

The Importance of Robust Governance

Care Homes Team
October 2019
Kate Maguire (Senior Inspector)



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What is Governance ?

- From the word to govern
- The way that an organisation or country is managed at the **highest level** and the systems in place for doing this:
- Within an organisation, service or agency this is known Corporate Governance
- **Corporate governance** is the system of rules, practices and processes by which a *company* is directed and controlled.
- **Corporate Governance** refers to the way in which companies are governed and to what purpose. It identifies who has power and accountability, and who makes decisions.



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Principles of Governance

- Conducting the business of the agency with integrity and fairness.
- Being transparent with regard to all operations.
- Making all the necessary disclosures and decisions.
- Complying with all regulations and standards.
- Accountability and responsibility towards the stakeholders.

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Reality of Governance

- Systems
- Roles, responsibility, accountability
- Policies and Procedures
 - Financial
 - Recruitment
 - Safeguarding
 - Staffing
 - Training

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Methodologies

- Monthly Monitoring (unannounced)
- Audits
- Records review
- Stakeholder surveys
- Analysis of audits
- Clear action plans
- Staff and service user meetings/contacts

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What Does Governance Achieve

- Good **governance** is about the processes for making and implementing decisions. ...



- Having **robust governance** structures, and ensuring these processes are implemented and practiced within an authority requires vigilance and a **continuous improvement approach** so trust is sustained

A good service provider should provide a robust governance structure to which services are monitored, reported-on and assessed

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So What?

- “Good governance leads to good management, good performance ... and, ultimately, good outcomes”

- (Sir Alan Langlands, Good Governance Standard for Public Services, 2004)



Increased Patient/Resident Satisfaction through positive impact on care delivery

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No Surprises & Get Ahead of the posse



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Happy to take Questions

Thank You

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Monthly monitoring visits



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Good intentions



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Quality assurance ...



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What is needed?



- The registered person or delegated person:
- Carries out an **unannounced** visit to the home

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When should the visits occur?



- The visits should be conducted **at least once a month** or as agreed with RQIA

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Why are the visits needed?



- There is a **regulatory requirement** for these visits to occur
- The visit is a governance tool which can help ensure that **high standards** are being maintained & that the **quality** of the service provided is **continuously improved**

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The regulatory context ...

- The Nursing Homes Regulations (Northern Ireland) 2005 & The Residential Care Homes Regulations (Northern Ireland) 2005
- Regulation 29 (1) – (6) : Visits by [the] registered provider
- Care Standards for Nursing Homes (April 2015) & Residential Care Homes Minimum Standards (August 2011)
- NH Standards: Standard 35 (Governance) - 35.7
- RCH Standards: Standard 20 (Management and control of operations) – 20.11

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How is the visit to be carried out?



- Each unannounced monthly visit should include some essential components ...

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(a) Speak with patients/residents

Ask the right questions here are a few examples !

- Do you feel safe
- Are the staff kind
- What do you do through out the day
- How is the food
- Do you get to see your family
- Do staff listen to you
- Are you happy here
- What else can we do to make your time here better



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(b) Speak with relatives & representatives

- Again think about the questions you could ask
- Are you relatives always clean and tidy when you visit
- Do staff treat you with courtesy
- Are the staff approachable
- Do staff assist if you raise a concern or query
- Are you happy with the care
- What could we do to make things better



- Number of relatives/visitors interviewed and summary of their views on the quality of care

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(c) Speak with staff

- Do you enjoy working in the home
- Is there a good sense of teamwork
- How is the culture in the home, describe
- How would you challenge poor practice
- Have you had any training
- Describe the importance of respect, dignity, compassionate care etc.
- Do you have any concerns that you want to share

(NH & RCH Reg 29)



- Number of staff interviewed and summary of their comments on the standard of care provided in the home

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(e) Review the environment

Walk through the home

- Is it fresh smelling and odour free
- It is decorated to a good standard
- Could any areas be freshened up
- Is it clean
- Check the bathrooms and ask to look at a few bedrooms, decorative order, personalisation
- Check equipment that it is clean safe and functional
- Ensure that any action plan is reviewed each month

(NH & RCH Reg 29)



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(f) Review accidents/incidents & complaints

Review

- The number of incidents in the home, check the detail, accuracy and quality of recording
- Check for patterns or trends (interrogate the information)
- Have appropriate referrals been made
- What learning was established, has it been shared
- Number and outcome of complaints
- Quality of recording
- Key learning
- **(NH & RCH Reg 29)**



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(g) Produce a report

Make it available

- the registered manager;
- the patient/resident or their representative;
- an officer of the Trust in the area of which the nursing home is situated.
- RQIA



(NH & RCH Reg 29)

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Finally ...

- Include some comments made by patients/residents and/or their representatives and staff
- Any actions taken by the management to improve patient/resident experience
- Include an action/quality improvement plan with an update relating to progress
- Any action plan should indicate corrective actions, who, what and when

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Something we should all be doing ...



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Delivering Improvement – First six months

Karen Scarlett
Senior Inspector
Care Homes Team

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The Regulation and
Quality Improvement
Authority

Approach to Regulation and Enforcement

- RQIA's inspection approach is based on the Principles of Good Regulation
 - ❖ Transparent
 - ❖ Accountable
 - ❖ Proportionate
 - ❖ Consistent
 - ❖ Targeted

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The Regulation and
Quality Improvement
Authority

Role of RQIA

To ensure that we:

- Reduce risk of harm to the public
- Raise public confidence
- Apportion responsibility
- Support continuous quality improvement
- Review care provided to assure the safety, comfort and dignity for those using the services

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Expectation of Providers

- Maintain a safe, effective, compassionate and well-led service
- Have visible and rigorous structures, processes, roles and responsibilities in place to plan for, deliver, monitor and promote safety and quality improvement in your service.

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Profile of Care Homes

- Nursing homes
 - 248 homes
 - 10,800 beds
 - 300 inspections completed first six months of this inspection year
- Residential care homes
 - 234 homes
 - 5500 beds
 - 245 Inspections completed first six months of this inspection year

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RQIA's Powers

Provisions of the 2003 Order - DoH Regulation and Standards provide a range of powers when things go wrong

- Quality Improvement Plan (QIP)
- serious concerns meeting
- failure to comply notice(s)
- improvement notice(s)
- conditions on a provider's registration e.g. cessation of admissions
- closure of a facility by cancelling its registration
- prosecution

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Enforcement Action from 1 April 2019

- Significant increase in enforcement activity in the past 6 months

Year	Nursing Homes	Residential Care Homes	Total
2018 - 2019	6	3	9
2019 – 2020 (6 months)	15	3	18

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Emerging Concerns

- Poor leadership / governance by RI – managers need to lead their service
- Inadequate focus on MMRs & follow up action (Reg 29) / QIPs)
- Succession of acting / new managers – key indicator
- Insufficient implementation of Audit Findings/ performance management of staff / tolerance threshold of poor practice
- Staffing – numbers, deployment and competence/accountability

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Key Themes

- Infection prevention and control
- Environment(s) not safe for purpose
- Poor care planning and recording
- Medicines Management – administration, stock control and recording
- Recruitment and retention of staff
- Size of home and models of care require review to ensure safety
- Earlier intervention in response to complaints

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Achieving Compliance

- Ensure the simple things are done well to enhance patient experience
- Stabilise management arrangements and actively encourage registration
- Lead your service and review effectiveness of your governance and assurance systems/ interrogate your intelligence
- Share learning/ outcomes of inspections/ briefing/ team meetings
- Ensure staff know what is expected of them and training offered is evidenced in practice
- Work closely with your monitoring colleagues from Trusts and RQIA



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SO ... DO YOU HAVE ANY
QUESTIONS FOR ME?



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Interesting times: moving forward

Dermot Parsons
Deputy Director Assurance

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Sector messages

The role of the regulator is sometimes challenging,
sometimes supportive

- Overt use of authority - directive
- Ambiguous engagement with providers
- Perception of “missing things”
- Inconsistent and varied comment

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What we have found

- Changes to presenting issues
- Often problems recur
- “Problem homes”
- Quality of leadership/ management is key

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RQIA Perspective

- Leadership/ management and care quality
- RQIA's confidence in services
 - The information we receive
 - Credible plans
 - Responding to concerns
- Potential to improve
- Validating change

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RQIA Perspective

- Early intervention and partnership
- Complaints, Regulations and Standards
- Temporary management arrangements
- Impact on service users – a central point
- Large services and registration

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Traditional Regulation

Command and control

- Inspectors discover information
- Focus on inputs, process checking
- “Experts” identify deficiencies
- Senior providers told what to do
- Enforcement

The “So what?” question

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Donaldson Review

“There is much detailed specification of what to do, how to do it, and then extensive and detailed checking of whether it has been done ...

The alternative is a style of leadership based on inspiration, motivation and trust that those closer to the front line will make good judgments and innovate if they are encouraged to do so.”

Donaldson et al (2014) The Right Time, The Right Place (p.4)

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Other Care Regulators

HIQA

- “During 2018, inspections continued to indicate a direct relationship between good governance and leadership, regulatory compliance and good outcomes for people living in the centre.”

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Other Care Regulators

HIQA

- ... [Phelim] Quinn argues the model of regulation has shifted to one that operates based on co-operation between the facility and the regulator.
- While HIQA has the power to shut down a home, there is an emphasis on working with a provider to improve standards.

“Ageing Ireland: HIQA calls for updated regulations to safeguard elderly” Irish Times, 26 August 2019

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Other Care Regulators

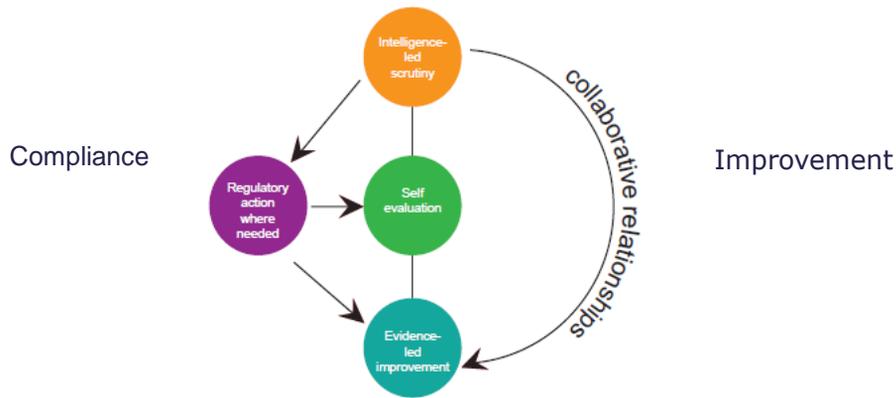
Former CE of Care Inspectorate

- “... working collaboratively with people experiencing care and their carers ... and service providers can together support better experiences and outcomes and an improved quality of life.”
- “Nothing about collaborative approaches to regulation prevents regulatory action being taken to protect people from harm or if all other means are exhausted, direct improvement.”

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Scottish model



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Scrutiny regulation model

Partnership and governance

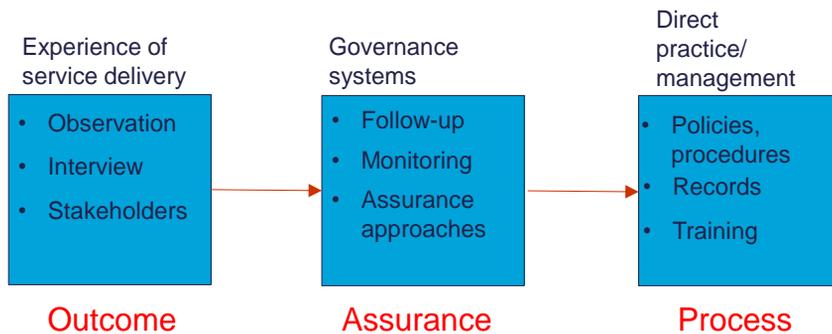
- Providers self evaluate
- Focus on outcomes/potential outcomes
- Inspectors examine experiences first
- Providers own the improvement needed
- Inspection focuses on governance
- Specialists share knowledge, when needed

Collaborative relationships?

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Service provision and regulation



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Scrutiny and compliance

- Poor outcomes → check the processes
- Flawed processes → think potential impact
- Focus on governance to secure improvement
- The capacity to change – leadership: “Well led”
- Risk of action; risk of inaction
- Developing and using sources of “evidence” – triangulation
- Using information well

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Our approach to learning

- To improve services, we need to encourage openness and honesty
- A blame culture leads to errors being concealed
- In a 'just culture' inquiries are opportunities for everyone to learn
- To reduce the chances of recurrence of harm, we will focus on discovering whether, and how, risks may be reduced and services improved
- We will learn as much from good practice as we can from poor practice
- Inappropriate systems cause more accidents than individuals' errors

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RQIA & decision-making principles

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Decisions and risk

- Many regulator decisions involve risk factors
- Public perception can be that RQIA should eliminate risk
- Good outcomes in people's lives may mean that people take risks



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“Wicked” and “tame”

- Policing decisions: eg. which approach to take in a riot
- Health and social care decisions around limited resources and priorities - QALYs
- Cost of vaccination programme for Ebola
- Regulation decisions for a “failing service”



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Risk principles benefits

- Framework to support decision-making
- Clarity for decision-makers
- Develops understanding that risks bring benefits as well as hazards
- Clarity for the public
- Supportive for RQIA and staff

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Managers and leaders

- **Managers** analyse, assess and choose solutions to known problems
- **Managers** deal with right/ wrong answers
- **Leadership** involves setting goals, principles, limits, permitting and supporting. It is creative.

Carson, D et al. (2013) "Responsibility for Public Protection and Related Risk Decision-making". *Police Journal*, 86: 307-320

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Three words to take away

- **Information:** what we use to understand your service; what you use to improve your service
- **Improvement:** our focus, and what we look for
- **Impact:** how the quality of care affects people using your services

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THANK YOU

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Regulation and a Human Rights Approach

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Legal basis

European Convention on Human Rights 1953

Human Rights Act 1998

UN Principles for Older people 1999

UN convention on the Rights of persons with Disabilities 2006

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Statutory Function

As a public-sector body, RQIA have a duty to respect, protect and fulfil the rights that people have under the Human Rights Act 1998 when carrying out our functions.

In our inspections of care homes, we are committed to ensuring that the rights of people who receive services are protected.

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This means...

- we will seek assurances from providers that they take all reasonable steps to promote people's rights.
- Residents/Patients have the right to expect their dignity and privacy to be respected and to have their independence and autonomy promoted.
- They should also experience the choices and freedoms associated with any person living in their own home.

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COPNI – Home Truths 2018

All staff in care settings, commissioners of care, social care workers, and regulators must receive training on the implications of human rights for their work.

Human rights should be an essential component of practitioner dialogue.

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COPNI – Home Truths 2018

The registration and inspection process must ensure that care providers comply with the legal obligations imposed on them in terms of human rights.

An important component of the registration and inspection procedures is to ensure that the human rights of people in care settings are protected and promoted.

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Core Values: we all have them



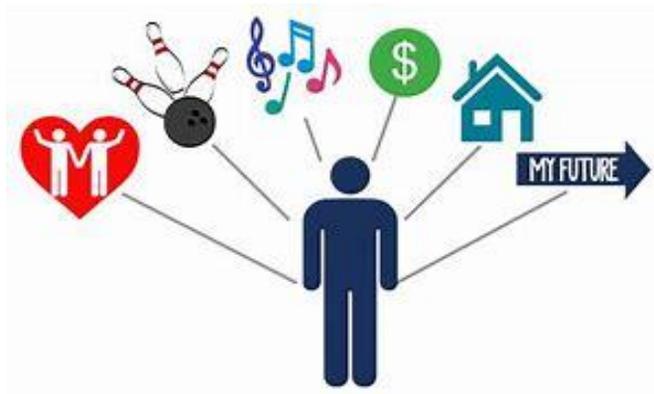
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Nothing new ...

A human rights
approach

EQUALS

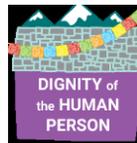
person centred care



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The FREDA principles

Fairness
Respect
Equality
Dignity
Autonomy



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Fairness

- ask, listen and respond to the individual's views
- This value is linked to EHCR Articles 5 (The right to liberty and security of person) and 6 (The right to a fair hearing)
- E.g. DoLs framework, a robust complaints process, annual care review



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Respect

- How we value the individual and provide person centred care
- This value is linked to EHCR Article 8 (The right to respect for private and family life ..)
- E.g. maintaining privacy, CCTV, refusing treatment, access to records

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Equality

- Equal opportunities and treatment
- This value is linked to EHCR Articles 8 (The right to respect for private and family life ..) and 14 (Protection from discrimination)
- E.g. provision of a vegetarian / Kosher diet, respect of religious / philosophical beliefs

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Dignity

- An approach which supports, promotes, and does not undermine, a person's self-respect
- This value is linked to EHCR Article 3 (The right to be free from torture or cruel, or degrading treatment or punishment)
- E.g. neglect, social isolation, improper restraint

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Autonomy

- Enabling choice, freedom, independence and decision making
- This value is linked to EHCR Articles 8 (The right to respect for private and family life ..) and 10 (The right to freedom of expression)
- E.g. Private relationships, promotion of social interaction, positive risk taking

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Worth remembering ...

These principles are used to inform decisions, not to determine them.

Consideration of the principles is context specific – but none of the principles should be ignored

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Human Rights Principles

Examples in practice

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Is Care Safe?

Avoiding and Preventing harm to residents/patients from the care, treatment and support that is intended to help them

Safe and Healthy Work Practices help to ensure:

Article 2 Right to Life

Article 3 Freedom from torture and inhuman or degrading treatment

Article 5 Right to Liberty and Security

Article 14 Protection from Discrimination in respect to these rights and freedoms



Environment

The home was clean, tidy and decorated to a high standard.

Communal areas provided a relaxing space for residents to enjoy the company of one another.

Staff respected residents confidentiality by ensuring care records were stored securely.



Staffing

A system was in place to identify appropriate staffing levels to meet the patient's needs.

A review of the staff rotas confirmed that the staffing numbers identified were provided.

We observed that those patients, who, due to their frailty were unable to request staffs' attention, were regularly attended by staff.



Infection Prevention and Control

There was accessible information available to residents and their visitors on the need for good infection prevention and control practices.



Adult Safeguarding

We discussed how patients are protected from abuse. The home has a safeguarding champion to support the adherence to the safeguarding policies and procedures.

The safeguarding and protection of patients was included in the induction and annual training programme for staff.



Risk Management

We observed that some patients had bedrails erected; whilst this equipment had the potential to restrict patients' freedom we were satisfied that these practices were the least restrictive possible and used in the patient's best interests.



Is Care Effective?

The right care, at the right time, in the right place with the best outcome

Effective care helps to ensure:

Article 2 Right to Life

Article 3 Freedom from torture and inhuman or degrading treatment

Article 5 Right to Liberty and Security

Article 8 Respect for your private and family life, home and correspondence

Article 14 Protection from Discrimination in respect to these rights and freedoms



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Person centred care



Care records were individualised and holistic, including the resident's life story.

There was evidence that residents were encouraged and enabled to be involved in care planning, where appropriate.

Care plans were available in easy read and pictorial format.



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Wound care

Records confirmed that wounds care was in keeping with the care plan instructions.

Records also evidenced that where necessary advice on the management of wounds was sought from healthcare professionals in the local health and social care trust. For example podiatry and tissue viability nurses (TVN).



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Dining experience

Lunch was a calm and unhurried experience for patients.

The dining room tables were nicely set and a choice of condiments was provided.

The food smelled appetising and was well presented.

Staff were seen to be very helpful to patients throughout the mealtime, offering a selection of meal and encouraging independent eating where this was appropriate.



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Is Care Compassionate?

Patients and residents are treated with dignity and respect and should be fully involved in decisions affecting their treatment, care and support

Compassionate care protects and promotes:

Article 5 Right to Liberty and Security

Article 6 Right to a fair trial

Article 8 Respect for your private and family life, home and correspondence

Article 9 Freedom of thought, belief and religion

Article 10 Freedom of expression

Article 11 Freedom of assembly and association

Article 12 Right to marry and start a family

Article 14 Protection from discrimination in respect of these rights and freedoms



Structure and Routine

Residents confirmed that they were supported to make daily choices; for example where to spend their day, have their meals and what time they liked to go to bed.

One member of staff said that, on occasions, they did not have enough time to get all the patients up in the morning. This was discussed with the nurse in charge of the unit and the manager, who advised us that staff were encouraged not to be task driven and to be aware that not all patients had to be, or wanted to be, up by a certain time every day. The nurse in charge was working with staff in order to promote a more flexible routine to best meet the needs of the patients.



Independence and Empowerment

Decision Making



Care records included an individualised decision-making profile.

This included details of how residents liked their information presented, how choice should be presented to them, how the staff could help them understand the choices and the best times for them to be asked about decisions.

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Dignity and Respect

Staff were observed to knock on bedroom and bathroom doors before entering rooms and to keep doors closed when assisting residents in order to ensure their privacy and dignity was maintained.

We observed staff seek residents' verbal consent before providing support with personal care.

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Activities

Staff told us that they did their best to include activities in the daily routine. A small group of residents were discussing the daily programme of activities and what particular events they would like to attend.

Staff took time to play games, chat and sing with patients. Patients told us that they helped to look after the pets in the home with assistance from staff.

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Is the service well led?

Effective leadership, management and governance which creates a culture focused on the needs and experience of residents/patients in order to deliver safe, effective and compassionate care

Systems and oversight to ensure human rights incorporated into all elements of care in the home

Statutory function

COPNI recommendations

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Complaints

A complaints procedure was available in the home.

Records were available of any complaints received. The records included the detail of the complaint, the outcome of any investigations, the action taken, if the complainant was satisfied with the outcome and how this was determined.

Patients and their relatives confirmed they knew who to speak to if they had a concern and were confident that this would be dealt with.



Working relationships

Staff confirmed there was good team work in the home. Staff were enthused about the person centred culture and ethos in the home.

Patients' visitors spoken with confirmed they were kept well informed and were consulted about their relative's care needs.



Equality

Staff had received equality and diversity training.

Residents were supported in their expression of their sexual and gender identity.

One the day of inspection, additional staff were on duty in order to facilitate those residents who wished to attend Learning Disability Pride. This evidenced how the home supports residents to live as ordinary a life as any citizen.



**These examples were taken
from existing reports
completed in July, August and
September 2019**



Human Rights considerations are already embedded into the inspection process

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How can we better acknowledge and improve on this?

- Improve our knowledge and skills
- Build confidence
- Commitment
- Raise awareness among providers and service users
- Highlight good practice
- Share learning

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Mental Capacity Act (Northern Ireland) 2016

Deprivation of Liberty Standards

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Five key principles of The Mental Capacity Act (NI) 2016

5 Key Principles

No one
should be
treated as
lacking
capacity
unless
proven
that they
do

No
assumptions
can be
made

Help and
support
must be
provided

No
assumptions
can be
made
because
of unwise
decisions

All acts
and
decisions
must be
made in
the
person's
best
interests

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Human Rights Act and DOL

- To ensure that a persons human rights are protected, the Act defines DoL as having the same meaning as within **Article 5(1)** of the European Convention on Human Rights (“ECHR”) - ***The Right to Liberty*** -which provides that:
 - ***“Everyone has the right to liberty and security of person. No one shall be deprived of his liberty [unless he or she is of an unsound mind] and in accordance with a procedure prescribed by law.”***

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What is Deprivation of Liberty

To test if a person who lacks capacity is deprived of his or her liberty the following questions must be asked:

- is the person under continuous supervision or control? **and,**
- is the person free to leave?

It doesn't matter:

- whether the person can physically leave
- whether the person is compliant or any lack of objection
- if the place is relatively normal for the person
- what the reason or purpose for a particular placement is

a person in these circumstances is deprived of their liberty

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Restraint, Restriction and Deprivation of Liberty: Key messages

- For now, the use of restraint, remains governed under common law but legal requirements for restraint will be introduced when the MCA is fully introduced
- Restraint can take many different forms but restraint that is ongoing, planned or regular will most likely be required to be categorised as DoL
- You must be aware of the possibility that extensive or intrusive use of restraint may be a deprivation of a patient's liberty **if it meets the acid test criteria**. This is dependent on the nature of the restraint, the duration of it, its intensity, the setting in which it will take place and the level of planning before the restraint was done.
- Seclusion** is in general regarded as a deprivation of liberty and all the additional safeguards required must be in place

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Safeguards required when considering deprivation of liberty

When a person is being deprived of their liberty safeguards must be put in place. These include that:

- A formal assessment of capacity is completed: (*Chapter 8 of Code of Practice (CoP)*)
- The nominated person is consulted (or appointed if not in place): (*Chapter 9 of CoP*)
- The prevention of serious harm condition is met (*Section 7.6 of CoP*); and
- Authorisation is applied for and granted (NB: There are 2 methods of authorisation): (*Chapters 11 and 12 of CoP*)

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What will the inspector look for from 1 December 2019?

Inspectors will review the homes progress in the following areas:

- The needs of the people to whom you provide services
- The needs of people admitted after the 1 December 2019
- Staff training
- Knowledge of staff
- Dols processes and governance of same
- Systems (access to code of practice and systems for accessing, recording, sharing, retaining forms and information in place as required under the act)
- Communication with the Trust.



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Further Information

Level 2 – E-learning (1-2 hours - online) –this training can be accessed http://mca-learning.health-ni.gov.uk/story_html5.html

MCA code of practice

<https://www.health-ni.gov.uk/publications/draft-mcani-2016-deprivation-liberty-safeguards-code-practice-august-2019>

Money /Valuables etc

<https://www.health-ni.gov.uk/publications/draft-mcani-2016-money-valuables-and-research-code-practice-august-2019>

MCA Suite of FORMS

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