

## **Organisational levels, strategies and design in the regulation of dementia care**

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Caring organisations have developed a number of methods for coping with the demands of regulation. Here we identify three ways in which this happens:

- The first reflects characteristic strategies that can be adopted toward regulation.
- The second concerns how organisations respond to regulation at different levels.
- The third concerns how risk can be designed out through the organisation of space.

The pressures on care providers reflect a need to manage multiple regulatory demands, degrees of specialisation and the distribution of functions at different organisational levels. Providers often develop a series of strategies and supports to help them to manage this regulatory task. While these are a cost above the process of delivering care itself, they are an important means of ensuring high quality care. In this *Insight* we examine these issues in more detail.

Our research looked inside three aged care organisations to examine how they responded to multiple regulatory demands and how regulation shaped the practice of care provision. We discovered that rather than seeing regulation in terms of 'more' or 'less' or 'good' and 'bad', providers took a nuanced approach, sensitive to their distinctive functions and respective cultures. Regulation was seen as a necessary, if at times overly prescriptive responsibility which helped organisations refine their response to risk and care quality.

### **Regulations and complex organisations**

Aged care organisations are complex entities, comprising 'distinct roles, distributed authority, and varied expertise' (Gray & Silbey 2014, p. 97). Each responds to regulation through a combination of strategies that have shared characteristics but also reflect particular cultures and histories. Further, regulation is not uniform, but represents a web of numerous (often overlapping and competing) requirements (Haines 2011). There is thus the potential for a range of responses and interactions to emerge depending on the area of care regulated. Critically, aged care organisations are involved in a continuous process of balancing competing demands arising from their regulatory environment.

Regulations as they appear in the statute books need to be interpreted to be applied in daily practice (Huisig & Silbey 2011). This suggests a middle-ground in which a range of activities, including softer forms of regulation (such as guidelines and protocols), translate regulation into something useable. Gilad (2012) claims that these local interpretations of regulation play a significant role in shaping organisational and personal behaviour. Matching regulations with the everyday realities they are intended to govern can be a painstaking, time-consuming and often messy process (Heimer 2013).

In other words the journey from regulation to practice involves acts of translation: from hard to soft regulation, into particular organisational cultures, into interpretive guidelines, training and supervision, plus the management of the boundary between the provider environment and the outside world. Different levels of organisation facilitate acts of translation by filtering regulation into work and care settings and by distributing focus and task. Rather than thinking about governance as a universal function performed uniformly throughout an organisation, we should be seeing it as differentiated and specialised, therefore requiring processes of interpretation and coordination.

### **Characteristic strategies toward regulation**

In order to understand how organisations adapt to regulatory challenges, we first undertook site visits to each participating provider. The site visits included participant observation plus exploratory discussions with staff. Four guiding principles, common to all participating providers, were identified:

- **Creating homelike environments:** A homelike environment was recognised as an important quality of dementia care. The promotion of such environments was particularly relevant in the areas of providing food, building design, fire safety, plus links with families, relatives and the wider community. The way in which staff go about their work can also support the creation of homelike environments.
- **Putting residents first:** For organisations, prioritising the wishes, needs and wellbeing of residents was considered a priority. This needs to be achieved in the context of a variety of stakeholders, and a balance reached between regulations, their interpretation and the activities residents want to undertake.
- **Managing risk:** There was widespread acceptance that organisations should manage rather than eliminate risk. This often takes the form of balancing resident autonomy with their protection. The view that risk is an inherent part of life supports the principle that individuals can be supported and encouraged to make informed choices.
- **Promoting innovation:** The belief that dementia care is improved through innovation was commonly accepted. While the view that regulation stifles innovation is widespread, the organisations studied had special units to foster and promote innovation. These units may undertake research, training and identifying innovative practice.

These principles were interpreted through a variety of strategic orientations. The degree to which organisations adapt their particular response depends upon their culture, historic experience, values base and leadership style.

Strategies adopted toward regulation	
<p><b><i>Above and beyond</i></b></p> <p>Using regulation as minimum standards or sets of requirements which the organisation seeks to exceed. Here the organisational response is aligned with the goals of regulation, particularly the principle of ‘continuous improvement’.</p>	<p>... we not only set a minimum standard ... we try to set our benchmark above any minimum standard (SM 10)</p> <p>... [so] even when you don’t quite grab your own standards you’re still well above what they’re saying are the minimum (SM 13)</p> <p>... [the organisation] believes that passing accreditation is the barest minimum (FM 11)</p> <p style="text-align: center;"><b>Examples</b></p> <ul style="list-style-type: none"> <li>• Provision of training, including dementia-specific training, beyond the minimum or mandatory training topics.</li> <li>• A strict dysphagia (swallowing difficulties) management regime for all staff to follow.</li> </ul>
<p><b><i>Pushing back</i></b></p> <p>Challenging regulations, regulatory decisions and regulators, in the perceived interests of the organisation, its workers and clients. Here the organisation is positioned in opposition to regulation, and a more adversarial relationship is adopted.</p>	<p>I think if there’s something that we don’t necessarily agree with we challenge it (SM 15)</p> <p>... if the rule’s not going to work for the residents, then I’m not going to do that rule (FM 10)</p> <p>... legislation is a hard one because it is used probably very often to govern and to control choice which is something that we are trying to push very hard against at the moment (SM 7)</p> <p style="text-align: center;"><b>Examples</b></p> <ul style="list-style-type: none"> <li>• Rejection of specific regulatory decisions, such as a requirement to have both hot and cold taps coloured yellow, excessive food labelling requirements and advice on food cooking times that restricts resident choice.</li> <li>• Challenging assessor expectations where these were perceived not to be in the interests of quality care.</li> </ul>

Strategies adopted toward regulation	
<p><b>System-based</b></p> <p>Developing systems that translate regulation into action by pulling multiple factors together. Systems were observed around the admission process, care planning, and in relation to particular activities such as food provision. Organisation-wide systems, such as those developed to manage risk, were also important. Such an approach aimed to ‘engineer out’ problems before they became critical.</p>	<p>... you have to have a system to manage the system (SM 9)</p> <p>I've put in systems that collate incidents, and we've got regulation registers so that we can see what legislation we're changing (SM 8)</p> <p>... you can very easily without realising start to not maintain certain requirements unless of course you've got your own internal monitoring systems ...(SM 5)</p> <p style="text-align: center;"><b>Examples</b></p> <ul style="list-style-type: none"> <li>• Use of risk management platforms for monitoring, pattern seeking and reporting emerging risks.</li> <li>• Food safety plan incorporating all food-related processes and linked to other areas of regulation, such as care standards and building design.</li> </ul>
<p><b>Organising space</b></p> <p>Formal regulatory processes are viewed as intrusive and capable of ‘crowding out’ qualitative elements of care. Organisations seek to minimise the effect of regulation that might confuse residents or lead to misunderstanding, through building planning, the use of open and restricted spaces, and interior design.</p>	<p>... we don't have fire extinguishers down the corridors ... our fire extinguishers are hidden behind doors, so they're not easily seen and they don't have a big red sign above them to say that they're behind that cupboard door, but the staff are trained on their location ... (SM 13)</p> <p>we designed a central kitchen which we made big enough to plate all the food there, but we designed it with the intent that food would be essentially prepared and then taken to the wings or the areas where clients live in smaller groupings ... One area is open to residents at any one time ... and then the secondary place can be secured (SM 9)</p> <p style="text-align: center;"><b>Examples</b></p> <ul style="list-style-type: none"> <li>• Placing items, such as fire safety equipment and notices, in service corridors rather than living environments.</li> <li>• Locating high-risk activities in areas accessible only to staff.</li> <li>• Co-creation of building design with architects, providers and consumers.</li> </ul>

A single organisation may deploy a combination of these strategies, which come in and out of focus depending on the issue at hand.

## How organisations respond to regulation at different levels

Next, we conducted in-depth, semi-structured interviews with staff at three distinct levels. The three levels provided a ‘vertical slice’ through each organisation, accessing the way regulation and governance appears and is acted upon. A total of 54 interviews were conducted with senior managers (17), facility managers (13) and direct care workers (24) took place.

The vertical slice approach was built on the hypothesis that different levels within organisations reflected distinctive understandings, knowledge and interactions with regulation. We found that each level displayed a particular set of responsibilities with respect to regulation, its management and communication. These are outlined below, with illustrative quotes.

## Senior management

- Executive functions, the creation of guidance and other interpretive strategies
- Managing the boundary between the organisation itself and regulatory authorities
- Forms of strategic response including interpretation, differentiation, monitoring and support
- Developing specialist expertise and areas of knowledge in relation to regulation
- Mostly downward translation to facility managers and personal care workers

Critical to senior managers was the management of external relations and strategic interaction with regulatory or governing authorities. They monitored and responded to changes in the external regulatory environment, and tended to act in anticipation of change or possible conflicts of interest.

They filtered and interpreted regulations to ensure compliance in line with organisational goals. Having 'a group within the organisation that filters changes in legislation' (SM 15) was considered important. Specialist teams might be developed to attend to particular elements of the regulatory process.

Senior managers also sought to interpret the underlying intent of regulation, in line with the perceived needs of individual residents and staff.

Internal policies and procedures were devised to incorporate regulatory requirements into care practice and work routines, offering support at stress points. Operational rules or guidelines for staff were used to translate regulations into everyday practice. There were many opportunities for flexibility:

- Work from the intent and principles of regulation to devise suitable responses
- Work with regulators to adapt regulation to a particular care setting
- Incorporate the needs of dementia care into the organisation's response
- Engineer space-based solutions to regulatory challenges
- Identify grey areas in regulations to benefit organisations, care workers and care recipients
- Influence policy and practice through membership of government, industry and other leading bodies.

Senior managers worked across a variety of networks, often as conduits of a regulatory response or solution. They also dealt with some of the most complex and serious issues within their organisation, in many cases responding to information pushed up from the levels below.

## Facility managers

- Operational functions including the management of guidance and supervision systems
- Managing transactions across the boundary between the facility, inspectors, families and the local community
- Developing knowledge of care standards, coordination and guidance and appreciation for how regulation is operationalised locally
- Forms of operational response including collating and collecting data, multi-tasking, responding to internal and external challenges
- Upward and downward translations to senior and personal care staff

Responsible for the operation of a particular residential site, facility managers had diverse roles covering staff, resource and care management. Balancing multiple interests was important at this level. Facility managers had support from above, but also links to networks, peak bodies and industry peers. They had direct experience of, and were most concerned about, immediate processes of inspection and accreditation.

... if we're meeting our people's needs then really everything else should fall into line behind that ... [W]here the legislation doesn't allow for that, we actually ... go back to the regulators and have conversations with them ... We have no problem ringing them up and going, 'This is the situation we have in front of us, what are your thoughts?' (SM 13)

[you] work your way around it and normally the governing authorities, they're not too hardnosed about it ... [I]f you work with them and they see that the intent is right ... there doesn't ... need to be a problem. (SM 11)

I suppose the two most important aspects of my job are keeping the staff working at their peak, and keeping them motivated and content ... [and] monitoring at all times, the wellbeing of all the residents (FM 11)

Assessment visits were a particular source of stress at this level, in addition to the tensions involved in balancing the competing demands of different stakeholders. Facility managers tended to contain this stress for the organisation.

They managed facility boundaries, particularly the coming and goings of staff, interactions with families and the regular work of contractors. They could exercise flexibility around staff rosters, different approaches to care and communicating the quality of care to regulators.

There will definitely be strategies from head office put in place about things that you have to follow. I think you distribute it on your site as your sites needs it ... [S]o we have a strong lead from head office, and then sit down here with the leaders, care managers, and the leadership team ... [T]hen it will float over to the care managers and their staff on site. So there will be strategies and we talk about specific things, how to change things (FM 5)

## Care workers

- Interpersonal functions including managing day-to-day interactions with service users
- Managing boundaries within the space created by regulatory governance and residents' preferences
- Knowledge about procedure and limits to role responsibilities
- Responding through interpersonal relations and record keeping, within the limits of time and space available
- Mostly upward communication when difficulties arise

Care work was primarily focused on interaction with residents. Workers concentrated on day-to-day factors, particularly the changing care needs and moods of individuals. Usually the first point of contact for residents, the care workers provided supervisors and managers with information that was critical to resident health and wellbeing. A common strategy used by care workers was to determine which of the internal guidelines had to be followed to the letter, and which permitted flexibility.

Regulation was recognised as important because it protected workers as well as residents insofar as it gave clear guidance on the conduct of roles and activities. More-experienced care workers knew where points of flexibility existed, and were able to pass on this knowledge to new workers.

Care workers were engaged in a continuous process of improvisation. This might include being flexible with timing or shifts and matching workers to resident preferences, as well as the interpretation of conduct for daily activities. Such experimentation represents the meeting point of care practice and care governance.

Care workers rarely referred to inspection or accreditation as a stressful process. This was usually seen to take place at a higher level. The pressures of time, the varying and changing needs of residents, and the burdens of paperwork and record-keeping were reported as the most stressful aspects of their work.

## Designing risk out of the system

Physical design is recognised in both practice and research as an important influence on the social environment surrounding dementia care. Organisations use the organisation of space in a variety of ways to negotiate the demands of regulation while maintaining positive social interaction. The role of regulation in enhancing or detracting from considerations of good dementia design is often assumed, but not always explicit. We found regulation to be an important factor that needs to be balanced with design principles, particularly at the senior levels of the organisation.

... we have to have regulations to make it work otherwise you'd have anarchy in the workplace so there are certain rules that have to come into play ... But the flexibility for how you do the job or how you go about it ... You have to be flexible in it (CW 21)

There's not one dementia case that's the same [as another] ... And that needs to be taken into consideration that one rule or regulation that works for 20 may not work for another five (CW 4)

Five approaches for organising space in response to regulation were observed:

- **Facility design:** Some facilities were purposefully designed for people living with dementia, which according to senior managers required collaboration with architects and regulators to balance good dementia design with regulatory compliance.
- **Front-stage/back-stage:** Relegating regulatory processes to back-of-house and away from residents' living areas was one way to maintain homelike environments. Staff hand-washing basins and fire safety precautions such as evacuation signage and extinguishers could be moved to areas accessible only to staff. This helped to reduce the work-like feel of facilities. It may also prevent fire extinguishers and alarms being set off accidentally, and the confusion arising from signage that people living with dementia may misinterpret. Such approaches do, however, require additional work to ensure and demonstrate compliance, such as specific staff training and negotiation with regulators.
- **Division of space into high and low risk areas:** High risk areas such as medicines management or large cooking areas were separated from living areas to reduce intrusiveness and the feeling of an institution. By placing these closely regulated spaces at a distance, the normality of everyday living spaces was maintained.
- **Environmental cues:** In some cases sensory prompts were used to guide behaviour. Visual cues, smells and sounds were used to attract residents to certain areas at certain times or reduce interest in thoroughfares and specialist equipment.

## Conclusions

Provider organisations showed themselves to respond in ways that are both nuanced and practical. Different levels of an organisation—senior management, facility management and direct care work—performed complementary functions in the management of boundaries, while interactions between levels ensured mutual support around the regulatory task. Space was often organised to enhance everyday and homelike environments and minimise the intrusiveness of risk prevention activities.

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### About the project

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