# **CIB Response to Department of Health Consultation on the Regulation of Home Support Services**

## Question 3:

**Do you agree that the home support regulations should cover the following types of activity for those who need assistance due to illness, frailty or disability? Place an X in the appropriate box.**

|  |  |  |  |
| --- | --- | --- | --- |
|  | Yes | No | Unsure |
| Physical assistance with mobility, washing, mealtimes and using the bathroom, or reminders/ supervision of these activities where necessary | [x]  |  |  |
| Reminding or supervising someone to take medication | [x]  |  |  |
| Helping someone to do everyday activities such as shopping, cooking and cleaning | [x]  |  |  |
| Exercise and social engagement inside and outside the home | [x]  |  |  |
| Care for the emotional welfare of the service user, such as listening and providing encouragement | [x]  |  |  |
| Personal assistance (that is a package of assistance provided to support independence, health and social engagement) | [x]  |  |  |

The home care regulatory system needs to distinguish between people who require care and support as a result of frailty or reduced decision--making capacity and people who require the support of a Personal Assistant (PA) to carry out the normal activities of daily living, in particular, attendance at and participation in work.

The support needs of people with a physical or sensory disability who can function fully with appropriate technology and personal assistance are clearly very different from the care needs of people with an intellectual disability, those who have a frailty associated with the ageing process or who have reduced decision-making capacity as a result of dementia. (See also answer under Question 4.)

It is important that the regulatory system focuses on outcomes as well as on processes and that the focus remains on ensuring that each individual gets the best possible quality of care both currently and as their care needs change.

Personalised care provision must be at the core of the regulatory system.

**Question 4**

**Do you agree with the following types of service are NOT covered by these home support regulations? Place an X in the appropriate box.**

|  |  |  |  |
| --- | --- | --- | --- |
|  | Yes | No | Unsure |
| Services for people aged less than 18 |  |  | [x]   |
| Home support by a family member or friend | [x]  |  |  |
| Home support services that are unpaid | [x]  |  |  |
| A paid employment relationship between an individual home support worker and one service-user |  |  | [x]  |
| Services provided only by registered healthcare professionals (such as nurses or physiotherapists) | [x]  |  |  |

Typically, PAs are employed by the individual with a disability (the Leader) who receives financial assistance from the State for this purpose. It is likely that some regulatory provision for contracts between Personal Assistants and Leaders would help to ensure that the rights of both are well protected.

There is also a need to make some regulatory provision for situations where people use an online platform to employ carers directly and where they can set their own rates, hours and the specific services to be provided.

It is also the case that home care can be provided ‘free’ on a voluntary basis but this may lend itself to informal payment in cash or in the expectation of obtaining an advantage or favour in return for providing such care (e.g., transfer of property). While such individual arrangements are likely to be difficult to regulate, some consideration needs to be given as to how this can be done in order to ensure that such arrangements do not result in abuse or exploitation.

Also relevant from a regulatory perspective is the flagged intention by Government to introduce a Personalised Budgets Approach through which people would be allocated a ‘purse’ of money to enable them to purchase their own care and support.

**Question 5:**

**These regulations will require all home support workers to have minimum educational qualifications, or to get these within a set timeframe.**

**Do you agree with this? Yes**

There is a clear need to ensure a standardised quality national approach to home care. Clearly, this requires that care staff be educated and trained up to a certain level (e.g., QQI level 5 or 6). However, it is also important to guard against losing competent care workers due to their inability to gain educational qualifications to the prescribed standard. It is almost certain that many home care professionals who do not have formal training are highly skilled and ways need to be found of keeping them in the system through, for example, targeted incremental training programmes at local level which recognise and build on experience and skills acquired through practice.

It would also be important to have banded remuneration linked to different levels of home carer training/education. Provision for reciprocal action on pay and career progression is likely to be required. Provision for different ‘types’ of home care (e.g., dementia-specific) may facilitate the more effective deployment of home care workers. It is likely that strong regulation relating to pay and conditions as well as options for career progression would attract more people to the home care sector.

There is a crucial need to ensure that family carers are not inadvertently included under the regulation umbrella.

**Question 6:**

**Do you believe the overall impact of the proposed regulations will be: Positive** [x]

Notwithstanding the welcome and likely very positive impact of the regulation of home care, there are diverse risks associated with its introduction, for example, driving up the cost of services; a decrease in the pool of home care professionals initially; home care becoming over-regulated, technocratic and a related diminution of the important person-centred focus; people (care recipients and families) not wanting to report regulation issues to avoid conflict or because of fear of having the home support service withdrawn.

It would be important that there is a sufficient timeframe given to implementing new regulations and that this be done on a phased basis.

It is very likely that there is potential for residential care providers to deliver home care given that they are already familiar with regulation and that there are very likely to be transferable skills.

**Question 7:**

**What do you consider to be the benefits of introducing these regulations for home support providers?**

It has been a significant anomaly in the system that residential care facilities have been regulated for a number of years but that the home care sector has not. Addressing this deficit is critically important because the vast majority of people requiring care and support want it provided in their own homes.

There is currently no regulatory barrier to entering the home care sector in Ireland. Where organisations provide homecare without HSE funding, there is no requirement to comply with HSE standards or policies and procedures. In theory, at present, any organisation can provide any type of home care.

The absence of any oversight and independent assurance as to the quality and standards of home care provision exposes vulnerable adults in receipt of home care services to the risks of abuse, neglect and harm.

There is currently no provision for independent inspection of home care service providers, or investigation of complaints relating to safeguarding concerns and no statutory provisions or policy standards regarding the need for a care plan for adults in receipt of homecare services.

Regulation will help to ensure that there is standardised home care available nationally and that home care workers are appropriately remunerated and have their employed rights protected. Regulation will also contribute to raising the status of home care work in society generally. However, it is only one part of the broader reform that is needed for care in the community.

## Question 8:

**Do you have any concerns about the introduction of these regulations?**

It is very likely that regulation will be problematic for some in the sector, such as smaller community-based home care providers. Some providers may feel that they do not have the capability or capacity to meet the regulations. Consideration needs to be given to allocating transitional supports to such providers.

There needs to be lead-in period for providers to become compliant and a ‘roadmap to compliance’ identified.

There needs to be a mechanism to identify when a person’s home may not be a suitable care environment, and some provision for assessment in terms of the safety of the service user’s home for home care professionals providing care within it.

The focus must remain on the nature and quality of the care services to be provided and regulation should not become an end in itself.

# Service Delivery

## Question 9:

Do you agree with the requirements set out in sections 3 - 10 under Service Delivery?

|  |  |  |  |
| --- | --- | --- | --- |
|  | Yes | No | Unsure |
| Section 3. Statement of Purpose | [x]  |  |  |
| Section 4. Principles of Service Delivery | [x]  |  |  |
| Section 5. Contract between Service-User and Home Support Provider | [x]  |  |  |
| Section 6. Needs Assessment and Personal Support Plan | [x]  |  |  |
| Section 7. Management of Records |  | [x]  |  |
| Section 8. Service Provision | [x]  |  |  |
| Section 9. Medication Management Support | [x]  |  |  |
| Section 10. Safeguarding and Protection of the Service-User |  | [x]  |  |

The Regulations should require that a contract between service-user and home support provider include a clear statement that the service provider will ensure that at all times the care recipient is safeguarded and protected from abuse in any form, including coercive control and financial exploitation.

Some private home care providers are members of Home and Community Care Ireland (HCCI) (an umbrella organisation that represents a number of private homecare providers in Ireland). While the HCCI *Home Care Standards* includes provisions directed at protecting recipients of homecare from abuse and exploitation, these *Standards* apply only to members of the HCCI who are not subject to any independent oversight or regulation.

The Regulations need to refer to the provisions of the Assisted Decision-making (Capacity) Act 2015 with particular reference to how supported decision-making is to be provided for in order to ensure that each individual is included in decision-making about their care and support to the greatest extent possible,

There is also a need for a clear regulatory statement in relation to how an allegation of abuse against a home care professional by a service user is to be dealt with by the service provider. (See also answer to Question 12 below).

Some further elaboration on the role of advocates would be welcome in the regulation and guidelines.

# Staffing

## Question 10:

Do you agree with the requirements set out in sections 11 – 13 under Staffing?

|  |  |  |  |
| --- | --- | --- | --- |
|  | Yes | No | Unsure |
| Section 11. Staffing | [x]  |  |  |
| Section 12. Qualifications, Training and Development | [x]  |  |  |
| Section 13. Supervision of Staff |  |  | [x]  |

There is a need for a regulatory requirement for all home care providers to have a clearly stated Working Alone Policy which makes provision for various contingencies where there may be a potential risk of harm to a care worker, e.g., from the service user, a relative of the service user or a neighbor. This is also necessary in order to protect vulnerable service users from abuse and exploitation.

## Question 11:

Do you agree with the requirements set out in sections 14 -16 under Corporate Governance?

|  |  |  |  |
| --- | --- | --- | --- |
|  | Yes | No | Unsure |
| Section 14. Management of the Service | [x]  |  |  |
| Section 15. Reporting Data to Regulator | [x]  |  |  |
| Section 16. Financial Procedures | [x]  |  |  |

There may be a data protection issue about storing records in a person’s home due to the fact that such records could potentially be available to people who have no right to see them, e.g., visiting neighbours, friends or relatives.

The provision in Section 16 for increasing fees should include some reference to the circumstances in which fees may be increased, e.g. consumer price index, need for increased wages in order to recruit staff, additional costs associated with meeting regulatory requirements.

# Corporate Oversight

**Question 12:**

**Do you agree with the requirements set out in sections 17– 21 under Corporate Oversight?**

|  |  |  |  |
| --- | --- | --- | --- |
|  | Yes | No | Unsure |
| Section 17. Policies and Procedures. | [x]  |  |  |
| Section 18. Complaints Procedure | [x]  |  |  |
| Section 19. Infection Prevention and Control | [x]  |  |  |
| Section 20. Health and Safety | [x]  |  |  |
| Section 21. Governance, Management and Quality Assurance | [x]  |  |  |

Home care providers should have a separate procedure from their Complaints Procedure for responding to an allegation of abuse against a care worker. This is critically important because, while an allegation of abuse may have a complaint dimension, it is of a different order and may have serious implications for the home care worker as well as a safeguarding component in respect of the service user. Therefore, the Home Care Provider needs to manage and process an allegation of abuse differently to a complaint.

As already stated, each Home Care Provider should have a *Working Alone Policy.*

# Schedules

## Question 13:

**Do you agree with the requirements set out in Schedules 1 - 6 providing more detail about what is required in specific areas?**

|  |  |  |  |
| --- | --- | --- | --- |
|  | Yes | No | Unsure |
| Schedule 1. Statement of Purpose | [x]  |  |  |
| Schedule 2. Policies and Procedures | [x]  |  |  |
| Schedule 3. Induction Training | [x]  |  |  |
| Schedule 4. Records |  | [x]  |  |
| Schedule 5. Supporting Person | [x]  |  |  |
| Schedule 6. Specified Person | [x]  |  |  |

As stated above, there may be a data protection issue about storing a person’s records in their home.

# Overall comment (Final question)

## Question 14:

The need for regulation is all the more important as home care services are delivered currently through a range of providers, including the HSE, voluntary not-for-profit organisations and private for-profit services. It is also possible for people without any relevant training or qualification to advertise home care services on an individual “cash for care” without going through any organisation.

Standards and regulations for homecare services should be applied to all types of providers equally – statutory, private and NGO. There is a need to explore further how more informal arrangements for care provision can be regulated in order to ensure that vulnerable people are not exploited or abused.

Regulations will only be effective to the extent that there is compliance. The experience of HIQA in achieving regulatory compliance in the residential care sector will be very informative in this regard.

The Regulations for Providers of Home Care Services need to be linked to the HSE *Safeguarding Vulnerable Persons at Risk of Abuse National Policy & Procedures*.

The aim over time should be to have one integrated regulatory system to cover all long-term care provision whether in the community or in residential care facilities.