not asked for details of their specific organisation but instead were requested to provide high level

details of the size of their organisation and the policies and systems within them related to compliance with the regulatory system.

3.8 Conclusion

This chapter has given an account of the research methods employed within the study, including the basis for choosing a qualitative approach through the use of semi-structured interviews to gather the data. It also details how participants were sampled and engaged in the study. It provides an overview of how the data was analysed. Finally, it outlines how potential ethical issues were identified and addressed.

<center>**4. Findings**</center>

4.1 Introduction

This chapter discusses the findings gathered from six interviews with participants who have been social care managers in the role of Persons in Charge (PIC) of residential centres for adults with disabilities during a HIQA regulatory process and have experienced at least one inspection by HIQA.

When the interviews were analysed, two themes emerged which resonate with the literature on the regulation of social care services, these are the perceived legitimacy of the regulatory process, and the impact of the regulatory process on participants. The first theme is broken down into two sub-themes: the necessity of the regulatory systems comprised of regulations, standards and inspection; and the achievability of compliance with the regulations and standards. The second theme, the impact of the regulatory system, is broken down into four subthemes. These subthemes are the anticipatory, directive, organisational and relational impact of regulation.

4.2 Legitimacy of the Regulatory Process

The researcher sought to establish whether participants believe the regulations, standards and inspection process are legitimate, that is, reasonable, acceptable and justifiable (Tyler, 2011). Two sub-themes that emerged from the interviews were the necessity of the regulatory processes, and the achievability of compliance with the regulations and standards.

4.2.1 Necessity of regulations, standards and inspection

The first question sought to assess if participants' believed that the regulatory system was necessary. All six participants answered *"Yes, absolutely"* or gave a slight variation of the same response to this question.

All of the participants believed that the regulatory system held services accountable for their work and that increased the safety of the people using the services. As PIC3 noted:

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I actually think it's the best thing that ever happened to disability. I mean I'm in that sector for 16 years so it's a huge change and really positive changes for people who use the services. The services have become much more person-centred and made us as practitioners reflect on how we provide services.

Here PIC5 described her experience of a time before regulations, standards and inspection:

In the past there was no accountability, there was no reason why something was done. Whether it was money, you know, €10 went missing, or whether it was different things like that, there was no reasoning behind it, there was nobody to question it. It was just like that hidden, old historic Ireland, stuff being hidden away. And when stuff is hidden away that's when people start losing trust and confidence. Whereas now because there's accountability … I think the trust is a lot better.

This view was supported by another participant (PIC2) whose organisation was subject to escalated regulatory action by HIQA. She stated that from the time she started in the service, she had been deeply concerned about the safety of the service users. She described how important it was to have external scrutiny to bring the organisation into compliance with even the most basic of standards:

I was only there 5 weeks when HIQA came in unannounced. So, I was very much, I remember just being, relieved, going 'Oh thank god, you know about this place' … So, it was a fact when HIQA came in that's what made me stay, 'cause that's when I thought it was like 'Well ok, I can see this through now because something is going to happen, there's a plan.'

All participants felt that the purpose of regulatory system was not just to keep service users safe, but also to improve their quality of life. Participants felt that the regulations and standards ensured that the views of service users were sought, acknowledged and acted upon, because service providers knew that personal care plans would be scrutinised by HIQA. PIC3 described how this had changed her approach to her work:

People are much more involved in services, so yeah, they're much more involved and we have to think of ways to do that. Rather than just going 'Oh well Mary didn't want to', well why doesn't she want to, why didn't she tell us what she likes? Or maybe she won't tell me what she likes but if I spend a week observing her, I'll see what she likes, so I can kind of shape it.

4.2.2 Achievability of regulations and standards

Secondly, the researcher asked the participants about the achievability of the regulations and standards: *Do you think that the regulations and standards are achievable?* While participants were unequivocal about the necessity of having regulations and standards, a number of them were less sure about the achievability of them in practice. Two challenges to compliance with regulations and standards emerged from the responses to this question.

The first challenge related to having the requisite resources to achieve certain regulations and standards. All of the participants noted that, in their experience, resourcing impacted on their ability to achieve compliance. The main issues highlighted by participants were a lack of funding to comply with building and fire regulations, and a difficulty in recruiting permanent staff members to ensure that the staffing level was adequate. Some of the participants felt it was unreasonable for an inspector to find that a service was non-compliant with certain regulations and standards when it was clear that the PIC was trying to meet them but had limited resources to do so. For example, PIC5 describes her experience in trying to address staffing issues in order to provide a safe service:

> With regards to vacancies of staff, they're hard to achieve in the sense that staffing isn't there to, I suppose, fulfil that regulation. For example, I have vacancies at the minute in my place … But like, it's not for want of interviewing people but then the quality of people that are coming through … So that to me is not achievable.

The second challenge that emerged was a perceived variation in the interpretation of the regulations and standards by different inspectors, meaning that a number of the participants questioned whether they could ever fully achieve compliance with the regulations and standards. A number of the participants discussed their experience of where different inspectors interpreted the regulations and standards differently, which meant that they assessed compliance differently. Participants felt that this inconsistency undermined the trust that services have in the fairness of HIQA and the inspection process. One participant stated that 'the goalposts are constantly being moved'. The experience and impact of this inconsistency was described by PIC3:

You know, you could have two inspectors inspect a service at the exact same time but separate from each other still they come up with different issues and that can be frustrating. You could have an inspector come in and say 'That document isn't good enough' whereas you have another inspector say 'Actually, that meets the regulation requirements'... And I think that can lead to people not really taking on board what HIQA are saying.

A number of participants felt that the inspectors' own professional background and experience led them to interpret certain regulations and standards according to the values and requirements of their profession. PIC4 described how, in her experience, the professional background and experience of the inspector was evident in the inspection:

So, I think that your inspector comes in and what they interpret the standards to be is not what other people can interpret standards to be and in my experience HIQA inspectors have differed in those standards. It's just whatever their background is … people maybe have a background of being nurses, OTs [occupational therapists], but you'd also spot the health and safety background.

4.3 Impact of the Regulatory Process on Participants

As discussed in Chapter 2, Smithson et al. (2018) have developed a framework for understanding the wide range of impacts that the regulatory system has on regulated services. Applying their framework, this study was able to identify four examples of these impacts in the participants' responses. These impacts are anticipatory, directive, organisational, and relational.

4.3.1 Anticipatory impact

Each of the participants spoke about what Smithson et al. describe as the "anticipatory impact" (2018, p. 14) of inspection. Anticipatory impact is where the service provider reviews the expectations that have been set out by the regulator, such as directives or guidance, and, in advance of the inspection, works to comply with these expectations (Smithson et al., 2018).

HIQA undertakes both announced and unannounced inspections of regulated services. For announced inspections there is a notice period.[5] Participants who had been in the role of PIC for announced inspections described similar experiences of preparation in order to evidence compliance. They described the huge amount of time spent checking that paperwork evidenced implementation of the regulations and standards, as well as making sure that the centre was clean and in good repair. A recurring theme was the amount of time that the participants spent in the centre preparing for the inspection, above and beyond their normal hours. PIC2 described her experience in the lead up to the inspection:

> You're living, eating and breathing the inspection, you're nearly living at the centre because you're trying to make use of all of your time.

Despite participants feeling that the preparation for the inspection should not be as impactful if the service had good systems in place, they all described spending the notice period before the inspection checking and re-checking documentation and systems.

While the announced inspections brought a burst of activity, participants also described the constant anticipation of an unannounced inspection and the need to ensure that the service was meeting the regulations and standards all the time. PIC5 described how she managed the service to ensure that they are always ready for inspection:

> And that's what I always try to always go, if they [the HIQA inspectors] walked in the next morning would they be happy with everything? Have I everything covered?

A number of the participants described the inspection process as being like a test and that there was a level of fear involved in being tested. This test was both of them as the person responsible for the service, and of the service itself. PIC3 described the sense of responsibility that she felt to ensure that the service passed the "test".

> So, the pressure you put on yourself because you wanted to be able to show this person who is coming in for four or five hours to see all the really good work that had been done previously. I had only been PIC there

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[5] In 2018 HIQA extended the notice period for announced inspections from two weeks to four weeks.

for about four months before inspection, so I felt there was a lot of pressure on me because I hadn't been there for all the hard work but it was my job to make sure that they could see all the really hard work that other people had done.

Despite the obvious pressure that the PIC is under to present the evidence to the inspector on the day of the inspection, a number of the participants spoke about the importance of being composed and ensuring that the service continued to run as normal. Here PIC6 talked about her approach to the inspection:

> That's part of the role of PIC that you are projecting and ensuring the staff are calm, that it's all going ok. If you're running around, trying to find folders then that impacts on the staff.

Those who had been PICs for a higher number of inspections felt they had incorporated the learning from previous inspections into their day-to-day work, making it easier to prepare and go through inspection. PIC6 described how she had incorporated her learning into her practice when her service had an unannounced inspection shortly after she took on the role of PIC:

> And I don't know if it's with practice but because that was the fourth [HIQA Inspection], once I got over the initial surprise that someone was there, I felt quite comfortable in it. I felt I had an understanding of how the day is going to look. So that was an interesting piece for me. So, I hope over time that PICs will lose that initial shock and worry, that uncomfortableness with being inspected.

A number of the participants had also worked in services that, prior to the introduction of regulations and standards for disability services, had voluntarily undertaken quality improvement programmes that were internationally recognised, and in some cases, externally accredited. They noted that this helped their understanding and acceptance of the regulatory process by HIQA. PIC 2 describes her experience of this:

> I mean, when I entered the organisation in early 2006, they were already being inspected on a 3-year basis … It was something we went looking for, it wasn't enforceable and at the time it seemed like to us 'I can't believe that they're [the accreditation body] looking for an emergency planning policy!' But then it very much fed in to when HIQA came out that it wasn't this big alien, scary thing because we had gone through it voluntarily.

4.3.2 Directive impact

Feedback from participants highlighted the effect of what Smithson et al. describe as the "directive impact" of regulation (2018, p. 14). The directive impact of regulation is the action that the service provider takes as directed by the regulator to ensure compliance with the regulations and standards (Smithson et al., 2018).

PIC6 described how in her most recent inspection, in contrast to previous inspections, the inspector provided verbal feedback during the inspection as to whether the practice was compliant and, where it was not, made recommendations for improvement. She found this informal directive style very useful as it helped her to reflect on certain practices in her centre that she had previously viewed as non-restrictive, but realised during the inspection process, that they were in fact restricting service users' behaviour.

While the participants in the study described how they felt a huge sense of relief directly after the inspection, this feeling was almost immediately replaced with thoughts of what they needed to do to ensure that they responded appropriately to the inspection report sent out to the service provider. This report is a specific example of a directive by the regulator. PIC4 described her experience of this directive impact:

> You say to the staff 'What have we done well, what have we not done well?'. The things that you recognise that you've done well you kind of want to make sure that those things are going to continue. The things you've not done so well you want to put practices in place that are going to change that.

Participants described the extensive work they undertook to ensure the directives set out in the report were followed up, a process that involved ongoing engagement with their line manager.[6] PIC1 described the work involved immediately after the inspection with his line manager:

> But in terms of the other actions that are above me, in terms of the provider nominee [service provider], it's constant emails, even before the

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[6] Line management is understood as a manager of the PIC who may be either the registered service provider or working on behalf of the service provider.

report comes out you have an idea of where the non-compliances were and why they were.

Participants identified that one of the key challenges that they faced after inspection was maintaining frontline staff members' motivation to implement the regulations and standards, and to evidence these. All of the participants described this as being a central part of their role as a PIC and as a leader. Here, PIC3 described how she worked to maintain staff motivation:

> As a frontline staff though you're always going to be 'Phew, that's over'. So, I try to make sure that that doesn't happen so that when they [the HIQA inspectors] knock the next day, we're just as prepared as we were the last day.

Similarly, PIC4 noted how there is a sense of "getting back to normal" after the inspection but also how it was her role to keep staff energised and focused:

> I suppose it's great to have it over and done with but it's never really over and done with, it's ongoing. There's such a big build up for the announced inspections that you sit there afterwards and go 'Right lads, we're going to keep on top of this'.

Another example of a formal directive was described by PIC2 in relation to escalated regulatory action by HIQA to bring the service into compliance. HIQA set out a regulatory plan and the participant described how this gave her clarity on the actions that needed to be taken and provided her with a mandate to take the required action.

4.3.3 Organisational impact

The participants highlighted the effect of what Smithson et al. describe as the "organisational impact" of regulation (2018, p. 14). Organisational impact relates to how the regulated service develops as a result of their interaction with the regulator, including developments in leadership, culture and motivation within the organisation (Smithson et al., 2018).

A number of the participants noted that their service provider organisation had grown and developed to support the achievement of the regulations and standards. They gave

a number of examples of internal systems to support staff that had developed in their respective organisations in response to HIQA's regulatory process.

One example of organisational impact discussed by participants were internal audits undertaken by line management. They noted that these were helpful as the line manager usually managed a cluster of services and so could bring learning from other centres.

Another example was the system of peer audits that has developed in two organisations where PICs inspect another centre against the regulations and standards. Participants described the benefits of this process, such as having an opportunity to put themselves in the role of the inspector, as well as being able to look at their own centre with fresh eyes after being in this role.

A further example of organisational impact was the introduction of quality teams in services. These teams have a number of functions, including supporting new PICs to understand the internal processes for meeting the regulations and standards, liaising with HIQA in relation to queries raised in inspection reports, and disseminating learning from inspections to the individual centres.

A final example of organisational impact was the support of line management to implement the regulations and standards and to prepare for inspection. Four of the participants had experienced very positive support from their line managers both in preparing for announced inspections and working with them to plan when and how the actions from an inspection would be implemented. Having the back-up of the manager helped participants to feel that this was a shared experience, rather than one where they, as the PIC, held all the responsibility for ensuring compliance. PIC4 described the importance of her line manager in the regulatory process:

> I'm very lucky, my service manager plays a vital role … They guide you, 'cause these guys would have been through numerous inspections, they have a cluster, they have numerous units within their cluster and they're bringing their experience from not only one unit but all their units into it.

In direct contrast to these systems of organisational support is the experience of one participant who was working in an organisation that was subject to escalated

regulatory action. This participant highlighted that there was no system of communication between the line manager and PICs or between PICs within the organisation. This participant relied on her own experience and the support of her staff team to address the issues raised in the inspection reports and to ensure people using the service were safe. She also developed an informal network with other PICs in the organisation to take action to try to improve the lives of people living within the service, all without the endorsement of the line management.

4.3.4 Relational impact

As described by Smithson et al. (2018) relational impact results from the relationship between the regulator - particularly the inspector - and the service provider. It is the soft, informal methods of influence that the regulator uses to effect change and how those being regulated experience this. The participants in this study also identified that the relationship between the regulator and service users was very important in understanding the quality of the service, a finding that is explored further in this section.

Initially participants described how inspection had impacted on them as a professional, noting that they felt inspection reports validated their work and gave them a confidence boost. PIC1 describes his experience of the impact of regulation here:

> My inspections have been useful, and it does give you confidence as a PIC and a worker. Because after they go and you get a good report you feel 'Well this is what we are here for, to provide a safe and stimulating service for service users and provide a good quality of life.

As highlighted in Chapter 2, the attributes of the inspector are very important factors in this experience (Furness, 2009; Brimblecombe et al., 1995; Smithson et al., 2018). PIC3 described the attributes that she believed were important in an inspector:

> It's very much down to inspectors, if you think you have someone who is professional and fair and approachable it makes it an awful lot more pleasant and a learning experience. Whereas if you have someone who, for whatever reason, is not approachable and isn't really interested in

finding out – they just make their own decision – it is a very negative experience. So, the inspector plays a huge part in it.

It was clear that the relationship between inspectors and PICs had changed since the start of HIQA's regulatory programme in 2013, and indeed the relationship between HIQA and service provider organisations had changed too. While not universally positive, participants felt there had been a notable improvement.

An example of this change was iterated by a number of participants who noted that more recent inspections, the inspector had stated at the outset that they were there to look at the services' good practice and that it was an opportunity for them all to learn and improve. Participants stated that they, and their staff team, had found this statement helpful because it felt more like a partnership than a test. This contrasted with experiences the early days of inspection where a number of participants' felt that the inspectors were trying to find things that were wrong. As PIC3 notes:

> It was back towards the start again, when it nearly felt like they [HIQA] thought you were trying to hide something … none of the services had the documentation because that wasn't the practice at the time … so for them, they probably felt like we were lying about things.

Through practice, participants felt that they had built up an understanding of the regulations and standards and how they should be put into practice. This gave them the confidence to defend their practice if the inspector was assessing that a practice was non-compliant. Here PIC1 describes an example of this:

> There was one policy where it said any [service users] support plan derives [requires] a risk assessment and that was in the policy, but I didn't have that risk assessment in place because I felt as PIC there wasn't a risk element there … I had to have that counterargument because for this person it is non-applicable. And I suppose having the confidence to challenge an inspector it is important … And I'm sure the inspector likes that because of your oversight of the centre and your understanding of the centre.

Participants felt there were ways to improve the relationship between HIQA and PICs, for example by PICs having an opportunity to liaise informally with the inspectors between inspections to seek advice. However, one of the participants who suggested

this also stated that they would have to be able to do it *"without fear that you were drawing attention to the service"*, highlighting the continued asymmetrical nature of the relationship between HIQA and service provider staff.

Participants felt it was very important that the inspectors engage meaningfully with service users and build a relationship with them to fully understand the quality of the service. Participants recognised that the inspectors' interaction with service users had improved over time and that they always sought to speak to service users directly. PIC3 described the changes that she had seen since the beginning of HIQA's regulatory programme for disability services:

> It's really only in the past few years that there is more engagement between HIQA inspectors and the residents whereas before it was very much 'We'll come in and inspect all of the documentation.' Whereas now people are really making an effort to engage with the residents if they want to … And generally, for the most part people want to talk to them, they genuinely want to be heard. And they're the most important people and it's great they're seeing that.

PIC4 noted that, in order to understand the quality of the service, inspectors needed to get to know service users and engage with them where they were at, rather than trying to assess the person's wellbeing and quality of life based on paperwork:

> These [regulatory processes] are here to protect service users but how much input are service users getting into the whole process? Do service users help HIQA prepare? … I think as a HIQA inspector you have to come in and be prepared to speak with service users, to allocate the time to review files if that's what they wish, help change their bed if that's what they want. The documentation doesn't cut it for me.

4.4 Overall Impact of Regulation, Standards and Inspection

Participants felt that regulation, standards and inspection had improved services overall by making service providers and staff accountable for their work. They also felt that if service users, or families, had concerns these could be raised without fear of negative consequences. This scrutiny by an external body had addressed what one participant described as the "cult-like behaviour" displayed in a service where she was a newly appointed PIC. PIC2:

So, when I went in, it was a very, I suppose the organisation I went into had cult-like behaviours and I thought it was very institutionalised. I still think, and I would have thought, 'What if HIQA wasn't around?' That scared me because I didn't know what would happen to that service.

Staff were also safer, participants felt, because there was clarity on what their role was, how they were supposed to carry it out and how they should be supported in doing so. They felt that the regulations and standards set out the supports that the service provider must have in place to deliver a safe service, including clear procedures around health and safety, staff training, and a focus on providing supervision and support to staff to do their job effectively. Here PIC3 describes how she believes that staff have benefitted from the regulatory process:

> Being compliant with the regulations actually gives you a bit more confidence, because you know your service is safe, you know your service is good. So, before you could have a great service for all the residents' and they'd be really happy but it's really, really dangerous. When I think back to 16 years ago, you were talking about loading 20 people into a bus with two seatbelts!

However, all of the participants recognised that with an increased level of accountability that there had been an increase in time spent on administration to evidence the work being done. A number of the participants felt that this took staff away from spending time with service users. Here PIC1 describes the impact that he sees that bureaucracy has had on time spent with service users:

> It's a harsh thing, you know if it's not documented it didn't happen ... I suppose there's a lot of paperwork and it does take away some of the time that we're spending with the residents. And I absolutely understand the need for it, but it seems to be a lot, **a lot** of paperwork.

Participants outlined what they were doing to minimise the impact of this bureaucracy, recognising that administration, while important in planning, should not become the purpose of the service. They acknowledged that frontline staff, particularly staff that had been in the centre a long time, often felt that the purpose of the service was being lost in paperwork. PIC5 described what she was doing to minimise the impact of this:

The frontline staff would think there is a lot of paperwork involved, and I suppose I would have felt that way myself. And that's what I'm trying to put through to staff, that you have a timeline of when you're doing your support and care plans or whatever it may be. So that you're not going 'Oh god, there's a lot of paperwork' because if it's 20 minutes once a week and then continued on. So, it's really, I suppose, organising yourself. I'm hoping that if they can see that I do that, they will follow suit.

4.5 Conclusion

As has been illustrated in these findings, participants in this study believe that the regulatory system is a necessary one, in that it holds services to account and thereby improves the safety of the services for people using them. Further, the participants state that, in their opinion, the regulatory system has had a role in improving the quality of life of service users. However, the findings illustrate that while all of the participants believe that the regulatory system is necessary, a number of them are unsure whether full compliance with it is ever achievable. Two main reasons are cited for this: the first reason is a lack of resources to achieve compliance; the second, and possibly more complex reason, is the inconsistency of assessment of compliance between inspectors. The findings also illustrate that the regulatory system has a complex set of impacts on social care services and the staff within them – these impacts are anticipatory, directive, organisational and relational. What is evident is that participants believe that the regulatory process should be a more social process that involves collaboration between the regulator, the PIC, and service users to support compliance and improvement.

5. Discussion

5.1 Introduction

In this chapter, key findings from the study to assess how social care managers experience the regulatory process and what impact this experience has on them and on service improvement is compared to research themes presented in the literature review. The key findings that are discussed are the legitimacy and achievability of regulations and standards, the multiple impacts that the regulatory process has on services and on the staff working within them. This chapter also sets out recommendations for policy and practice that have arisen from the overall findings emerging in the area of regulation.

5.2 Key Findings From this Study and How they Relate to the Literature

5.2.1 Legitimacy of the regulatory process

The findings of this study support the view that HIQA, as the state sanctioned regulator of health and social care services, does act in the role of a "representative of community moral values" (Tyler, 2011, p. 255). The participants in the study accept that HIQA plays an important role in ensuring that their work is safe and meeting the needs of service users. They believe that HIQA do this by providing clear standards that guide their work and by holding them accountable through directives, inspection and enforcement. These findings echo research undertaken with staff members in regulated services in England which found that staff in health and social care services accept the need for regulation, and believe it increases the safety of people using the service by holding service providers accountable for their work (Furness, 2009; Smithson et al., 2018).

However, the findings from this study also show that compliance with regulation is not always achievable for two reasons in particular. Firstly, the participants noted that resources were limited and that this often prevented the service from complying with the standards, a finding that is also seen in the literature (Clegg, 2008; Smithson et al., 2018).

Secondly, a number of the participants expressed that it was not always possible to achieve compliance with the regulations and standards as there was inconsistency between inspectors when assessing a service's compliance. This inconsistency between inspectors left these participants questioning whether they could ever be compliant. This experience had an undermining effect on the belief that the regulatory process was fair and reliable, two key elements in the legitimacy of a body that seeks to encourage what Tyler (2011) describes as a voluntary compliance culture. Research from the UK shows that staff in health and social care services have experience of this inconsistency between inspectors (Furness, 2009; Smithson et al., 2018) and that the effect of this inconsistency can lead to resistance to the regulator from regulated services, a or reluctance to accept their findings (Furness, 2009).

5.2.2 The human side of regulation

The importance of developing a positive working relationship between the regulator and the regulated service to support compliance and service improvement is highlighted in the findings of this study and resonates with other research as outlined in the literature review (Ayres & Braithwaite, 1992; Etienne, 2014; Furness, 2009; Smithson et al., 2018). Participants in this study recognised that, as a regulatory body, HIQA must have professional distance from services, however they identified opportunities for HIQA to provide advice and support to effect compliance and improvement in social care services. These included learning forums where HIQA and PICs come together to share learning from across the sector, and having an inspector assigned to the same service over a longer period of time, where the PIC could contact the inspector for advice between inspections. This is echoed in research by Miller and Mor (2008) who recommend that regulators should be more akin to consultants, identifying problems and sharing information on how to improve.

It has been highlighted in the research, and in the findings of this study, that the personal attributes of the inspector are very important in making the regulatory process - and the inspection event within this - a learning experience rather than one that feels like a test to be passed (and potentially quickly forgotten) (Furness, 2009; Smithson et al., 2018). It was accepted by the participants in this study that an inspector may need to be authoritative with a service if there is a non-compliance with

the regulations and standards. Participants felt that this was acceptable if the inspector is also consistent, fair and supportive in addressing the non-compliance. The research shows that this 'tough but fair' approach can positively affect longer-term voluntary compliance with the regulations and standards (Furness, 2009; Koornneef, 2010; Smithson et al., 2018). Given HIQA's large remit and limited resources, as well as its move towards a more responsive approach to regulation (HIQA, 2019), voluntary compliance by services is essential.

5.2.3 Effects of bureaucracy

The findings show that a number of participants felt that the regulatory system had increased the amount of time spent by staff on recording and documenting the work to evidence compliance with the regulations and standards. These participants highlighted that, in their experience, this had an impact on the amount of time working directly with service users. This finding mirrors wider research, as outlined in the literature review, which highlights that there is an inherent danger that paperwork becomes an end in itself, rather than a tool to aid the work, and that in this process, the needs of service users get lost. The participants outlined how they were managing the bureaucratic element of regulation to try to minimise its impact. What was evident is that many of the participants felt that the paperwork only showed a very narrow aspect of the work of the service. They felt that it was important that inspectors looked beyond the paperwork and engage more deeply in the life of the service and of the service users in order to understand if the service was of a good quality.

5.2.4 Internalising regulations and standards

Research discussed in the literature review demonstrated that there is a potential for regulated services to engage in "ritualistic compliance" with regulation (Furness, 2009), that is, the service appears to be complying with the regulation, however this compliance is only for show, and is not embedded in the service. While the findings from this study showed that participants expended a lot of energy on preparing paperwork and developing administrative systems to evidence compliance, there was no evidence to suggest that this was ritualistic. Indeed, participants welcomed regulations and standards as a framework for their practice. When they went through a

positive inspection process - even when non-compliances were identified - participants felt a sense of validation for their work and it gave them confidence that their work was effective in meeting the needs of service users.

5.3 Recommendations for Policy and Practice

There are a number of recommendations for policy and practice arising from this study. The first set of recommendations are directed at service provider organisations:

- It is recommended that regulated social care services consider developing a peer auditing system. This system would provide opportunities to bring learning from one centre to another, and for PICs to see their service with 'fresh eyes'. Further, peer audits contribute to the learning and development of staff, by giving them an opportunity to understand what an inspector is looking for when they are assessing compliance with the regulations and standards. This perspective on the inspection role, and the challenges within this role, may also contribute to improving relations between an inspector and a PIC.

- Service provider organisations could consider how best to bring PICs together at an intra-agency and inter-agency level to share their experience of regulation and to discuss how they have put directives into practice. This approach could contribute to creating a dynamic sector, open to learning and developing good practice together.

- Service provider organisations could consider how to more effectively engage service users in planning and preparing for inspections and giving voice to their views on both the quality of the service they receive and the regulatory system[7].

The second set of recommendations is directed at HIQA as the regulatory body:

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[7] In 2017 the National Federation of Voluntary Bodies developed a video with service users on what they thought of HIQA inspections.

- HIQA should further develop systems and training to ensure that there is consistency between inspectors when they are assessing compliance with the regulations and standards.

- HIQA could consider how they can engage more deeply in the life of the service and of the service user in order to really understand how a service is working.[8]

- HIQA has undertaken a series of 'Provider Roadshows' with service providers in disability services where good practice is discussed by inspectors and service providers (HIQA, 2019). It is recommended that HIQA also undertakes similar sessions with PICs and frontline staff in order to build these important relationships. This would also allow services to more easily seek advice and information from HIQA between inspections.

5.4 Conclusion

Based on the findings from this study and on wider research, this chapter has set out how the regulatory system impacts on social care managers. It has explored some of the potential implications of these impacts for the regulator, for staff, and for service users. As the findings of this study suggest, and as highlighted in the literature, the ideal situation for regulators - and for people using health and social care services - is one in which regulations and standards are internalised (Etienne, 2014), and are not merely a 'tick box' exercise for passing an inspection. Research shows that regulations and standards must be part of the daily work and culture of a service - it is what a social care manager does, not just what they do to satisfy an inspector (Featherstone et al., 2012; Koornneef, 2010; Smithson et al., 2018). This chapter has presented a number of recommendations for policy and practice that are aimed at improving the experience and consistency of the regulatory process and are also aimed at ensuring that the voice of the service user is heard more effectively in the process.

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[8] HIQA engage with service users in disability services through residents' groups and local committees. HIQA have committed to expanding this work in the future (HIQA, 2019).

6. Conclusion

6.1 Final Conclusions

This study set out to examine how social care managers in the role of a person in charge (PIC) of a residential service for adults with disabilities experience the regulatory system, and what impact this experience has on them and on service improvement. This was completed by reviewing relevant literature and undertaking a qualitative study with six social care managers who have been in the role of PIC and who have had their work inspected by HIQA. This chapter outlines the conclusions of the study and recommendations for further research. The strengths and limitations of this study will also be discussed.

It is clear from the findings in this study that social care managers in the role of PIC believe that regulation and the regulatory system are important and accept its role in holding them, and the services that they manage, to account. The findings indicate, however, that how the regulator carries out its work and who does it is of considerable importance to participants in order for them to accept the legitimacy of the regulatory system. When a PIC experiences inconsistency, is subject to unrealistic expectations, or is treated with suspicion, then they are less likely to believe that regulation has positive benefits for the service and for service users. Further, the findings of this study show that regulation and regulatory systems have a more complex set of impacts on participants than simple cause and effect, impacts that must be considered by both service providers and the regulatory body, HIQA, in order to ensure voluntary compliance and a commitment to service improvement.

6.2 Strengths and Limitations of the Study

According to a recent HIQA report there are 1,183 residential centres providing services to 8,800 adults and children with disabilities (HIQA, 2019). This means that the small scale of this study, interviewing only six social care managers in the role of Persons in Charge, limits the generalisability of any findings and does not allow any statistical claims to be made in this regard. However, the study was tailored to meet the scope of the M.A. in Social Care Leadership and Management which requires that

the study be completed in an agreed period of time following ethical approval. Due to the time available to complete the study, it was not feasible to undertake a larger scale study. Therefore, this study aimed to be representative rather than comprehensive.

A second limitation is that, after the initial purposive sampling of participants with the requisite experience to answer the research question, participants self-selected to take part in the study. Self-selection has both advantages and disadvantages as set out by Sharma (2017). The advantages are that participants who self-select are more committed to taking part in the research and they are open to sharing their experiences. These two advantages were realised in this study, with the six participants being very open and honest about their experience of the regulatory process. However, the disadvantage of self-selection is that only participants who want to share a particular point of view participate, so the study may not be representative of experiences more generally. This disadvantage was realised to some extent in this study, as only participants who had a relatively positive experience of the regulatory process took part in the study. However, as can be seen in the findings, even with this self-selected sample there are criticisms and suggestions for improvement for the regulator.

6.3 Recommendations for Further Research

As discussed in the literature review, there is a dearth of research on the personal and emotional impact of regulation on staff within social care services. A larger scale study on the personal and emotional impacts of the regulatory process to assess if, and how, it affects service delivery would be of benefit to both HIQA and to service providers. Within this research it would also be of benefit to widen out the research and seek the views of wider staff grades in regulated services to understand how they experience the regulatory process and the impact it has on them. Further, in line with research undertaken by Smithson et al. (2018), this research should seek the views of the regulators to understand how they perceive the impact of regulation on services, and on staff within those services, and how they can use learning from such research to effect change and further improvement in social care services.

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Appendix 1: Interview Schedule

1. How many HIQA inspections, either announced or unannounced, have you been in the role of person in charge for?

2. Do you think that regulation and inspection are necessary?

3. In your opinion what is the purpose of regulation and inspection?

4. Do you think that the standards and regulations set out by HIQA and the Department of Health are achievable?

5. What procedures or systems does your organisation have in place to support PICs to:

   a) understand regulation;
   b) to prepare for inspections;
   c) and to act on recommendations?

6. What happens after the inspection is over (between inspections)?

7. Can you describe your experience of one inspection process?

8. Do you think the inspection process has changed your service? Can you describe how it has changed it?

9. Can you give an example of a direct impact inspection has had on your service?

10. Do you have any suggestions that would improve the inspection process so that it improves the service?

11. Do you think there is anything that HIQA can do to assist services in achieving the standards and regulations?

Appendix 2: Information Sheet

[A copy of this document was forwarded to all prospective participants along with the Interview Schedule.]

Information Sheet

I would like to invite you to take part in this research study. Before you decide, you need to understand why the research is being done and what it involves for you. Please take time to read the following information carefully. Please ask questions if anything you read is not clear or if you would like more information.

Researcher background

I am a final year student completing a part-time MA in Social Care Leadership and Management at Technological University Dublin (formerly DIT). As part of the requirements for the completion of this programme students are required to undertake a study related to the area of social care management.

My background is as a social care worker and manager. I initially worked for St. Michael's House as a staff member in a number of residential centres. Following this I worked with Focus Ireland as a frontline staff member and later as the Service Standards Officer, developing standards and policies for a wide range of homeless and housing services. I am now the Standards Development Lead with the Health Information Quality Authority (HIQA), leading on the development of national standards for health and social care services.

It is important to note that I do not have a role in the inspection process within HIQA. Further, for the purposes of this study, I am in the role of a M.A. student and not in any way acting on behalf of HIQA.

Aim of the study

The aim of my study is to assess what social care managers in the role of person in charge (PIC) in residential services for adults with disabilities learn during the HIQA

inspection process and whether they believe there is a link between such learning and service improvement.

Invitation to participate

You have been invited to take part in this study because you have experience of being a person in charge (PIC) during a HIQA inspection process.

Study details

If you choose to take part in this study, you will be asked to participate in a 45-minute interview at an agreed location. During the interview you will be asked a number of questions about your experience of preparing for inspections, participating in inspections and responding to the requirements and or recommendations arising from inspections. You will be provided with an interview schedule in advance of the interview.

The interviews will be audio-recorded. You will be offered the opportunity to review your interview when it has been written up and amend it, if necessary.

Participation

Participation in this study is completely voluntary. You have the right to refuse to participate however if you do participate you have the right to refuse to answer a particular question. You also have the right to withdraw from the study at any time. If you do choose to withdraw from the study, then your data will not be used.

Confidentiality

All information shared is confidential unless the information indicates a person may be at risk of harm or that a crime has been committed. Furthermore, all participant and organisational data will be anonymised in the final report and will not be communicated to their organisation or to HIQA.

Non-anonymised data is collected in the form of signed consent forms and audio-recordings and retained as part of the research process. These will be retained in a secure file and only the researcher will have access to this file until the exam board

confirms the results of the dissertation in February 2020. A transcript of interviews in which all identifying information has been removed will be retained for a further two years after this. Under freedom of information legislation, you are entitled to access the information you have provided at any time.

Results of the study

The results of the study will be submitted in the form of a dissertation to Technical University Dublin to fulfil the requirements of the M.A. in Social Care Leadership and Management. The results may be used as part of a research publication at a later date.

Further information

For further information please contact the researcher:

Deirdre Connolly – (redacted)

If you have any questions or concerns regarding this study, please contact my academic supervisor:

Dr. Kevin Lalor – (redacted)

Appendix 3: Consent Form

[A copy of this document was forwarded to all prospective participants along with the Interview Schedule and Information Sheet.]

Consent to take part in research

- I……………………………………… voluntarily agree to participate in this research study.

- I understand that even if I agree to participate now, I can withdraw at any time or refuse to answer any question without any consequences of any kind.

- I understand that I can withdraw permission to use data from my interview after the interview, and my information will not be used.

- I have had the purpose and nature of the study explained to me in writing and I have had the opportunity to ask questions about the study.

- I understand that participation involves participation in a 45-minute one-to-one audio-recorded interview where I will be asked questions about my experiences of being a person in charge (PIC) of a residential centre for people with intellectual disabilities during a HIQA inspection.

- I understand that I will not benefit directly from participating in this research.

- I agree to my interview being audio-recorded.

- I understand that I will be offered the opportunity to review my interview when it is written up and to amend it, if necessary.

- I understand that all information I provide for this study will be treated confidentially.

- I understand that in any report on the results of this research my identity will remain anonymous. This will be done by changing my name and disguising any details of my interview which may reveal my identity or the identity of the organisation or people I speak about.

- I understand that disguised extracts from my interview may be quoted in a dissertation, and perhaps in a research publication thereafter.

- I understand that organisational or participant details from this dissertation will not be reported back to my organisation or to HIQA.

- I understand that if I inform the researcher that myself or someone else is at risk of harm, they may have to report this to the relevant authorities - they will discuss this with me first but may be required to report with or without my permission.

- I understand that signed consent forms and original audio recordings will be retained in a secure file and only the researcher will have access to this file until the exam board confirms the results of the dissertation in February 2020.

- I understand that a transcript of my interview in which all identifying information has been removed will be retained for two years from the date of the exam board in January 2020.

- I understand that under freedom of information legislation I am entitled to access the information I have provided at any time while it is in storage as specified above.

- I understand that I am free to contact any of the people involved in the research to seek further clarification and information.

Contact details of researcher:
Deirdre Connolly – (redacted)

Contact details of academic supervisor:
Dr. Kevin Lalor – (redacted)

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   Signature of participant   Date

I believe the participant is giving informed consent to participate in this study

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Signature of researcher   Date