

DÁIL ÉIREANN

COISTE SPEISIALTA UM FHREAGRA AR COVID-19

SPECIAL COMMITTEE ON COVID-19 RESPONSE

Déardaoin, 10 Meán Fómhair 2020

Thursday, 10 September 2020

Tháinig an Coiste le chéile ag 10 a.m.

The Committee met at 10 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	
John Brady,*	
Colm Burke,	
Seán Canney,*	
Jennifer Carroll MacNeill,	
Michael Collins,	
David Cullinane,	
Cormac Devlin,*	
Jennifer Murnane O'Connor,*	
Fergus O'Dowd,	
Ruairí Ó Murchú,*	
Róisín Shortall,	
Bríd Smith.	

* In éagmais / In the absence of Deputies Mary Butler, Matt Carthy, Stephen Donnelly, Louise O'Reilly and Matt Shanahan.

Teachta / Deputy Michael McNamara sa Chathaoir / in the Chair.

Examination of HIQA Report on the Impact of Covid-19 on Nursing Homes in Ireland

Chairman: Good morning. We have been notified that Deputies Devlin, Pádraig O’Sullivan, Murnane O’Connor, Durkan, Hourigan, Brady, Canney and Ó Murchú will substitute for their party colleagues today. I welcome the witnesses from HIQA who are joining us to discuss the HIQA report on the impact of Covid-19 on nursing homes in Ireland. We are joined by the CEO, Mr. Phelim Quinn, the chief inspector and director of regulation, Ms Mary Dunnion, and the deputy chief inspector for social services, Ms Susan Cliffe.

I wish to advise the witnesses that by virtue of section 17(2)(l) of the Defamation Act 2009, they are protected by absolute privilege in respect of their evidence to this committee. However, if they are directed by the committee to cease giving evidence on a particular matter they must respect that direction. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise nor make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

I invite Mr. Quinn to make his opening statement. I wish to explain to the witnesses that it took a little longer than anticipated to get a quorum because we brought the meeting forward in anticipation of votes in the Dáil later in the national convention centre. I apologise to Mr. Quinn and his colleagues for the slight delay in getting under way this morning.

Mr. Phelim Quinn: I welcome this opportunity to address the Special Committee on Covid-19 Response. I am joined by my colleagues, Ms Mary Dunnion, chief inspector of social services and director of regulation, and Ms Susan Cliffe, deputy chief inspector of social services.

In July, HIQA published a report on the impact of the Covid-19 pandemic on nursing homes in Ireland. The report details the initial findings of our inspections and interactions with nursing homes and describes the experiences of residents, their relatives and staff. The report outlines the significant level of activity that has occurred from March to the date of publication in July to ensure the safety and welfare of residents and to support service providers and staff. This includes, for example, inspections of centres both with and without cases of Covid-19, the expedition of applications to open new nursing home beds, the receipt and review of a large number of mandatory notifications, and the opening of HIQA’s infection prevention and control hub.

Since the first case of Covid-19 was confirmed in an Irish nursing home on 13 March, HIQA has maintained regular and ongoing contact with the providers and managers of nursing homes and monitored their ability to protect residents and manage an outbreak of this nature. These facilities faced substantial challenges in the initial phase of the pandemic for the following reasons: they are not hospitals - good nursing homes provide a social model of care and are integrated into their local communities; the prevalence of Covid-19 in the community; initial limitations in accessing Covid-19 testing and prompt notification of results; limited working knowledge initially of the symptoms of Covid-19 and the extent of asymptomatic spread; the absence in some facilities of comprehensive plans to deal with the outbreaks; challenges in replacing staff due to the requirement for quarantine and self-isolation; the scarcity of personal protective equipment, PPE, across the health sector; infection prevention and control processes that were not commensurate with what would be required to effectively manage a pandemic; the need to understand and apply frequently changing national guidance on the management of Covid-19; and the fact that 80% of nursing homes are privately managed with minimal formal referral pathways to the HSE.

A key element of our inspections is listening to the views of people who live in nursing homes. On more recent inspections, residents who spoke to our inspectors expressed a range of emotions. Some feared contracting the virus and worried about their family and friends, while others felt a deep sense of isolation and loneliness as a result of the visiting restrictions. Without exception, residents were deeply grateful to staff in nursing homes for the care they provided in extremely challenging circumstances.

In the context of HIQA's role, Covid-19 has brought into sharp focus the need to immediately review and enhance the current regulatory framework. In the long term, a reform of established models of care for older people in Ireland is required. To this end, on 25 June, HIQA submitted to the Minister for Health a number of suggested interim amendments to the Health Act 2007 and the regulations for designated centres for older people, and adults and children with a disability.

HIQA contributed to the Covid-19 nursing homes expert panel report published on 19 August by the Minister for Health. This report contains a range of recommendations aimed at safeguarding residents in nursing homes. The report makes 86 recommendations, 24 of which are directly relevant to our role. HIQA has been identified as the lead agency in four recommendations, and is one of a number of agencies that will contribute to the implementation of a further 20 recommendations. A large number of recommendations require urgent implementation and-or planning for implementation to commence immediately. This is to maintain the focus on supporting nursing home residents, ensuring that older people, especially those at high risk of infection, are at the centre of the ongoing response to Covid-19.

Some of the recommendations involve enhancements to our current regulatory practice and schedule, such as an increase in the volume and frequency of on-site inspection activity to at least one inspection per centre per year and targeted Covid-19 preparedness inspections.

In addition, these recommendations will require the implementation of additional regulations and legislation or the amendment of current regulations; the identification of a suite of quality assurance metrics and mandatory notifications; the establishment of a number of new registers; publication of the results of specific audits; and an increase in HIQA's capacity, including our ICT resources. In addition, there is also a wide range of measures and actions to be undertaken that are the responsibility of individual nursing home providers.

I also acknowledge the publication of this committee's interim report on Covid-19 in nursing homes. We agree with the statement made therein that the crisis has highlighted the need to move to a different model of care where older people are cared for in their own homes or their communities for as long as possible. We welcome the recommendations made in the report and are working with the Department of Health to ensure that HIQA has adequate resources to progress both these recommendations and those of the expert panel. A business case has been made to the Department of Health in this regard.

I thank the committee for its attention this morning. We look forward to answering any questions members may have.

Chairman: I thank Mr. Quinn very much. I will now open the floor to colleagues. I will be strict on time this morning because we must all leave on time in order to get to the Convention Centre for the votes. Deputy O'Dowd will speak first. The Deputy has ten minutes.

Deputy Fergus O'Dowd: I welcome the witnesses. I have a number of questions, some of

which are based on HIQAs report this morning. It was stated that the first case of which HIQA became aware was on 13 March. At what point did it stop inspecting nursing homes after that date? When did it cease its inspections?

Ms Mary Dunion: We ceased inspections on 13 March in order to adhere to public health guidance. In that context, we changed our methodology. That meant our inspectors stayed in constant contact with all nursing homes because we have notifications of suspected or confirmed Covid-19 outbreaks. This interaction with the nursing homes allowed us to escalate matters and work with the HSE in the context of setting up crisis management teams and support to nursing homes.

Deputy Fergus O'Dowd: HIQA stopped inspections immediately.

Ms Mary Dunion: Yes.

Deputy Fergus O'Dowd: Ms Dunion said HIQA maintained regular ongoing contact. When did the authority publish its recommendations about the care and welfare of nursing home patients in the context of Covid-19? The date will suffice.

Ms Mary Dunion: Is the Deputy referring to the overview report?

Deputy Fergus O'Dowd: I believe HIQA listed its concerns on 21 April.

Ms Mary Dunion: From the onset of Covid-19 we have remained in constant engagement with the Department of Health and the HSE.

Deputy Fergus O'Dowd: That was not the question I asked Ms Dunion.

Ms Mary Dunion: From 13 March we remained in constant engagement with the Department of Health and the HSE in the context of recommendations about what was required to support nursing homes.

Chairman: The Deputy is asking when HIQA published the first report after it ceased inspections.

Ms Mary Dunion: I am sorry. Ms Cliffe may have the date for the contingency planning.

Ms Susan Cliffe: I believe it was around the second week in April.

Deputy Fergus O'Dowd: I consider that to be very late indeed. It was during that period that people in nursing homes throughout the country were dying. The document presented by HIQA this morning is self-serving. It does not mention anywhere the authority's responsibility or accountability or the lack of inspections or staff.

It grieves me to meet families who lost loved ones. I refer, in particular, to those families whose loved ones were in Dealgan House Nursing Home. Some 23 family of those people died. These families are broken-hearted and exhausted. They are in a difficult place right now. They are getting no closure and no help from HIQA, which is dealing with their correspondence and freedom of information, FOI, requests by means of redacted replies. There is a lack of information for these families. They are looking for the truth as to why and how their loved ones died. The refusal on the part of HIQA, which is the regulator in this area, to provide information is hurting these people deeply and causing them grief. Do the witnesses have any view on that?

Mr. Phelim Quinn: I will speak to that.

Chairman: I ask that all colleagues do not mention specific nursing homes, particularly if they were mentioned previously. There is a general practice of not naming any nursing homes or entities. The second issue is that it has come to my attention that court cases are pending with regard to some nursing homes. We need to be careful-----

Deputy Fergus O'Dowd: It has come to my attention that 23 people died in a nursing home in County Louth and the whole country knows that. I want to know what HIQA did to protect those people.

Chairman: That is correct, and it is a tragedy. However, I wish to say one thing. We need to operate in an environment of mutual respect on the part of all branches of Government and ensure that court cases do not collapse as a result of things that are said here.

Deputy Fergus O'Dowd: I must accept the Chair's comment. However, 23 people died in the home to which I refer.

Deputy Bríd Smith: I wish to raise a point of order.

Chairman: I am sorry, Deputy O'Dowd, a point of order has been raised.

Deputy Bríd Smith: The point of order is relevant because I am sure others here would like to mention nursing homes and circumstances about which we are concerned. This ruling makes a mockery of this procedure if we are not allowed to call it out and name it. I am standing up for this Deputy who is, quite correctly, naming one of the worst places in the country for the deaths.

Deputy Fergus O'Dowd: Hear, hear.

Deputy Bríd Smith: I do not see how the Chairman's ruling can legitimately apply to this committee because it stops us doing our job.

Chairman: I have absolutely no problem with you or Deputy O'Dowd highlighting a practice with which you take issue.

Deputy Fergus O'Dowd: There are no legal issues arising from my questioning. I do not want to lose my time, Chairman.

Chairman: The concern I have is attributing blame to particular institutions.

Deputy Bríd Smith: He is stating facts. He is not attributing blame.

Chairman: One person's fact is another person's allegation. We are not here to determine-----

Deputy Fergus O'Dowd: People are dead.

Deputy Bríd Smith: One cannot allege that 23 people died in a nursing home in Dundalk. They died. It is a fact.

Deputy Fergus O'Dowd: They are dead and their families are grieving. I will continue. I will not fight with you over this.

Chairman: I ask people to be cautious with regard to allegations about named nursing homes. People can, of course, raise practices that are of concern to them.

Deputy Fergus O'Dowd: These people have died. Their families are grieving. They are

not getting closure from HIQA which is refusing to give them information.

The question again is: what is HIQA doing to help these families?

Mr. Phelim Quinn: In the context of what the Chair said, we have had correspondence with regard to specific nursing homes. That correspondence relates to freedom of information, FOI, requests as well as clarification on a number of other issues.

Regarding a formal request for a review of freedom of information, I can guarantee the Deputy that is being addressed and will be furnished to those relatives within a week.

Deputy Fergus O'Dowd: I will ask a different question. Will Mr. Quinn, as chief executive of HIQA, release all that correspondence now outside of FOI to help those families get closure?

Mr. Phelim Quinn: To acknowledge the fact that it has been formally requested through an FOI process-----

Deputy Fergus O'Dowd: I am asking Mr. Quinn a different question.

Mr. Phelim Quinn: I appreciate that and, again, I will answer it in the context of what the Chair has said regarding legal proceedings. We will certainly facilitate the release of information as much as possible and in as much volume as possible. We will do that exponentially. We will also seek to address and clarify any other specific issues outside of the FOI request that some of the family members have asked for.

Deputy Fergus O'Dowd: Will Mr. Quinn meet with the family members?

Mr. Phelim Quinn: As well as that, we have specifically-----

Deputy Fergus O'Dowd: Will he meet with the family members?

Mr. Phelim Quinn: Again, we will consider that in the context of the legal action being taken.

Deputy Fergus O'Dowd: That is not acceptable. I do not accept that. This is about HIQAs correspondence about people in a nursing home who, I believe, died in appalling circumstances.

I will ask a different question. Is HIQA carrying out an inspection or an inquiry into what happened in that home?

Mr. Phelim Quinn: I will pass to my colleague, Ms Cliffe, who will detail the inspection and regulation activity that relates.

Ms Susan Cliffe: Since the onset of Covid-19 we have carried out two inspections in the nursing home to which the Deputy refers. The first was carried out on 28 May and the second was carried out earlier this week. We are inspecting against the regulatory framework and the legislative framework that we currently have.

Deputy Fergus O'Dowd: I am short on time. Is HIQA carrying out an inquiry or an inspection?

Ms Susan Cliffe: We have inspected the nursing home on two occasions.

Deputy Fergus O'Dowd: HIQA is not inquiring into their deaths.

Ms Susan Cliffe: We have inspected the nursing homes against the regulatory framework that we have.

Deputy Fergus O'Dowd: That is the answer, there is no inquiry. These people are crying out for an inquiry.

I will ask Ms Cliffe a separate question as regards Kilbrew nursing home. The HSE received four notices of concern from Sage Advocacy regarding the appalling treatment of a person who subsequently died there with infected wounds and with maggots in their face. What did HIQA do when it got those four notices of concern?

Chairman: Deputy O'Dowd, I have no problem with anything being raised here but I am asking people not to name nursing homes.

Deputy Fergus O'Dowd: Fair enough. In a nursing home where a man and his son died, with infected maggots in his face, HIQA got four notices of concern from Sage Advocacy. What did it do about them?

Ms Susan Cliffe: All information we received with regard to the care of individuals in that nursing home has been reviewed. We have engaged with several other parties, including social workers and staff in Connolly Hospital Blanchardstown. We have met with the provider. We have inspected the nursing home. We have looked for the provider to-----

Deputy Fergus O'Dowd: Has HIQA met with the family?

Ms Susan Cliffe: We have offered to meet with the gentleman's wife. We have offered her three dates and we are waiting to hear back whether she wishes to meet with us or not.

Deputy Fergus O'Dowd: Is HIQA carrying out an inspection or an inquiry into the care of those patients?

Ms Susan Cliffe: We have inspected the nursing home the Deputy is talking about. Our regulatory framework gives us a means of inspecting nursing homes against the care and welfare regulations that are in place to safeguard the residents in those homes.

Deputy Fergus O'Dowd: I appreciate the honesty of Ms Cliffe's reply. I am deeply concerned by this self-serving statement from HIQA. I am horrified by the worry and-----

Deputy Róisín Shortall: That is inappropriate. The Deputy should not be going along with this now.

Deputy Fergus O'Dowd: -----the pain of those families if it is going to happen into the future. I welcome the changes that are coming in this document. We must look after these relatives in a far more careful and caring way. I charge the witnesses with not being accountable to them. HIQA is the regulator and they have not got closure. They will not get it until they get an inquiry. That is what is needed, Chairman.

Deputy David Cullinane: I welcome the witnesses. I also welcome the publication of their report and the fact that a clear focus was put on the experience of staff and, crucially, the experience of residents and their loved ones, which was a very important part of it. Does Mr. Quinn believe there was a failure of regulation in nursing homes that led to some of the circumstances we now know occurred during that time?

Mr. Phelim Quinn: No, I do not. I believe that regulation is a product of policy and legislation. As a regulator, we must adhere to the legal framework under which we must operate. Regulation is also a product of standards that are endorsed by a Minister. Certainly, what we have identified in our report is that there is a requirement for change in the legislation and regulations-----

Deputy David Cullinane: Can I stop Mr. Quinn there? I am not trying to put the blame on his organisation. On page 42 of the report it is stated that HIQA has previously called for reform of the regulatory framework to allow other forms of care to flourish. It also speaks about the 2013 regulations that need to be strengthened. My point is that if HIQA is calling for regulations to be strengthened, the logic of that for most people would be that the regulations were not strong enough. I am not talking about the regulations that were there but whether the regulations were not strong enough in the first place. If HIQA is calling for them to be strengthened, it strikes me that they were not strong enough. Is it the case that they were not strong enough because the regulations that needed to be strengthened in whatever area simply were not there and that, in itself, was a problem? Would that be a fair assessment?

Mr. Phelim Quinn: I agree with that assessment on two counts. One is that the regulations as they stand would not have been adequate to deal with a pandemic such as Covid-19. In addition, and the Deputy is correct, from as far back as 2013 we have been highlighting deficits in the regulations-----

Deputy David Cullinane: How many times and in what way did Mr. Quinn and his organisation, or even his predecessors as I do not know how long he has been in his position, lobby either the Government, Departments or the HSE for improved regulations in nursing homes before Covid-19 struck?

Mr. Phelim Quinn: It is a message that we have consistently included in reports and submissions to the Department of Health since 2013. If one looks back on the reports of the chief inspector of social services, there is continual highlighting of specific deficits and the requirement to review regulations to ensure they are relevant with emerging models of care. More particularly-----

Deputy David Cullinane: My point is that through all those years HIQA, which is the regulator, said it needed more powers and to strengthen the 2013 regulations and that it needed an updated regulatory framework. If that is the case, it seems that those calls fell on deaf ears.

Mr. Phelim Quinn: It is certainly correct that we had made those calls. I welcome the fact that they are being addressed both through the expert panel report and also we had a-----

Deputy David Cullinane: We will get to the expert panel report next week. Mr. Quinn is right that it is an important report as well. I wish to refer to the role of HIQA with regard to individual cases. I am not going to discuss any individual cases but some horrific ones were brought to my attention, including the one that was raised earlier. I had raised it as well. There are many other individual harrowing cases, although they are a minority. The vast majority of people get high-quality care in these settings. However, where there are failures and abuses, they must be properly examined. What is HIQA's power with regard to examining individual cases? It was said earlier in respect of a case that was mentioned that there was an inspection. Can HIQA do more than inspection? For example, the word "inquiry" was mentioned. Does the authority have the power in the first instance even to conduct an inquiry in respect of an individual case?

Mr. Phelim Quinn: Under the current legislation, HIQA does not have the legal powers to carry out-----

Deputy David Cullinane: Rather than calling on HIQA to do something it cannot do, Government members would be better served by giving the authority the powers to carry out these investigations and inquiries. There are very harrowing cases and I will get to some of them momentarily in the context of people's experiences. We are discussing people's experiences during Covid-19, but I am talking about abuse and neglect. I accept that it is a minority and that the vast majority of people's experience in nursing homes is high quality and very good, but where there is negligence, we have a real problem if HIQA does not have the powers to deal with these individual cases. Has the authority made any recommendations to the Government in respect of it being able to respond better to cases of neglect or abuse of individuals in nursing homes where they happen?

Mr. Phelim Quinn: With regard to individual cases, in parallel with the calls that we have made in recent times for changes to the regulations, we have also sought the development of adult safeguarding legislation that would enable a statutory agency to investigate individual cases of neglect and-or abuse, including institutional neglect and-or abuse. We believe that has been a deficit in the legislation for quite some time.

Deputy David Cullinane: Can Mr. Quinn furnish this committee with details of representations that were made by HIQA to the Government, the HSE and Departments relating to regulation, clinical governance and powers of examination and investigation in respect of individuals? I wish to move on to a number of other cases so perhaps he could furnish the committee with as much information on that as he can.

Mr. Phelim Quinn: Yes.

Deputy David Cullinane: Page 36 of the report refers to the experience of staff. It states:

Most inspectors recounted stories of management and staff becoming overwhelmed with emotion when speaking about how they managed during the pandemic. Some exhibited signs of extreme stress, fatigue, exhaustion and anxiety in trying to come to terms with what was happening around them.

With regard to residents, the report states that residents were often fearful, confused, angry, frustrated and lonely. It is harrowing to read that in print. I can only imagine what it must have been like to hear at first hand the stories of those residents and that sense of loneliness, fear and isolation, and, I imagine, the sense of being let down by the system. Can HIQA understand the deep frustration that many families feel with inaction and failures, as some would see it, in some nursing homes with regard to issues such as standards, infection control measures and PPE?

Mr. Phelim Quinn: Yes. To provide the Deputy with more detail in respect of our experience of talking to relatives and residents, I will call my colleague, Ms Dunnion.

Ms Mary Dunnion: The Deputy quoted from the report, and that would have been our experience across residents, a significant number of relatives of residents whom we met and staff working in centres. It was an extremely difficult time. We, as a health and social care service, were learning like everyone else in the world. There is no doubt that the response that was required was not immediate. However, over the period of the first wave of Covid-19, huge

structures have been put in place. We see evidence of that now when, sadly, there is more evidence of outbreaks.

Deputy David Cullinane: I thank Ms Dunnion. I wish to make a final point to Mr. Quinn. I refer to the 44 risk inspections that were carried out. The figures are appalling. These were risk inspections in nursing homes where there were outbreaks and high levels of contraction. Only five of the 44 were found to be mostly compliant; 39 were found to be not compliant with at least one in three regulations. We have seen negligence, lack of enforcement, poor structural relationship, lack of oversight and poor clinical governance. Has HIQA data on the number of unexplained deaths in those nursing homes where inspections were carried out and there was a lack of compliance in comparison with the nursing homes where there were lower levels of contraction? Regarding those 44 centres where inspections were carried out, especially those 39 which failed to abide by at least one in three of the regulations and in some cases more, were there more deaths or unexplained deaths in those nursing homes?

Mr. Phelim Quinn: I appreciate the Deputy is directing the question to me but I believe Ms Mary Dunnion, as chief inspector, would have some detail on that.

Ms Mary Dunnion: We receive notifications of all unexpected deaths in all nursing homes, both those that had Covid and those that did not. Regarding Covid-related deaths, information is shared with the Health Protection Surveillance Centre, HPSC, which validates the information and that is the source of validated information in that regard.

Deputy David Cullinane: We need to hear from the HPSC because we are hearing from HIQA that it can only account for unexplained deaths and cannot determine whether they were related to Covid. Next week, we need to hear from the HPSC. We need to get that information. Regarding the 39 nursing homes where there was very poor adherence to the regulations, we need to know whether there were higher levels of unexplained deaths in those nursing homes than in those where there was not. Those data should be available to us to determine whether the lack of enforcement and the failure to abide by regulations was a contributory factor to people having lost their loved ones. We have read the harrowing cases and the experience of the staff in this report, which has been accepted by HIQA. They deserve the truth. They deserve to know what happened. That is not about apportioning blame but establishing the facts. We need to hear from the HPSC. HIQA certainly has information in terms of unexplained deaths. Will HIQA provide the committee with a breakdown of the numbers of unexplained deaths in those 39 nursing homes and compare it in percentage terms to unexplained deaths in those that were abiding by the regulations? This will give us a clear picture of what happened. Can HIQA provide that to the committee now? If not, will it forward it to the committee?

Mr. Phelim Quinn: It is something we will look at and we will provide what we can to the committee.

Deputy Róisín Shortall: I welcome the witnesses from HIQA. Some people need to be reminded that a regulator is only as effective as the legislation that underpins it and as the budget provided to it. It is hard to take Government representatives here - one member for the second time - having a go for the purposes of headlines rather than taking responsibility for the lack of legislation and powers given to HIQA. It is unfortunate and brings the committee into disrepute.

In its report, HIQA has highlighted clearly the absence of statutory staffing ratios and the inadequate skill mix that exists in the nursing homes. On how many occasions has HIQA brought

those concerns to a Minister? Has HIQA any official, formal response from a Minister at any stage with regard to that key issue?

My second question relates to compliance reports. What is the procedure when HIQA has annual reports identifying non-compliance for various reasons? Is there a formal procedure for the Minister to respond? Are those responses available? What are the overall staff numbers that HIQA has? How many of those staff are devoted specifically to oversight work in nursing homes?

The witnesses have identified many shortcomings in the physical structures of various nursing homes which impact negatively on their infection control systems. Do they have a ballpark figure in relation to the kind of capital investment required to bring those nursing homes up to an acceptable modern-day standard?

My final question relates to the earlier report on the difference between persons in nursing homes who died with Covid and those who died from Covid. Has that report gone anywhere and has there been an official response to it?

Mr. Phelim Quinn: I thank the Deputy. I will take her third question first and then pass to my colleagues who will give some detail in relation to the other questions.

HIQA as an organisation has 278 staff, of which 22 are dedicated to the regulation of nursing homes, including 17 inspection staff. We have recently received sanction from the Department of Health for an additional nine staff, of which seven are inspectors for nursing homes. As a result of the publication and recommendations of the expert nursing home panel report, we have submitted a business case which reflects the significant additional activity being required of us in relation to nursing homes. I will pass to my colleagues to answer some of the other questions.

Ms Mary Dunion: I will cover staffing and compliance reports and then hand over to my colleague, Ms Cliffe, with regards to premises.

The Deputy is correct. In the context of staffing levels in nursing homes, there is a regulation which covers staffing. Because it has no baseline of staff requirement, there are no national staffing levels in nursing homes, either for nurses or support staff. In the nursing home sector, most of the staff are support staff to the nursing staff. There is no national dependency tool to assess how dependent the residents are and what clinical, nursing and care support they require. As a consequence, the regulation on this is-----

Deputy Róisín Shortall: Sorry, I wish to clarify what Ms Dunion is saying. Is she saying there is no statutory requirement for nurse ratios in nursing homes?

Ms Mary Dunion: There is not. The regulation states: "The registered provider shall ensure that the number, qualifications and skill mix of staff is appropriate to the number and assessed needs of the residents, the statement of purpose and the size and layout of the designated centre." There is no minimum staffing level or national staffing ratio. That is discretionary to each provider.

Deputy Róisín Shortall: So it is one's definition of "appropriate level".

Ms Mary Dunion: Yes. In answer to the Deputy's question, we have highlighted staffing levels and, as Mr. Quinn outlined, we have submitted to the Minister for Health a recommendation against ten specific regulations because they are pertinent to the Covid outbreak and the

national public health emergency and one of those is staffing. The nursing home expert group has also given a number of recommendations in relation to setting staffing levels but that will take a period of time.

Deputy Róisín Shortall: On how many occasions, roughly, has HIQA brought the absence of statutory staffing levels to the attention of a Minister?

Ms Mary Dunnion: I am not confident that we have brought that as a specific stand-alone item because we have significant concern across the broad range of regulations that are there. Every regulation is dependent upon another so we have raised the issue that the totality of the regulations about care and welfare need to be reviewed as a matter of priority. As I say, we cannot look at any regulation in isolation. The governance and management, which are key to the safe quality and delivery of service to a resident, comprise one of the key regulations and out of all the others fall care and welfare. We have brought all regulations as requiring updating.

Deputy Róisín Shortall: Have there been official responses from various Ministers?

Ms Mary Dunnion: We have had acknowledgement of receipt of what we have submitted. We have had contact in more recent times from the Department of Health in the context of setting up a working group to look at this, and it is very much welcome, in the nursing home expert panel recommendations.

Chairman: If the Deputy has one more very brief question I will allow it, otherwise I will try to bring her in at the end because she is over time.

Deputy Róisín Shortall: Just on that question of the numbers of residents in nursing homes who died from Covid as opposed to with Covid, is there any further work being done on that?

Mr. Phelim Quinn: No specific additional work has been done in respect of that. I do not have the specific information on it but I will make sure we can get it to the Deputy.

Deputy Bríd Smith: I thank the witnesses for attending. I find this process very frustrating, not least the rulings that we get that we cannot talk about this or that, or that this is subject to legal action and that is not. It really does hamper us in doing our job in trying to scrutinise what is going on. I note the witness is nodding his head. I am sure the witnesses are used to this and that they get plenty of it. Legalities hamper the truth coming out. In this case, we are going to have to find a way to get at the truth.

I found the report alarming because it skirts around a number of key issues. In one sense, HIQA is saying these issues are jumping out at us, such as the largely privatised nature of our nursing home sector and the care of our elderly being the subject of profits for lots of companies. However, at no stage does the report point to that as a problem. One of the starkest figures in everything I have come across is that 56% of all deaths during Covid took place in nursing homes while that setting represents only 0.65% of the total living population. This alarming figure and the lack of pointing the finger at what has gone on means that we do need a public inquiry into everything that happened. I have been adamant that I want that inquiry to take place into all the deaths and all the decisions taken in each case, particularly not to move residents to acute hospital settings. In that light, I want to mention the grandmother of Florence O'Shaughnessy, who has written to us all. She was taken care of in a nursing home in Dublin that I am not allowed mention.

Chairman: The Deputy knows we are not here to talk about individual cases. If there is a

particular-----

Deputy Bríd Smith: Chairman, I have five minutes and I am not going to be hampered in what I am trying to do at this committee. I am raising this for a reason.

Chairman: I am afraid that just as the Deputy is entrusted with representing her constituents, I am entrusted with chairing this committee and I am not going to allow her to raise individual cases.

Deputy Bríd Smith: Are you telling me I have to shut up now?

Chairman: I have never told the Deputy to shut up at all, nor will I. What I am saying is that we are not here to discuss named institutions or individual cases. The Deputy is perhaps right that-----

Deputy Bríd Smith: I am using it as an example.

Chairman: The Deputy has called for a statutory inquiry. Depending on its terms of reference, a statutory inquiry could be empowered to look at every single case or named cases such as the one the Deputy has just named. It is not the role of this committee to do so.

Deputy Bríd Smith: I am using it as an example and I stand over my right to use examples here to exemplify the crisis we are facing.

Chairman: I have stated from the outset that I have no problem with the Deputy using examples. I have a problem with her naming people. If there is a particular issue that she wants to raise she can do so but I ask her again to respect the practice-----

Deputy Bríd Smith: I have a specific question I want to ask so I will move on. I know the Chairman will take this argument out of the very limited time I am allocated.

Chairman: All I can do is share this as fairly as I can.

Deputy Bríd Smith: On 13 March, HIQA ceased regular monitoring inspections of nursing homes. That also happens to be the date it was first notified of a death from Covid in nursing homes. It was said earlier by Ms Dunnion that everybody was learning about this pandemic and how we should handle it. HIQA seems to have learned very quickly, on the same date that it got notification of a death, that that was the date not to go in and inspect nursing homes anymore. If my understanding is correct, there were no inspections or monitoring taking place in March, April or May. Looking at the graph showing unexpected deaths in nursing homes, it is clear how they spiked out of all control during that period. It was startling and we are all aware of it through the news media reports and so on. Why did HIQA take such a sudden, rapid decision to end all monitoring inspections of nursing homes on the first day it heard of a death in a nursing home? That was inadequate and inappropriate. Inspectors could have gone in dressed in PPE, or space suits if necessary. We expected staff and others to go in and carry out their jobs with little or no PPE and with instructions that they should not wear masks until they were symptomatic. We did not have the oversight of a body that the State depends on to ensure that everything was being done in a correct way. The fact remains that those inspections did not take place and we now have hundreds of families left in distress, wanting to know exactly what happened to their loved ones. They know they died but they do not know in what circumstances. They do not know what was given to them for pain or distress relief. They do not know whether they could have been transferred to a hospital. We paid millions of euro for

capacity in private hospitals, which were largely left empty during the pandemic, but we do not seem to have taken the care to shift elderly people to a hospital setting where they could at least have died with more dignity, less pain and less distress. All of that needs to be investigated. Since I am not allowed mention names or families, it takes from the strength of the evidence I wanted to give to try to raise the alarm with HIQA, the public and the Government that we absolutely need a public inquiry.

The second issue I would like the witnesses to comment on is the critique of the privatisation of the nursing homes sector. HIQA states in its report that the issues relating to Covid in the private nursing homes sector throws into sharp relief the lessons we have to learn and the impact on nursing homes. It states that this exposes a fundamental weakness in privatisation of the nursing homes but at no stage does HIQA draw conclusions from that. The second conclusion that we need to start moving towards, which this committee is going to have to deal with sooner rather than later, is that the State needs to ensure that the provision of long-term care of our elderly is brought under public control and that oversight and legislation arming HIQA and others are required to end what is happening here and to develop a nursing home sector that is accountable and directly run by our health services.

Chairman: The Deputy is over time but I will allow the witnesses to respond given the importance of what she has raised.

Mr. Phelim Quinn: I thank the Deputy for her questions. I will take the question about the cessation of inspections in the first instance. As Ms Dunnion said, that decision was taken in line with public health advice. It is a well established practice that inspectors do not go into homes where there are specific outbreaks. Certainly we were learning. One of the places we were learning from was our fellow regulatory bodies throughout these islands and Europe. We are part of a forum and we stayed very close to the sorts of practices that regulators were undertaking within those jurisdictions. My colleagues would be happy to detail the significant level of supports, advice and contact that we maintained throughout the early days of the pandemic and since.

As an organisation, in those early days of the pandemic, we engaged in a significant range of other activities in support of the national effort. That included the development of evidence summaries and evidence synthesis for the NPHET, of which HIQA is a member; the development of guidance; the transfer of staff to the HPSC, which had experience in surveillance science and guideline development; and the development of online infection prevention control tools published recently. We have seen an uptake of approximately 4,800 contacts with that particular training tool in the past two weeks. There has been a significant level of intervention and supports to the national effort. I will ask my colleague, Ms Dunnion, to answer the remainder of the Deputy's questions.

Ms Mary Dunnion: I will take the second point. Deputy Smith is correct that 80% of nursing homes are privately provided. We welcome the proposal for an examination of the policy around residential services in line with Sláintecare. In regard to the inspections since 13 March, I will ask my colleague, Ms Cliffe, to respond.

Chairman: In fairness to Deputy Smith her point was that the fact that 80% are privately provided was problematic. Was there a higher incidence of deaths in private nursing homes?

Deputy Bríd Smith: That was not my question.

Chairman: Sorry, is the Deputy's objection in regard to 80% of private provision in relation to Covid or is it a general ideological objection?

Deputy Bríd Smith: I am stating that the report omitted to make any comment on the privatised nature-----

Chairman: Is the Deputy asking Ms Dunnion to comment?

Deputy Bríd Smith: Yes.

Chairman: Obviously, 80% of residents in nursing homes are in private care. *Per capita*, was there a greater incidence of deaths or unexplained deaths in private nursing homes than in public nursing homes? I am not asking in general terms because obviously there are four times more residents in private nursing homes than in State-owned homes. Was the number of deaths or unexplained deaths greater in private nursing homes than in public nursing homes?

Deputy Bríd Smith: That was not my question. Ms Dunnion was about to answer the question I asked.

Chairman: It is my question. The Deputy need not be concerned. I will allow the witness to answer her question.

Ms Mary Dunnion: I acknowledge and agree with Deputy Smith that there is a higher percentage in private provision. It has been indicated that this policy is to be reviewed. The current model is based on national policy and, therefore, it requires a change if that is the direction of travel the Government decides on.

Chairman: Eighty per cent of residents in nursing homes are resident in private nursing homes. Was the number of deaths disproportionate in privately run nursing homes versus HSE or other State-run entities?

Ms Mary Dunnion: I would not say it was disproportionate because there were not Covid outbreaks all over the country. There was regional distribution. I would not be able to give an accurate answer to the Chairman's question. It would be a matter for the HPSC to analyse the data and provide that answer.

Chairman: I thank Ms Dunnion and I invite her to continue with her responses.

Ms Mary Dunnion: Ms Cliffe will respond to the other question.

Ms Susan Cliffe: In regard to the notifications we received about Covid-positive residents and staff, the breakdown was 80:20 in line with the breakdown of the make-up of the sector. There were 2,617 residents notified to us as having contracted Covid-19, of whom approximately 2,000 were in the private sector and 545 in the public sector. When I refer to the "public" sector, I mean the centres that are run by the HSE or funded by the HSE through section 38 and section 39 arrangements. Similar numbers are available for staff. In regard to the centres impacted by Covid, 77% were private and 23% were public such that the incidence broke down in line with the make-up of the sector. Ms Dunnion is correct in saying that Covid in the nursing homes followed Covid in the general population. It was for this reason nursing homes in key areas had higher levels of Covid than nursing homes in Cork-Kerry region, for example.

Chairman: I appreciate this is not the question Deputy Smith wanted answered but is it the case that there is no reason to believe that privately owned or privately run nursing homes fared

any worse than HSE-run or HSE-owned, or indeed public-owned or public-run, nursing homes with regard to Covid?

Ms Susan Cliffe: We do not have the definitive data on the number of resident deaths attributed to Covid. That data is held by the HPSC. It may well be an issue that will be examined in the future.

Chairman: From the figures given by Ms Cliffe, there is no indication of that.

Ms Susan Cliffe: The incidence breaks down along the same lines as the make-up of the sector.

Chairman: I thank Ms Cliffe and I call Deputy Canney.

Deputy Seán Canney: I welcome the HIQA delegation. I am substituting for Deputy Matt Shanahan who is unable to be here today. I have a number of specific questions. The most frequently used word in all of the discussion I heard while I was listening to the proceedings is “learning”. We have been learning since this outbreak first occurred. A number of issues have arisen in respect of which I would like to pose a number of questions.

First, temporary agency staff are employed in the residential care sector, often travelling between residences and thus creating disease transmission risk. What is the status of employment in the sector and have full or part-time positions been created to reduce this sectoral need? Second, the Government is considering the use of rapid testing to facilitate increased travel. Does HIQA plan to offer such tests to the nursing home sector to identify potential caseload development and early warning of disease presentation? Third, a lack of isolation rooms or space was identified as an issue during the first wave of Covid. In the event of a second wave, is HIQA satisfied based on its desktop analysis that all care homes have made adequate provision for isolation where needed? Fourth, the movement of patients from hospitals to nursing homes without prior Covid testing was a significant infection point in the outbreak of the disease. Is HIQA satisfied that the correct hospital protocols are in place to ensure this situation cannot be repeated? Fifth, I know first hand from nursing homes in my own area, which are in the private nursing home sector and have done Trojan work, that when they sought PPE, all the orders had been secured and taken into the control of the HSE, which, for a number of weeks, left the private nursing homes without access to supplies. Is HIQA satisfied that arrangements are in place to ensure that whatever is available is available to everybody and not taken prisoner by the HSE? My final question relates to HIQA staffing levels. Is the authority satisfied that it has sufficient resources to deal with the ongoing Covid-19 crisis? It was mentioned that the authority has been given additional staff. At the end of the day, we need to ensure that the authority is working proactively and that it has the resources to do so. Can Mr. Quinn confirm that he is satisfied that the authority has sufficient resources or does it require further resources? That is an important point.

The report reflects on why people are in nursing homes and considers whether they could be facilitated at home if they had proper nursing care. I would welcome a comment on that issue. It appears to be the default position that people go into nursing homes because they cannot be cared for at home when it is much easier to care for people at home. I accept this is not an area of responsibility for the HIQA but I would welcome a comment on it.

Mr. Phelim Quinn: I thank the Deputy for the questions. I will respond to some of them and I will then hand over to my colleagues to provide some of the detail on other questions.

On rapid testing, the specific test used is the oral and nasopharyngeal swab test. I understand that NPHET and the expert advisory group are currently considering additional forms of testing. We are aware of, and support, the programme of serial testing within nursing homes that has been able to identify a number of positive cases and enabled the sector and public health departments to manage specific cases within nursing homes.

In response to the question on HIQA staff, I would say we do not have enough staff to deal with Covid-19 and the post-Covid-19 environment. However, we welcome the recent announcement of nine additional staff. I also acknowledge the very significant additional work that has been identified for us in the report of the expert panel. As I mentioned, we have lodged a business case with the Department of Health, including a workforce plan which addresses several of those key issues.

Another question concerned the reasons people are in nursing homes. We believe that as time passes, the regulatory environment should reflect the emergence of new models of care such as those described in the Sláintecare report. We fully support the premise that people should be cared for in or as close as possible to their homes for as long as possible. The Deputy is right to point out that older persons' care in Ireland has been very heavily weighted towards residential care as a default. If we embrace the principles and models articulated in the Sláintecare report, we believe those models would progress just as the Deputy has described. I will defer to Ms Cliffe on some of the other issues the committee has raised.

Ms Susan Cliffe: I thank the Deputy. I will start with the issue of temporary agency staff. That is a key concern for all providers at the moment. They are moving towards independently staffing their own centres where possible. Where agency staff are in use, they tend to be allocated to one nursing home. That has done a lot to minimise the crossover of staff between nursing homes. The question of how to staff nursing homes safely is really exercising providers, whether they are publicly or privately funded. Many nursing homes are also availing of alternative accommodation arrangements to secure their staff and ensure they are as safe as possible from Covid-19.

We are aware of one nursing home in Cloyne that is currently participating in a trial of a rapid Covid-19 test. Work is ongoing in the sector, but I am not aware of the results. Isolation rooms continue to be an issue. This does not pertain so much in the private sector, which has largely done the heavy lifting on improving premises. It is a key issue in some centres with large numbers of multi-occupancy rooms. We have worked with some providers on arrangements to offset the lack of isolation rooms, but other providers are essentially keeping rooms in their centres vacant to be able to afford isolation.

We spoke earlier about the contingency assessment planning framework we published towards the end of April. This is the kind of information that fed into that. As we engaged with providers during the 150 contingency assessment inspections we carried out, staffing and how to respond to a case or suspected case of Covid-19 emerged as key issues. Some providers are challenged by this, particularly if there are large numbers of cases which must be isolated in different parts of the nursing home. They are very cognisant of this issue and are drawing up a plan A, a plan B and a plan C to be able to deal with it.

People moving from hospitals to nursing homes are now largely tested prior to transfer. About three versions ago, the HPSC guidelines required all residents admitted to a nursing home to be isolated for 14 days. They had to be cared for separately to the rest of the nursing home residents on arrival. That presents some difficulty for residents but it is deemed to be the

safest way to manage this. The risk is not so much the residents with Covid-19, because if the management knows a resident is coming who has or is recovering from Covid-19, precautions can be taken. The risk comes from residents coming from the community and acute care facilities where infection has not been recognised. The practice of isolating residents for two weeks on arrival in a nursing home has largely mitigated that risk.

Regarding the availability of PPE, when we started calling nursing homes on 13 March and we saw we could have the greatest impact as an interface between nursing homes and the HSE or the Department, PPE arose clearly as a key issue, meaning both access to PPE in the event of a diagnosis and security of supply as providers went through the process of caring for residents with PPE. This interaction with the HSE at community healthcare organisation, CHO, level resulted in the setting up of the HSE crisis management teams, which did Trojan work once they were up and running. Those crisis management teams have members for PPE, assisted payments, oxygen and anything else that has been recognised as an issue to date.

Chairman: I thank the witness. I think Deputy Canney has an additional question but I will ask him to put it in writing.

Deputy Seán Canney: It is more of a comment than a question. We are hearing that there has been a learning process and things are moving on, but it is very wrong to differentiate between public and private. Every single nursing home and its staff have a huge responsibility and we should be supporting them. The support of HIQA is also important.

Deputy Michael Collins: I start by thanking the staff of nursing homes in west Cork. To the best of my knowledge they have been free of Covid-19, which has been a great relief to the families of residents. I refer also to community hospitals. Fabulous work is going on there in difficult times. Great thanks and praise are due for that.

I would like to ask the witnesses several questions and give them a chance to reply. Why did HIQA not raise the issue of nursing homes with NPHET? One member of NPHET states that the team's minutes show a member of HIQA to have been present for the first mention of nursing homes in March. It seems to me that HIQA did not have a plan for this pandemic. Perhaps the witnesses will correct me and say that it did. I would like to know what plan was in place at that early stage when the country knew it was facing something very serious.

I note that the issue of community hospitals was raised during a previous hearing on 26 May. The question of why they were not brought up to standard was asked. I am not allowed to mention a certain community hospital in west Cork but I have looked at the HIQA reports. For quite some time HIQA reports have referred to very serious issues in this hospital - not pertaining to staff, but to the hospital building. This was outside the remit of those working in the hospital, but it was within the remit of the HSE to bring the hospital up to standard. This was not done, which put the staff under phenomenal pressure. Why were standards not upheld throughout these hospitals by the time of the first deadline in 2016? Why has HIQA waited until 2020 to challenge the HSE in respect of the physical environment standards and the need to implement legislation equitably for all providers?

Why has HIQA continued to allow the HSE to operate in substandard accommodation in breach of care and welfare regulations? I regularly visit hospitals with meticulous standards. I know of many examples throughout west Cork. However, I ask this question because some hospitals were in breach of HIQA's regulations for many years and nothing happened. Why has HIQA allowed the HSE to operate in that substandard way?

Mr. Phelim Quinn: I thank the Deputy. I will take his question on NPHE. In the early days of our membership of NPHE, there was a broad subject matter base, including issues about planning for the acute sector and learning about the virus from a public health perspective. By early March we had started to raise issues concerning nursing homes. In the background, my colleagues were liaising on an ongoing and continual basis with our colleagues in the HSE and the Department of Health on working as part of the national effort. Our interventions subsequent to that have proven to be very useful, in the context of multi-agency working, for achieving some of the interventions that are starting to have an impact on controlling and preventing the spread of Covid-19 within the nursing home sector.

On the question about community hospitals, I will pass to my colleague, the chief inspector.

Ms Mary Dunion: The Deputy is correct that a number of nursing home premises are not compliant with the regulations. A statutory instrument, however, has given statutory and private providers a period to allow them to become compliant with the regulations. It would be illegal, therefore, for us to take any regulatory action in that context because they have been given, through a statutory instrument of the Government, time to get their premises in order. Having said that, we have utilised the regulations for personal care and the rights of individuals, and we have taken action and regulatory enforcement in this regard because the premises are a contributor to this. On the occasions when we have done that, we have been taken to court in the context of a challenge to our regulatory enforcement decision.

Covid-19 has put a strong focus on the immediate priority that is required to create a provision for residents in the context of safe spaces, social distancing, isolation and, as they are known, cohorting facilities. Many providers that have challenges with their premises are now reducing the numbers of residents living in the nursing homes in order that they can make an accommodation for the public health emergency. We are very aware of that and feel very strongly about it because we put a great emphasis on the fact that a nursing home is where somebody lives, and he or she is entitled to confidentiality, personal space and everything else that every citizen is entitled to. As a consequence, it is a constant source of engagement and enforcement for us.

Deputy Michael Collins: Who signed that statutory instrument? In my view, it has cost the lives of many people in community hospitals where there were Covid-19 outbreaks.

Ms Mary Dunion: The statutory instrument is signed by the Minister for Health.

Deputy Colm Burke: I thank the witnesses for their presentation. They might give me written replies to some of the following questions. In its report, HIQA outlined its engagement with nursing homes from 25 March, referring to 2,500 phone calls and so on. Will the witnesses outline the work that was undertaken between 1 January and April 2020? They stated earlier that it was in the second week of April that HIQA issued the revised regulatory assessment framework to nursing homes. In fact, that was on 21 April, which was in the third week of April. The first death occurred on 13 March. What happened between 1 January 2020, when the virus was breaking out in various parts of Europe, and then? What level of preparation was carried out by HIQA to communicate with nursing homes and raise awareness of infection control and so on?

I seek a response to the following in writing. What are the qualifications among HIQA inspectors, specifically in respect of infection prevention and control? I acknowledge that the witnesses cannot give me that information now but I would like to see it in writing.

The third issue I raise relates to retraining. Every one of us has to go through retraining. I am a practising solicitor, so I have to complete 20 hours of continuing professional development every year. We are talking about inspectors. Since 1 January 2020, what courses or retraining have any of the inspectors completed in respect of infection control and of updating their skills regarding this issue? This is very important because there is a significant gap between when the issue was first highlighted and when HIQA issued its first guidelines to nursing homes on 21 April. While we have all the information relating to the engagement with nursing homes after 25 March, we have nothing relating to the period 1 January to 25 March.

Ms Mary Dunion: On the Deputy's final question, all inspectors of social services have had retraining on several occasions throughout the period, but we will certainly supply those statistics to the Deputy. As he correctly noted, I am not in a position to provide details of the qualifications at this time. There is no problem furnishing to the Deputy the regulatory activities since January 2020 that have taken place throughout the sector, including details of the 2,500 engagements with nursing homes during that time. We will forward all of that to the Deputy.

Deputy Colm Burke: From 1 January 2020-----

Ms Mary Dunion: Yes.

Deputy Colm Burke: -----we have no information.

Ms Mary Dunion: I will include that.

Deputy Colm Burke: Why was it excluded? Why not include it in the information? The report that HIQA published, and even the presentation earlier, referred to what occurred since 13 March. We are anxious to find out what level of engagement there was with nursing homes between the time this issue emerged in Europe and 13 March. We have no information and it has not been presented to us at any stage.

I turn to the engagement with the HSE in the same period, January to March, and in particular the nursing homes that are under the control of the HSE or are fully funded by it. What was the level of engagement with the HSE to advise it that there was a higher risk in those nursing homes because several regulations, in the context of the advice that HIQA had given, were not being complied with? What communication was there with the HSE in respect of those specific nursing homes throughout the country in the period of January to April 2020? Again, I would like to see copies of that engagement with the HSE and the warnings given to it about the higher risk in those facilities.

Ms Mary Dunion: We identified statutory facilities with issues in premises that compromised their capacity to isolate and cohort residents. We can send that detail to the Deputy.

Deputy Colm Burke: Was there communication with the HSE?

Ms Mary Dunion: Yes, there was.

Deputy Colm Burke: What was the HSE's response?

Ms Mary Dunion: The response was an acknowledgement of the issue and concerns. A process was in place and actions were being taken. We can send that detail to the Deputy.

Deputy Colm Burke: Ms Dunion might recall that at that period, there was a considerable effort by the HSE to move people out of hospitals. Does Ms Dunion agree that people were

transferred out of hospitals to these facilities?

Ms Mary Dunnion: I think the HSE would be better positioned to answer those questions in the context of the strategies it took.

Deputy Colm Burke: I am aware of that, but is HIQA aware of people being transferred out of hospitals into facilities that it highlighted to the HSE as being at risk? Were people transferred to those facilities between 1 February 2020 and the time when the outbreaks started occurring?

Ms Mary Dunnion: I do not have the specific details. Nursing homes throughout Ireland - statutory, voluntary and private - were admitting residents to their facilities.

Deputy Colm Burke: Of the nursing homes that Ms Dunnion stated were under the HSE's control and were not complying with the regulations, how many were identified where patients were transferred to? To put the matter in context, such nursing homes were on the early warning list so surely to God HIQA would have checked what number of patients were being transferred to those facilities.

Ms Mary Dunnion: We can look at our records. I do not have that information available today. We can supply whatever information we have to the Deputy.

Deputy Colm Burke: Can I get answers in writing to the specific questions I have asked?

Ms Mary Dunnion: Yes, we will return them.

Deputy Colm Burke: I will return to the assessment framework that was issued on 21 April. If HIQA was planning to deal with this matter as far back as January 2020, why did it take until 21 April? At that stage, there were 194 clusters in nursing homes. Why did HIQA wait until 21 April to send that to nursing homes? How come it was not sent out at an earlier stage? We were then at a stage when 194 clusters were in place.

Ms Mary Dunnion: The contingency framework that was issued in April was for nursing homes that had not suffered an outbreak and was based on the learning we had gathered. It included references to the development and establishment of crisis management teams, interaction between hospital groups, speciality positions in gerontology and the supporting services that were put there. That assessment was designed to ensure the 40% of nursing homes that did not have an outbreak of Covid-19 were in a position, based on the learning that had happened across the sector, to put those things in place should they have a Covid outbreak.

Deputy Colm Burke: Does Ms Dunnion believe that if there was more engagement with private nursing homes by the HSE, HIQA and all the other statutory agencies, many more of the outbreaks that occurred could have been prevented?

Ms Mary Dunnion: Yes, I think there has been considerable learning.

Deputy Colm Burke: Does Ms Dunnion accept that HIQA and the HSE should have engaged with private nursing homes? There was engagement with hospitals and publicly-run nursing homes, but engagement with private nursing homes seems to have been put on the back-burner.

Ms Mary Dunnion: In our regulatory world, we are engaging with nursing homes all the time. That engagement is not only determined by an inspection but also occurs through infor-

mation that nursing homes are mandated to report to us. At all times, we worked in line with public health guidance that had been issued and all our actions were aligned to that.

Deputy Colm Burke: We have seen none of that engagement or communication from 1 January 2020 until 21 April. HIQA confirmed in its report that from 25 March onwards, there were more than 2,500 phone calls but we have no information about what occurred in the preceding three and a half months.

Ms Mary Dunnion: As I have said, we will provide that to the Deputy.

Deputy Cormac Devlin: I thank our witnesses for their report and welcome them before the committee. The report contains 86 recommendations, 24 of which are relevant to HIQA. HIQA has meetings with the Department. I presume that is happening on an ongoing basis. How often are those meetings?

I will speak in particular about Ms Dunnion's brief. There are 576 registered nursing homes in Ireland, of which 189 were inspected, if I am reading the report correctly, and there were also 2,851 phone inspections. How many inspections of all types of facilities are carried out under HIQA? Has the number of inspections increased or decreased in the light of Covid?

In anticipation of a second wave, what would HIQA recommend and do differently, given that it has some time to plan this time around?

Ms Mary Dunnion: There have thus far been three meetings with the Department of Health about the nursing home expert recommendations. A structured meeting schedule and implementation action plan are now in place under the direct chairmanship of the Department. An oversight committee is yet to be put in place. That is in train. There are some immediate actions that will be taken and others are scheduled over the next 18 months or so. That is in place. My colleague will give the actual numbers.

As a regulator, we have learned that we can only work within the legal framework that we have, which the members, as legislators, will understand. We cannot work outside that framework. The only decisions and judgments we can make relate to compliance with regulations. We have, therefore, identified and outlined ten key regulations specific to Covid-19, which, if they were enhanced, would give us stronger oversight of the quality and safety of services in that regard.

We have been asked about isolation facilities, etc. By way of an example, if we register a nursing home that has 60 beds, the provider is registered to provide 60 beds to accommodate 60 residents. If our inspectors find that there is an issue with the quality and safety of care and recommend that there should only be 50 residents in that nursing home, it will take 56 days before we are able to enforce that condition. Included in the recommendations that we have suggested in writing to the Minister and Department is that the primary legislation needs to be looked at. It needs two key changes, although I accept that there are much longer-term legislative and policy changes required. There are two specific legislative changes in the area of primary care that would create a safety net for residents, providers, policymakers, the Government and the general public in the context of Covid-19. The first is that we should be given powers to immediately place a condition on a nursing home's registration. That would not negate a provider's constitutional right to an appeal but it would mean that a condition would be put in place while allowing the provider to appeal thereafter. As a consequence of the evidence we would gather, it would allow us to do that.

The second change would be to have compliance plans. The committee can already see that some regulatory authorities, such as the Food Safety Authority of Ireland, have such plans. That would provide a strong assurance to the Government, members of the public, providers and residents. As I say, that does not take away the right of appeal but allows an action to be taken before the completion of an appeal.

Those are some of the elements we have included in the ten regulations we have outlined. They are very much focused on the issues we have talked about, including premises, healthcare, staffing, governance and management, infection control, risk management and all the elements a provider must have in place to assure the quality of the service. It is important to remember that, in the legislation, the responsible entity for the provision of care is the registered provider. HIQA, as regulator, is the third line of defence. The first line is those delivering the care and the second is the person governing the care. Professional and systems regulators, such as HIQA, then have a part to play.

We have learned other lessons. We will be provide webinars for all providers and senior staff across the nursing home sector. As the Deputy said, there are 570 nursing homes in the country and 1,200 designated centres for adults and children with disabilities which also fall under our remit. These adults and children are also a vulnerable group in the current pandemic and public health emergency. We will provide webinars in conjunction with the HSE and the Health Protection Surveillance Centre, HPSC, to enforce and give direction and support to private and public bodies in the context of the provision of care. As Mr. Quinn has outlined, 4,500 people have already used our online infection control and prevention training programme. There is quite an amount that we have already done and identified and, as is the case with everybody else, there is quite an amount that we will hold up our hands and admit we have learned and to which we have adapted accordingly.

I will hand over to my colleague, Ms Cliffe, who will answer that question on quantum. I thank the Deputy.

Ms Susan Cliffe: In the first quarter of this year, we completed approximately 170 inspections. They would have been our normal type inspections. To correct one thing, we did not carry out 2,800 inspections by phone. We had 2,800 contacts with the providers by phone. Separate to that, having issued the contingency planning assessment framework and guidance so that those centres that had not yet experienced Covid-19 could learn from it, we then carried out 150 inspections against the arrangements that were in place in the nursing homes against that guidance. Since we have stepped up our inspections again, we have completed 106 inspections where we are prioritising inspecting those centres that have a risk such as a bad case of Covid or there may be other risks of which we are aware. That is our inspection quantum to date but it is important to note that regulation is not simply inspection. In line with that, we continue to monitor and receive notifications and information from the public or from providers, some of which they have to send to us and some of which is unsolicited; people choose to send it in to us.

Deputy Cormac Devlin: I thank Ms Cliffe for that clarification on the phone interventions; I should not have said “inspections”. Of the 106 to which she has referred, are they purely of nursing homes or is that in the broader remit of HIQA? Are they inspections of centres or facilities already inspected and follow-ups, as it were?

Ms Susan Cliffe: All the 106 are of nursing homes. In tandem with our team, my colleague, Finbarr Colfer, has a team of inspectors for disability centres who are also out there inspecting

at the same time but I do not have those details for the members today. We can get them for them. I am sorry but I missed the Deputy's other question.

Deputy Cormac Devlin: Were they follow-up inspections of previous inspections?

Ms Susan Cliffe: Some of them were. Every inspection is a follow-up unless it is a new centre. In all inspections we look to see what was found on the previous inspection because we need to see if remedial action that was required at that time has been implemented and to hold providers to account for commitments they gave us in the previous inspection. Unless it was a new centre, there would have been a follow-up inspection but what we have prioritised in these ongoing risk inspections are the regulations most pertinent to the current context of Covid-19 so it is about infection prevention and control, residents' rights, healthcare, management of behaviours, and the premises. It is those kind of regulations. Our inspections now, as the expert advisory group acknowledged, are quite labour intensive at the moment. We have to send more inspectors into nursing homes than previously to accommodate for Covid-19 so the 106 inspections we have done since the end of May have quantified at approximately 267 inspector days. We are out there and we are continuing to inspect and as we induct our new staff, the frequency of inspection will increase.

Deputy Cormac Devlin: This is my final question. Have the number of inspections, not just of nursing homes but overall, increased or decreased year-on-year as a result of Covid-19?

Ms Susan Cliffe: Increased.

Chairman: I thank Deputy Devlin. The next speaker is Deputy Brady.

Deputy John Brady: I thank the witnesses for their presentation and their responses. I represent a constituency, Wicklow, which has a high density of nursing homes and, unfortunately, like many other areas, they were heavily impacted by outbreaks of Covid-19. Unfortunately, there were many fatalities. I have worked with many families who are still suffering because of the loss of their loved ones and that is something we should not forget in all of this.

This is a very useful piece of work because we need transparency. We also need accountability and measures to be put in place to ensure a scandal such as this one never happens again.

On a point of clarity, it is stated in the report that the first confirmed case was in a nursing home on 13 March. There seems to be some confusion about that. Some of the members said it was the first confirmed fatality in a nursing home. Was it a confirmed case or a confirmed fatality?

Ms Mary Dunnion: It was a confirmed case.

Deputy John Brady: That is what I read from it all. My colleague, Deputy Cullinane, asked a specific question about a request from HIQA around stronger powers, legislation and regulations. I believe Mr. Quinn said that since 2013-2014, there was a repeated request to subsequent Ministers in the Department for those powers. I will ask a direct question and a simple "Yes" or "No" will suffice. In terms of the outbreak and the number of fatalities, and we are dealing with almost 1,000 fatalities in nursing homes, does Ms Dunnion believe that the lack of those powers and regulations was a contributory factor in the high numbers of fatalities and confirmed cases in nursing homes?

Mr. Phelim Quinn: I do not think that we could give a simple "Yes" or "No" answer. It

would be hard to make a direct correlation between the lack of those powers and the specific circumstances of what had happened, but an amendment to those regulations and the development of existing regulations would certainly assist in terms of provider compliance.

Deputy John Brady: On 13 March, all inspections of nursing homes ceased. It is stated in the report that, from that point, there were more than 2,851 phone interactions by inspectors, and I believe 96% of nursing homes were compliant with the guidance that had been issued. In terms of nursing homes, there were different categories of non-compliance, but were any so severe that they had to be closed down?

Ms Mary Dunnion: Yes. One nursing home was closed down.

Deputy John Brady: I believe that was in my constituency. I will not name the nursing home but it was closed down under section 64 of the Health Act 2007. In that situation, measures put forward by HIQA and the HSE were not enacted. Why was that particular case so severe the HSE had to go to Bray District Court to get an order to close down that nursing home? Why would a situation like that arise?

Ms Mary Dunnion: I will hand over to Ms Cliffe because she was directly involved.

Ms Susan Cliffe: It is if we cannot see that a particular centre has the capacity to make the improvements that are required. We would never make a decision like this at the drop of a hat. We are taking people's homes from them, so it is really the nuclear option. There were many centres that had outbreaks of Covid-19, but we could not have a situation where we were closing every centre that had an outbreak of Covid. It would not make sense. In that particular centre we had a sense that the changes were just not taking place and the capacity within the centre to make the changes did not exist. There was not the leadership, governance or understanding of what was required and it was for that reason that we were so concerned about the care and welfare of the residents living in the centre. The test in terms of the Health Act is serious risk to life and limb before we can close a nursing home. The information put forward in our affidavit in the court on that day passed that test of presenting a serious risk to the life and limb of residents.

Deputy John Brady: There was a failure of management to acknowledge the seriousness of the situation and, more importantly, to rectify the measures that needed to be rectified in the facility.

Ms Susan Cliffe: To implement and to sustain. People can often make very quick corrections but it is the sustainability of corrections that were called into question, yes.

Deputy John Brady: Ten days after the first confirmed case, on 23 March, there was another confirmed case in Crooksling nursing home, which is a publicly run facility in west Wicklow on the border between Wicklow and Dublin.

Chairman: I would ask Deputy Brady not to-----

Deputy John Brady: That is not the name of the facility. That is the general location.

Chairman: I will put it this way; there is only one nursing home in Raheen in County Clare.

Deputy John Brady: There was a confirmed case and it is widely reported. I will not go into any more detail or specifics other than-----

Chairman: The Deputy does not need to.

Deputy John Brady: -----what has been confirmed. There was a confirmed case in that facility. I believe a number of other residents had been tested and were awaiting results. There was a decision taken, and this was in consultation with the HSE, HIQA, I believe, the department of public health, and other bodies, to advance a move from that facility to another facility in Tymon North. Work had been ongoing for a period of time on that facility. I believe it was due to open in April. However, a decision was taken to move all residents from the facility on the border between Wicklow and Dublin, it turned out, towards the end of April. I forget the exact number of residents who were moved. All were moved, but 12 of the former residents of that facility sadly passed away. Some 34 staff members also tested positive for Covid.

Serious questions need to be answered around that decision to move residents from that facility given that there was an outbreak. In responses I have got from the HSE and, indeed, of direct questions to the Minister also, they said the decision was taken to move the residents from that facility for their own safety to another facility in Dublin. Given the facts that have been established by the HSE, clearly that was the wrong decision.

The virus spread like wildfire within the facility to which they were moved, a facility that was not ready to be occupied as far as I know. Would Ms Cliffe accept that was the wrong decision to take given that the virus spread like wildfire and, unfortunately, 12 residents passed away and 34 staff members also tested positive?

Ms Susan Cliffe: That would be my assessment of the issue in the knowledge that I have about that centre. If I take a step back, early in the pandemic we contacted the HSE in relation to 15 of its centres that we had concerns about. We had concerns because one had large numbers of people living in nightingale-type wards, that is, living, eating and spending most of their time inside in the same room.

The facility the Deputy is talking about was one of those centres. Of those 19, very quickly four of those centres closed and the residents were moved to better facilities which had been coming on stream anyway. Actually, one of them was not coming on stream. It has since come on stream. We expedited the registration of that centre on the understanding that there was already Covid in the existing centre.

Deputy John Brady: Of the four facilities that Ms Cliffe talks about, how many had confirmed outbreaks within them before a decision was taken to move residents?

Ms Susan Cliffe: That is the only one.

Deputy John Brady: Is it accurate to put them all on par?

Ms Susan Cliffe: No. In the sense of Covid, I only gave that by way of the history of the centre.

Deputy John Brady: HIQA was part of that. We know inspections had ceased. Had inspections been carried out of the new facility in Tymon North to ensure that where resident were going was adequate and the work had been completed? Had those inspections taken place?

Ms Susan Cliffe: Yes, they had. Only two floors of that facility were registered in the initial phase because it was deemed the third floor was not ready for registration. However, we expedited that request to register the centre on the understanding that it would be next to impossible

to prevent the spread of Covid-19 to all the residents who were living in the existing facility. I can understand where the Deputy is coming from. Residents transferred with Covid, but they transferred because of the concern of the contagion among the totality of residents who were living in the initial facility.

Chairman: I thank Ms Cliffe.

Deputy John Brady: A final point, Chair.

Chairman: Deputy Brady has taken more than twice the time allocated.

Deputy John Brady: Very briefly-----

Chairman: It will have to be very brief.

Deputy John Brady: I have two final points: one-----

Chairman: No, sorry, one point. Which is it?

Deputy John Brady: Yes or no will suffice.

Chairman: I am going to bring in Deputy Ó Murchú unless Deputy Brady wants to explain to Deputy Ó Murchú why I cannot bring him in.

Deputy John Brady: There have been repeated requests for a public inquiry from family members of those who passed away in that facility and from public representatives. Indeed, the health forum recently passed a resolution calling for a public inquiry into what happened in that facility. Ms Cliffe does not have the power to initiate a public inquiry. That has been established. Would Ms Cliffe support calls for a public inquiry-----

Chairman: It will be for this committee to determine.

Deputy John Brady: ----- into the handling of the scandalous situation that happened there.

Chairman: I appreciate the gravity of the points Deputy Brady has raised but it is for this committee to determine whether or not to recommend an inquiry.

Deputy John Brady: I am asking.

Chairman: Sinn Féin has four representatives on that committee.

Deputy John Brady: Okay. In fairness, I am asking HIQA whether it would support one.

Chairman: Okay, but this is the last question I will allow. If they wish to answer that question, they can. It is up to the HIQA representatives. It is not for HIQA to recommend a public inquiry but if they agree-----

Deputy John Brady: I am asking their views. In fairness, I am entitled to ask the question. They are entitled to answer the question also.

Chairman: Deputy Brady is entitled to speak for five minutes and he has been speaking for 13. I have been more than fair with the Deputy.

Deputy John Brady: If the Chairman stopped interrupting me, we might get a response.

Chairman: I started interrupting Deputy Brady after ten minutes. That is not a fair charge. Does HIQA wish to respond to that question or not?

Mr. Phelim Quinn: In line with what the Chairman has outlined, we would not be empowered to call for a public inquiry.

Chairman: I thank Mr. Quinn and Deputy Brady. I ask Deputy Ó Murchú to be brief because of the amount of time that has been lost.

Deputy Ruairí Ó Murchú: We have had a huge tragedy in the nursing home sector. In my constituency-----

Chairman: As I told Deputy O'Dowd earlier, there is a particular nursing home in that constituency which is the subject of legal proceedings and I will not have it discussed this morning because of those proceedings.

Deputy Ruairí Ó Murchú: I do not need to name that. All I will say is there is a large number of families that require answers.

Chairman: Can I make one point? As somebody who lost a very close relative in a nursing home, thankfully, before Covid was on the scene, I can only appreciate the enormity of their grief. It must be particularly heartbreaking for those families to lose them in the circumstances of Covid and to not be able to be there.

Deputy Ruairí Ó Murchú: I accept that.

Chairman: I appreciate what it must be like and what they are going through. I also have to say that this is not the forum that can give them the justice they are seeking. There are court cases ongoing. I cannot allow this forum to interfere with those court cases but, of course, I sympathise with the cases that Deputy Ó Murchú has raised, as has Deputy O'Dowd. The enormity of their suffering must be recognised.

Deputy Ruairí Ó Murchú: I concur 100%. I accept the Chairman's assertion that modalities need to be found so that people can find justice and the answers required.

I will follow up on what some of my colleagues have already said. I thank HIQA for being here. Based on what has been said earlier, there is a difficulty around the framework in which HIQA must operate. The questions I have would be specific to when issues were brought to HIQA in relation to problems in nursing homes as regards the escalation; what protocols HIQA had to follow in that regard; whether those protocols have been updated; and the conversation earlier about when is it an inspection and when is it an inquiry-investigation. Based on what I heard earlier in the back and forth between HIQA and other Deputies, I cannot but take that what they are looking for is what they have asked of Government which is a greater level of power and a framework in which they can operate. That relates to dealing with issues or institutional cases when they arise and then, if we deal with tragic situations, that we have the facility to investigate, find out what went wrong, and make sure that we can give the answers to the families that require it and solve the problems.

Mr. Phelim Quinn: I did not quite catch the end of the Deputy's statement. I should say again that through the publication of the nursing home expert panel recommendations, there are immediate, medium and long-term changes proposed for legislation. It is not always appropriate for the systems regulator to be the investigator of individual complaints or specific matters.

I referenced earlier our call for the development of adult safeguarding legislation that would enable the investigation of abuse and neglect, including institutional abuse and neglect if that is suspected in a particular case.

In addition, I recognise there has been a recent statement by the Ombudsman in which he called for an extension of the powers of his office in investigating individual complaints. I suppose there are both legislative and other proposed modalities that could be brought into legislation and we await a Government decision on what they might be.

Deputy Ruairí Ó Murchú: I recommend that the HIQA proposals be brought before the Oireachtas. I take from those comments that the authority needs a facility both in how it inquires into matters and also how it would, following a tragedy or some other occurrence, carry out either by itself or with another body an investigation that could happen in a timely manner and draw attention to problems so they could be fixed. If there was an institutional problem, there could be some protocol for calling a halt or calling in the cavalry, for want of a better term, to ensure the safety and health of citizens.

Mr. Phelim Quinn: In line with the processes that have been outlined by both Ms Mary Dunnion and Ms Susan Cliffe, HIQA takes account of all information, whether it is statutory or unsolicited information that we receive. It forms a very clear context for our inspection and lines of inquiry in a particular nursing home. It also informs the way in which we apply a regulatory action. I wanted to ensure that is clear.

Deputy Ruairí Ó Murchú: Once we can get a notion of these powers required by HIQA, this committee or some other body can consider them to ensure they come about as quickly as possible. This committee could also make a determination relating to public inquiries as they are absolutely needed across the board in many nursing homes by many families.

Chairman: In fairness, Deputy Bríd Smith has made that point, as have other members of the committee.

Deputy Jennifer Carroll MacNeill: What the Chairman has said is very important as it speaks to the empathy shared by everybody on this committee and in the Parliament. We go about our work in a technical way but there are people on this committee who lost close relatives in nursing homes because of Covid-19 and they share the personal experience of so many families. That is being represented today.

We also go about our work in a technical way and that is how I will approach this if nobody minds. I have a couple of technical questions on inspections. I know the matter has arisen in different contexts with Deputies Shortall and Devlin and although I do not wish to repeat anything, I have some specific questions that I would not mind asking that may involve a tiny amount of crossover.

The witnesses spoke about the number of inspectors that the authority has. It has 17 and there is sanction for seven more.

Mr. Phelim Quinn: That is correct.

Deputy Jennifer Carroll MacNeill: There was mention of the number of inspections in different contexts. There was also mention of 267 “inspector days”. I am trying to get a handle on what this means in reality. How many days does it take to do an inspection? Would it take one or two days? How many inspectors are involved? Would it be one or two inspectors? Will

the witnesses give me just a bit more colour on what those numbers really mean?

Ms Mary Dunnion: I will speak just to nursing homes as we deal with disability services as well. The number of residents living in a nursing home can range from 30 to 180. The size of a nursing home dictates the resources and number of inspectors assigned. For the most part, the majority of inspections before Covid-19 involved one inspector. As we said, there are 570 nursing homes and the Deputy might imagine, with the number of inspectors we have, it is quite a heavy load. Our inspections can take up to six or eight hours and we have had to reduce the limit to six hours in light of public health guidelines. Our inspections may be announced, unannounced or short-term announced. Announced inspections are generally where we need to ensure we have certain personnel on-site in the nursing home. For example, that would happen if a registration is to be renewed. Our unannounced inspections occur generally where we have a concern about the quality and safety of services, and that can happen midweek, in the evening, early in the morning, at night or at the weekends. There is a plethora of examples of all those.

However, inspection is only one part of regulation. The Deputy knows that an inspector must inform all decisions from the regulatory history of the provider of the mandatory notifications set down in regulations that a provider must send. As my colleagues have said, there is also unsolicited information from people with concerns, whether they are family, staff or residents.

Deputy Jennifer Carroll MacNeill: The authority operates in a particular context and there is an urgent need to inspect as often and regularly as possible. This will have an impact on the way it plans its operations, including the length of time it can spend in a facility and the number of inspections it can do. Three or four years ago, how many inspections were typically being done, how long were they taking and how many inspectors did the authority have?

Ms Mary Dunnion: I am not able to give that information to the Deputy as we changed the structure of HIQA. In the latter part of 2015, HIQA had one inspection team covering both the disability and older persons spheres. We divided this because we wanted to ensure, in line with some of Deputy Colm Burke's queries, we had the right qualified staff for the services being provided.

Since 2015, 80% of all nursing homes are inspected every year. We do not have to inspect every year and it is not a requirement set in legislation but we must renew the registration of a nursing home every three years. We have a very heavy defined schedule of inspection but it is really important we maintain oversight of each nursing home through the various sources of information we have. Where there is risk, there has never been a case where we have not responded with an unannounced inspection.

Deputy Jennifer Carroll MacNeill: On foot of the change, has there been any dilution in the availability of inspections or in the robustness in the process? These things can happen so easily with a different plan.

Ms Mary Dunnion: I can say with hand on heart that it has not changed the robustness. Some representative bodies of nursing homes have described HIQA as pedantic, which is difficult in the context of what has happened across the sector. Covid-19 is a challenge. In that context, HIQA inspecting a nursing home that subsequently has a suspected or confirmed outbreak would bring a reciprocal action requiring us to isolate.

Deputy Jennifer Carroll MacNeill: The witness mentioned to Deputy Devlin that inspec-

tions increased during the Covid-19 pandemic. What was the increase in question?

Ms Mary Dunnion: I will hand over to Ms Cliffe for the exact detail.

Deputy Jennifer Carroll MacNeill: Will the witness be brief as my colleague needs to make some comments before time runs out?

Ms Susan Cliffe: I had said that year on year, we increased the number of inspections done. By the end of last year we were at approximately 470 inspections. Including our contingency assessment inspections, we are now for this year nearly at the level reached at the end of last year. We have prioritised the centres of highest risk and greatest concern post-Covid and we are targeting resources at them. We have also been supported by colleagues in the healthcare and disability teams, who have loaned us staff as our recruitment process inducts new staff.

Deputy Jennifer Murnane O'Connor: I have some questions before finishing and the witnesses may revert with the replies. They concern staffing and inspections. When a premises such as a nursing home, but particularly a section 39 care home, is inspected by HIQA and it is determined that an extra bathroom is needed, a wall needs to be moved or a hoist is required, what is the follow-up? Section 39 premises are care homes so they depend a lot on HSE funding. Particularly in my area, Carlow, when HIQA carries out an inspection and asks for work to be done, what is the follow-up from the time of the inspection? Where do the witnesses see the funding coming from for the section 39 premises? This will be a crucial issue. Could the witnesses answer those two questions? If there is no time, could they revert to me on them?

Ms Mary Dunnion: Funding is always an issue. I refer the Deputy to the Health Act. The relationship of the regulator is with the registered provider so it does not matter whether it is a private section 39 provider or one under section 38. If, for example, there is an issue with a premises and we request that changes be made, we have to operate in line with the Health Act. A registration condition is that the change be made. Fifty-six days are allowed for the process. If the provider is not in a position to do what is requested in the timeframe, we can live with it if it can give us a time-bound plan stating it has secured the funding and will have the work done by a certain time. If we cannot work with what is proposed, we may proceed with enforcement action, but the funding matter is separate from what is currently in the regulatory framework we have.

Deputy Jennifer Murnane O'Connor: I thank Ms Dunnion. I thank the witnesses for the report. We all see changes now. People are living longer and it is important that the elderly live in the community as much as possible. In the report, that is part of what HIQA is trying to do. I welcome the report. In light of the report, does HIQA envisage long-term changes that need to be made? It is a changing world. The deadline is 2021 and the witnesses are stating there may be changes. Do they believe we need changes? Are there now different criteria after everything that has happened, which was so unexpected? None of us expected it to happen. Circumstances in nursing homes have been horrific. What do the witnesses envisage? Have lessons been learned? What do we need to do as politicians? Funding is the main thing but, overall, what is the biggest challenge for the witnesses in doing their job?

Ms Mary Dunnion: In the context of regulation, we have identified the legislative frameworks and the resources and we have taken a further look at the models of care. We have produced evidence-based research to inform the decisions. Maybe the CEO would have a broader picture.

Mr. Phelim Quinn: In line with what Ms Dunnion has just said, specifically required for us is an amendment to the legislation and regulations and, where possible, changes to the powers. I refer in particular to some of the immediate actions that are required by way of enforcement action. However, we have learned and continue to learn in respect of Covid-19. One of the key developments in the course of the past six months has been the very strong multi-agency and inter-agency work. That needs to continue.

Senator Jennifer Murnane O'Connor: I thank the witnesses. I apologise as we must leave for a vote.

Chairman: Will the Chief Whip allow the Deputy to consider a pair because I have a couple of questions to ask. I am presuming that the Deputy is going to vote with the Government.

Senator Jennifer Murnane O'Connor: Yes. I thank the Chairman.

Chairman: I refer Mr. Quinn to his statement that he was on NPHEAT from early March arguing the case for nursing homes. Was that a difficult place to be or difficult experience given the overwhelming concentration of NPHEAT at the time on acute hospital facilities?

Mr. Phelim Quinn: As members of NPHEAT, we are dealing with a very broad range of issues, whether they concern infection prevention and control, public health measures, the acute sector or contingency planning. I cannot honestly say it was a difficult place to be. Certainly, when NPHEAT realised there were issues emerging from the care home sector, I felt there was a very strong sense of multi-agency and membership purpose to address the issues as they arose.

Chairman: When would Mr. Quinn say NPHEAT became aware that there were issues arising from the care home setting?

Mr. Phelim Quinn: There was certainly a stronger focus very early in March - the first week of March.

Chairman: Yet, on 10 March, NPHEAT agreed that unilateral or widespread restrictions on visiting, which the nursing homes and some hospitals were implementing themselves, were not required at that time. That seems to contradict what Mr. Quinn just said.

Mr. Phelim Quinn: I believe there was a balanced view taken on visiting nursing homes at that time. Certainly, while an issue arose over the impact of visitors on the spread of infection, there was also consideration of the impact of isolating vulnerable residents from their relatives. NPHEAT, at that time, was trying to balance those particular issues.

Chairman: I appreciate that one does not make decisions with the benefit of hindsight but, with that benefit, does Mr. Quinn believe it was the right decision?

Mr. Phelim Quinn: I believe that the assessment in those earlier days was possibly more related to community transmission by staff within nursing homes than to transmission by visitors specifically. I believe the decision made at that particular time was right for that particular time. All of us recognised that the impact of the very specific social isolation of residents and the worry and anxiety it was creating for the relatives were a factor. We certainly promoted and encouraged the relaxation of those measures when it was safe to do so.

Chairman: Those restrictions were being put in place by nursing homes in response to footage and information that was emerging, particularly from Italy and Spain, in respect of large numbers of deaths in nursing homes.

Mr. Phelim Quinn: Again, it is where our knowledge was at that time regarding where infection was coming from within the community. I believe that the Chief Medical Officer at that time had indicated that the perception was that infection was more likely to be spread by staff than by relatives.

Chairman: Was Mr. Quinn on NPHEM when the decisions were being made to free up capacity in the acute hospitals by sending people to nursing homes?

Mr. Phelim Quinn: I personally was not on NPHEM but HIQA was represented on it at that particular time.

Chairman: Were those decisions discussed by NPHEM?

Mr. Phelim Quinn: I genuinely do not know.

Chairman: Who was on NPHEM at the time on behalf of HIQA?

Mr. Phelim Quinn: Our head of healthcare was on NPHEM at that time.

Chairman: Who?

Mr. Phelim Quinn: Our head of healthcare regulation.

Chairman: The head of healthcare. Does Mr. Quinn know when exactly the decision was made that capacity needed to be created in the acute hospitals?

Mr. Phelim Quinn: I would not have that information to hand.

Chairman: Could Mr. Quinn provide that information to the committee?

Mr. Phelim Quinn: I believe it would certainly be reflected in the NPHEM minutes. We would not have it specifically within HIQA.

Chairman: Did Mr. Quinn, as the head of HIQA, a regulatory body, have a concern at the time? It is important to state that HIQA is not a representative body for nursing homes.

Mr. Phelim Quinn: Absolutely not.

Chairman: As a regulatory body for nursing homes, did HIQA have concerns that people were effectively being sent from the acute hospital setting into the nursing homes in order to free up capacity and that this could have repercussions in the context of infection?

Mr. Phelim Quinn: I believe, in hindsight, that we would have concerns that those practices were taking place? We believe the Health Protection Surveillance Centre guidelines were subsequently adopted to make sure that sort of practice did not happen in the future.

Chairman: At the time, were there any concerns?

Mr. Phelim Quinn: I am not aware of specific reports of that or discussion on it within HIQA.

Chairman: Is Mr. Quinn aware of whether those concerns were raised with NPHEM at the time?

Mr. Phelim Quinn: I am not.

Chairman: Mr. Quinn said he sat on NPHEt in early March, after which the head of health-care sat on it for some time. When exactly was he a member of NPHEt and when did the head of healthcare take over?

Mr. Phelim Quinn: I attended a NPHEt meeting on 6 March.

Chairman: Mr. Quinn was on NPHEt on 6 March.

Mr. Phelim Quinn: I first attended a NPHEt meeting on 6 March.

Chairman: When did the head of healthcare start attending in Mr. Quinn's place?

Mr. Phelim Quinn: The head of healthcare was nominated to attend from 28 January until 6 March, when I took up that place.

Chairman: Mr. Quinn took his place on 6 March.

Mr. Phelim Quinn: That is correct.

Chairman: To be clear, Mr. Quinn was therefore on NPHEt when it was decided that the restrictions implemented by certain nursing homes and hospitals were unnecessary.

Mr. Phelim Quinn: That is correct.

Chairman: I thank Mr. Quinn very much. He was therefore also on NPHEt when the staffing crisis, about which we have heard repeatedly, was unfolding in the nursing homes. Staff were falling ill and leaving for safer or, frankly, better paid jobs in State-run nursing homes. Did he raise that concern with NPHEt?

Mr. Phelim Quinn: There were certainly discussions about the circumstances that were arising in nursing homes but the issue of the staffing crisis within the homes was also the subject of ongoing discussion among ourselves and was escalated to the HSE. There were also discussions on the issue between ourselves and the sponsor branch within the Department of Health.

Chairman: Are those discussions reflected in the minutes of NPHEt meetings?

Mr. Phelim Quinn: I am not sure they are specifically recorded in those minutes but a progress report was provided to NPHEt which looked at the range of issues discussed at NPHEt meetings and among the relevant agencies.

Chairman: Mr. Quinn said that he was representing nursing homes and raising issues in that regard at NPHEt meetings from 6 March. Is that reflected in the minutes of NPHEt meetings?

Mr. Phelim Quinn: At no stage did HIQA or I represent nursing homes at those meetings.

Chairman: Mr. Quinn did say, however, that he was raising concerns about nursing homes and HIQA from early March.

Mr. Phelim Quinn: I am not sure that the minutes-----

Chairman: Mr. Quinn is clear that he was not a representative of nursing homes.

Mr. Phelim Quinn: I was not. I am not sure the minutes represent every element of conversation.

Chairman: I am sorry; I did not hear Mr. Quinn's reply.

Mr. Phelim Quinn: I said I am not sure the minutes represent every element or detail of the conversation that was had. NPHEH is a forum within which issues are discussed, but these discussions were supplementary to the ongoing discussions between the various agencies involved in managing the ongoing crisis at that time.

Chairman: Does Mr. Quinn recall any concern or opposition to the policy of freeing up capacity in acute hospitals by sending patients to nursing homes being raised at NPHEH meetings?

Mr. Phelim Quinn: I have no specific memory of that, no.

Chairman: Was there unanimity that it was a good policy?

Mr. Phelim Quinn: I do not have a specific memory of that discussion. I believe there may have been discussions about that issue in February.

Chairman: I thank Mr. Quinn, Ms Dunnion and Ms Cliffe for their many answers to the questions we have asked. I apologise again for starting slightly late. I will now draw the meeting to a close. The committee is adjourned until next Wednesday, 16 September, when we will continue our examination of the impact of Covid-19 on nursing homes.

The special committee adjourned at 12.30 p.m. until 10 a.m. on Wednesday, 16 September 2020.