

Voluntary Organisations Disability Group Representation to the Department of Health and Social Care: Consultation into the proposal to regulate to stop movement of staff between care settings

November 2020

About VODG

The Voluntary Organisations Disability Group (VODG) is the national infrastructure body representing organisations within the voluntary sector who work alongside disabled people. Our members' work is focused on enabling disabled people of all ages to live the lives they choose. VODG believes that an ambitious, trusted and vibrant voluntary sector that works together plays a unique role in achieving this aim. VODG members work with around a million disabled people, employ more than 85,000 staff and have a combined annual turnover in excess of £2.8 billion.

VODG welcomes the opportunity to submit this representation to the Department of Health and Social Care. This submission is informed by engagement with our member organisations via a dedicated meeting on this consultation, and further membership engagement and follow up. We use this paper to draw out those issues most relevant to disability care and support providers and the people they support.

Context

There are 14.1 million disabled people in the UK, representing 21% of the population and 19% of working age adults.² In England, 21% of the population reports having a disability. The provision of essential services to disabled people in ways that promote independence, choice and control, as well as supporting their carers is a statutory obligation. The hallmark of a fair and equitable society includes fully meeting people's needs and enabling disabled people to have full choice and control over their lives, and to be included in society. These principles are enshrined in the Care Act.

Scope of consultation

Services to enable disabled people in England to live independently are delivered in a variety of settings and care and support is provided via a diverse range of services. As a consequence, the proposed policy of limiting staff movement between care settings to prevent transmission of COVID-19 and reduce infection rates is lacking nuance, is too narrow in scope and seemingly aimed at larger care home providers. While we welcome a move to try and implement measures to keep people safe, a more suitable policy for settings of all sizes would be one that allows for movement

within COVID-19 secure settings, including regular COVID-19 testing, and in adherence to PPE guidelines and robust risk assessments.

Our experience of government's response to the pandemic in relation to social care has been one that has been largely focused on some client groups, and some forms of provision, over and above, a wider recognition of the full breadth of social care provision. In particular, the government's response has largely been focused on older people's care (and nursing) homes in its response to the delivery of personal, protective equipment, testing and now – through the current consultation – the management of the workforce.

Looking broadly across provision in social care, care (and nursing) homes tend to be much larger in size. By contrast, for a number of reasons that are outside the scope of this consultation, care homes for disabled people, including people with a learning disability, autism, sensory and/or physical impairments are usually expected to be smaller.

Because government's policy approach is focused on older people's care homes, at the exclusion of wider forms of community support, the current proposals being consulted upon do not stack up. The principles underpinning the consultation overlook smaller community services and will have a significant and detrimental impact on them, and as a direct consequence the people they support, as outlined in further detail below.

VODG is again calling on the Department of Health and Social Care to ensure that policy and law to protect citizens is inclusive and reflects the diversity of all forms of provision that support disabled people to lead full and inclusive lives.

Recommendation: We are calling on the Department of Health and Social Care to publish an equalities impact statement in relation to the proposals.

As we approach the winter flu season and as COVID-19 infections continue to rise, there is clearly a need to implement measures that reduce transmission. However, this proposal is impractical in that it fails to recognise the reality of how disabled people live their lives and use services. For example, this proposal does not incorporate education services nor reflect how disabled people (and their staff) may move from care homes to specialist education. This may include disabled people who directly employ their own staff. It is not clear what principles are driving government's proposals.

Recommendation: We are calling on the Department of Health and Social Care to set out the inter-dependencies of its proposals for people who use social care, across children and adults services, and for people who directly employ their own staff.

The COVID-19 pandemic has brought about additional and significant financial pressures for the sector as well magnifying long-standing systemic issues that are in urgent need of address. Providers are already facing significant staffing pressures

and recruitment shortages of trained staff. For example, there is an average of around 112,000 vacancies at any one time in the social care sector.¹

The proposed requirement will reduce staff movement but will not come without other significant operational risk, particularly for smaller care homes and settings where staff teams may comprise as few as four or five people. It will make staffing services much more difficult at a time when resources are already stretched, further compounded by growing numbers of care workers shielding, off sick with COVID-19, or having to self-isolate (increasingly so as the government's Track and Trace initiative gains momentum).

This proposal needs to be fully risk assessed across the entire sector rather than a blanket decision being made that larger settings could more easily navigate but that could be devastating for smaller care homes such as those for people with learning disabilities and/or autistic people. Such services are generally smaller, there may be as few as five or six residents, and rely, for contingency, on moving their known and trusted staff members between services. Many small care homes share registered managers and clinical behaviour staff between two or multiple services and more recently will have 'bubbles' of bank workers across two smaller homes. Under this proposal, which should not be extended to registered managers, such arrangements would be stopped.

Moreover, this proposal is absent of any accountability measures, including risk and proportionality assessments, that will determine the cessation of these restrictions.

Recommendation: We are calling on the Department of Health and Social Care to include guidance within the policy as to what assessments will be undertaken by government to determine the cessation of these restrictions.

Implementing the proposal

Since the onset of the COVID-19 pandemic, voluntary sector providers of disability services have implemented various measures to ensure settings and services are COVID-19 secure. Staff are already wearing full PPE and carrying out infection control procedures in line with government guidance. Many are already limiting workforce movement. Further regulation to reduce movement will not be without risk – both financial and operational – and will impose additional complexity that will inhibit the delivery of services. In services where there are high levels of infection control and robust risk assessment practices in place, carefully considered movement should be allowed to continue.

The proposed policy will be easier to implement in a large nursing or care home with a substantial staff team. It will be much more challenging to implement in small services that have much smaller staff teams. It would be more effective for policies to support providers by focussing on increased infection control measures such as introducing weekly COVID-19 testing across all health and social care settings and

¹ Skills for Care (2020) *The state of the adult social care sector and workforce in England*. www.skillsforcare.org.uk/adult-social-care-workforce-data/Workforce-intelligence/documents/State-of-the-adult-social-care-sector/The-state-of-the-adult-social-care-sector-and-workforce-2020.pdf

ensuring PPE guidelines are clear, consistent, and implementable rather than putting more pressures on already stretched systems.

To support smaller settings to implement such a proposal, consideration should be given to allowing smaller registered homes and services to form a management or geographical 'cluster' whereby small staffing pools could be created to cover services. Pooled staff could then receive regular testing and be limited to a risk-assessed and approved number of services. This would help reduce risk and also enable providers to share resources more effectively and be responsive to the needs of each service.

The Infection Control Fund (ICF) is cited as a means of support to help providers limit staff movement between settings. However, VODG members consistently report that the ICF is not covering all costs, and there are further concerns that the funding – distributed on an area basis and thereby reflective of different regional pressures in relation to the pandemic – will come to an end during the critical winter period.

Recommendation: VODG is calling for the ICF to be maintained and increased in order to support providers through the winter period and until COVID-19 pressures begin to ease.

How individuals and businesses are affected

The delivery of support to people living in small care homes will disproportionately affect disabled people. This is because the operations of these services rely on far fewer staff than might be expected in larger run care homes (typically for older people). This dynamic will be compounded for smaller providers of services, as they will have fewer human resource to mobilise from across the business in times of staff shortage. Whilst VODG appreciates the need to restrict staff movement, the principles and purpose for the proposal need a nuanced approach because a one size fits all approach for all care homes will not work. It will put care continuity at serious risk.

Social care services are a lifeline for many disabled people. For people with learning disabilities and autistic people who live in care homes, this policy could massively affect wellbeing. The pandemic has already affected routines, visits with family, and attending activities outside of the home. A change in staff with whom they have a relationship will further impact their wellbeing and may cause stress, for both the person supported and the care worker. In addition, the complications that will arise from staff supporting individuals who do not know them well enough will pose further risks if sufficient lead in time is not allowed.

For smaller care homes, the proposals will effectively mean that staff may be forced to choose where to work.

Given the profile of the social care workforce, this proposal will disproportionately affect women and people from BAME communities and those in poorer communities. Furthermore, given the low pay within the sector social care workers personal

finances may be negatively impacted. Essentially, this policy will limit the income of already marginalised groups of people.

Ensuring continuity of care

Restricting movement between services will have a huge impact on smaller care homes being able to continue to provide the dedicated support already in place. Most organisations run on limited staffing resources due to the funding provided, which organisations use to best meet the needs of the people supported. Any further reduction could lead to serious situations, which would pose a higher risk than that of COVID-19.

Providers of smaller residential settings, such as those for people with learning disabilities and autistic people, would rather use their own trained and trusted staff who are familiar with the people they support and service arrangements. The ability to 'backfill' homes with known workers, backed up with PPE and regular testing, when there is limited staffing due to an outbreak or staff members are having to self-isolate is imperative to ensure consistency of care. This restriction would lead to more agency / bank staff being used, who not only will be unfamiliar with the people being supported and their requirements, but crucially will not be part of the weekly testing regimes already in place for care homes which ensures all staff are tested. This is also a more expensive option and block booking of agency staff, which may work well in some scenarios, is simply not an affordable or practical option for all providers, particularly for those unable to offer a minimum number of hours and at a time when the situation is rapidly changing. In addition, agencies may not have sufficient levels of staff available to supply all providers in any one geographical area.

VODG members are also concerned about the impact such a policy would have on providers' relationships with staff members and feel it will not be easy to implement the changes required to meet the proposed requirement as a result. Many rely on staff being open about other employment, which they will be less motivated to do if they face losing some of their income. Providers will lose staff members who have worked with them throughout the pandemic and who will be trained in the infection control procedures if they are not able to offer sufficient hours or that person chooses another organisation as their primary employer.

Alongside this are concerns around liability if a worker does not declare working for multiple employers or breaches the restriction. The proposal is absent of any guidance around breaches of contract, made be either employer or employee. Furthermore, complications would arise if a worker choose a provider as their main employer who then can't offer sufficient hours of work. The proposed policy has the potential to harm the relationships providers have with their staff teams at a time when recruitment and retention of social care staff is already precarious.

In conclusion, the restriction on movement could cause serious issues in respect to risk for the people providers support, regulatory compliance of services and financial hardship for staff and organisations.

Instead of regulating to restrict staff movement between care settings, a more suitable policy for settings of all sizes would be one that allows for movement within COVID-19 secure settings, including regular COVID-19 testing, and in adherence to robust risk assessments.

Finally, VODG wants to work with government to ensure disabled people continue to receive the right care and support throughout this pandemic. Whilst a number of serious concerns have been raised about the proposal, we are standing by to work with officials to support the development of amendments that will ensure its suitability across the entire sector.

Ends