

# Memorandum of Understanding between The Regulation and Quality Improvement Authority, Criminal Justice Inspectorate Northern Ireland, and Her Majesty's Inspectorate of Prisons

November 2008



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## **Introduction**

1. The objective of this Memorandum of Understanding is to outline the framework that the Regulation and Quality Improvement Authority (RQIA), the Criminal Justice Inspection Northern Ireland (CJINI) and Her Majesty's Inspectorate of Prisons (HMIP) have agreed for collaboration and cooperation to support the development of a strategic partnership in respect of inspection of prison health and social care services. This will lead to more effective and coordinated regulation of prison health in Northern Ireland.
2. The RQIA is a non-departmental public body with overall responsibility for assessing and reporting on the quality and availability of health and social care services and for encouraging improvements in the quality of these services.
3. The CJINI is a non-departmental public body established under Schedule 8 of *The Justice (Northern Ireland) Act 2002* to inspect or ensure the inspection of all aspects of the criminal justice system. CJINI is expected to contribute in a significant way to the efficient and effective running of the criminal justice system, while helping to guarantee that it functions in an even handed way. In so far as the prisons are concerned CJINI invites HMIP to conduct announced and unannounced inspections of the three prisons in Northern Ireland.
4. Her Majesty's Inspectorate of Prisons (HMIP) for England and Wales is an independent inspectorate which reports on conditions for and treatment of those in prison, young offender institutions and immigration removal centres.
5. HMIP is regularly invited to inspect prisons in Northern Ireland, the Channel Islands, Isle of Man and some Commonwealth dependent territories, as well as military and police custody.
6. The relevant statutory functions of the RQIA, CJINI and HMIP are set out at Annex A.

## **Scope of the Memorandum of Understanding**

7. This Memorandum defines the circumstances and the processes through which, the RQIA, CJINI and HMIP will co-operate when carrying out their respective functions.

8. This Memorandum is additional to, and does not reduce, the separate statutory duties, responsibilities and reporting rights of the respective organisations, even where they have agreed to work collaboratively.
9. This Memorandum does not place additional legal obligations on the organisations, nor does it imply any transfer of responsibility from one to the other, nor sharing of statutory functions. In operating within the terms of this Memorandum, each organisation will continue to work within their respective statutory framework and functions at all times.
10. Equally, the organisations can decline a request to collaborate on a specific piece of work on the grounds of efficiency or effectiveness or because to do so is deemed either not to be in the best interests of those using services or directly conflicts with the organisation's statutory duties, policies or functions.
11. The relevant officers in each organisation (see Annex B) will monitor and keep under review areas of cooperation as part of the annual review of the working of this Memorandum.

### **Principles of joint working**

12. The RQIA, CJINI and HMIP are committed to the following principles:

- inspections of prison health and social care services should be coordinated with other inspections, reviews and collections of data
- inspections of health and social care should primarily focus on the experience of patients, clients and their carers
- inspections should support improvements in quality and performance
- inspecting bodies should continuously monitor their practice and improve their methods
- inspections should be independent, consistent and fair
- inspections should be targeted and proportionate
- inspections should be transparent and accountable
- inspecting bodies should use coordinated and proportionate methods of enforcement (see Annex C) and
- inspectors should be suitably qualified, trained and skilled.

13. All decisions about collaborative working between the RQIA, CJINI and HMIP will be subject to the following general principles:

- each organisation will respect each other's independent status and will cooperate when necessary or appropriate
- each organisation will work collaboratively within their respective legislative frameworks and in accordance with *The Human Rights Act (1998)*

- each organisation is part of the national preventive mechanism (NPM) under the Optional Protocol to the United Nations Convention Against Torture (OPCAT) and in this context will fully consider the treatment of service users as part of the required regular independent inspection programme
- the working relationships will be governed by the need to deliver maximum benefits to those using prison health and social care; and to work together when this contributes most to improvements in those services
- the organisations will work together to encourage the development of consistent, high quality, accurate information throughout Health and Social Care (HSC) services and the Prison Service and where relevant and appropriate will share data to focus and support their work programmes
- the organisations will be open and transparent in their decisions about when and where it is considered appropriate for them to work collaboratively
- the organisations will work together to optimise regulation by the RQIA. This will include work to develop a system which ensures that health and social care organisations discharge their responsibilities appropriately by, among other things, enabling patients to be assured that those treating and caring for them are appropriately qualified for the role they are undertaking

### **Functions covered**

14. The remaining sections of this Memorandum set out the principles and processes which the RQIA, CJINI and HMIP will follow when working cooperatively.

15. Subject to the availability of resources in each organisation, such cooperation will be appropriate in the following key areas:

- inspection, review and monitoring processes
- general cross-referral of concerns
- seeking and giving advice
- complaints
- training and guidance
- contribution to annual reports
- sharing resources
- coordination and exchange of information

16. This list is not intended to be exhaustive. Additions can be made to the list between inspections by agreement between the relevant officials. Any collaborative work undertaken by the organisations but not identified by this Memorandum should nonetheless be carried out in accordance with the principles outlined in this Memorandum.

### **Levels of Cooperation**

17. Each organisation, through their respective Chief Executives/Chief Inspectors, undertakes to keep the others informed on matters of strategic mutual interest.
18. The working relationships between the RQIA, CJINI and HMIP will be characterised by regular contact and open exchange of information, including formal and informal meetings at all levels. It is envisaged that representatives of both organisations will meet regularly. The relevant officers within each organisation will keep these arrangements under review.
19. Each organisation commits to developing links at a local level to ensure the effective exchange of information at an operational level.

### **Sharing of procedures**

20. Each organisation will develop joint procedures where it is in the interests of the efficient and effective discharge of their respective functions and the overall coordination of health and social care regulation. Decisions about the provision of resources for joint work will be resolved prior to the work being undertaken, and may include pooling of staff or other resources, subject to proper accountability being maintained for their use.

### **Potential areas for collaboration between the RQIA, CJINI and HMIP**

#### **The inspection and monitoring process**

21. The inspection of health and social care in places of detention will continue as now with a more integrated approach and without an increase in inspection burden.
22. The CJINI and HMIP will inform the RQIA of their planned inspection programme once it has been finalised. Unannounced inspections will be discussed on an individual basis and the RQIA asked to contribute where risk assessment by HMIP indicates this as being required. It is understood by CJINI, HMIP and the RQIA that the RQIA resources may not always be available at short notice for an unannounced inspection.

23. Similarly, the RQIA will notify the CJINI and HMIP of its proposed review and monitoring programme. Discussions between the organisations at the joint inspection planning group will determine which inspections will be jointly undertaken.

24. Inspections will fall broadly into three main types:

#### **Announced HMIP inspections**

25. These will be led by the CJINI and HMIP, which will inspect and report on the health and social care outcomes for prisoners within the prison. The RQIA will ensure that a self-assessment and follow-up review visit to the Commissioner of prison health and social care is carried out within the same timeframe to ascertain the arrangements for commissioning prison health and social care services. Where appropriate, the RQIA will provide an identified inspector/reviewer to form part of the prison inspection team and to contribute to the final report.

#### **Full unannounced HMIP inspections**

26. Full unannounced HMIP inspections will be led by the CJINI and HMIP, which will inspect and report on the health outcomes for prisoners within the prison. The RQIA Director of Operations will risk assess the need for the RQIA involvement and will highlight such need to the Chair of the Prison Working Group on a quarterly basis.

27. The Chair of the Prison Working Group will notify the Director of Operations in the RQIA to be on notice of an impending unannounced inspection. In the week preceding the date of the inspection, and once the prison has been notified, the relevant HMIP health care inspector will contact the RQIA Director of Operations to request that they make contact with the Commissioner.

28. The RQIA will ensure that a self assessment and follow-up review visit to the Commissioner is carried out to ascertain the arrangements for commissioning prison health and social care services from the designated provider\*. Where appropriate and within available resources the RQIA will provide an identified inspector/reviewer to form part of the prison inspection team and to contribute to the final report.

29. The identified RQIA inspector/reviewer will be responsible for giving feedback to the Commissioner as part of the overall inspection debrief.

30. In the case of short follow-up unannounced (SFU) visits, the HMIP will inform the RQIA of its findings. Where appropriate and resources

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\* As of 1 April 2008, the South Eastern HSC Trust are responsible for the provision of prison health and social care.

permitting, the RQIA will provide an inspector/reviewer to form part of the prison inspection team.

31. The prison health and social care working group will meet quarterly to share the agreed work programme and discuss any practical or logistical issues for each organisation. At this meeting the RQIA will ensure that CJINI and HMIP are notified of details of the RQIA's inspector/reviewer, who will be given relevant pre-inspection information by the CJINI and HMIP.
32. The RQIA's inspector/reviewer will submit a draft report to the HMIP's healthcare inspector within three working days of completing the inspection.
33. The CJINI and HMIP will send a copy of all draft inspection reports to the RQIA chair of the prison health and social care working group approximately eight weeks following the conclusion of the inspection, so that any factual inaccuracies in the reports can be clarified. Draft reports will also be sent to NI Prison Service headquarters specifying a publication date, subject to factual accuracy checks, and requesting the arrangement of Ministerial clearance.
34. The CJINI and HMIP will send a final (embargoed) report simultaneously to the RQIA at least ten working days prior to publication and Chair of the prison health and social care working group and all relevant authorities, at least four working days prior to publication.
35. All inspected bodies are required by protocol with HM Chief Inspector or Prisons to draw up an action plan within two months of publication of the report responding to all recommendations. This is copied to HM Chief Inspector of Prisons and a copy will also be sent to the RQIA and the Chair of the prison health and social care working group. A progress report is required after a further 12 months and will similarly be made available by HMIP to the RQIA.

### **The RQIA - inspections and reviews of HSC Trusts**

36. As part of its planned programme of governance, service and thematic reviews in health and social care organisations, the RQIA when reviewing those HSC organisations responsible for commissioning or providing health and social care for a prison(s), will ensure that full and specific consideration is given to the arrangements in place for the prison population.
37. Where deemed appropriate by the joint inspection planning group, the RQIA will invite CJINI and/or HMIP to join or contribute to the relevant parts of the review, ensuring that all inspectorates are fully informed of the outcomes of such review or inspection activity.

38. In the main, during governance reviews and inspections of HSC organisations the RQIA may not require access to prison facilities. However, when access to such facilities is required as part of the review process this will be arranged by CJINI and HMIP.
39. For RQIA-led reviews or inspections, the lead officer from the RQIA will contact the lead inspectors for the CJINI and HMIP to finalise details. The RQIA will be responsible for debriefing the Chief Executive (or Deputy) of the health and social care provider and commissioner at the end of the review or inspection. Where appropriate the CJINI and HMIP will be responsible for debriefing the governor of the prison at the end of the review or inspection. Where necessary, the CJINI and HMIP will submit a draft report to the lead officer from the RQIA within five working days of completing the review or inspection.
40. In respect of inspections and reviews, staff from each organisation will be responsible for their own travel and administrative arrangements during inspections. Each organisation will be responsible for any costs associated with their inspectors and officers.

### **General**

41. The RQIA, CJINI and HMIP will share information about trends, concerns, data, approaches and initiatives, which are relevant to the shared aim of helping health and social care commissioners and providers to provide high quality patient care within prisons.
42. The RQIA, CJINI and HMIP will share their processes and timetables for strategic planning timeously to inform corporate planning and annual programmes of work. This is without prejudice to the need for either organisation to conduct their work. Information shared in this way will be treated as confidential by both organisations.

### **Cross-referral of concerns**

43. Where officials of either organisation encounter significant concerns or receive information about concerns that fall within the remit of the other organisation, the relevant organisation will (subject to any legal restrictions, this Memorandum and any applicable code of practice in relation to personal data) promptly convey those concerns to a person with relevant responsibility in the other organisation. Such concerns might include reports and disclosures, which are protected under *The Public Interest Disclosure (NI) Order 1998*. Each organisation will then provide the other with such further information and assistance as is reasonable in following up such referrals.

### **Seeking and providing advice**

44. Each organisation will, on request, provide advice to the other on matters within its competence, subject to the availability of resources and the absence of conflict with the functions of the organisation requested to provide that advice.

### **Complaints**

45. Each organisation will share information in relation to their complaints handling procedures and guiding principles for initiating an investigation or assessment. Where appropriate, information will be exchanged in relation to any themes or issues arising from complaints, which may fall within the remit of the other organisation.

### **Provision of training and guidance**

46. Each organisation will, on request, provide material relating to training or guidance to the other on matters within its remit or competence, subject to the availability of resources and the absence of conflict with its own functions or policies.
47. The RQIA, CJINI and HMIP may carry out joint training, or issue joint guidance, where this would contribute to more effective and coordinated health and social care regulation. Joint training may be developed and/or delivered as appropriate.

### **Feedback and contributions to annual reporting**

48. Each organisation will, on request, contribute material to the other's annual or other reports, subject to availability of resources.
49. The RQIA, CJINI and HMIP may produce a joint report on any matter where this is in the interests of the efficient and effective discharge of the functions of each organisation and may jointly collaborate in order to share good practice or learning.

### **External Communications**

50. Each organisation will involve the other in meetings, conferences and other public discussions relating to collaborative work.
51. Where appropriate, and where it is in the interests of the organisations and those using health and social care services, each organisation will issue joint press releases or public statements on matters or cases substantially within the remit of the RQIA, CJINI and HMIP. In other circumstances and as appropriate, either organisation will notify or copy to the other in advance of issue any press release or public statement on any matter or case which has some bearing on the other organisation.

52. Each organisation will also as necessary brief the press office of the other on issues likely to be of specific interest to the public.
53. On their websites, each organisation will include relevant web links to the other co-signatories to this memorandum.

### **Sharing Resources**

54. The RQIA, CJINI and HMIP will, where appropriate, actively seek opportunities for collaborative working with the other. The feasibility of sharing or pooling expert advice may be explored, providing that this does not present either organisation with a conflict of interest.

### **Coordination, consultation, and exchange of information**

55. In sharing information under the provisions of this Memorandum the RQIA, CJINI and HMIP will comply with all relevant legislation, including, but not limited to, *The Data Protection Act 1998*, *The Human Rights Act 1998*, as well as codes of practice on confidential personal information of the RQIA, CJINI or HMIP.
56. The organisations are subject to *The Freedom of Information Act 2000*, and where either organisation has been subject to a Freedom of Information request that relates to any area of collaborative working they will inform the other. The RQIA, CJINI and HMIP will follow the arrangements set out in any agreed protocol for the sharing of information.

### **Reconciliation of disagreement**

57. Any disagreement between the RQIA, CJINI and HMIP will normally be resolved at working level between the relevant officials. If this is not possible, it may be referred upwards through those responsible for operating this Memorandum, up to and including the Chief Executives/Chief Inspectors of the respective organisations who will be responsible for ensuring a mutually satisfactory resolution.

## Review of the Memorandum of Understanding

This Memorandum will be reviewed after 1 year.

Signed:



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Dated:

Signed:



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Dated:

## **Annex A**

### **Statutory Functions of the RQIA, CJINI and HMIP.**

#### **Regulation and Quality Improvement Authority**

The Regulation and Quality Improvement Authority (RQIA) is a non-departmental public body with overall responsibility for assessing and reporting on the availability and quality of health and social care services in Northern Ireland and encouraging improvements in the quality of these services.

In delivering on its responsibilities, the RQIA exercises two main functions:

It assesses the quality of health and social care services provided by Health and Social Care (HSC) bodies in Northern Ireland. These assessments take the form of reviews of clinical and social care governance arrangements within HSC bodies. The assessments are based on the "Quality Standards for Health and Social Care" published by the DHSSPS, March 2006.

It regulates (registers and inspects) a wide range of health and social care services delivered by the independent sector and statutory HSC bodies. The regulation of services are based on minimum care standards. The introduction of the quality standards and care standards for Northern Ireland will ensure that service users know what quality of services they can expect to receive and service providers have a benchmark against which to measure the quality of their services.

#### **Criminal Justice Inspection Northern Ireland**

CJINI is an independent statutory inspectorate, established under *The Justice (Northern Ireland) Act 2002*, constituted as a non-departmental public body in the person of the Chief Inspector. CJINI must carry out inspections of all the main elements of the criminal justice system. Neither the Chief Inspector nor his permanent staff are to be civil servants, though civil servants may be seconded to the Inspectorate. The CJINI is funded by and report to the Secretary of State for Northern Ireland, who has powers to direct the Chief Inspector to undertake specific pieces of work. Normally, however, it will be for the Chief Inspector to propose a programme of work, which is subject to the approval of the Secretary of State and, in respect of the Public Prosecution Service, of the Attorney General. The Chief Inspector will be free to report as he finds, but his programme of work will be expected to support the Government's aims and objectives.

## **Her Majesty's Inspectorate of Prisons**

The Inspectorate was established as an independent inspectorate in 1982. It carries out its functions under section 5A of *The Prison Act 1952* as amended by section 57 of *The Criminal Justice Act 1982* and *The Immigration and Asylum Act 1999*. Its main statutory functions are to inspect and report to the Secretary of State on conditions for and treatment of those detained in prison establishments in England and Wales and immigration removal centres, short term holding facilities and escorts in England, Wales and Scotland. In addition, the Inspectorate inspects, by invitation, prison establishments in Northern Ireland, the Channel Isles, Isle of Man and certain Commonwealth territories, as well as the Military Corrective Training Centre, Colchester, and the Sovereign Base Areas, Cyprus.

In determining the inspection programme, HM Chief Inspector will use her judgement and expertise in deciding what to inspect, how inspections should be carried out, what the findings should be and whether an inspection is to be announced or unannounced. She will also publish the criteria against which she inspects places of detention including how the findings are supported.

## **Annex B**

Contact details for those responsible for operating this Memorandum:

### **RQIA**

For any communication issue:  
Malachy Finnegan  
Communications Manager  
Tel: 028 9051 7485  
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For any MoU or general issues:  
Jude O'Neill  
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### **CJINI**

For any communication issue:  
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For any MoU or general issues:  
Brendan McGuigan  
Deputy Chief Inspector  
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### **HMIP**

For any MoU or general issues:  
Elizabeth Tysoe  
Head of Health Inspection  
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## **Annex C**

### **Methods of Enforcement**

#### **The RQIA**

Article 34 of *The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003* places a statutory duty of quality on Health and Social Services Boards and health and social care trusts to put and keep in place arrangements for the purpose of monitoring and improving the quality of -

- (a) the health and social care services which it provides to individuals;
- and
- (b) the environment in which it provides them.

Article 35 of *The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003*, requires the RQIA to carry out reviews and undertake inspections and investigations and to report on the management, provision or quality of the health and social care services for which statutory bodies have responsibility.

In its report, the Regulation and Quality Improvement Authority may recommend that the Department take special measures in relation to the body or service provider in question with a view to improving the health and social care services for which it is responsible.

#### **Improvement notices**

Under Article 39 of *The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003* -

- (1) The Regulation and Improvement Authority may serve a notice (an "improvement notice") on a person registered under Part III or on a Health and Social Services Board, HSC trust or special agency if the Authority believes that that person, Board, trust or agency is failing to comply with any statement of minimum standards under Article 38.
- (2) An improvement notice shall specify -
  - (a) in what respect there is a failure to comply with a statement of minimum standards under Article 38; and
  - (b) what improvements the Regulation and Quality Improvement Authority considers necessary.

## **HMIP**

HMIP has no formal powers of enforcement. However, protocols and MOUs' are in place with all inspected bodies and require that an action plan is put in place within a month of publication of an inspection report. A review of progress by the inspected body is required after 12 months. HMIP re-inspects on an unannounced basis to validate this progress. In 2005/06, 97% of recommendations were accepted and 72% of recommendations had been implemented, wholly or in part, by the time of the follow-up inspection.