



# QUALITY CARE FOR ALL: STANDARDS AND ACCOUNTABILITY IN SOCIAL CARE



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Sinn Féin spokesperson on Health



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## Priority Recommendations

- **A full public inquiry into nursing home death, neglect, abuse, and isolation during the Covid-19 pandemic.**
- **Expedite adult safeguarding legislation and amendments to the patient safety act to:**
  - **Give a legal right of entry and powers of investigation to appropriate authorities,**
  - **Introduce mandatory reporting of abuse and neglect in all residential care settings.**
- **Fast-track a series of reforms to empower HIQA to investigate individual clinical concerns, advance an independent safeguarding authority, issue compliance notices, and better regulate nursing homes, designated centres, and home care.**
- **Introduce accountability at an organisational level where failures to govern safely in accordance with HIQA regulations result in loss of health or life for residents in care of the service.**
- **Establish an Office of the Chief Health and Social Care Professional in the Department of Health.**

# 1. Introduction

The pandemic restrictions, combined with pre-existing poor oversight of the nursing home sector, gave rise to a perfect storm that led to neglect, abuse, and severe isolation of some of our most vulnerable citizens.

On 13 July 2021, the Dáil passed a motion which, among other things, called for:

- ▶ **A full public inquiry into the deaths of residents, quality of care, and systemic failures in the nursing home sector during the Covid-19 pandemic,**
- ▶ **Enactment of new adult safeguarding and safety legislation, including a legal right of entry and powers of investigation for appropriate authorities,**
- ▶ **Reforms for HIQA to oversee a new governance framework for the nursing home sector, including the enforcement of new legislation and powers including compliance notices and investigation of individual clinical concerns,**
- ▶ **Introduction of accountability at an organisational level where failures to govern safely in accordance with HIQA regulations result in loss of health or life for residents in care of the service.**

This motion was tabled by Sinn Féin on behalf of the families which were impacted and lost loved one's health or lives due to systemic failures in the nursing home sector.

I have worked closely with Care Champions, the Irish Association of Social Workers, and liaised with the Health Information and Quality Authority to formulate these legislative and policy proposals.

This document also includes proposals developed following various engagements across the spectrum of health and social care unions as well as professional associations.



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## 2. Nursing Homes Covid-19 Public Inquiry

### Recommendation

**There must be a full public inquiry into nursing home death, neglect, abuse, and isolation during the Covid-19 pandemic.**

Families are demanding a full public inquiry into the deaths of residents, quality of care, and systemic failures in the nursing home sector during the Covid-19 pandemic.

Our starting point must be to acknowledge what happened and lay bare the facts.

There is a responsibility on the State and the sector to acknowledge and deal with their failings which occurred before and throughout the pandemic.

The sector was unprepared for an epidemic despite being a prime setting for mortality in the event of an infectious disease outbreak.

Even by the third wave, many nursing homes were overwhelmed when outbreaks caused major staff shortages, with homes and the HSE competing for staff.

Subsequent HIQA reports have highlighted how issues go beyond staffing into the lack of basic governance and risk management structures in several homes.

In the last 18 months, more than 2,000 nursing home residents and staff sadly

passed away from Covid-19, in instances related to outbreaks in their care homes.

Behind this, others suffered from neglect and abuse which has been hidden under severe restrictions with an inconsistent enforcement of the guidelines.

Likewise, many more have experienced severe isolation as a result of poorly implemented and unenforced HPSC visitation guidelines.

In many cases, nursing homes were allowed to shut themselves off from the watchful eye and comfort of family and friends.

This public inquiry must deliver a transparent, human rights led process which is time limited.

Residents and families must be part of the development of the terms of reference and this consultation must include State-funded advocacy groups (i.e National Patient Advocacy Service/Safe Advocacy) and volunteer family led advocacy groups (Care Champions/ Dealgan family group).

An inquiry should not in any way, prevent or delay ongoing reform of safeguarding.

### 3. Protecting Rights to Family Life in Residential Settings

#### Recommendation

**Visitation Guidance must be put in law with powers given to HIQA for enforcement.**

The facilitation of family life can no longer be viewed as a luxury add on but as an essential part of the function and purpose of nursing home care.

Continued reports of nursing homes failing to adhere to public health guidance on visitation means residents are denied their rights to family life.

Some nursing homes have repeatedly introduced excessive restrictions to those outlined in the national HPSC visitation guidance.

The State must intervene to prevent this unwarranted interference in family life and place HPSC visitation guidance on a statutory setting.

HIQA must be empowered to monitor compliance and enforce such statutory guidance as required.

Furthermore, to protect and enhance rights to family life in residential settings, we must ensure that:

- Any further ban on outdoor and window visits must only occur if accompanied by independent, freely available, written advice from the local public health team,
- All nursing homes invest in high-quality visiting spaces,
- Penalties apply if nursing homes fail to comply with such statutory requirements.



## 4. Adult Safeguarding, Investigations, and Right of Entry

### Recommendations

**Expedite adult safeguarding legislation and amendments to the patient safety act to give a legal right of entry and powers of investigation to appropriate authorities.**

**Introduce mandatory reporting of abuse and neglect in all care settings.**

**Empower HIQA to implement, monitor, and enforce safeguarding reformed patient safety legislation on a system-level, and regulate the staff of the safeguarding authority.**

**Empower HIQA's Inspectorate on an interim basis as a safeguarding authority to investigate individual clinical concerns in nursing homes and designated centres.**

**Establish an independent safeguarding authority which would investigate all cases of neglect and abuse, including those found in HIQA's investigations or which are otherwise reported to the authority.**

Social workers, family advocates, campaigners, and others have for years been pointing to flaws in the State's governance of nursing homes.

There is a serious lack of safeguarding legislation to tackle abuse and neglect.

Comprehensive legislation was introduced in the 25th Seanad by Senator Colette Kelleher but the Government chose to not accept it or even seek to amend it.

This decision left a gaping hole in the defences of some of our most vulnerable citizens when they were isolated during the pandemic.

This has also left no statutory authority with a right of entry or powers of investigation to examine individual clinical concerns.

Despite the scandals in Áras Attracta and Leas Cross, a UN Statement in May 2020 acknowledging that abuse and neglect would increase during Covid-19, and Department of Health commissioned research highlighting

the lack of knowledge on how to report abuse, the Government have the failed to put in place any legislation which would empower residents, families, advocates, or social workers to uncover neglect and abuse.

The solutions for adult safeguarding were already presented in the Adult Safeguarding Bill 2017, subject to amendments.

This must be revived and advanced by Government, which must also ensure a legal right of entry for social workers and safeguarding teams.

Government must also progress amendments to the Patient Safety Act and Health Act, as proposed by HIQA, to empower them to investigate individual clinical concerns in both nursing homes and other designated centres.

An independent safeguarding authority must be established which would investigate all cases of neglect and abuse, including those found in HIQA's investigations or which are otherwise reported to the authority.

## Quality Care for All:

We must also mandate the reporting of neglect and abuse of residents by all staff in nursing homes to both An Garda Síochána and appropriate social worker-led safeguarding teams.

All safeguarding and protection social work teams must offer a consistent response to

abuse and neglect concerns from residents in private nursing homes.

Safeguarding and protection social work teams should be regulated by HIQA to ensure quality of service is acceptable, similar to Tusla child protection teams.



# 5. Care Centre Quality Standards Enforcement

### Recommendations

**Fast track reforms to empower HIQA with improvement and compliance notices.**

**Implement HIQA's advice on improving social care sector regulations.**

**Introduce accountability at an organisational level where failures to govern safely in accordance with HIQA regulations result in loss of health or life for residents in care of the service.**

As well as powers which focus on individual-level concerns, there are several improvements which can be made to HIQA's system-level standards enforcement powers.

Currently, HIQA's powers of enforcement are a blunt instrument.

The major sanction which is available to them is closure, but this is a very slow and often difficult process.

This requires a serially non-compliant home to be taken over by the HSE, though in some instances the homes in question may already be HSE homes.

Alternatively, residents must be transferred to compliant homes, but capacity is lacking.

The optimal solution is a tool which would gradually force standards up to compliant levels and ensure more timely and concrete actions can be taken when there are serious deteriorations in standards of care or repeated failures to provide appropriate standards of care.

HIQA should be empowered to issue Compliance Notices, similar to the Health and Safety Authority and others, to apply regulatory and financial pressures to drive up quality of care.

This must be applicable across all designated centres for care and should not be limited solely to older person care centres.

All residents regardless of their age, disability of cognitive status deserve these protections.

The regulations which HIQA enforce are also outdated.

HIQA have told the Health Committee that it has made submissions to the Department of Health on how to improve these regulations. This must be done as a matter of urgency.

Regulatory reform must also include accountability at an organisational level where failures to govern safely in accordance with HIQA regulations result in loss of health or life for residents in care of the service.

This could include fines and criminal offences where appropriate relating to management and owners of centres.

Both nursing homes and HIQA must be obliged to advise residents and families of risks identified within nursing homes at the earliest opportunity.

This is essential so that residents can make informed decisions about their choice to remain living in their home.

## 6. Setting Comprehensive Social Care Standards

### Recommendations

**Government must work with workers, unions, and the home care sector to develop legal requirements around qualifications, training standards, and experience of social care workers and providers.**

**HIQA's remit must be expanded to ensure that all health and social care providers operate under a regulated framework with consistent cross-sectoral standards.**

**Home care regulations must be introduced with the aim of harmonising care standards and access across the State.**

**Regulatory standards subject to HIQA enforcement must be introduced for assisted living, sheltered housing, personal assistance, day services, home sharing, hospice and living services, and emergency accommodation services.**

**Safeguarding and protection social work teams provide varying services across HSE areas. HIQA must regulate the social work teams providing a safeguarding and protection service to adults in community and residential settings just as they regulate social work teams in Tusla who provide a similar service to children.**

The need for standards improvement is not limited to care in nursing homes and designated centres.

There is an absence of comprehensive cross-sectoral social care policy in the State.

This must be addressed to support the rights and needs of people who require support in our communities and care services.

Social care is advancing and changing as the years go by – regulations must be updated to ensure that the rights of people who use health and social care services are supported and protected.

A comprehensive social care policy would ensure a clinical governance link across the social care sector with common, enforceable standards.

There is a lack of legal requirements regarding the qualifications, training standards, and

experience of healthcare assistants outside of the public sector.

Social care staff, including health care assistants and paid advocates must be registered and regulated.

This is important for the professional recognition and rights of workers as well as protecting quality care.

This also relates to ensuring adequate skill level of nursing home staff, reporting requirements and skill base in the workforce.

We must avoid repeating the mistakes of the past by progressing a fragmented governance structure which devolves statutory responsibility to private entities.

Representatives of workers in these settings, such as SIPTU, must be engaged with to advance a framework which protects both workers and residents in the home care sector.

## Standards and Accountability in Social Care

Again, HIQA have made a series of recommendations to fill the void of home care regulation.

Access to home care services and the quality of those services is inconsistent across the State.

Similarly, the practice of marketisation and tendering has resulted in a race to the bottom as well as raised concerns of market concentration in large, non-resident corporations.

This care for profit model has posed substantial challenges for people in remote locations or with complex needs in securing care, as the provision of their care is costly and the system disincentivises their care by private agencies.

Stakeholders have raised concerns that this has resulted in a dilution of care standards and workers' rights. That is both reckless and irresponsible.

Private providers – whether they are private hospitals or home care providers – do not face the same level of regulation and quality standards as public providers do.

HIQA's remit must be expanded to implement,

monitor, and enforce care quality standards across the home care sector.

HIQA's authority must also be expanded into private sector healthcare where it currently does not reach to ensure all healthcare providers operate under the same standards.

When the Government introduces legislation to underpin the statutory home care scheme, it must recognise that there is a deficit beyond home care which is more than just regulating services.

Assisted living, sheltered housing, personal assistance, day services, home sharing, hospice and living services, and emergency accommodation services all lack appropriate regulatory oversight.

Access to primary and community care services in the wider health and social care service must be ensured for residents of nursing homes as part of a universal, single-tier National Health Service.

This is essential to support their health and social care needs and includes overcoming barriers such as transportation costs. This is a basic requisite of any safe model of care.

## 7. Office of the Chief Health and Social Care Professional

### Recommendations

#### **Establish an Office of the Chief Health and Social Care Professional in the Department of Health.**

The Office of the Chief Medical Officer and the Office of the Chief Nursing Officer have been instrumental in recent years in advancing standards across healthcare.

As with much of the social care sector, as highlighted in this document, there is a deficit in the Department of Health in terms of profession-led policymaking in the health and social care sphere.

We would establish an Office of the Chief Health and Social Care Professional Officer in the Department of Health, similar to the CMO and CNO, to balance a multi-disciplinary approach to health and social care services.

This would not take away from the medical and nursing professions, which play an instrumental role in the clinical governance of the health system.

Instead, the office would reflect the depth of expertise available in our modern health and social care workforce, providing a vital multidisciplinary perspective currently absent at strategic level within the Department of Health.

Such an office, which is supported by trade unions and professional associations in the health and social care fields, would drive the development of new policy and regulation for health and social care.

This would set sectoral and professional standards which would improve the lot of workers and patients.

Such an Office would bring an additional perspective to decision making drawing on the experience of health and social care professionals.

# Appendix 1

### **Sinn Féin Motion on Long-Term Residential Care reform Private Members' Business, Tuesday, 13 July 2021**

"That Dáil Éireann:

notes that:

- due to the Covid-19 pandemic, guidance on visitation to long-term residential care facilities was issued by the Health Protection Surveillance Centre, which included requirements to facilitate window visits during all levels of pandemic restrictions;
- this guidance was not placed on a statutory basis and there was no authority which could compel its implementation, monitor compliance, or sanction a non-compliant facility;
- nursing home residents, their families, advocates, and social workers have been raising concerns since the beginning of the pandemic that this created an unsafe environment, and warned of high risks of neglect and abuse, and that residents would suffer heavy consequences from isolation;
- concerns were raised by nursing home representatives regarding the testing protocols and procedures around discharging hospital patients to care facilities, staffing levels, and ability to comply with regulations;
- nursing homes received financial assistance from the State to aid with pandemic protection measures;
- more than 2,000 nursing home residents have died due to Covid-19, equating to more than 40 per cent of Covid-19 related deaths in the State; and

further notes that:

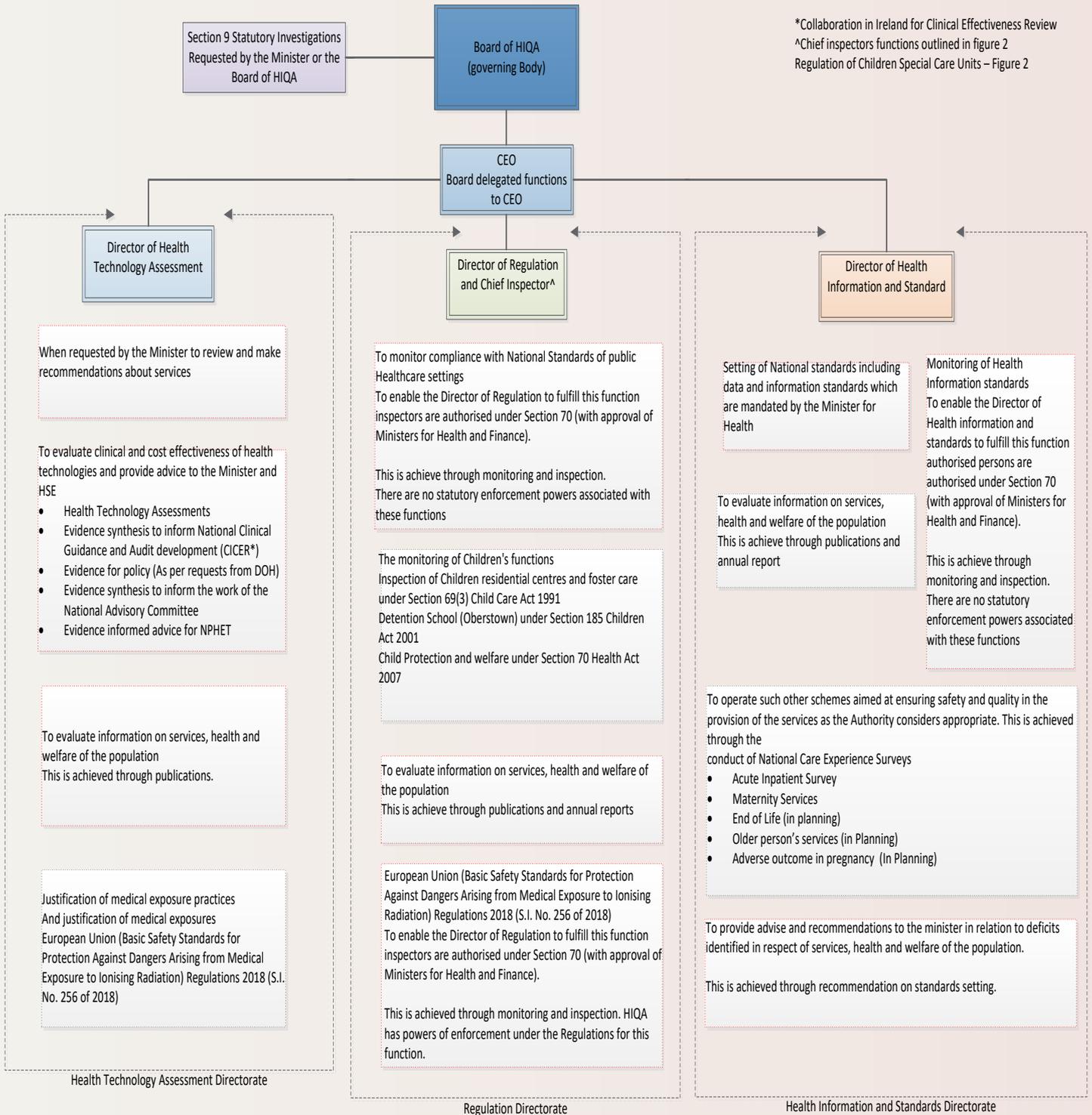
- the Health Information and Quality Authority (HIQA) has warned successive Ministers for years that the regulatory, governance, and safeguarding framework for the older persons residential care sector was insufficient;
- the Department of Health has yet to advance safeguarding legislation despite years of mounting evidence for its need;
- there is no designated independent authority with powers to investigate individual complaints of neglect or abuse in the social care sector, and that Health Service Executive Safeguarding and Protection Teams are not empowered or resourced to investigate;
- social workers are the regulated professionals who are trained for safeguarding and the protection of vulnerable people; and

calls on the Government to:

- commence a full public inquiry into the deaths of residents and quality of care in nursing homes during the Covid-19 pandemic, and systemic failures in the sector;
- place Long-Term Residential Care Facility (LTRCF) visitation guidance on a statutory footing and give interim authority to HIQA to enforce it;
- expedite adult safeguarding legislation, including legal right of entry and powers of investigation for appropriate authorities;
- ensure all residents are treated as community clients with direct access to safeguarding social work services and all primary care services, including an independent social worker liaison attached to each Covid-19 cluster in LTRCFs;
- empower a State agency to independently implement, monitor, oversee and enforce safeguarding legislation and investigate individual complaints in the social care sector;
- fast track reforms to empower HIQA with improvement and compliance notices and improve social care sector regulations in line with HIQA advice;
- mandate reporting of neglect and abuse of residents by all staff in nursing homes to both An Garda Síochána and social worker Safeguarding and Protection Teams; and
- introduce accountability at an organisational level, in terms of penalties and criminal offences, where failures to govern safely in accordance with HIQA regulations result in loss of health or life for residents in care of the service."

# Appendix 2

## Functions and Organisation of HIQA



\*Collaboration in Ireland for Clinical Effectiveness Review  
^Chief inspectors functions outlined in figure 2  
Regulation of Children Special Care Units – Figure 2



# Quality Care for All: Standards and Accountability in Social Care



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