

CHILDRENS SERVICES - RQIA INSPECTION REPORTS FRAMEWORK FOR PUBLICATION

(DRAFT FRAMEWORK – SUBJECT TO PUBLIC CONSULTATION)

14 July 2022

Context

RQIA generally publishes the full reports of its health and social care inspections on its web site. However, currently, RQIA does not publish inspection reports where the service relates to children and young people, on the grounds of the need to protect the privacy and the physical and psychological safety of the children, many of whom are very vulnerable. However, we have at times also released some redacted reports to a requester, under Freedom of Information Requests (FOI). It is clear that this approach is confused, and does not serve either the intent to protect vulnerable children and young people by not publishing the reports; or achieve the benefits of transparency about the issues, and inform stakeholders and the wider public. Subsequently, RQIA are reviewing its current policy of not publishing inspection reports in respect of Children's Services; and of responding to FOI requests through the provision of redacted material. This brief document sets out a proposed approach to publication, referred to as a 'Framework for Publication'. RQIA intend to consult on the proposed approach.

Benefits of publishing Children's Services Inspection Reports

- Public awareness of issues, enabling choice when faced with need to access services
- Confidence building in regulation, examining and reporting on service safety and quality of these vital services
- Sharing good practice and identifying poor practice, prompting providers to review their own practice and achieve compliance with and raise standards
- Enabling positive developments in other organisations, both statutory and voluntary, through access to information that drives their work in commissioning, improving safety and experience
- Demonstrates a commitment to wider transparency and openness

Legislative Framework

From 2019 where an Inspection Report was requested under FOI, the report (prior to issuing) would be redacted under the following legislation that allows for exemptions:

- **Content of a report is considered exempt from disclosure as set out by section 40(3A) (a) of the Freedom of Information Act 2000 ('Personal Information'), as disclosure would contravene at least one data protection principle**

(3A) the first condition is that the disclosure of the information to a member of the public otherwise than under this Act—

(a) would contravene any of the data protection principles, or

(b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.

Specifically, this relates to data that would identify, directly or indirectly, service users. Section 40 is an absolute exemption and is therefore not subject to a public interest test.

- **The addresses of the services have been redacted in accordance with the following legislation**

Article 170(2) of 'The Children (Northern Ireland) Order 1995:

(2) No person shall publish any material which is intended, or likely, to identify—

(a) any child as being involved in any proceedings in which any power under this Order may be exercised by the court with respect to that or any other child; or

(b) an address or school as being that of a child involved in any such proceedings

- **Part III of The Regulation and Improvement Authority (Registration) Regulations (Northern Ireland) 2005**

3) Article 33(1) and (2) of the Order (provision of copies of register) shall not apply to any part of the register relating to children's homes which consists of the restricted part of the address of any children's homes

- **As the address of each service is extracted from RQIA's register, this information is therefore exempt by virtue of Section 44(1) of The Freedom of Information Act 2000 ('Prohibitions on Disclosure').**

1) Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it—

(a) is prohibited by or under any enactment,

(b) is incompatible with any [F1retained EU obligation], or

(c) would constitute or be punishable as a contempt of court.

Section 44 is an absolute exemption and is therefore not subject to a public interest test.

- Finally, it is RQIA's view that disclosure of the name of the service itself is exempt by virtue of Section 38(1) of The Freedom of Information Act 2000 ('Health and Safety').

(1) Information is exempt information if its disclosure under this Act would, or would be likely to—

- (a) endanger the physical or mental health of any individual, or*
(b) endanger the safety of any individual.

- **Section 38 is a qualified exemption. As such, a public interest test is required.**

Public Interest Test - Names of Children's Homes	
Exemption claimed in respect of Section 38(1) of the Freedom of Information Act 2000; Health and Safety	
In favour of disclosure of information	In favour of not disclosing information
Provides publicly available information on children's homes including those providing effective care and services and those who need to improve such care and support	Disclosure of the names of children's homes is deemed particularly sensitive. The RQIA considered that disclosure of such information would be likely to be construed to be very upsetting to these vulnerable individuals within the care system, and/or upsetting to their relatives, to the extent that it would be likely to endanger their mental health.
Public Interest and Transparency	It also follows that given the nature of these services, disclosure of the names of the services has potential to identify the identity of these services users. These individuals have a right to privacy.

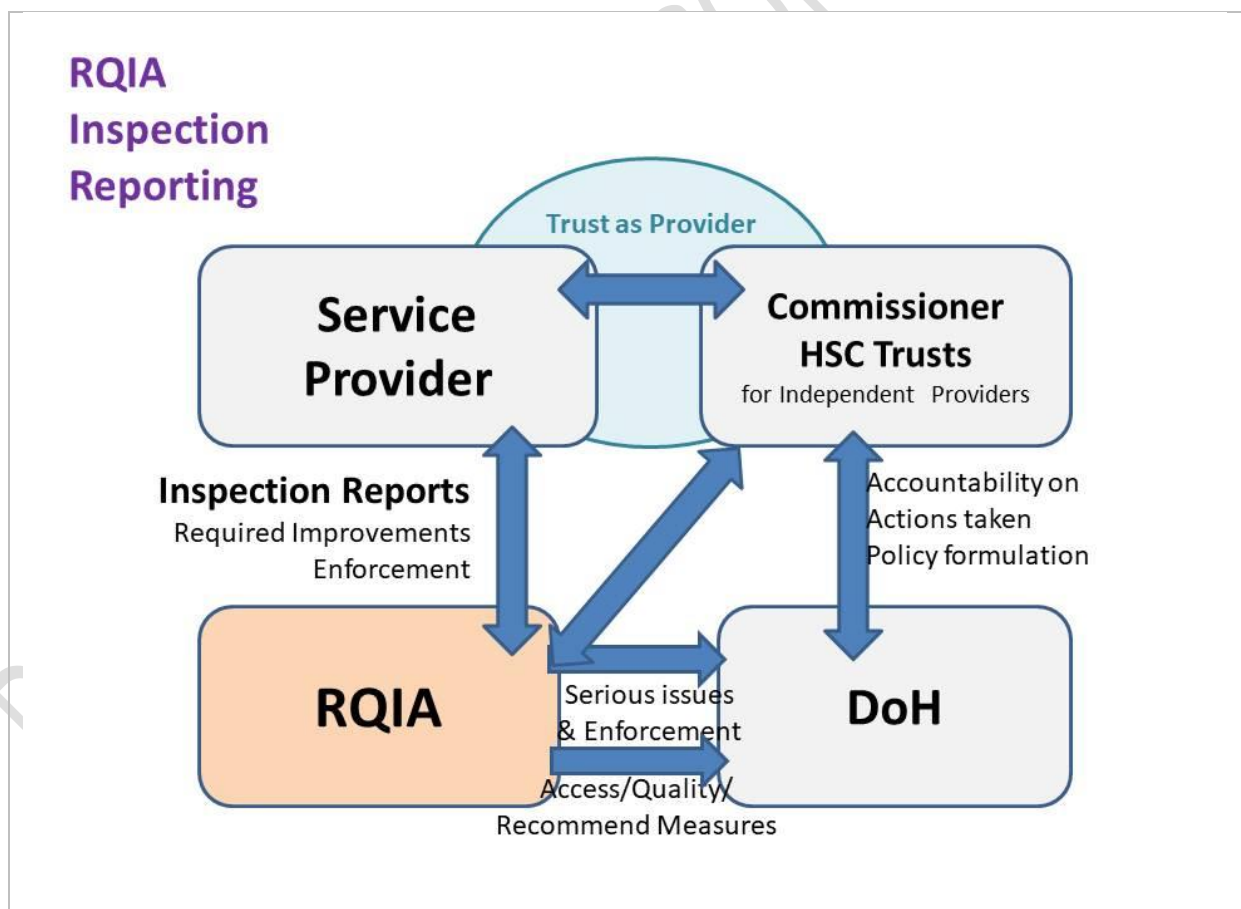
Current Inspection Reports – Focus

The focus of the inspection report, and its primary recipient, is the Service Provider. The inspection report's primary role is to identify the issues of concern and non-compliance against required standards, and the requirement for improvement within a given timescale, including RQIA taking enforcement action where appropriate

The inspection report may also be shared with the local HSC Trust, who are responsible for the commissioning of the service where the provider is from the Independent Sector, the Trust having a contract or service agreement in place. RQIA will also advise DoH of serious concerns; safety, quality and access issues; and enforcement actions, for both statutory provided services (provided by Trusts) and by independent providers.

This approach does not identify potential for 'others' within a wider system to contribute to effective purpose and impact of regulation. Diagram below aims to set this out simply (note this is for illustrative purposes only).

Diagram 1 – Current issue of RQIA Inspection Report Children's Services



To address this, it is proposed to adopt a ‘whole’ system approach, while protecting the identity of children and young people and taking steps so as not to overtly disclose the name or location of the facility or service.

Proposed Publication Framework

The approach identifies specific and key organisations and / or individuals that are involved or affected by the regulatory processes:

1. Children and young people and families
2. Other statutory and voluntary organisations to whom knowledge of safety and quality of health and social care services is essential to fulfil all or part of their function
3. Others with a legitimate interest, for example, in making personal choices and in fulfilling other public service roles

The following is proposed by way of constructing the inspection report:

Table 1: Constructing the Service Inspection Report

Issue to address	Proposed Approach
Protecting identification of service and its location	<p>A database of identifying reference codes for each service (and its location) will be developed by RQIA and made available to the key statutory and specific non statutory organisations. The database will be updated as services change.</p> <p>A Data Sharing Agreement would be agreed by the organisation and RQIA re the purpose for sharing of information, setting out the information that RQIA would share, frequency and for more urgent circumstances. The recipient body would also set out information it proposes to share with RQIA that can add to regulatory work.</p> <p>Inspection reports would be published on the RQIA website, with no personal identifiable information in its content (see below). Only the Trust area where the service is delivered will be identifiable on the published inspection report.</p> <p>Contextual information from the inspection report could be made available to the recipient organisation on making contact with the RQIA identified lead/ contact individual (see later in this table for details)</p>

<p>Potential for identifying children or young people in the Inspection Report</p>	<p>The inspection report will only report on the service wide issues, findings and recommendations, No reference to any individual children or young people will be made though consolidated feedback will be given without providing individual identification..</p> <p>Where RQIA do have findings relating to a named individual , this will be shared with the service during the feedback session, during and/ or after the Inspection.</p> <p>This approach will ensure identified issues affecting the individual are addressed, but not made publically available via the Inspection Report..</p> <p>The Inspection Report will be served on the Provider who will be requested to ensure the findings and actions required is made known to the service user / family, in a timely way. Staff working in the service should also be appraised and involved in the providers actions in relation to the Inspection Report.</p>
<p>Exceptions to publication on website of inspection report</p>	<p>Where the service or facility serves only to meet the needs of a single individual, this inspection report would still be published making effort to ensure it covers broad themes and findings – on an individual case by case basis, a Report may not be published if it is deemed the identity of the individual could not be protected. The fact that the inspection took place will still be visible on the monthly published list of inspections, albeit under the code for that service.</p>
<p>Additional information provided to the identified key organisations</p>	<p>Key identified organisations would be able to access the published list of inspections, of all services inspected (by code identifying the service – they would cross check with database to identify the actual service) and anticipated date of inspection report. The organisation may need to seek information in advance of this date and can make contact with the lead RQIA contact and be provided with verbal information , under terms of the Data Sharing Agreement.</p>

On the basis of the above, the inspection reports of Childrens Services would be published on the RQIA website.

The publication of the Report on the website itself, is not sufficient to fulfil the benefits of a broader range of stakeholder needs and the benefits of collaboration within Regulation. The following sets out how the needs of each of the 3 key recipients requirements would be met under this ‘Publication Framework’.

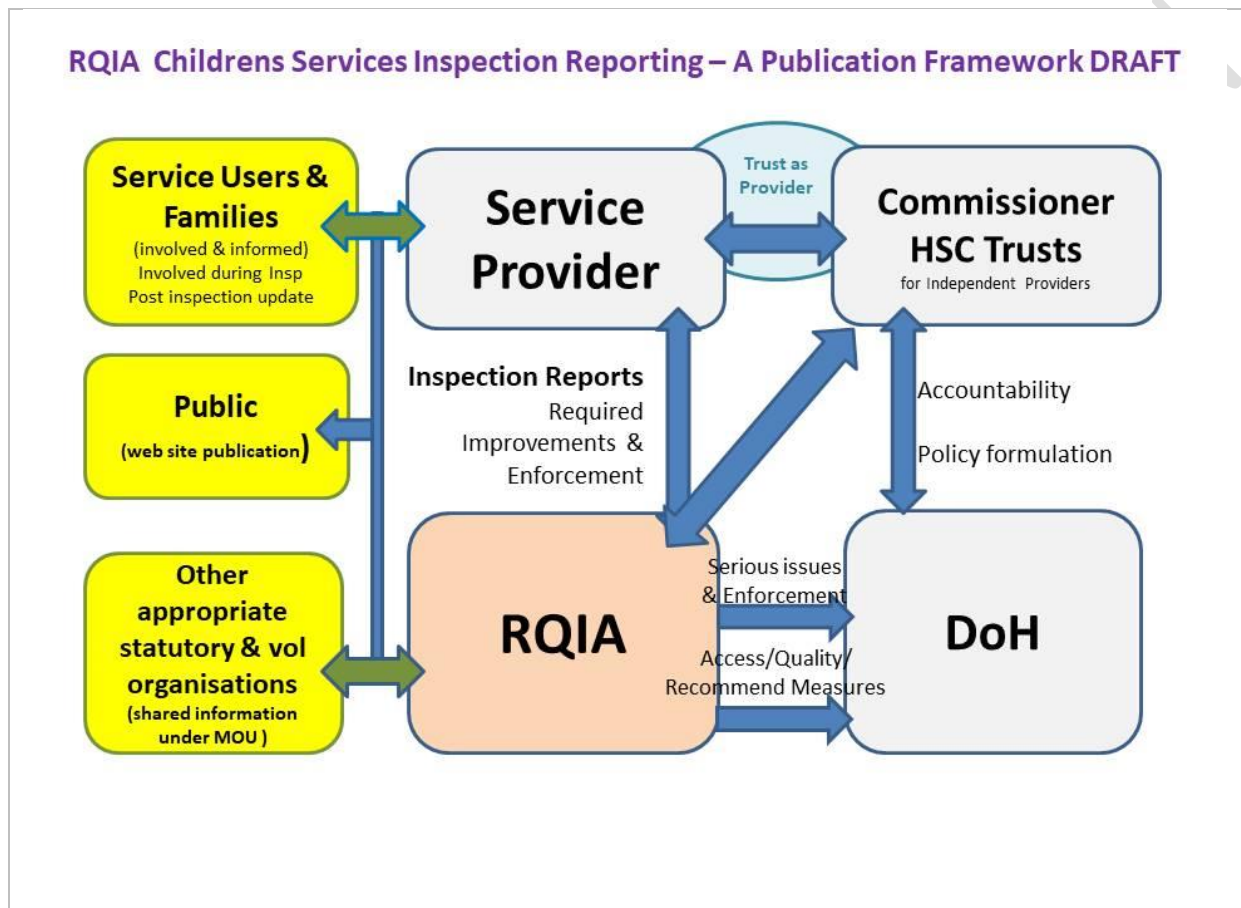
Table 2: RQIA Children's Services Inspections- Draft Publications Framework

Recipient	Purpose	Approach	Timeframe
Children, young people and families	Involved and Informed	Individual needs – where identified within RQIA Inspections Any appropriate findings identified by RQIA relating to a named service user, will be progressed in accordance with the appropriate procedures	At or Post inspection
		Action by Service Provider post Inspection Post inspection, service provider will be requested to provide children, young people and families with an update of what was found during the inspection and what actions they are required to take to address issues, including timeframes. Provider should also advise children, young people and families they can make direct contact with RQIA if they have remaining / further concerns.	Post inspection and within 2 to 4 weeks
		Inspection Report : (including quality improvement plans and enforcement actions) should be made available to children, young people and families via the RQIA website, Provider encouraged to advise families of its publication - or where required, Service Provider encouraged to facilitate a hard copy and support to understand findings/actions.	Available on web site 8 to 12 weeks
Other statutory and voluntary organisations (subject to an agreed Data Sharing Agreement in place with RQIA)	Shared information to enable organisations functions and improve regulation impact	A monthly list of all Children's Services inspected will be published on the RQIA web site - the list displaying the service coded name/location (from the supplied RQIA database – only available to those organisations with whom RQIA have a Data Sharing Agreement). List will include anticipated inspection report publication date. Where any specific organisation requires more detail in advance of the inspection report publication, the organisation lead will contact the RQIA nominated lead and will be provided with verbal update in advance of publication.	List published Monthly on web site
		Where there is immediate enforcement action , the RQIA lead will make direct contact with the recipient organisation lead. Any public statements will be shared in advance between the organisations.	Direct contact made at time of event
		Inspection Report : Available to access via RQIA web site.	8 to 12 weeks
Public	For Public Information	Inspection Reports - Will be published on RQIA web site , identifying the Trust area of the service only and will not include any identifiable personal information. Thematic Reviews will be carried out, collating the key issues and the voice of children and young people to allow greater scope for publishing the feedback of children and young people without the same level of risk relating to individuals being identifiable	8 to 12 weeks post inspection

The following diagram sets out the proposed 'Publication Framework' (illustrative only).

Diagram 2:

Proposed Children's Services RQIA Inspections 'Publication Framework' (draft)



Next steps

The draft Publication Framework will be subject to discussion and change as part of the co-production, Task and Finish Group, followed by a public Consultation.