

# How provider organisations interpret regulation in the context of residential dementia aged care

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**Objective:** To explore how Australian residential dementia aged care providers respond to regulation via organisational culture, level, processes and interpretation.

**Methods:** Observation took place in three provider organisations. Qualitative, semi-structured in-depth interviews were conducted with aged care staff (n = 60) at three different levels of each organisation: senior management from three head offices (n = 17), facility management (n = 13) and personal care workers (n = 30) from eight residential care facilities.

**Results:** Orientations towards regulation included the following: “above and beyond;” “pushing back;” and “engineering out.” Regulation was interpreted differently depending on the level of authority within an organisation where boundaries were managed according to strategic, operational and interactional priorities.

**Discussion:** Examining regulation within an organisational context and at different staff levels suggests ways to balance dementia care with regulatory control. Both generate stress, mitigated by culture and interdependent role differentiation.

## KEYWORDS

care work, dementia, management, organisations, regulation, stress

## 1 | INTRODUCTION

Regulation has become the instrument of choice for governments wishing to exert control over a marketised welfare economy and is a common part of everyday care provision.<sup>1</sup> It is intended to uphold the rights of individuals and protect vulnerable citizens from risk, while ensuring a healthy psycho-social environment for people living with dementia who require residential care.<sup>2</sup> The Australian Government<sup>3</sup> defines regulation as “any rule endorsed by government where there is an expectation of compliance” (p. 3). This can include “legislation, regulations, quasi-regulations and any other aspect of regulator behaviour which can influence or compel specific behaviour by business, community organisations or individuals” (p. 62). Such regulatory efforts are also viewed as “key tool[s] for

achieving ... the policy objectives of governments”<sup>4</sup> (p. 3). In Australian residential aged care policy, objectives are contained within the *Aged Care Act 1997*, plus various amendments which define the standards that care providers must meet to receive government funding. Compliance is monitored by the Australian Aged Care Quality Agency which conducts regular announced and unannounced residential visits as part of a formal accreditation system. Providers must also comply with regular audits by state and local agencies responsible for aspects of building design, fire safety, food safety and occupational health. Dementia care has become a core component of residential age care contained within this wider legislative architecture.<sup>5</sup> Here, we examine how organisational cultures, the distribution of regulatory responsibilities within organisations and the strategies deployed to manage competing demands play a

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role in the interpretation of care within a regulated residential dementia care environment.

A number of factors indicate that regulations are interpreted to fit the practical requirements of organisational life. First, organisations respond to any type of regulation through a mixture of specialist expertise, cultural expectations and political expediency.<sup>6</sup> Second, in the case of dementia care, Braithwaite<sup>7</sup> has argued that monitoring and enforcement is not simply about rule-following, but constructing a story within which regulation can fit.<sup>7</sup> Such “regulatory dialogues” foster “a common set of sensibilities,” such as person-centredness and continuous improvement, which guide action.<sup>8</sup> Third, regulation can generate degrees of workplace stress<sup>9,10</sup> in tasks that require emotional labour in their performance<sup>11</sup> and if it conflicts with principles of person-centred practice.<sup>12</sup> Provider organisations therefore attempt to mitigate the impact of regulation on residential living, through formal interpretive practices such as “soft regulation,” that include guidelines and training to support procedural governance.<sup>13</sup> In this paper, we examine wider organisational processes that situate these formal interpretations. These construe regulation through the creation of particular organisational cultural orientations, through differentiation at distinctive organisational levels and through interpersonal strategies. Findings are examined in terms of achieving a balance between understandings of person-centred practice, the intrinsic stressors of dementia care work, the requirements of regulatory compliance and the organisational processes available for adaptation.

## 2 | METHODS

Research included observational site visits followed by a “vertical slice” approach to organisational interpretation, using qualitative interviewing. Three Cognitive Decline Partnership Centre (CDPC) provider organisations participated, including eight residential care facilities, based on facility manager consent. Three 2-day visits took place during which researchers (the authors) observed everyday behaviour, staff groups, conversed with individual staff members and recorded artefacts (notices and manuals) that exemplified organisational culture. A “vertical slice” approach consisted of qualitative interviews with workers (60 in total) at three levels in each participating provider organisation—senior managers from the three head offices (SM = 17), facility managers (FM = 13) and personal care workers (CW = 30) from the residential care facilities. Participants were recruited by advertisement at their workplace. Semi-structured, in-depth telephone interviews were used to explore understanding and communication about regulation with a focus on their impacts on daily role responsibilities and attitudes. Interviews lasted an average of 45 minutes. The interview questions were tested for validity with members of a project advisory group, including representatives from provider organisations and a national care

### Policy Impact

Regulation is key to the governance of care, but requires interpretation to be effective. It can also generate stressors that organisations need to adapt to. Understanding how providers balance care, regulation and other demands can be used to improve the organisation and practice of dementia care within a regulated environment.

consumer network. Modifications to questions were then made to ensure relevance for each level. All processes relating to the research were conducted in accordance with ethical approval through the University of Melbourne (Ethics ID 1442619). Participating organisation's representatives provided formal access to sites, and all interviewees gave informed consent.

The research participants came from three leading Australian aged care providers based in three separate states. They operated 35 residential care facilities, catering for over 3000 individuals. Workforce varied between 1300 and 3000 employees per organisation. At the time of the research, all residential care services provided by the organisations were fully accredited.

Audio-recorded interviews were transcribed and anonymised in preparation for thematic analysis using NVivo (NVivo, QSR International, New York, USA). A random selection of transcripts (one-quarter of the total, with equal numbers from each level) was analysed independently by the two researchers to identify emerging narrative themes, coming to agreement on thematic content and reliability. Themes deriving from the data included the following: organisational orientation; boundary management; psychosocial elements of care and regulation; communication between and within each level; and the role of organisational guidance. Data from observational site visits and interviewing were combined for further analysis to identify how organisational cultures mitigated the influence of formal regulation and how staff oriented towards it. Themes were also examined as they arose under the independent variable of organisation level. Outcomes were again checked via the advisory group and through a series of workshops held at each participating provider organisations. A detailed record of methods and questions can be found in the project's final report.<sup>14</sup>

## 3 | RESULTS

### 3.1 | Interpreting regulation through narrative orientations within organisations

Staff within organisations used three narrative themes or orientations to interpret their responses to regulation: “above and beyond,” “pushing back” and “engineering out.” These provided the interpretive ground upon which regulatory compliance was

figured. The stated justifications for engaging in these interpretive activities were common across sites and included the following: creating a homelike atmosphere; putting residents first; and managing risk and promoting innovation. Regulatory compliance was often seen as endangering key principles of care for which provider organisations were considered the custodians and therefore required a certain form of response. For instance, requirements related to building design and fire safety could create an institutional environment that is not homelike, or rules around food provision may prevent resident choice. Organisational cultural orientations helped to interpret these contradictions by providing a way of thinking that made them intelligible and could act as a guide to appropriate action.

### 3.1.1 | Above and beyond

The first orientation, termed “above and beyond,” involved the use of regulation as a minimum set of standards or springboard by which the organisation sought to exceed and mark out their own standards and requirements for effective care. “We not only set a minimum standard,” stated a senior manager, “we try to set our benchmark above any minimum standard” (SM 10). This created a sense of security, so that “even when you don't quite grab your own standards you're still well above what they're saying are the minimum” (SM 13). It instilled confidence in passing the accreditation process, which for most employees was expressed as a stressful experience. As a facility manager remarked: “[The organisation] believes that passing accreditation is the barest minimum” (FM 11). Specific instances of going above and beyond regulatory requirements included the provision of additional dementia-specific training that exceeded mandatory requirements, and approaches to particular clinical or behavioural issues that were above minimum care requirements. The above and beyond orientation is aligned with formal objectives of regulation, coping with stress through knowingly exceeding formal demands. In such circumstances, providers emphasised close working with regulators to deflect associated threats (see, eg, senior management below).

### 3.1.2 | Pushing back

A second orientation was characterised by “pushing back.” Here, an adversarial approach was taken, emphasising provider expertise and opposition to regulatory practices. As one senior manager stated: “I think if there's something that we don't necessarily agree with, we challenge it” (SM 15). This was often justified by being in the interests of care recipients: “if the rule's not going to work for the residents, then I'm not going to do that rule” (FM 10). Also, “legislation is a hard one because it is used probably very often to govern and to control choice, which is something that we are trying to push very hard against at the moment” (SM 7). Pushing back subsisted on an assumption of a level of expertise within

the organisation that matched or surpassed that of regulators themselves. This was particularly the case of regulations relating to food and building or design where a series of stories circulated concerning the rejection of absurd regulatory decisions, such as a perceived requirement to have both hot and cold taps coloured yellow, and the cooking time of boiled eggs. Pushing back contested the authority of regulatory bodies and the veracity of regulations themselves, thereby defending against sources of stress and existential threat, justified by co-opting the position of the resident.

### 3.1.3 | Engineering out

In the third orientation, systems were developed to “engineer out” risk and associated sources of stress or conflict. Such practices were observed around admission processes, care planning, and in relation to particular activities such as food provision and interior design. “You have to have a system to manage the system” (SM 9), stated a senior manager. Organisation-wide systems, such as those developed to manage risk, were also important. “I've put in systems that collate incidents,” stated a senior manager, “and we've got regulation registers so that we can see what legislation is changing” (SM 8). Systems supporting internal monitoring were seen as critical for maintaining standards: “You can very easily, without realising, start to not maintain certain requirements unless of course you've got your own internal monitoring systems” (SM 5). The use of systems was seen to help prevent problems before they became critical, provide “alternative solutions” to regulatory problems and manage risk effectively. Where “engineering out” had been adopted, the organisational culture appeared calm, relaxed and protected. A process of networking and feedback characterised relations with regulators.

Each orientation reflected attitudes of mind within organisational cultures. If a dominant form of orientation was emphasised within an organisational culture or level and it influenced an overall approach to regulation, other orientations performed secondary roles.

## 3.2 | Interpreting through organisational level and boundary management

A second way of examining how organisations mitigated the risks associated with regulation was made by taking a “vertical slice” through organisational staffing structures. This was used to examine the ways that different levels of authority encountered and responded to regulation. Acting within the organisational orientations outlined above, senior managers, facility managers and care workers nevertheless evidenced characteristic understandings of themselves in role and their positional relationship to the regulatory task. Role differentiation and boundary management were used to mitigate

psychosocial stressors, enable communication and interpret guidance.

### 3.2.1 | Senior management

Perhaps unsurprisingly, senior managers were found to cover executive functions, including the co-creation of guidance and other interpretive strategies, which helped translate regulatory requirements into the organisational culture in question. Central to this task was to manage the whole organisation's boundary with regulatory authorities. As one senior manager reported, there existed a level of flexibility when working with regulators and third parties, with some rules being “vague enough to include lots of different responses” (SM 11) and opportunities to develop alternative solutions. As another suggested that:

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

Particular areas of specialist expertise were located at the senior management level, including food safety, building and design, clinical care management and workplace safety. Here, support to other levels, particularly for managing and responding to assessment, and regulatory visits, were observed. These services provided tacit emotional support to address the stresses relating to regulatory visits, as well as enhancing the functional capacities of facility managers. A combination of technical, cultural and political expertise operated at this level to manage and potentially soften the boundaries between providers and regulatory bodies as organisations. This task was generally perceived to be negotiable rather than oppositional with an emphasis on reducing immediate psycho-social stressors and reputational threats, while supporting areas where risk and stress were perceived to be principally located.

### 3.2.2 | Facility management

Facility managers perceived themselves to be at the “sharp end” of regulation in so far as they had direct responsibility for transactions across the boundary between the facility, inspectors, families and the local community of which they may not have had immediate control. Their operational functions included the day-to-day management of guidance and supervision systems and responsibility for care worker conduct. As stated by one facility manager:

I suppose the two most important aspects of my job are keeping the staff working at their peak,

and keeping them motivated and content ... [and] monitoring at all times, the wellbeing of all the residents. (FM 11)

Boundary transactions could occur on a number of fronts, of which the following are examples:

I had another incident yesterday again with a (resident) that wants to leave this site, I can tell you now that she won't return if she leaves the site by herself ... So how are we going to contain this now, what strategies do we put in place. (FM 5)

If there's an outbreak of any sort, whether that be a gastro outbreak or influenza or different things that may affect people living in a very small cohort, we are regulated to advise the public health unit. (FM 13)

We have had instances where, for example, if it's a resident's birthday and a family member may have cooked a cake and brought it in from home. As far as that goes, they can give that to their loved one but as per regulation they can't actually give it to the greater community in the cottage. (FM 13)

Regulatory visits, which could be both announced and unannounced, carried the dual threat of losing accreditation that could lead to closure, in addition to the disruption of regular coping routines.

The only time accreditation really becomes onerous is when they do a two or three day audit and they want to have a look at every single skeleton in the cupboard. (FM 2)

I might ... plan to do such and such on Wednesday and that might mean I'm out at meetings most of the day. And I get a phone call half way through a meeting to say the agency have arrived for an unannounced visit and that's really challenging. (FM 3)

I think how regularly we are accredited is quite stressful... It certainly does put a lot of pressure on the staff when these visits happen. (FM 7)

Such threats were mitigated by developing knowledge of care standards, guidance and an appreciation for how regulation is operationalised locally. This often took the form of collating data and ensuring monitoring systems were functioning, while responding to internal and external challenges. In order to cope, facility managers engaged in both upward and downward boundary transactions to senior and personal care staff, respectively:

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

Stressors were mediated by close connection with other parts of the organisation, a reliance on adequate data, close attention to procedure and reporting routines which were often carried out by others.

### 3.2.3 | Personal care work

At the level of personal care work, boundary management principally concerned interactions with people with advanced dementia with specific regulations rarely playing more than a tacit role. Interpersonal functions including maintaining these day-to-day interactions, existing within an interpretive space between background rules and residents' preferences. As stated by one care worker:

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

Procedural clarity was seen as helpful where it placed limits on role responsibilities, giving a secure and containing base from which the often unpredictable behaviour of residents could be encountered:

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

Personal care work consisted, according to our interviewees, of balancing interpersonal relations and record-keeping, within the limits of time and accountability

available. This can lead to an overattention to the mechanisms of compliance, which [(Biggs & Carr, 2017)]<sup>14</sup> have referred to as “misattention,” where the caring role is misrecognised—using form-filling to sublimate the twin pressures of person-centredness and fear of existential threat. Responding to everyday living with dementia might alternatively be responded to as “a puzzle.” Care workers deploying this approach would try and stand back, before getting inside the perspective of the person with dementia, in order to find workable solutions to day-to-day problems. These two strategies were used by personal care workers to manage the demands of emotional engagement with dementia in the context of regulation, and resonated, by degree, with the approaches taken at other organisational levels.

When provider organisations are working well, these three levels can perform complementary functions in the management of boundaries, while interactions between levels can ensure mutual support, balancing the regulatory and emotional tasks of working in dementia care.

## 4 | DISCUSSION

### 4.1 | Balancing regulation, professionalism and work stress through organisational interpretation

That aged care organisations are complex entities, comprising “distinct roles, distributed authority, and varied expertise”<sup>15</sup> (p. 97), implies that understanding the interpretive processes at play is key to how providers of dementia care respond to regulation. Interpretive practices by organisations gain extra force when placed in the context of the stresses arising from being regulated and from dementia care work itself. As Miller and Gwynne<sup>16</sup> observed in their seminal work on the relationship between organisational cultures and the emotional influence of working with the clients they serve, stressors are mirrored throughout organisational structures. Our findings suggest that both factors play a part in how provider organisations adapt to regulation.

Much of this paper has been about balancing competing demands that arise as a consequence of the tensions between regulatory compliance and person-centred practice. The ability of providers at all levels to empathise with residents is an important element of such work. Organisational orientation can help explain the coping processes by which any associated stressors are dealt with. The idea of seeing the world from a resident's perspective could take the form of identifying with and outdoing regulatory demands, privileging practice wisdom over external compliance, or using systems to make regulation, if not invisible, then less intrusive. At an instrumental level, this may mean knowing individual biographies, awareness of individual likes and dislikes, and

attention to moods and feelings as promoted by the principles of person-centred practice. But as suggested by the current research, it also required interdependent organisational processes, tempering yet supporting a particular orientation to care work. A second element lies in professional distancing. For effective care to take place, providers need to distance themselves from the feelings evoked by residents and avoid emotionally charged situations. Using their professional and practical experience, staff could stand back and assess the events, triggers and/or patterns that were prompted by particular responses to regulation. Through such distancing, otherwise confusing situations could be recognised as an understandable attempt to balance regulation and complex care needs. With the right organisational supports in place, empathic understanding and professional distancing could be combined in a problem-solving approach to the puzzle that dementia presents.

Balancing a number of stressors arising from regulation in the particular circumstances of dementia care implies that effective governance is not a simple matter of following the rules. Neither should debate centre around more or less regulation, nor the contested territory of who best understands the needs of vulnerable older people, but rather how they are interpreted through everyday work processes. In this paper, we have attempted to provide some pointers to how regulation can be broken down into different ways of understanding the responses of provider organisations. Each provides a locus for interpretation, which when made explicit, can inform more formal practices such as guidance and training. The processes provoked by external regulation can generate forms of organisational coping that, when working well, enhance both the quality of care provided and a provider's ability to respond to risk. They can contribute to an architecture of risk mitigation that simultaneously allows the humanity of the task to shine through. The findings presented above add to earlier research by alerting us to the emotional correlates of regulatory compliance, specifying three distinct cultural orientations: above and beyond, pushing back and the development of systems. They suggest that responding to regulation is not the same for all providers, nor an ad hoc process, but conditioned by organisational culture and processes of care. Examining understandings of regulation at different levels of organisation reveals that even within organisations regulation is not a uniform phenomenon. Each level displays different understandings of regulation and, moreover, performs complementary tasks in its implementation. Finally, regulation impacts direct care in ways beyond just “rule-following” and “box-ticking.” Whilst “misattention” prioritises rule-following, a “puzzle” approach provides a framework to enable socio-emotional connection within a regulated environment, balancing the demands of emotional labour and person-centred care. This counters arguments that regulation simply hinders care or

that direct care workers uniformly fear its implications, to suggest that regulation can produce significant benefits for dementia care depending upon the degree of awareness, orientation and processes deployed.

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## CONFLICT OF INTEREST

The authors declare no conflicts of interest.

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