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Nudging Social Workers towards Interpretive Vigilance: Approaches Supporting Management of Conduct in the Workplace.

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Abstract

In the UK, Government Inquiries into health and social work failures have burgeoned ever more bureaucratic regulatory mechanisms for managing the conduct of professionals. This article draws on the concepts of Nudge Theory and Interpretive Vigilance to consider the impact upon the social work profession of mandatory registration (license) with a regulatory body. The author's earlier UK based empirical qualitative study found that, as a regulatory method, registration had perverse consequences contrary to its purpose. A secondary analysis of data identified 'nudge' points which encouraged social workers to engage proactively with conduct issues in the workplace. Risks caused by both active and passive failures of 'interpretive vigilance' by social workers, who had witnessed concerning conduct of other professionals in workplaces, were identified. Criticisms of nudge theory as ethically dubious are considered in relation to the transparency of nudge interventions. It is proposed that, in the context of international concern about the inefficiency of regulation, nudge theory may be a low cost, light touch, local approach to encouraging social workers to exercise interpretive vigilance to conduct related risks and to take active collective ownership of conduct management in the work place.

KEY WORDS: Nudge, Conduct, Regulation, Social Work, Risk.

Introduction

A review of 468 abstracts from the 5th European Conference for Social Work Research (ECSWR) 2015 shows that social work as a profession continues to strive to be more effective, to understand more fully the breadth and range of our international remit and manage the complexities of our work for the benefit of the service users with whom we work. Key themes linking presentations include the impact of reforms on practice arenas, the management of risks in practice and the central relevance of ethics to our profession. Implicit to these themes is a recognition that we are an imperfect profession: In seeking to do better, we recognise that we do not always do as well as we might.

Few papers at the conference discussed the regulation of social work, which is surprising, as regulatory mechanisms are arguably at the nexus of such themes and a key method of risk management. By regulation, I am referring to the legal frameworks imposed by governments and the rules that prescribe professional conduct. In many countries such frameworks also provide what Strom-Gottfried and Manning (2015) in their excellent conference paper call 'strategies for corrective actions'. Regulation creates duties upon us and gives us responsibilities: we must be qualified in a particular way, act in the best interests of service users and in accordance with a code of ethics. The following of an ethical code, it has been suggested, inevitably leads to an 'enactment of ethical care' (Stanford 2009, p218). Banks (2013, p587) suggests a 'creative tension' between personal engagement with ethics in the workplace and professional accountability. She suggests this as a space for the exercise of professional wisdom, with an implied positive outcome. In addition, social workers are regulated through country specific laws and through policies and frameworks impacting on the practice arena. Rules are imposed upon social workers as a

mechanism to manage risk and guide towards practice approved by Governments. This process goes wrong to a greater or lesser degree with concomitant degrees of harm (Meleyal, 2011, McGivern & Fischer 2012). A review of the most recent (2014) Fitness to Practise Report of the current regulatory body for social work in England (The Health and Care Professions Council, or HCPC) evidences that, of the 16 professions regulated, complaints against social workers were proportionally the second highest compared with other professions. Complaints upheld include inappropriate relationships with service users, fraud, theft, and incompetent practice.

Whilst the regulatory arrangements across Europe differ from country to country most have a mandated method of holding social workers to account and codes of ethics against which standards of practice are measured are remarkably similar across nations (Hussein, 2011). They mirror the International Federation of Social Workers statement of ethical principles (IFSW, 2015) and are likely to result in similar kinds of conduct issues being investigated. In the UK, Government Inquiry Reports into health and social work failures leading to the deaths of service users such as the Shipman and Climbié cases (Smith, 2005; Laming, 2003) and outcomes from Serious Case Reviews into the deaths of children by their carers such as the Connelly and Pelka cases (Department for Education 2010; SSCB, 2013) have heralded calls for ever more expansive regulatory frameworks to manage the conduct and practice of professionals with the both explicit and implicit implication that more rules would help to reduce risks.

However, there is significant concern internationally about the unintended consequences of professional regulation (Bianculli *et al.* 2015). Policy makers, politicians and indeed regulated practitioners have expressed concern about whether professional regulation is a disproportionately expensive response aimed at a minority

of rogue and ineffective practitioners but impacting adversely on the majority (PSA, 2015). Questions have been raised about whether regulation does any good at all (Baldwin, 2006) or a disincentive to safe and good quality practice (Meleyal, 2011). In the context of austerity measures internationally, policy makers are actively seeking alternatives to traditional models of regulation (European Commission, 2015; World Bank, 2015). The UK based Professional Standards Authority have been influential in promoting ‘right touch’ regulation – that is, targeted, proportionate and minimum regulatory force to achieve high quality health and social care environments (Cayton, 2010). ‘Right touch’ approaches have garnered international support but as yet, there have been few discussions of what ‘right touch’ regulation of social work might look like or how it might be achieved.

This paper proposes that two behavioural approaches have much to offer in developing ‘right touch’ regulatory strategies in social work. Drawing upon a secondary analysis of data from my earlier study into English social workers’ responses to becoming registered (Meleyal, 2011), this paper firstly considers nudge theory (Thaler and Sunstein, 2010; Sunstein, 2015). ‘Nudge’ has its origins in Behavioural Economics and is an approach used to influence the environment in which choices are made. Secondly the paper will draw upon a model developed in relation to the aircraft industry: ‘interpretive vigilance’ (Macrea, 2007; 2014). With the exception of Critical Path Analysis drawn on for practice based resource management or post hoc case scrutiny, risk management in social work does not, for the most part, draw upon theoretical and practical risk management strategies used in heavy industries such as aviation, nuclear and chemical manufacture. This is surprising, as these industries spend billions of dollars, pounds and yen on researching, understanding and managing risk (Hood *et al.*, 2004) creating knowledge which has much to offer social work.

Finally I will suggest that in the UK context of a profession which is strained by austerity and demoralised by attacks from government and the media which have left it unsure of its future, these combined approaches may be a method of engendering active and positive collective engagement with conduct management in the workplace.

The regulatory context

Regulations are legal frameworks imposed by governments that are a by-product of imperfection (Orbach, 2012), put in place to ensure a benign outcome that might not otherwise occur. In relation to social work regulation, many nations have legislative and/or policy rules which define expected conduct and provide a method for managing the process of ensuring that the required conduct is followed. Regulation limits and constrains social workers' ability to act as individuals or groups necessarily want to, it creates duties upon professionals and gives us responsibilities for managing ourselves.

In the UK regulation is a key tool chosen to improve the quality of services and strengthen public protection, and is presented as a safeguarding mechanism against possible risks caused by rogue or incompetent practitioners (DH, 1998). It is acknowledged that the majority of social care staff carry out their work safely and with humanity (DH, 1998; Social Work Task Force, 2009); nevertheless enforceable standards of conduct against which practitioners will be held accountable are applied to the whole profession. This, it is suggested, strengthens public protection. However, research and theoretical literatures indicate that the relationship between the imposition of regulatory rules and desired outcomes in practice is not a straightforward dynamic and that the aims of regulation can be corrupted by regulatory resistance, ritualistic compliance and performance ambiguity (Ashworth *et al.*, 2002; Melejal, 2011; McGivern & Fischer 2012).

There is international concern about the impact and cost of regulation. Europe is in the midst of austerity measures impacting upon social and health care delivery but regulation is expensive. One estimate suggests that UK health and social care regulation annual operating costs may be as much as £600 million (PSA, 2015). In this context a number of influential organisations have been mandated by European Governments to propose effective and cost effective regulatory reforms (OECD, 2012; World Bank 2015). Professional regulation in the UK was reviewed by the Law Commission (2014), reporting inefficiency in the form of inconsistency and duplication between and across professional regulatory bodies. The Government response to the review was arguably more strongly worded and implicitly critical than the report, advising that professional regulators must develop proactive, proportionate, effective and efficient regulatory mechanisms in a timely manner (Department of Health, 2015). Some English social workers have started to raise questions about the social work regulatory body in relation to its effectiveness at achieving its aims and the financial costs to them. Fees are currently £80 per annum (approximately €110) for which they report feeling no benefit to either themselves individually, or the profession (Schraer, 2014). Social work researchers have raised concern about the imbalance in power between the regulator and the individual social workers in fitness to practise cases and that private lives of individuals are unjustifiably intruded upon by regulatory requirements and processes (McLaughlin, 2010). Others have suggested that regulatory processes such as fitness to practise, in their focus on the individual do not allow for consideration of broader structural and organisational impacts on service provision and so operate inefficiently (McLaughlin *et al.* 2015). In August 2015 the UK Professional Standards Authority proposed that UK regulation of health and social care is no longer fit for purpose and is in need of significant reduction and re-design (PSA, 2015). In

January 2016, British MP Nicky Morgan announced further regulatory reform. This will include a new regulatory body for social work, the third new body for social work in the past six years following the scrapping of the first regulator, the General Social Care Council in 2010.

Outliers, mavericks and bad apples

Almost without exception UK Health and Social Care Inquiries and Serious Case Reviews (SCR's) draw attention to the inadequacies of whichever regulations are current at the time. Clearly Dr Harold Shipman, murderer of at least 15 patients, and Beverley Allitt, a nurse convicted of the murder of four children in her care, were subject to not only the laws of the land but also regulatory rule expectations about the behaviour required of the professionals involved: They chose to ignore both. The General Medical Council and the Nursing and Midwifery Council were subsequently required to address regulatory approaches to recruitment, screening, and the sharing of information (HMSO, 2007) in the hope that this would reduce the likelihood of further such events occurring. Regulators were required to consider the professional training curricula for health and social work practitioners as a consequence of the Inquiry into the murder of Victoria Climbié, an eight year old child, at the hands of her carers (Laming, 2003). Serious Case Reviews (SCR), such as that relating to the death of Peter Connelly (Baby P) suggested that the child was failed by the professionals who were charged with his care (LSCB, 2009). The review report found that professionals did not follow policy guidelines about the conduct of child protection processes, nor did staff identify that they were inadequately trained to participate in such interventions and fulfill their statutory role. Somewhat unusually, the SCR following the murder of Daniel Pelka, a four year old boy at the hands of his mother and her

partner (SSCB, 2013), did not seek to apportion professional blame (although the press were very ready to do so). However, a subsequent survey by the British Association of Social Workers revealed that, whilst the purpose of SCR's is to learn vital lessons, 25% of social workers interviewed never read SCR reports, whilst 67% of respondents to that survey 'only sometimes' got to read recommendations (Cooper, 2013). This seems disappointingly at odds with the social work duty to 'keep professional knowledge and skills up to date' and 'act within the limits of your knowledge, skills and experience' as is specified in the HCPC Standards of Conduct, Performance and Ethics (HCPC, no date: p3).

Industry too is concerned about when things go wrong. In social work practice some service users die. Any death is devastating and should not be diminished by comparisons but, when things go wrong in industry, the scale of death is potentially catastrophic and financial costs may run into billions of pounds. The disaster that unfolded on Three Mile Island in 1979 when a fission reactor went into nuclear meltdown remains one of the most serious nuclear accidents recorded. The site remains radioactive some 36 years after the event although, fortunately, the full potential impact of the meltdown did not happen. Despite also being a regulated industry subject to intensive inspection regimes, deficiencies in human performance lack of training, the possibility of substance use impairing fitness for duty, and failures of communication were found to be some of the contributory causes to what happened (US Nuclear Regulatory Commission, 2013).

A similar element of human fallibility is apparent in relation to pilot Andreas Lubitz flying an airliner into the Alps in 2015, killing 150 people. The US and EU Aviation Safety Agencies require airlines to carry out checks to ensure the safe piloting of aircraft. Every pilot is subject to annual medicals and, whilst low mood would not

prevent a pilot from flying, a history of serious mental illness will almost always lead to the loss of the pilot's licence (Bor, 2015). A subsequent investigation suggested that the fear of losing his licence to fly, thus effectively ending his career, was the key reason for Lubitz hiding his mental ill health from his employers (Birnbum and Faiola, 2015).

Despite the very different operational environments, clear overarching themes of each of the cases above are notable. Firstly, there was an abundance of regulations and rules governing expected behaviours. Secondly, across a number of different contexts, the same types of rules governing behavioural expectations fail to achieve the requisite outcomes over and over again (Meleyal, 2011). Thirdly, recommendations to policy makers and regulators following critical events in each setting tend to be uniformly similar: that the technical abilities of individuals and their training must be improved, and supervision and/or monitoring must be more robust. The focus is on seeking to understand what went wrong and what can be learned. This largely retrospective approach relies on the benefit of hindsight. Regulatory theorists (Lodge & Wegrich 2012; Baldwin & Cave 2012; Hood *et al.* 2004) suggest that seeking to understand what goes wrong in case analysis begins from a false premise: that regulation assumes individuals are uniformly interested in and capable of modifying their own behaviours in line with imposed rules, and does not take account of those who respond strategically or perversely to regulatory requirements.

Just as in society, all regulated environments will inevitably have the potential for outliers, mavericks and bad apples. Efforts to account for mavericks add increasing numbers of layers to rules and regulations which make the regulated arena ever more opaque, complex, contradictory and confusing to follow and therefore less likely to achieve the aims of regulation. A more nuanced approach to understanding how

individuals respond to regulations seems necessary.

Growing international interest in nudge theory

For some time the UK Government has recognised that whilst the majority of public policy aims to change or shape behaviour, legislation and regulations which compel us to act in certain ways may be effective to a greater or lesser degree, and are often costly to implement and deliver (Cabinet Office, 2009). In particular, it has been recognised that command regulation which demands that people adhere to rules, is ineffective at changing minds. However, it is also understood that, even when individuals are given good quality information, they do not always make rational choices. For example, people continue to smoke though adverse health impacts are well known. The Behavioural Insights Team (BIT), known as the ‘Nudge Unit’ was established by the UK Government in 2010 to develop new, effective, less burdensome and lower cost ways for government to shape behaviour, with a particular focus upon changing the choice architecture (Thaler & Sunstein, 2009), that is the environment within which we make decisions and respond to cues (Cabinet Office, 2009; p8). It is mandated to find non-regulatory means of achieving behaviour change. Though privatised in 2014 the unit continues to have formal partnership arrangements with UK government departments, the National Health Service, regulatory bodies, police forces and banking institutions. The United States and Australia each have a BIT unit; the Air Osservatorio is an Italian research centre disseminating nudge research; Denmark has a Nudging Network of researchers and policy makers interested in behavioural approaches in policy making; and nudge theory has influenced policy development at the European Commission, in Singapore and in Canada (Ly & Solman 2013). Nudge theory is gaining considerable interest internationally and is influencing policy in

relation to national security, crime initiatives, climate change, organ donation, value for money in governance and fraud.

Methodology

This paper draws upon a secondary analysis of a qualitative data set (Meleyal, 2011). Nineteen interview transcripts from the original grounded theory study were reviewed. Each was a record of an interview with a social worker in practice in England. Initially practitioners known to me were recruited and these suggested others who might be willing to participate. Interviews were originally conducted to elicit the perceptions of social workers on the positive and negative impact(s) of the (then new) statutory requirement to register, for both the individuals and the organisations in which they work. That study found that publicity about the outcomes of registration conduct cases triggered a negative allegiance to registration with respondents passively avoiding engagement with conduct matters in the workplace. Rather than registrants actively choosing *not* to be vigilant, they appeared to ‘turn a blind eye’ to breaches of professional conduct. Although the earlier study was too small to generate robust generalisations for the profession, its findings do resonate with those from other professions that regulatory rule impositions can create perverse incentives to comply (McGivern & Fischer, 2012).

Secondary data analysis can be used to view data from a new perspective or conceptual focus but it must be underpinned by an assessment of the fit between the primary dataset and the secondary research questions (Heaton, 2004). The influence of the original convenience plus purposeful research sampling strategy was considered for secondary data analysis. As in the original study, no suggestions of representativeness can be made for secondary analysis but because of the fit between original and

secondary questions the analysis was a valid approach. Long-Sutehall *et al.* (2010) propose that both the research questions for secondary analysis must be close to the original, and that the analytic techniques used should be similar. Both injunctions have been followed here. Two of the original research questions were used to underpin the secondary data analysis. These were: a) Is registration supported by registrants and, if so, why?; and b) how, if at all, would registrants use regulatory requirements as a quality assurance mechanism themselves? However the focus of the secondary analysis was more nuanced than the original and more selective regarding the data on which it drew. In relation to the first question, the secondary analysis focused specifically on the ‘why’ aspect, with specific reference to what Thaler and Sunstein refer to as ‘the choice architecture’ (2009, p10). Transcript data which referred to explanations for behavior and environmental or contextual influences were isolated from the collections of transcripts and analysed in micro detail both individually and collectively. Nudge theory was used as a conceptual framework to identify the mechanisms through which social workers had been encouraged and supported to engage with regulatory rules. The 2011 analysis had already identified the ways the ways in which participants would and would not use regulatory requirements as a quality assurance mechanism (question 2). The original study did not seek evidence of interpretive vigilance but the process of ‘turning a blind eye’ could be interpreted as an indicator of risk. Examples of ‘turning and blind eye’ were also isolated from transcripts and a focus of analysis. Hence the potential costs of failures of (interpretive) vigilance became a key focus of the secondary analysis, with a particular focus upon the context and behaviours described in respondent interviews.

Ethics

The original 2011 study used grounded theory to analyse data and whilst it is an iterative process the secondary re-visiting of data was not a ‘refinement over time’ of the

original study (Heaton 2004, p3). The secondary study, unlike the first, sought to consider the relevance of specific theories to the data set, rather than allow themes to emerge from data. The original study was approved through the University of Sussex's Research Ethics Panel process. It was not feasible to re-contact original participants but informed consent for the secondary analysis could not be presumed (Long-Sutehall *et al.* 2010). Further ethical clearance was sought through the university which had provided clearance for the original study. This confirmed that the close fit between the original and secondary research focus allowed for secondary analysis and reporting of findings.

Nudges towards regulatory compliance in social work practice

Nudge theory draws primarily on behavioural economics to explain why people behave the way they do, and suggests ways that the environment of choice can be structured to lead people to make different choices. Key theorists Thaler and Sustein (2009: p8) define nudge as 'any aspect of the choice architecture that alters people's behaviour in a predictable way without forbidding any options or significantly changing their economic incentives'. Nudges are methods to achieve rule adherence through a process of influencing decision making. To count as a nudge, the intervention must be Easy to implement, Attractive in design, Social in how it encourages people to make a commitment to others, and Timely, prompting people when they are most likely to be receptive. The BIT unit refers to these imperatives by the acronym EAST (BIT, 2014). Nudges should not forbid activity but should be designed in such a way that it is very easy to adhere to. An example given by Thaler and Sustein is encouraging healthy eating, not by banning sugar but by placing fruit at the checkout counter of supermarkets.

My 2011 study had found that social workers did not respond to being regulated

in the way that had been intended; some responses showed that the opposite of the aims of registration as a mechanism to protect the public were being achieved. These included defensive and risk avoidant social work practice, such as following the rules easiest to follow, and refusing to be creative with rules or less likely to bring them into arenas where they may have to do something about it, an example of which would be failing to notice colleagues' bad practice. My original report, detailed the factors which increased motivations towards and engagement with regulation, regulatory codes and conduct matters in the workplace. This secondary analysis focuses more specifically on the elements of the choice architecture, the nudges, which appeared to influence their engagement with regulatory requirements in the workplace.

Data revealed that workplaces and managerial leads have a key role in the generation of what McGivern (*et al.* 2015) call 'formative spaces' within which social workers have the opportunity to actively engage in consideration of regulatory policy, conduct, competence and their values in relation to practice. Formative space generation was generated through different types of intervention, each operated on different levels of depth. Some nudge interventions were related to local *design* with, arguably, subliminal persuasive influence such as screen savers showing the name of the regulatory body bouncing across the screen when the computer was not in use.

Several work places displayed social workers' registration certificates:

"our certificates are in the foyer – we see them soon as we walk in, so do service users of course".

Social workers in these settings reported feeling "proud" of their registration: display of their certificates was an important part of 'belonging' (to the profession, to their team) and evidenced an outward facing manifestation of beliefs about the importance of openness for the benefit of service users. Some workplaces had log books where

team members were invited to write down things that “*don’t quite work or don’t make sense or something we have a problem with*”. This respondent noted that the approach of her manager was key in the use of the log book:

“The manager made her expectations very clear, she expects us to look out for problems ... and they are followed up with a no-blame attitude”.

The log book was discussed monthly. Three workplaces had meetings to discuss what one social worker called ‘values challenges in practice’. Baldwin (2014, p833) refers to this as ‘*information mechanisms*’ which draw upon social influence. Team meeting and individual supervision were important formative spaces for all respondents to the original study. Where team meeting and supervision specifically addressed challenges in workload, rather than a simple audit process, and where opportunity was presented to discuss challenges in a team context, anxiety was reduced, and commitment to ‘professionalism’ was enhanced. By sharing information across the social work team about values challenges in practice, subtle messages were also conveyed about the ways group members are expected to feel, think or act as professionals in that context. Another respondent gave an example of social influence in relation to a poster his manager had put on the wall. The poster said “we don’t say ‘we aim’ here - we say ‘we will’”. Social workers in the same team reported that the poster was motivating in encouraging alertness to good practice and had influence ‘beyond the obvious’. An example given was that new recruitment choice was influenced by the team ethos and who would ‘fit’ within it.

A further nudge toward formative space generation for this sample was in the creation of *warnings and reminders* (Sunstein, 2014). In one team each computer had a small label which said ‘remember your code of ethics’ attached to the keyboard. A

social worker said it reminded her about not sending “those kinds of emails”, and clarified that she meant the kinds of emails sent without enough thought. One team manager was in the process of having the log-in screen of the teams’ electronic file system changed to require confirmation of commitment to the professional code of practice in use of the data base. Whilst it can be argued that these initiatives might become invisible with routine use over time they do present users with small pauses for thought.

Respondents in these environments reported strengthened personal commitment to the underpinning purpose of regulation and seemed less challenged by it. Conversely, in workplaces which did not positively engage with regulatory requirements related to conduct expectations, feelings of apathy, indifference and vulnerability were reported which in turn had a negative impact upon how they engaged with conduct issues in the workplace. They were less positive about the regulatory body and were least likely to raise a conduct issue in the workplace or with the regulatory body (Meleyal, 2011).

A key aspect of the success of these nudges is that they addressed the social aspect of influence. What information mechanisms had in common was that managers in the workplace used the power of in-house networks to encourage people to engage and make a commitment to each other. The attitude manifested and encouraged was ‘this is important to us as a team’. Attention was given to developing a team culture where the collecting of information about what went wrong or the ways things could be improved was not seen as burdensome but about the team working together to be the best it could be. The drive of the team manager was influential in developing such local nudges towards team norms which influenced individuals’ commitment to working with social work codes of practice and meeting expected regulatory standards.

Interpretive vigilance and risk management

My 2011 research found that the environments which had a positive approach to engaging with regulatory rules and conduct expectations in the workplace were also those which had clear systems and processes in place which encouraged identification of places where risks may occur (log books, for example). Macrea (2014) calls this 'interpretive vigilance', advising that the workplaces best at this are those which have developed a culture which supports and encourages staff members to take active and personal responsibility for improving the service. Drawing upon his research in the airline industry and 'near miss' incidents, Macrea (2014) suggests that developing systems of interpretive vigilance is a key component of the development of organisational risk resilience. Risk resilience is about an organisation's ability to protect its operations from the small mishaps which can combine to create a major catastrophe, what Sparrow (2008) refers to as a process for sabotaging harms. Importantly, though, airline industries go beyond an analysis of what actually happened, to analyse incidents for what *might* happen - they have invested in focusing on 'distant misses' (Macrea, 2014). This is a process of anticipatory discovery rather than post incident discovery of risk which has allowed for the range of what might be a risk event to be hugely expanded. The process involves an examination of the 'space' between a near miss and what it is coming near to (Macrea, 2014). Distance in this model is provided by the human, social and technical controls that are in place (*ibid.* p11), each of which is closely examined. The fact that a system or process is in place is not assumed to be good enough. The notion is simple: work with the distant misses and the near misses become less likely. By extension, the big risks become even less likely to happen. A key element of interpretive vigilance is the explicit and deep appreciation that not everything can be known. We cannot set rules for everything and that the

majority of risk assessments are based on limited data, specifically, that which is already known. To imagine that we have considered all possible aspects of any situation blinds us to the problematic possibilities of new developments and maverick attendance to rules or guidelines. Interpretive vigilance suggests that ‘emerging risk can and should be identified by piecing together cues in apparently inconsequential, minor, ‘small’ events’ (Macrea, 2007:12). Additionally and importantly, that this should be done ‘early – that individuals in any system should be encouraged to look for risk cues. Risk cues might be found through a process of case discussion (in formative spaces perhaps), the active interrogation of current models, processes, or cases, and the patterning of events. The novel facets or any risk incidents should be given particular scrutiny (*ibid.*, p13).

Secondary analysis of my 2011 data looked for examples of interpretive vigilance in respondents’ narratives. Log books, used in two teams were an example but these were to identify problems to be ‘fixed’; there was no team notion of ‘working through’ items to consider the further possible hazards of the problems and or risks identified. I did not therefore find examples of interpretive vigilance of the model as presented by Macrea. However, I did find data which suggested a *lack* of risk resilience, and respondents reported issues which might be identified as potential near misses: that is, points of risk which may be an early warning of possible bigger risks in the future. Such ‘near miss’ points of risk are also noted in the Inquiry reports mentioned earlier in this paper. Long before Dr Shipman’s arrest on murder charges it was known that he had experienced a drug problem and fraudulently issued prescriptions (HMSO, 2007). Before baby Peter Connelly died, a whistleblower had questioned the competence of Haringay Social Services to address concerns about the service made following the death of Victoria Climbié in the same authority (Community Care, 2008).

The secondary analysis identified two near miss arenas. The first indicated that interpretation of regulatory requirements depended upon whether it was related to expectations in professional or private domains. Problematic alcohol use was discussed by seven respondents and each was clear that using alcohol at work was not acceptable. However, they felt that alcohol use in a private domain was not their concern and, importantly, even if they believed problem alcohol use was impacting upon someone's work performance (i.e. smelling of alcohol poor performance), respondents would not raise it either with their management team or the regulatory body. One respondent explained:

"I would turn a blind eye. It is not my job to social work colleagues".

This view was supported by others who said that they were influenced by the norms of dominant others within the workplace which created a culture in which it would be considered inadvisable to raise concerns about the conduct of others because of perceived possible negative outcomes for the concern raising individual (for example, having own practice scrutinised, being ostracised by colleagues).

A second related theme identified was in relation to 'playing by the book'. Respondents spoke of their positive perceptions of the profession of social work as being adaptable and creative in their commitment to provide a good service in the context of limited resources. However, they spoke of feelings of loss and disappointment in relation to a perceived loss of freedom to be creative in the context of diminishing resources. Four respondents reported fear of regulatory intrusion into their own lives in both private and professional domains and in this context they chose not to practise creatively.

It is suggested that 'turning a blind eye' and 'playing by the book' in social work are points of near/distant risks which may be indicative of greater potential risks in the

future and each could be fruitfully explored using the interpretive vigilance framework.

Conclusion

Nudge theorists suggest that, in order to influence others, we must present options that make it easy for those we seek to influence to be influenced; ensuring that such influenced behaviours are beneficial to the individuals is a key strategy for achieving this. (Thaler & Sunstein, 2009; Sunstein 2014b). A clear finding from my small scale 2011 study was that workplaces which had transparent conduct management procedures, a workplace culture of support and a positive non-blame approach to accountability led to individuals feeling more confident about their role in relation to managing conduct issues in the workplace. This secondary review of data enabled the identification of clear examples of work-based nudges which, although simple and unsophisticated, had a contribution to the facilitation of such a culture which positively influenced social workers to engage with conduct issues in the workplace. It is however important to note that neither the original sample nor the secondary analysis can suggest generisability to a wider population, Findings presented here are a contribution to and support a view that the architecture of a work environment may influence social workers engagement with the requirements of regulatory frameworks.

Macrea's work (2014), developed in the airline industry, provides a useful framework for considering the space between a near miss and a risk incident which may have useful application in social work settings by making us more alert to identifying and acting in relation to risk potential.

In conclusion this paper proposes that in the context of international concern about the inefficiency of regulation, the application of nudge theory may be a low cost, 'right touch' local approach to encouraging social workers to exercise interpretive vigilance to conduct-related risks and to take active collective ownership of conduct

management in the work place leading to better decision making and safer practice. It is further proposed that a profession which through regulatory means is facilitated and engaged in exercising greater local regulation of conduct issues and risk management in the workplace is in a stronger position to develop the profession from within and influence policy makers positively about how the profession develops. As such protecting the public interest is served without the need for ever more behemothian, expensive regulatory frameworks.

However, an important caveat must be sounded. Thaler and Sunstein (2009) suggest that nudge theory has, at its heart, a libertarian paternalism which directs the choices others make in an undercover, inexplicit manner. In respect of the management of risk, those with the power to select the choices which they are seeking to nudge people towards presumably believe that these are the 'right' choices to be made. In that regard nudge might be considered a utilitarian method: the 'good' ends justify the manipulative means. However, Baldwin (2014) alerts us to the ethical issues in relation to this: What if the selectors and directors are mistaken or unethical and the choices lead to malign outcomes for some individuals or communities? Whilst Thaler and Sunstein assert that the agent is left with a free choice, when influence is hidden, true choice is violated; only on reflection might an individual be able to understand how they had been influenced. Some nudges may be so manipulative as to prevent reflection or evaluation (White, 2013). Clearly the ethics of nudge use in social work needs to be carefully considered and evaluated.

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