



The **Regulation** and
Quality Improvement
Authority

RQIA Enforcement Procedures

(Document 2 in a Suite of 6)

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Definitions and Abbreviations

RQIA – Regulation and Quality Improvement Authority.

DHSSPS – Department of Health and Social Services and Public Safety, now called Department of Health (DoH).

DoH – Department of Health, which is the new name for the DHSSPS.

2003 Order – The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003, which is the legislation that sets out RQIA's statutory responsibilities and powers.

Regulations – created by the DHSSPS (now known as the DoH), these documents specify the regulations that each type of establishment or agency must operate within.

Standards – prepared and published by the DHSSPS (now known as the DoH), these documents identify the acceptable minimum standard for each type of establishment or agency.

QIP – Quality Improvement Plan is a section within the inspection report that states all areas for compliance with regulations and/or standards. The Registered Person/Trust's Responsible Individual is required to complete the QIP, setting out the actions taken/to be taken in accordance with timescales determined by RQIA.

Registered Manager – individual registered with RQIA to manage an establishment or agency.

Registered Provider – an individual, an individual in partnership with others, a partnership or an organisation registered to carry on an establishment or agency.

Registered Person/s – the Registered Provider or the Registered Manager in respect of an establishment or agency.

Responsible Individual – an individual e.g. a director, a manager, a secretary, or other officer of an organisation, who is responsible for supervising the management of an establishment or agency.

Trust's Responsible Individual – the Chief Executive in respect of a trust.

EDM – An internal 'Enforcement Decision Making' meeting that takes place at key decision stages within RQIA's enforcement procedure.

IN – an 'Improvement Notice' which may be served when there have been failings to comply with minimum standards.

FTC – a 'Failure to Comply Notice', which may be served against failings to comply with regulations.

NOP – a ‘Notice of Proposal’ may be served when RQIA are proposing to refuse an application, cancel registration, vary, remove, or impose conditions on registration.

NOD – a ‘Notice of Decision’ may be served if RQIA have not received or upheld representations regarding a NOP within the specified timescale.

ERP – An internal ‘Enforcement Review Panel’ meeting may be convened to consider any representations made to RQIA’s Chief Executive Officer (CEO) in respect of Improvement Notice/s or Failure to Comply Notice/s. See ‘RQIA Enforcement Review Panel (ERP) Procedures in Respect of Improvement Notice/s’ and ‘RQIA Enforcement Review Panel (ERP) Procedures in Respect of Failure to Comply Notice/s’ for more information.

DMP – An internal ‘Decision Making Panel’ meeting may be convened to consider any representation made to RQIA’s CEO in respect of Notice/s of Proposal. When RQIA has issued a NOP to refuse or cancel registration of an establishment or agency, a DMP will always be convened. A DMP will also always be convened:

- when RQIA wish to make an application to a Lay Magistrate for an order using urgent procedures
- when representation is received regarding a NOP to vary, remove or impose an additional condition

See ‘RQIA’s Decision Making Panel (DMP) Procedures in Respect of Notice/s of Proposal’ and ‘RQIA’s Decision Making Panel (DMP) Procedures in Respect of Urgent Procedures’ for more information.

1. Introduction

- 1.1. These procedures should be read as part of a suite of documents regarding enforcement action taken by RQIA that includes:
 - RQIA Enforcement Policy (Document 1 in a Suite of 6)
 - RQIA Enforcement Review Panel Procedures in Respect of Written Representation Regarding Improvement Notice/s (Document 3 in a Suite of 6)
 - RQIA Enforcement Review Panel Procedures in Respect of Written Representation Regarding Failure to Comply Notice/s (Document 4 in a Suite of 6)
 - RQIA Decision Making Panel Procedures in Respect of Notices of Proposal (Document 5 in a Suite of 6)
 - RQIA Decision Making Panel Procedures in Respect of Urgent Procedures (Document 6 in a Suite of 6)
- 1.2. These procedures should be read in conjunction with other relevant RQIA policies and procedures. A suite of templates has been developed for guidance purposes only.

2. Principles

- 2.1. Enforcement activity taken by RQIA will be in line with RQIA's Enforcement Policy and the principles of good regulation outlined by the Better Regulation Task Force (Principles of Good Regulation), Cabinet Office Publication, (October 2003) and Regulators' Code, Better Regulation Delivery Office (April 2014).

3. The Legislative Framework

- 3.1. In accordance with Article 12 of The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (2003 Order), any person who carries on or manages an establishment or agency without being registered under Part III of the 2003 Order shall be guilty of an offence.
- 3.2. All registered establishments and agencies are required to comply with the 2003 Order and the relevant regulations. The 2003 Order and the associated regulations are available on [RQIA's website](#).
- 3.3. Registered Person/Trust's Responsible Individual/s are required to ensure that their establishment/agency/trust provide a standard of care and service in accordance with the Department of Health, Social Services and Public Safety (DHSSPS) standards. A list of relevant standards is available on [RQIA's website](#).
- 3.4. RQIA may take a range of enforcement actions at the same time, provided each action clearly identifies the separate failures to comply with regulations and/or standards.
- 3.5. RQIA may seek to prosecute in conjunction with other enforcement actions.

- 3.6. RQIA retains the right to seek legal opinion at any point within the enforcement process.

Unregistered Establishment or Agency

- 3.7. Where RQIA becomes aware of the existence of an unregistered establishment or agency, the relevant inspector/s will carry out an initial investigation to clarify the nature of the service provided, and determine whether an offence is being committed. The inspector/s will provide an update to the Head of Programme who will inform the Director of Regulation and Nursing. If it is determined that an offence is being committed, RQIA's CEO will be informed. Please see RQIA's Prosecution Procedures.
- 3.8. Following a review of the circumstances and consideration of available evidence and receipt of an acceptable application, RQIA may decide that it may be appropriate to proceed with the registration of the establishment or agency providing that relevant satisfactory safeguards for service users are in place until registration is granted. The Director of Regulation and Nursing will confirm this decision in writing to the person carrying on or managing the establishment or agency, including any contingency plans agreed pending registration, to ensure the safety and welfare of service users (appendix 3, template UR1). If the person carrying on or managing the establishment or agency fails to comply with the agreed undertakings then RQIA may take a range of enforcement actions, see paragraph 3.4. Please see RQIA's Prosecution Procedures.
- 3.9. RQIA has the authority to write to a person who is believed to be carrying on or managing an establishment or agency without being registered to require them to cease operation and to confirm the implications of continuing to provide an unregistered establishment or agency (appendix 3, template UR2).
- 3.10. All relevant stakeholders will be informed of the outcome of RQIA's assessment of the unregistered status of the establishment or agency and if appropriate its view that an offence is being committed (appendix 1 – list of stakeholders).

4. Enforcement Process

- 4.1. In line with the principles set out in the RQIA Enforcement Policy, and throughout this document, RQIA will normally adopt a stepped approach to enforcement.
- 4.2. It is the Registered Person/Trust's Responsible Individual's responsibility to fully understand that the regulations and standards form the basis of the regulatory framework and that these should be complied with. Reference might be made to best practice and codes of practice by inspectors.
- 4.3. Staff involved in enforcement activity should ensure that all records held are robust, provide clear evidence of decision making and adhere to relevant RQIA's policies and procedures.

- 4.4. In line with RQIA's Inspection Procedures, inspector/s will provide feedback to the Registered Person/Trust's Responsible Individual/s at the end of the inspection on the inspection outcomes and any areas of improvement will be identified with clear timescales.
- 4.5. Failing to comply with a minimum standard may also be linked to a failure to comply with a regulation. Any such failure will be set out in the inspection report and the Registered Person/s must act on these to ensure compliance with the 2003 Order, relevant regulations or a condition of registration.
- 4.6. The Registered Person/Trust's Responsible Individual/s will be required to complete the Quality Improvement Plan (QIP) detailing how areas of concern are to be addressed. The QIP will be submitted by the Registered Person/Trust's Responsible Individual/s for review by the inspector to ensure that the proposed action is sufficient to achieve compliance within the identified timescales (appendix 2 – QIP).
- 4.7. If a failure to comply with a specific standard and/or regulation has been stated for the second time in an inspection report and an inspector identifies that it has not been addressed or compliance has not been sustained, an EDM meeting must take place. Only in exceptional circumstances should a specific failure to comply with a regulation or standard be stated for a third time. Where this is the case, a full explanation should be noted by the inspector within the EDM meeting record.

Enforcement Actions

- 4.8. Where an inspector identifies an establishment/agency/trust, which is failing to comply with regulations or failing to comply with any statement of minimum standards, RQIA will consider the various options to enable that establishment/agency/trust to secure compliance. Depending on the circumstances and an assessment of the associated risks and the response from the Registered Person/Trust's Responsible Individual/s, RQIA will consider a range of actions. This may include providing advice and guidance, and/or applying one or more of the following actions.

For all establishments/agencies/trusts RQIA may:

- highlight failings to comply with minimum standards and regulations
- hold a Serious Concerns Meeting
- hold an Intention to Serve an Improvement Notice Meeting
- serve an Improvement Notice

For establishments or agencies registered or falling to be registered under Part III of the 2003 Order, RQIA may:

- hold an Intention to Serve a Failure to Comply Notice Meeting
- serve a Failure to Comply Notice
- hold an Intention to Serve a Notice of Proposal Meeting

- serve a Notice of Proposal to:
 - grant an application subject to any conditions not agreed in writing between RQIA and the applicant
 - refuse an application to register an establishment or agency
 - cancel registration of an establishment or agency
 - vary or remove any condition in force in relation to the registration of the establishment or agency
 - impose any additional condition in relation to the registration of an establishment or agency
 - refuse an application of a Registered Person under Article 16 of the 2003 Order for the variation or removal of a condition relating to registration
- serve a Notice of Decision to adopt a proposal
- use urgent procedures to apply for an order to cancel registration, vary, remove or impose conditions on registration.

4.9. Enforcement action may be escalated at any time. This will be proportionate and related to the level of risk to service users and the seriousness of any failure to comply with minimum standards and/or any breach of regulation. RQIA will follow up enforcement action to ensure that quality improvements are achieved.

4.10. In circumstances where RQIA has serious concerns about a service user's life, health or wellbeing, RQIA may use urgent procedures to cancel the registration of an establishment or agency or that of a Registered Person.

4.11. RQIA may increase inspection activity for a period of time to monitor compliance and to ensure the necessary improvements are being made and maintained.

Issuing and Serving of Enforcement Documents

4.12. A notice is deemed issued on the same date it leaves RQIA and this will be clearly marked on the notice. Where a notice has been served to advise of an extended compliance date, the new notice will also contain the original date of issue.

4.13. Where applicable, notice/s and accompanying letters will be sent by special delivery post to the Registered Person/Trust's Responsible Individual's address as it appears on RQIA's register or an alternative address nominated by the Registered Person/Trust's Responsible Individual/s, and is deemed served the next working day. Notice/s can be hand delivered (e.g. by courier or an RQIA representative). If the notice/s are hand delivered, a record to confirm delivery should be obtained (appendix 3, templates IN12, FTC12, NOP10, NOD3) and held on the relevant file and the notice is deemed served on the date it is signed for. Where the Registered Person/Trust's Responsible Individual/s has provided RQIA with their email address, password protected enforcement documents can also be forwarded by email.

- 4.14. Under the Urgent Procedures, an order and covering letter will be sent by special delivery post to the Registered Person's address as it appears on RQIA's register or alternative address nominated by the Registered Person/s and is deemed served the next working day. The order can be hand delivered (e.g. by courier or RQIA representative) to the Registered Person's address as it appears on RQIA's register or alternative address nominated by the Registered Person/s. If the order is hand delivered, a record to confirm delivery should be obtained (appendix 3, template UP2) and held on the relevant file and the order is deemed served on the date it is signed for.
- 4.15. All other enforcement documents issued by RQIA will be sent by special delivery to the Registered Person/Trust's Responsible Individual/s as it appears on RQIA's register or alternative address nominated by the Registered Person/Trust's Responsible Individual/s. On some occasions, rather than posting, it may be necessary to hand deliver items to the Registered Person/Trust's Responsible Individual/s. A record of this will be made (appendix 3, template UR3 and SC5). Where the Registered Person/Trust's Responsible Individual/s has provided RQIA with their email address, the enforcement documents can also be forwarded by password protected email.
- 4.16. If it comes to the attention of RQIA that a clerical error appears in a served notice, RQIA will reissue a corrected notice as quickly as possible (appendix 3, templates IN8, FTC8, NOP8, NOD4). The date of issue and compliance date will remain the same.

Communication with Stakeholders

- 4.17. RQIA decisions to take enforcement action may have specific consequences for service users and other stakeholders. RQIA should always consider:
- which stakeholders need to be informed;
 - the appropriate method of communication, and
 - what, when and with whom information should be shared throughout the different stages of this enforcement procedure.
- 4.18. RQIA will consider whether the noncompliance with minimum standards and/or breach of regulations constitutes a possible breach of professional codes of practice. Where it is deemed appropriate, RQIA will make a referral to the relevant professional regulator.
- 4.19. In line with the 2003 Order, RQIA's CEO will inform the Department of Health about the quality of health and social care services, including any actions taken under RQIA's Enforcement Policy and Procedures.

5. Enforcement Decision Making (EDM) (Appendix 4 – Chart 1)

- 5.1. EDM meetings will be scheduled as required throughout the enforcement process at any key decision point.

- 5.2. An EDM meeting provides an opportunity for RQIA's inspectors and senior management to discuss issues of concern. Decisions taken at the meeting will be risk based and proportionate. A record of this meeting detailing the rationale and outcomes arising from it is maintained.
- 5.3. Timescales for the EDM meeting are dependent on the issues identified and the level of risk.
- 5.4. The inspector should prepare the relevant information and consider enforcement options proportionate to the issues/risks identified. Where appropriate the meeting will take account of the number of times areas of improvement/recommendations/requirements have been stated, and any actions taken by the Registered Person/Trust's Responsible Individual/s.
- 5.5. The EDM meeting will be chaired by the Senior Inspector/HOP/relevant Director/CEO. The inspector/Senior Inspector should present the relevant information for discussion and options will be considered.

6. Serious Concerns (SC) (Appendix 4 – Chart 2)

- 6.1. As a result of an EDM meeting and the level of risk to service users identified, a decision to hold a SC meeting might be made.
- 6.2. The SC meeting should take place as soon as is practicable.

Serious Concerns - Meeting Preparation

- 6.3. A letter of invitation to meet the Head of Programme/Senior Inspector and/or relevant inspector/s will be issued to the Registered Person/Trust's Responsible Individual/s from the Head of Programme (appendix 3, template SC1).
- 6.4. Contact with the Registered Person/Trust's Responsible Individual/s may also be made by telephone and followed up in a letter. A record of the telephone call will be retained.
- 6.5. In the event that a Registered Person/Trust's Responsible Individual indicates they or an appropriate representative cannot attend on the date given in the invitation letter, the meeting may be rescheduled. The Registered Person/Trust's Responsible Individual will be notified (appendix 3, template SC2).

Serious Concerns - Meeting

- 6.6. The purpose of the SC meeting is to:
 - discuss with the Registered Person/Trust's Responsible Individual/s RQIA's concerns about the precise nature of the areas of potential noncompliance;
 - agree the required action/s that must be taken to ensure compliance/quality improvement;
 - agree the timescale within which any remedial action must be taken; and

- advise the Registered Person/Trust's Responsible Individual/s of RQIA's stepped approach to enforcement should compliance not be achieved.

6.7. A note of the SC meeting will be taken and will include any decisions made and actions agreed.

Non-Attendance

6.8. In the event of non-attendance of the Registered Person/Trust's Responsible Individual/s or their nominated representative to the SC meeting, information will be sought to establish the reason for non-attendance. An EDM meeting will be convened during which the Head of Programme and relevant inspector/s will discuss and agree the next steps to be taken. A record of all attempts to contact the Registered Person/Trust's Responsible Individual/s by telephone/email must be retained, including the content of any subsequent discussion. If a valid reason for non-attendance is established, a decision may be made to reschedule the meeting. The Registered Person/Trust's Responsible Individual/s will be notified (appendix 3, template SC2). Non-attendance without due reason may result in an escalation of enforcement action.

6.9. A letter confirming the decisions made and any actions agreed will be forwarded to the Registered Person/Trust's Responsible Individual/s as soon as practicable after the EDM meeting (appendix 3, template SC3).

Serious Concerns - Meeting Outcomes

6.10. A letter detailing the outcomes of the SC meeting will be issued to the Registered Person/Trust's Responsible Individual/s following the meeting (appendix 3, template SC4).

6.11. Following the issue of the letter (appendix 3, template SC4) the inspector/s will monitor and review the Registered Person/Trust's Responsible Individual's compliance with the actions agreed, as appropriate. In these circumstances, it may also be necessary to increase inspection activity to encourage and support improvements in the establishment/agency/trust.

7. Improvement Notice (IN) (Appendix 4 – Chart 3 and 3a)

7.1. Article 39 of the 2003 Order makes provisions that RQIA may serve an IN, if the Registered Person/s, Regional Health and Social Care Board (RHSCB), Health and Social Care Trust (HSC trust) or special agency is failing to comply with any statement of DHSSPS minimum standards.

7.2. As a result of an EDM meeting and the level of risk identified, a potential outcome is that RQIA intends to issue an IN. In these circumstances the Registered Person/Trust's Responsible Individual/s will be invited to meet with RQIA to discuss RQIA's intention to issue an IN.

7.3. The Intention to Serve IN/s Meeting should take place as soon as is practicable.

- 7.4. RQIA may take enforcement action and serve an IN without convening a meeting with the Registered Person/Trust's Responsible Individual/s, if the failure to comply with standards is considered to place the health, welfare and safety of service users at risk. See 'Serving an Improvement Notice' section.

Intention to Serve an Improvement Notice - Meeting Preparation

- 7.5. A letter of invitation to meet RQIA's representatives will be issued to the Registered Person/Trust's Responsible Individual/s from the Head of Programme informing them of RQIA's intention to serve an IN and requesting that they attend the meeting as a matter of urgency (appendix 3, template IN1).
- 7.6. Contact with the Registered Person/Trust's Responsible Individual/s may also be made by telephone and followed up in a letter. A record of the telephone call will be retained.
- 7.7. In the event that a Registered Person/Trust's Responsible Individual indicates they or an appropriate representative cannot attend on the date given in the invitation letter, the meeting may be rescheduled. The Registered Person/Trust's Responsible Individual will be notified (appendix 3, template IN2).

Intention to Serve an Improvement Notice - Meeting

- 7.8. The purpose of the Intention to Serve an IN Meeting is to ensure that the Registered Person/Trust's Responsible Individual/s are fully aware of the reasons for RQIA's Intention to Serve an IN/s and specifically to:
- inform the Registered Person/Trust's Responsible Individual/s of RQIA's concerns about the quality and delivery of care and the failure/s to comply with any statement of DHSSPS minimum standards
 - provide the Registered Person/Trust's Responsible Individual/s with an opportunity to highlight any mitigating circumstances, new facts to RQIA and to identify areas of compliance
 - allow RQIA to consider the information shared at the meeting.
 - inform the Registered Person/Trust's Responsible Individual/s of RQIA's decision whether to issue the required notice/s or not
 - inform the Registered Person/Trust's Responsible Individual/s of the likely consequences if the improvements have not been achieved within the timescales
 - inform the Registered Person/Trust's Responsible Individual/s of their right to make representation from a legal and procedural perspective
 - inform the Registered Person/Trust's Responsible Individual/s of the referral of the notice/s to the relevant stakeholders and the publication of the notice/s on the 'Current Enforcement Activity' page of [RQIA's website](#) (excluding children's' services).
- 7.9. A note of the Intention to Serve an IN Meeting will be taken and will include any decisions made and actions agreed.

Non-Attendance

- 7.10. In the event of non-attendance of the Registered Person/Trust's Responsible Individual/s or their nominated representative to the Intention to Serve an IN Meeting, information will be sought to establish the reason for non-attendance. An EDM meeting will be held to determine next steps. If a valid reason for non-attendance is established, a decision may be made to reschedule the meeting. The Registered Person/Trust's Responsible Individual/s will be notified (appendix 3, template IN2). If a valid reason is not established or if a Registered Person/Trust's Responsible Individual/s indicates they will not be attending, a decision may be made to convene the meeting in the Registered Person/Trust's Responsible Individual/s absence. The Registered Person/Trust's Responsible Individual/s will be notified of the outcome of the meeting (appendix 3, template IN3).
- 7.11. A record of all attempts to contact the Registered Person/Trust's Responsible Individual/s by telephone/email will be retained, including the content of any subsequent discussion.

Not Serving an Improvement Notice

- 7.12. When a decision is made not to serve an IN, a letter detailing the outcomes of the meeting will be issued to the Registered Person/Trust's Responsible Individual/s following the meeting by RQIA (appendix 3, template IN4).

Serving an Improvement Notice

- 7.13. When a decision is made to serve an IN, the notice/s will be completed by the relevant inspector/s (appendix 3, template IN6).
- 7.14. RQIA will serve an IN on the Registered Person/Trust's Responsible Individual/s specifying:
- the specific failure/s to comply with a statement of minimum standards
 - the required action/s the Registered Person/Trust's Responsible Individual/s must take to comply with a statement of minimum standards
 - the specific timescales within which the Registered Person/Trust's Responsible Individual/s must take the required action will be dependent upon RQIA's consideration of risks associated with further noncompliance
 - the Registered Person/Trust's Responsible Individual/s right to make representation in respect of the notice/s. The representation arrangements are set out in the associated RQIA Enforcement Review Panel (ERP) Procedures in Respect of Improvement Notice/s
- 7.15. The IN/s will be accompanied by a covering letter, and should be issued within three working days. A letter template for making representation will accompany the letter and notice. (NB: The first working day is deemed to be the day after the decision to issue the IN/s is made.) (Appendix 3, templates IN5 and IN7).

- 7.16. The representation arrangements are set out in the associated RQIA Enforcement Review Panel (ERP) Procedures in Respect of Improvement Notice/s.
- 7.17. Where applicable, the IN/s will be sent by special delivery post and deemed served the next working day. The IN/s can be hand delivered (e.g. by courier or RQIA representative) to the Registered Person/Trust's Responsible Individual/s' address. If the IN/s are hand delivered, a record to confirm delivery should be obtained and held on the relevant file. Additionally and where applicable, the IN/s will be delivered by email in accordance with RQIA's policies and procedures.
- 7.18. The relevant director will inform RQIA's CEO or their nominated deputy of all notice/s served.
- 7.19. Copies of the IN/s will be shared with RQIA's Communications Manager and posted on [RQIA's website](#) (excluding children's' services).
- 7.20. All relevant stakeholders will be informed that an IN has been issued (appendix 1 – list of stakeholders).

Compliance Assessment

- 7.21. Should the Registered Person/Trust's Responsible Individual/s consider that compliance has been achieved before the compliance date, they should inform RQIA who will consider this information.
- 7.22. On the occasion where an inspection is not required, an EDM meeting must take place to record decisions made to confirm compliance.
- 7.23. If the Registered Person/Trust's Responsible Individual/s has not notified RQIA that they consider compliance has been achieved before the compliance date, an inspection will be conducted of the establishment/agency/trust either on or as soon as possible after the date by which compliance must be achieved.
- 7.24. The inspector should inform the Head of Programme/relevant director of the outcome of the inspection as soon as possible.

Compliance Achieved

- 7.25. RQIA will continue to monitor the quality of service provided by the establishment/agency/trust. If at any stage RQIA assesses that the establishment/agency/trust demonstrates sustained improvement and compliance, RQIA will write to the Registered Person/Trust's Responsible Individual/s advising that compliance has been achieved (appendix 3, template IN9).
- 7.26. If, following the inspection, RQIA determines that compliance has been achieved, RQIA will write to the Registered Person/Trust's Responsible Individual/s advising that compliance has been achieved (appendix 3, template IN9).

- 7.27. Once compliance has been achieved the relevant IN/s will be removed from the 'Current Enforcement Activity' page of [RQIA's website](#) and replaced with a clear statement of compliance (excluding children's services). A record of past enforcement activity is available on [RQIA's website](#) in line with its retention schedules (see relevant 'Compliance Achieved' sections of the website).
- 7.28. All relevant stakeholders will be informed of the outcome of RQIA's assessment of compliance with IN/s (appendix 1 – list of stakeholders).
- 7.29. Once compliance has been achieved, RQIA's Communications Manager will be notified.

Compliance Not Achieved

- 7.30. If, following the inspection RQIA determines that compliance has not been achieved, an EDM meeting will take place. The discussion at the EDM meeting will include the following areas:
- review of the circumstances (including areas of compliance/noncompliance within the notice/s and an assessment of any ongoing risk)
 - discussion of possible escalated enforcement options which may include extension of the IN/s. In these circumstances a letter confirming an extension to the compliance date of an IN will be issued along with the extended notice (appendix 3, templates IN10 and IN11).
 - decision about whether further legal advice should be sought
- 7.31. The relevant stakeholders will be informed of the outcome of RQIA's assessment of compliance and decision to extend the IN/s (appendix 1 – list of stakeholders).
- 7.32. Copies of the extended IN/s will be shared with RQIA's Communications Manager and posted on [RQIA's website](#) (excluding children's' services).
- 7.33. RQIA may decide not to extend the compliance date of an IN as a result of lack of progress towards compliance and/or risks identified. RQIA may escalate to further enforcement.

Enforcement Relating to Part III Establishments/Agencies Only

The following sections of these procedures refer only to establishments or agencies which are registered or fall to be registered under Part III of the 2003 Order.

8. Failure to Comply Notice (FTC) (Appendix 4 – Chart 4 and 4a)

8.1. The Registered Person/s is required to comply fully with legislative requirements. Article 25 of the 2003 Order states that contravention or failure to comply with specified regulations will be an offence.

8.2. A FTC notice may be issued in respect of relevant regulations where:

- an establishment or agency is in breach of regulations, including noncompliance with conditions of registration
- an establishment or agency is considered to place the health and/or welfare of service users at significant risk
- there is repeated failure to adequately address identified breaches in regulation within prior QIPs

Note: only in exceptional circumstances should a specific requirement be stated for a third time. An EDM meeting should be held to consider what, if any, enforcement action may be required.

8.3. A FTC notice will not be issued if RQIA intends to cancel the registration of an establishment or agency under Article 15 of the 2003 Order.

8.4. As a result of an EDM meeting and the level of risk identified, a potential outcome is that RQIA intends to issue a FTC Notice. In these circumstances the Registered Person/s will be invited to meet with RQIA to discuss RQIA's intention to issue a FTC Notice.

8.5. The Intention to Serve a FTC Notice meeting should take place as soon as is practicable.

8.6. RQIA may take enforcement action and serve a FTC Notice without convening a meeting with the Registered Person/s, if the breach/s is considered to place the health, welfare and safety of service users at serious risk. See 'Serving a Failure to Comply Notice' section.

Intention to Serve a Failure to Comply Notice - Meeting Preparation

8.7. A letter of invitation to meet the Director of Regulation and Nursing (or nominated deputy), Head of Programme/Senior Inspector and relevant inspector/s will be issued to the Registered Person/s from the Director of Regulation and Nursing informing them of RQIA's intention to serve a FTC and requesting that they attend the meeting on the date specified in the letter (appendix 3, template FTC1).

8.8. Contact with the Registered Person/s may also be made by telephone and followed up in a letter. A record of the telephone call will be retained.

8.9. In the event that a Registered Person/s indicates they or an appropriate representative cannot attend on the date given in the invitation letter, the meeting may be rescheduled. The Registered Person/s will be notified (appendix 3, template FTC2).

Intention to Serve a Failure to Comply Notice - Meeting

8.10. The purpose of the Intention to Serve a FTC Notice Meeting is to ensure that the Registered Person/s are fully aware of the reasons for RQIA's intention to serve FTC Notice/s and specifically to:

- inform the Registered Person/s formally of RQIA's concerns about the specific failure/s of the establishment or agency
- provide the Registered Person/s with an opportunity to highlight any mitigating circumstances, new facts to RQIA and to identify areas of compliance

- allow RQIA to consider the information shared at the meeting.

- inform the Registered Person/s of RQIA's decision whether to issue the required notice/s or not
- inform the Registered Person/s of the likely consequences if full compliance is not achieved within the identified timescales
- inform the Registered Person/s formally of their right of representation from a legal and procedural perspective
- inform the Registered Person/s of the referral of the notice/s to the relevant stakeholders and the publication of the notice/s on the 'Current Enforcement Activity' page of [RQIA's website](#) (excluding children's services).

8.11. A note of the Intention to Serve a FTC Notice Meeting will be taken and will include any decisions made and actions agreed.

Non-Attendance

8.12. In the event of non-attendance of the Registered Person/s or their nominated representative to the Intention to Serve an FTC Notice Meeting, information will be sought to establish the reason for non-attendance. An EDM meeting will be held to determine next steps. If a valid reason for non-attendance is established, a decision may be made to reschedule the meeting. The Registered Person/s will be notified (appendix 3, template FTC2. If a valid reason is either not established or if a Registered Person/s indicates they will not be attending, a decision may be made to convene the meeting in the Registered Person/s absence. The Registered Person/s will be notified of the outcome of the meeting (appendix 3, template FTC3).

8.13. A record of all attempts to contact the Registered Person/s by telephone/email will be retained, including the content of any subsequent discussion.

Not Serving a Failure to Comply Notice

- 8.14. When a decision is made not to serve a FTC notice, a letter detailing the outcomes of the meeting and agreed actions will be issued to the Registered Person/s following the meeting by RQIA (appendix 3, template FTC4).

Serving a Failure to Comply Notice

- 8.15. When a decision is made to serve FTC notice/s, the notice/s will be completed by the relevant inspector/s (appendix 3, template FTC6).
- 8.16. RQIA will serve a FTC notice on the Registered Person/s specifying:
- the specific failing/s to comply with regulations
 - the required action/s the Registered Person/s must take to comply with regulations
 - the specific timescales within which the Registered Person/s must take the required action. This will be dependent upon RQIA's consideration of risks associated with further noncompliance. However, the maximum period will not exceed three calendar months and commences on the issue date specified on the FTC Notice. For example, a notice with an issue date of 1 February cannot have a compliance date any later than 1 May.
 - the Registered Person's right to make representation in respect of the notice/s.
- 8.17. The FTC notice/s will be accompanied by a covering letter, and should be issued within three working days. A letter template for making representation will accompany the letter and notice. (NB: the first working day is deemed to be the day after decision to issue the FTC notice/s is made.) (Appendix 3, templates FTC5 and FTC7)
- 8.18. The representation arrangements are set out in the associated RQIA Enforcement Review Panel (ERP) Procedures in Respect of Failure to Comply Notice/s.
- 8.19. Where applicable, the FTC notice/s will be sent by special delivery post and deemed served the next working day. The FTC notice/s can be hand delivered (e.g. by courier or RQIA representative) to the Registered Person's address. If the FTC notice/s are hand delivered, a record to confirm delivery should be obtained and held on the relevant file (appendix 3, template FTC12). Additionally and where applicable, the FTC notice/s will be delivered by email in accordance with RQIA's policies and procedures.
- 8.20. The Director of Regulation and Nursing will inform RQIA's CEO or their nominated deputy of all notice/s served.
- 8.21. Copies of the FTC notice/s will be shared with RQIA's Communications Manager and posted on [RQIA's website](#) (excluding children's' services).
- 8.22. All relevant stakeholders will be informed that a FTC notice/s has been issued (appendix 1 – list of stakeholders).

- 8.23. RQIA will continue to monitor the quality of service provided by the establishment or agency whilst enforcement action is ongoing.

Compliance Assessment

- 8.24. Should the Registered Person/s consider that compliance has been achieved before the compliance date, they should inform RQIA who will consider this information.
- 8.25. On the occasion where an inspection is not required, an EDM meeting must take place to record decisions made to confirm compliance.
- 8.26. If the Registered Person/s has not notified RQIA that they consider compliance has been achieved before the compliance date, an inspection will be conducted of the establishment or agency either on or as soon as possible after the date by which compliance must be achieved. On the occasion that an inspection is not required, an EDM meeting will take place to record the decisions made to confirm compliance.
- 8.27. The inspector should inform the Senior Inspector/Head of Programme/Director of Regulation and Nursing about the outcomes of the inspection as soon as possible.

Compliance Achieved

- 8.28. If, following the inspection, RQIA determines that compliance has been achieved, RQIA will write to the Registered Person/s confirming that RQIA is satisfied that compliance with legal requirements indicated in the notice/s has been achieved (appendix 3, template FTC9).
- 8.29. Once compliance has been achieved the relevant FTC notice/s will be removed from the 'Current Enforcement Activity' page of [RQIA's website](#) and replaced with a clear statement of compliance (excluding children's' services). A record of past enforcement activity is available on [RQIA's website](#) in line with its retention schedules (see relevant 'Compliance Achieved' sections of the website).
- 8.30. Once compliance has been achieved, RQIA's Communications Manager will be notified.
- 8.31. All relevant stakeholders will be informed of the outcome of RQIA's assessment of compliance with the FTC notice/s (appendix 1 – list of stakeholders).

Compliance Not Achieved

- 8.32. If, following the inspection RQIA determines that compliance has not been achieved, an EDM meeting will take place. The discussion at the EDM meeting will include the following areas:
- review of the circumstances (including areas of compliance/noncompliance within the notice/s and an assessment of any ongoing risk

- discussion of possible escalated enforcement options which may include extension of the FTC notice/s, not exceeding 3 calendar months from the date of issue, as described in the relevant regulations. In these a letter confirming an extension to the compliance date of a FTC notice will be issued along with the extended notice (appendix 3, templates FTC10 and FTC11)
- decision about whether further legal advice should be sought

8.33. All relevant stakeholders will be informed of the outcome of RQIA's assessment of compliance and decision to extend the FTC notice/s (appendix 1 – list of stakeholders).

8.34. Copies of any extended FTC notice/s will be shared with RQIA's Communications Manager and posted on [RQIA's website](#) (excluding children's' services).

8.35. If a FTC notice has expired, or a decision has been made not to extend as a result of lack of progress towards compliance and/or risks identified, RQIA will escalate to further enforcement action. This could include a proposal to place conditions on registration, cancel registration and/or pursuing a prosecution.

9. Notice of Proposal (NOP) (Appendix 4 – Chart 5, 6 and 7)

9.1. A NOP may be issued by RQIA under Article 18 of the 2003 Order at any time to give notice* of any decision it intends to take to:

- grant an application subject to any conditions not agreed in writing between RQIA and the applicant
- refuse an application to register an establishment or agency under Article 14 of the 2003 Order
- cancel registration of a person in respect of an establishment or agency under Article 15 of the 2003 Order
- vary or remove any condition in force in relation to the registration of the establishment or agency
- impose any additional condition in relation to the registration of an establishment or agency
- refuse an application of a Registered Person/applicant under Article 16 of the 2003 Order for the variation or removal of a condition relating to registration

**Except where RQIA makes an urgent application under Article 21, via a lay magistrate (formerly a Justice of the Peace), for an order to cancel the registration of a person in respect of an establishment or agency, vary, remove or impose an additional condition in relation to the registration.*

9.2. An EDM meeting will take place with the Director of Regulation and Nursing, the relevant Head of Programme, Senior Inspector and relevant inspector/s (or their nominated deputies) to discuss the relevant issues regarding the establishment or agency and/or any application for registration made.

- 9.3. As a result of an EDM meeting and the level of risk identified, a potential outcome is that RQIA intends to issue a NOP. In these circumstances the Registered Person/applicant will be invited to meet with and discuss RQIA's intention to issue a NOP.
- 9.4. The Intention to Serve a NOP Meeting should take place as soon as is practicable.
- 9.5. RQIA may take enforcement action and serve a NOP without convening a meeting with the Registered Person/applicant, if the area/s of noncompliance is considered to place the health, welfare and safety of service users at serious risk. See 'Serving a Notice of Proposal' section.

Intention to Serve a Notice of Proposal - Meeting Preparation

- 9.6. A letter of invitation to meet the Director of Regulation and Nursing Head of Programme/Senior Inspector and relevant inspector/s (or their nominated deputies), will be issued to the Registered Person/applicant from the Director of Regulation and Nursing informing them of RQIA's intention to serve a NOP and requesting that they attend the meeting as a matter of urgency (appendix 3, template NOP1).
- 9.7. Contact with the Registered Person/applicant may also be made by telephone and followed up in a letter. A record of the telephone call will be retained.
- 9.8. In the event that a Registered Person/applicant indicates they or an appropriate representative cannot attend on the date given in the invitation letter, the meeting may be rescheduled. The Registered Person/applicant will be notified (appendix 3, template NOP2)

Intention to Serve a Notice of Proposal - Meeting

- 9.9. The purpose of this meeting is to ensure that the Registered Person/applicant/s are fully aware of the reasons for RQIA's intention to serve the NOP and specifically to:
- review the circumstances (including areas of noncompliance and assessment of any ongoing risk)
 - provide the Registered Person/applicant with an opportunity to highlight any new facts to RQIA and identify areas of compliance
 - allow RQIA to consider the information shared at the meeting
 - inform the Registered Person/applicant of RQIA's decision either to issue the NOP or not
 - should the decision be taken to issue a NOP, RQIA will inform the Registered Person/applicant of the reasons for proceeding with the notice and indicate what is proposed within the notice
 - inform the Registered Person/applicant formally of their right to representation from a legal and procedural perspective

- inform the Registered Person/applicant of the referral of the notice/s to the relevant stakeholders and the publication of the notice/s on the 'Current Enforcement Activity' page of [RQIA's website](#) (excluding children's services).

9.10. A note of the Intention to Serve a NOP meeting will be taken and will include any decisions made and actions agreed.

Non-Attendance

9.11. In the event of non-attendance of the Registered Person/applicant or their nominated representative to the Intention to Serve a NOP Meeting, information will be sought to establish the reason for non-attendance. An EDM meeting will be held to determine next steps. If a valid reason for non-attendance is established, a decision may be made to reschedule the meeting. The Registered Person/applicant will be notified (appendix 3, template NOP2). If a valid reason is either not established or if a Registered Person/applicant indicates they will not be attending, a decision may be made to convene the meeting in the Registered Person/applicant absence. The Registered Person/applicant will be notified of the outcome of the meeting (appendix 3, template NOP3).

9.12. A record of all attempts to contact the Registered Person/applicant by telephone/email will be retained, including the content of any subsequent discussion.

Not Serving a Notice of Proposal

9.13. When a decision is made not to serve a NOP, a letter detailing the outcomes of the meeting will be issued to the Registered Person/applicant following the meeting by RQIA (appendix 3, template NOP4).

Serving a Notice of Proposal

9.14. When a decision is made to serve a NOP, the notice will be completed by the relevant inspector/s (appendix 3, template NOP6).

9.15. RQIA will serve a NOP on the Registered Person/applicant specifying:

- what RQIA are proposing
- if applicable, the regulations or parts of the 2003 Order which are breached
- the reasons for serving the NOP
- the Registered Person/applicant's right to make representation

9.16. The NOP will be accompanied by a covering letter, and should be issued within three working days. A letter template for making representation will accompany the letter and notice. (NB: The first working day is deemed to be the day after the decision to issue the NOP is made) (Appendix 3, templates NOP5 and NOP7).

9.17. Where applicable, the NOP/s will be sent by special delivery post and deemed served the next working day. The NOP/s can be hand delivered (e.g. by

courier or RQIA representative) to the Registered Person/applicant's address. If the NOP/s are hand delivered, a record to confirm delivery should be obtained (appendix 3, template NOP10) and held on the relevant file. Additionally and where applicable, the NOP/s will be delivered by email in accordance with RQIA's policies and procedures.

- 9.18. The Director of Regulation and Nursing will inform RQIA's CEO or their nominated deputy of all notice/s served.
- 9.19. Copies of the NOP will be shared with RQIA's Communications Manager and posted on [RQIA's website](#) (excluding children's' services and a NOP relating to refusal to register).
- 9.20. All relevant stakeholders will be informed that a NOP has been issued (appendix 1 – list of stakeholders).

Representation

- 9.21. In accordance with Article 19, any person on whom a NOP has been served has the right to make written representation to RQIA within 28 days of service of the notice concerning any matter which that person wishes to dispute. The representation arrangements are set out in the associated RQIA Decision Making Panel (DMP) Procedures in Respect of Notice/s of Proposal.
- 9.22. The DMP may be convened by RQIA's CEO, following receipt of written representation/s from any person on whom a NOP is served concerning any matter which that person wishes to dispute.
- 9.23. Where representations are received within the 28 days in respect of a NOP to vary, remove or impose conditions on registration within 28 days, a DMP will be convened as soon as is practicable.
- 9.24. A DMP will always be convened when RQIA proposes to either refuse to register an establishment or agency, or cancel the registration of a person in respect of an establishment or agency. The DMP will always be convened even where written notification has been received from the Registered Person/applicant confirming they do not intend to make written representations.
- 9.25. A DMP will review the NOP and determine whether or not it is satisfied that there are sufficient grounds to proceed with the matters outlined within the NOP.

Not Adopting a Proposal

- 9.26. If within 28 days of serving a NOP, RQIA determines compliance has been achieved or that the matters under consideration are no longer pertinent, an EDM meeting will be held. If it is RQIA's decision not to adopt the NOP, a letter will be forwarded to the Registered Person/applicant confirming this decision (appendix 3, template NOP9).

