



The **Regulation** and
Quality Improvement
Authority

RQIA Decision Making Panel Procedures in Respect of Notice/s of Proposal

(Document 5 in a Suite of 6)

Effective From:

August 2018

Date of Issue:

August 2018

Date of Review:

August 2020

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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 Procedures (Document 2 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 Urgent Procedures (Document 6 in a Suite of 6)
- 1.2. This procedure outlines the process to be followed by RQIA's Decision Making Panel (DMP) in respect of Notices of Proposal.
- 1.3. In line with Standing Order 3, a DMP will be convened by RQIA when:
- 1.4. RQIA has issued a Notice of Proposal to refuse or cancel the registration of an establishment or agency. (If representation is received this will be reviewed by the panel).
- 1.5. Representation is received regarding a Notice of Proposal to vary, remove or impose an additional condition. (A DMP is not required unless representation is received)
- 1.6. This procedure does not outline the process to be followed in respect of an Order made by a lay magistrate (formerly justice of the peace). (Ref to RQIA Decision Making Panel Procedures in Respect of Urgent Procedures)
- 1.7. This procedure must be adhered to by all staff and RQIA Board members.

2. Composition of the DMP

- 2.1. Membership of a DMP convened to consider a written representation to be consist of RQIA Chief Executive (or Deputy) plus two Panel members to be drawn for either from RQIA's board or external experts who have relevant experience in healthcare regulation.

Prior to the commencement of the Panel meeting, a Chairperson will be nominated and agreed by Panel members.

- 2.2. The Director (or a nominated deputy) will be in attendance to present the case and to answer any questions in respect of the matter under consideration.
- 2.3. The Complaints and Representations Manager will provide administrative support to the DMP.

3. Written Representation

- 3.1. A Registered Person/Applicant should make a written representation regarding a Notice of Proposal using the template provided (Template in procedure) to RQIA's Chief Executive.
- 3.2. Written representation must be received within 28 days of the Notice of Proposal being served.
- 3.3. If the written representation is submitted using the incorrect template, the Chief Executive or his/her nominated deputy may write to the Registered Person/Applicant seeking an appropriate submission on the relevant template.
- 3.4. The Chief Executive or his/her nominated deputy will also determine whether an issue raised within the representation constitutes a complaint against RQIA as defined within RQIA's Complaints Policy. If so, the Chief Executive or his/her nominated deputy will initiate those procedures.

4. Procedure

Setting up the Panel

- 4.1. Any written representation received following the issue of a Notice of Proposal will be acknowledged in writing within two working days. (Template 1)
- 4.2. The Director will advise the Chief Executive or his/her nominated deputy when a Notice of Proposal has been issued. The Chief Executive or his/her nominated deputy should be notified on the day of issue.
- 4.3. The Chief Executive or his/her nominated deputy will advise the Complaints and Representations Manager who will convene a DMP. RQIA should await 28 days to allow for representation to be received.
- 4.4. If a Notice of Proposal is served to refuse or cancel registration, a DMP will always be convened, even when no representation has been received
- 4.5. The Director and relevant Assistant Director, relating to the service, will be informed of the date of the panel meeting. The Director will ensure that all relevant documentation relating to the Notice of Proposal is made available to the DMP.
- 4.6. The DMP will be convened by the Complaints and Representations Manager who will contact panel members and supply them with papers ahead of the meeting.

DMP Meeting

- 4.7. The chair of the DMP will be a panel member appointed as per 2.1.
- 4.8. The chair of the DMP will ensure that the panel determines the terms of reference for the panel. A guide to draft terms of reference for consideration by the panel is attached at Appendix 1.
- 4.9. Where applicable, the DMP will review the correspondence from the Registered Person/Applicant and will identify individual points of representation.
- 4.10. The Director will present the case to the panel, providing clarity on any issues when required.
- 4.11. If the DMP determines that legal advice is required, this advice may be sought by the chair of the panel.
- 4.12. The DMP may consult and interview any relevant RQIA staff as necessary to ascertain the context of any fact and/or process regarding the issue of the notice or to obtain any further relevant information that might assist the Panel.
- 4.13. The DMP's decisions will be documented against each term of reference.
- 4.14. The DMP will document against all individual points identified as representation made by the Registered Person/Applicant. (Template 2)
- 4.15. The outcome of the DMP will be communicated to the Registered Person/Applicant within 28 days of the issue of the acknowledgement letter and will be accompanied by the report of the DMP's decision. (Template 3 or 4)
- 4.16. The DMP may also make recommendations to the Chief Executive or his/her nominated deputy.
- 4.17. The Director will inform the Board of RQIA of the outcome of the panel's decision at the next Board meeting.

Decision of the DMP

- 4.18. The Panel's outcome decision will be as follows:
 - RQIA's decision is not to adopt the proposal; or
 - RQIA's decision is to implement the matters within the notice of proposal and a notice of decision is served.

Reporting on the Outcome of Representation

- 4.19. When a DMP has been convened to decide whether to implement the matters within the notice of proposal to refuse or cancel registration and no representation has been received, the outcome of the panel will be documented in the letter to the Registered Person/Applicant. (see 4.18 above) (Template 5 or 6)

4.20. When a DMP has been convened and representation has been received, the DMP decision will be documented in the report of the DMP (Template 2) and sent with a covering letter to the Registered Person/Applicant.

4.21. The outcome will be either:

- If the representation is not upheld, RQIA should:
 - Issue the notice of decision.
 - Confirm the panel's decision in writing to the Registered Person/Applicant with the report of the DMP attached.
- If the representation is upheld, RQIA should:
 - Confirm the panel's decision in writing to the Registered Person/Applicant.
 - Remove the Notice of Proposal from the current Enforcement Activity page on RQIA's website (excluding children's).
 - Inform relevant stakeholders of the DMP's decision.

5. Appeals to the Care Tribunal

5.1. Registered Person/Applicant/s have the right of appeal to the Care Tribunal following the issue of a Notice of Decision by RQIA which has either been refused, cancelled, varied or placed conditions on registration under Article 20 of the 2003 Order.

5.2. Contact details for the Care Tribunal are as follows:

The Care Tribunal
2nd Floor
Royal Courts of Justice
Chichester Street
Belfast BT1 3JF

Tel: 0300 200 7812

Email: tribunalsunit@courtsni.gov.uk

5.3. Any appeal by the Registered Person/Applicant must be brought no more than 28 days after the serving on him of the notice of decision.

5.4. A decision by RQIA to cancel the registration of a Registered Person, vary, remove or impose an additional condition shall not take effect until an appeal is determined or abandoned or if no appeal is brought until the expiration of 28 days from service of the notice of decision.

5.5. All Notice/s of Decision to refuse to register an establishment or agency will take effect from the date of service.

- 5.6. If conditions are placed on a registration prior to the service being registered and the applicant notifies RQIA in writing (before the expiration of the period mentioned in paragraph (5)(a)) that he does not intend to appeal, the decision will take effect when the notice is served. (Ref Article 18(2) of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003).

Core Terms of Reference

Core Terms of Reference

The chair of the DMP is responsible for establishing the terms of reference at the outset of the panel's work. The terms of reference may vary depending on the content of each individual representation.

The DMP should consider whether -

- The Notice of Proposal has been issued in line with RQIA's Enforcement Policy and Procedures.
- The Notice of Proposal has been appropriately served on the Registered Person/Applicant.
- There are sufficient grounds based on the information available to validate that the issue of the notice was fair, reasonable and proportionate.
- The Notice of Proposal references the regulations which have been breached.
- When representation has been made, each of the points of representation should be considered.
- There are any recommendations arising from the review Panel's findings that will be referred to the RQIA Chief Executive or his/her nominated deputy.

This list is not exhaustive, rather it is a guide for Decision Making Panels.

Associated Templates

Template 1: Acknowledging Receipt of Written Representation Letter

Private and Confidential

Date

Name and address of Registered Person/Applicant

Dear

Name of establishment/agency

Confirmation of receipt of written Representation Re: Notice/s of Proposal.

NOP Ref:

I write to acknowledge receipt of your written representation regarding the Notice/s of Proposal which was issued to you on *(insert date)*.

A Decision Making Panel will be convened to consider your representation and review the Notice/s of Proposal served on you.

I will write to you again within 28 days to advise you of the decision of the Decision Making Panel.

Yours sincerely

Chief Executive

cc: Director
Assistant Director

bcc: Chair of the DMP

Private and Confidential

Date

Name and address of Registered Person

Dear

Name of establishment/agency

Confirmation of Outcome of Notice of Proposal Representation

NOP Ref

I refer to previous correspondence sent to you on *(insert date)* to acknowledge the Regulation and Quality Improvement Authority's (RQIA) receipt of your written representation regarding the Notice/s of Proposal issued to you on *(insert date)*.

In this correspondence, I confirmed that I would convene a Decision Making Panel (DMP) that would consider your representation and would review the Notice/s of Proposal served on you on *(insert date)*.

The DMP has considered your written representation and decided that your representation has not been upheld. You should now have received the Notice of Decision, along with details of your right of appeal to the Care Tribunal.

It should be noted that continued noncompliance may lead to further enforcement action. It should also be noted that failure to comply with some regulations is considered to be an offence and RQIA has the power under regulations to prosecute for specified offences.

If you wish to discuss this decision you should contact *(insert Director and/or relevant assistant director)* who will arrange to meet with you.

Yours sincerely

Chief Executive

cc Director
 Assistant Director
 Communications Manager

bcc: Chair of the DMP

Private and Confidential

Date

Name and address of Registered Person/Applicant

Dear

Name of establishment/agency

Notice of Decision Making Panel

NOP Ref:

I refer to previous correspondence sent to you on *(insert date)* to acknowledge the Regulation and Quality Improvement Authority's (RQIA) receipt of your written representation regarding the Notice/s of Proposal issued to you on *(insert date)*.

In this correspondence, I confirmed that I would convene a Decision Making Panel (DMP) that would consider your representation and would review the Notice of Proposal served on you.

The DMP has considered your written representations dated *(insert date)* and decided that the grounds of your representation/s have been upheld and RQIA's decision is not to adopt the Notice of Proposal

The DMP's reasons for reaching this decision are detailed in the attached report of the DMP.

(Need to insert a statement to acknowledge error and apology, as appropriate: this may include in part a general statement and a statement to reflect the specific circumstances related to the notice and establishment/agency).

If you wish to discuss this decision you should contact *(insert relevant Director and/or relevant assistant director)* who will arrange to meet with you.

Yours sincerely

Chief Executive

cc Director
Chair of RQIA Board
Communication Manager
CEO of all HSCTs/DoH/HSCB/Other relevant Stakeholders

Template 5: DMP Decision Letter – No Representation Made – Implementing Proposal

Private and Confidential

Date

Name and address of Registered Person/ Applicant

Dear

Name of establishment/agency

Notice of Decision Making Panel

NOP Ref:

In line with RQIA's Enforcement Procedure, a Decision Making Panel (DMP) has been convened to review the Notice/s of Proposal served on you.

I can advise that the DMP has now met and the DMP's decision is to implement the proposal. You should now have received the Notice of Decision, along with details of your right to appeal to the Care Tribunal.

If you wish to discuss this decision you should contact (*insert rDirector and/or relevant assistant director*) who will arrange to meet with you.

Yours sincerely

Chief Executive

cc: Director
Assistant Director
Communications Manager

bcc: Chair of the DMP

Template 6: DMP Decision Letter – No Representation Made – Not Adopting Proposal

Private and Confidential

Date

Name and address of Registered Person/ Applicant

Dear

Name of establishment/agency

Decision Making Panel

NOP Ref:

In line with RQIA's Enforcement Procedure, a Decision Making Panel (DMP) has been convened to review the Notice/s of Proposal served on you.

I can advise that the DMP has now met and the DMP's decision is not to adopt the proposal. RQIA will remove the Notice/s of Proposal from the current Enforcement Activity page on RQIA's website and will inform relevant stakeholders.

(Need to insert a statement to acknowledge error and apology, as appropriate: this may include in part a general statement and a statement to reflect the specific circumstances related to the notice and establishment / agency).

If you wish to discuss this decision you should contact (*insert Director and/or relevant assistant director*) who will arrange to meet with you.

Yours sincerely

Chief Executive

cc: Director
Assistant Director
Communications Manager
Relevant Stakeholders

bcc: Chair of the DMP