

PUBLIC SESSION

RQIA Authority Meeting
Thursday 14 December 2023 at 11:30am
Via MS Teams

<p>Present: Christine Collins (Chair) (CC) Alphy Maginness (AM) Cheryl Lamont (CL) Mary McIvor (MMcI) Nazia Latif (NL) Neil Bodger (NB) Sarah Wakfer (SW) Stuart Elborn (SE)</p> <p>Apologies: Bronagh Scott (BS) Lynn Long (LL), Director of Mental Health, Learning Disability, Childrens' Services and Prison Healthcare Elaine Connolly (EC), Director of Adult Care Services Karen Harvey (KH), Professional Advisor, Social Work</p>	<p>RQIA Staff in Attendance: Briege Donaghy (BD), Chief Executive Jacqui Murphy (JM), Head of Corporate Affairs Ian Steele (IS), Medical Lead and Responsible Officer Emer Hopkins (EH), Director of Hospitals, Independent Healthcare, Reviews and Audit Malachy Finnegan (MF), Senior Communications Manager</p> <p>Paul Cummings (PC), Financial Advisor</p>
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1.0 Agenda Item 1- Welcome and Apologies

- 1.1 The meeting commenced at 11.49 am.
- 1.2 Apologies were received from Bronagh Scott (BS), Elaine Connolly (EC), Karen Harvey (KH) and Lynn Long (LL).

2.0 Agenda Item 2 - Minutes of the meeting of the Authority held on 21 September 2023 and Matters Arising

- 2.1 BD provided an update to the Action List from the previous meeting of 21 September 2023.
- 2.2 **Action 264:** Publication of Children's Inspection Reports: Closed. BD noted that the pilot to publish the children's inspections reports has commenced, with the first publications planned for January 2024.

Action 265: Chief Executive to enquire about inspection in relation to the safety of Care Homes buildings with the RQIA Estates Team: Closed. BD advised she has checked with the RQIA Estates senior inspector who confirmed that the Estates Team do not take surveys of the condition of buildings overall, and only in a specific case if this would affect patient safety. CC advised she will speak with BD to determine whether RQIA should raise this with the Commissioner for Older People (COPNI) as to whether COPNI would wish to undertake a piece about this.

Action 266: Add the item of Implications of the Judicial Review on Community Mental Health Services to the Agenda for the 14 December 2023 meeting: Closed. BD explained that RQIA is developing the Policy which will cover the Process for Undertaking an Inquiry on behalf of an individual with mental disorder, living in the community. The Director of Mental Health and Learning Disability and one of the RQIA Psychiatrists, Dr Pat McMahon had met with the Royal College of Psychiatry to discuss RQIA's work in Community Mental Health Services and they were discussing the possibility of co-hosting an event next year, which would include themes such as the Mental Capacity Act, Part II Doctors, etc. [The follow up to the Judicial Review itself was discussed in the Business in Confidence Session to respect the privacy of the individual concerned].

2.3 Authority Members agreed the minutes as a true and accurate record and **APPROVED** the minutes of 21 September 2023.

3.0 **Agenda Item 3 - Declaration of Interests**

3.1 There were no declarations of interests.

4.0 **Agenda Item 4 – Chair's Business: Verbal Update** **a) Partnership Agreement** **b) Public Inquiries: MAHI; COVID-19; and Urology Services**

4.1 **a) Partnership Agreement**

CC noted that the draft Partnership Agreement remains with the Department of Health (DoH) for their consideration and noted she had contacted Sponsor Branch to advise that she would consider retrieving same to streamline the document if no comments were received soon. CC reiterated the importance of having the Partnership Agreement in place, not only as part of the system wide updating of the relationship between Departments and Arm's Length Bodies, but also as part of the clarification of the relationship between RQIA and the Department of Health following on from the resignations of the previous Authority, and the Nicholl Report.

4.2 **b) Public Inquiries: MAHI; COVID-19; and Urology Services**

CC advised that the requests for information and participation in these Public Inquiries is a considerable pressure for an already under-resourced small organisation. Members noted with concern the considerable pressures; and the need for robust and independent legal support in taking the work involved with these forward, if RQIA is to meet its obligations to the Public Inquiries and demonstrate its integrity.

Muckamore Abbey Hospital Inquiry (MAHI)

RQIA is a 'Core Participant' for the Public Inquiry. A Project Team is in place, with junior and senior counsel and DWF Law are engaged to represent RQIA. Engagement with current and former staff is in progress, with the Team collating records and making submissions as per the schedule. The Inquiry heard evidence from RQIA's Chief Executive on 3 May 2023 and may be called upon later in the year. A second/ follow up statement on questions raised is being developed.

COVID-19 Inquiry

Module 2C: it was understood that RQIA had signed off this statement, however, a further query in relation to clarifying what we have already answered has been received to be responded to by 18 December 2023. The RQIA Solicitor is reviewing the information.

Module 3: The statement has been submitted in draft and we have received some questions for response by 12 January 2024. The Solicitor and Barrister are working through these.

Module 6: Care Homes Module: It is likely that RQIA will need to apply for Core Participant status, albeit RQIA has not been accepted as a CP for any of the Modules to date. A Business Case will need to be developed for legal services as the organisation must be represented by a barrister.

Urology Inquiry

BD advised that she has received a Rule 9 request from the Inquiry which includes several questions. A response is required by 3 January 2024.

In terms of securing funding for appropriate legal services, a Business Case has been submitted to the DoH and Counsel has been identified. The Chief Executive will be giving evidence to the Inquiry in February 2024.

- 4.3 Authority Members **NOTED** the update in respect of Public Inquiries: MAHI; COVID 19; and Urology Services.
- 4.4 SE left the meeting at 12:07 pm.
- 5.0 Agenda Item 5 - Members Activity Report**
- 5.1 CC introduced the Members Activity Report and noted the significant volume of activity ongoing, expressing her thanks to Authority Members for their contribution.
- 5.2 Members **NOTED** the Members Activity Report.
- 6.0 Agenda Item 6 - Chief Executive's Update: Verbal Update**
 - a) Report on System Inspection of Southern Trust Area**
- 6.1 **Finance:** BD referred to the updated Finance Circular received from the Department, which has amended the financial rules of break-even, stating that break-even will be considered a zero or the surplus position within the stated limits; it cannot be a deficit position. BD noted also that the Department continues to request the identification of savings. Both of these matters are reflective of the extremely challenging financial environment within which RQIA and the wider health and social care sector is operating. BD advised that she is continuing to take forward discussions with the DoH in respect of the current funding model and the opportunity to consider a full cost recovery model. BD

noted that she would provide a full update in relation to the financial position at the end of Month 7 under Item 11.

6.2 a) Report on System Inspection of Southern Trust Area

BD noted that the draft Inspection Report is undergoing factual accuracy checks, which will be followed by a full quality check on the final draft. It is intended to publish the report in January 2024.

A wide range of stakeholders have been engaged with and RQIA is receiving comments and feedback. It is planned to hold an event next week to capture insight into the findings, with:

- Virtual engagement with local partners in the Southern Trust, to talk through the key messages; and
- Following up in the New Year, with two or three engagement sessions for the wider stakeholders.

The report will be published in parallel with the RQIA Census Report of bed availability in Northern Ireland's registered Care Homes.

The Census will provide another means whereby RQIA can examine how it can work with the stakeholders to improve arrangements across the care home sector.

6.3 Authority Members agreed that these publications must get proper attention and focus from the Authority. Members noted with approval the initiative to conduct the "system review" including the engagement opportunities for a range of stakeholders to have input into the process, thus ensuring wider ownership of the Review Reports.

6.4 CC agreed, saying it is vital to take the necessary time and ensure proper planning throughout the Review cycle, with engagement with stakeholders throughout, so that the reports are comprehensive, accepted, and can be presented with confidence.

6.5 The Authority **NOTED** the Chief Executive's Update.

7.0 Agenda Item 7 - Business, Appointments and Remuneration Committee (BARC):

a) Meeting of 2 November 2023: Verbal Update

b) Recruitment of Chief Executive

c) Workforce, Modernisation and Organisation Development Programme (liP Assessment)

d) Activity Performance and Outcomes Report: Quarter 2, 2023/2024

e) Inquiries

f) RQIA Equality Working Group

g) RQIA Communications and Involvement Working Group and RQIA Draft Communications and Involvement Strategy 2023-2028

h) Digital

i) Policies and MoUs

i Review of Policies

ii. Policy: Complaints

iii. Policy: Management, Review of and Regulatory Response to Serious Adverse Incident Notifications and Investigation Reports received by RQIA

k) RQIA Complaints Annual Report 2022/2023

7.1 a) Meeting of 2 November 2023: Verbal Update

An update from the BARC meeting on 2 November 2023 was provided as follows:

7.2 b) Recruitment of Chief Executive

It was noted that the Chief Executive's position had been extended for another 2 years, ie: until June 2025. BARC has agreed to consider the commencement of preparations for recruitment of a Chief Executive at its next meeting in February 2024. BARC will consider job descriptions of similar roles from healthcare regulators in other jurisdictions and will also consider succession planning for senior positions in RQIA.

7.3 c) Workforce, Modernisation and Organisation Development (liP Assessment)

BARC Members were provided with an update covering work ongoing in relation to workforce, modernisation and organisational development, to include: recruitment and building workforce capacity; health and wellbeing; the introduction of the Hybrid Working Scheme; succession planning; fire safety arrangements; and mandatory training.

An issue was highlighted around the increase in sickness absence which is putting further pressure on various teams throughout the organisation. Various mitigations are in place, such as: Health and Wellbeing Programme (to include: Financial, Emotional, Physical and Mental Wellbeing); Health, Safety and Wellbeing Group reporting to the Executive Management Team; signposting staff to the Health and Wellbeing Hub and wellbeing resources and to the Inspire Health and Wellbeing Hub, with access to confidential counselling services, as part of a regional contract; encouraging staff to take up the vaccines available; and the importance of ensuring staff are able to raise concerns and have regular conversations with their line managers.

Members echoed the importance of a focus on staffs' health and wellbeing in these challenging times.

Investors in People: RQIA does not have to undertake its next assessment until Autumn 2024, however, the organisation has agreed to run an online survey in advance of this in order to check where things are prior to the full assessment. An online survey was issued to all staff and closed on 10 November 2023 and the Executive Management Team is presently considering the report.

7.4 d) Activity Performance and Outcomes Report: Quarter 2, 2023/2024

The Chief Executive had presented the Activity Performance and Outcomes Report covering the period to the end of September 2023. Performance across the teams is reflective of the pressures on the current workforce and the under-resourcing, thus, RQIA is currently not meeting its statutory minimum requirements. Nevertheless, it was reported that the organisation is delivering what it considers to be a safe level of service, with at least one inspection to each care home and work ongoing to embed a risk-based approach through the Regulation Framework. BARC Members also noted the performance in Registrations and heard of the improvement programme in place, led by the Chief Executive, to put in place processes to assist with efficiency, including developing digital capability. The Activity Performance and Outcomes Report is illustrative of strong engagement and partnership working, which is to be commended.

7.5

e) Inquiries

See update under Item 4 b).

7.6

f) RQIA Equality Working Group

BARC Members noted that the:

- RQIA Equality, Good Relations and Disability Duties - Annual Progress Report 2022-23; and
- Equality and Disability Action Plans 2023-28

have been submitted to the Equality Commission and are published to the RQIA website. The Committee also heard about other topics discussed by the Working Group, such as: Human Rights; RQIA's role as a designated body of the UK National Preventive Mechanism (NPM); Programme of work, including policy screening and training needs; RQIA Statutory Equality, Good Relations and Disability Duties; and representation at Quarterly BSO Equality and Disability Forum meetings.

7.7

g) RQIA Communications and Involvement Working Group and RQIA Draft Communications and Involvement Strategy 2023-2028

BARC was updated in relation to the Working Group's workstreams, including: development of the Communications and Involvement Strategy; update of the RQIA Website; Review of the Complaints Policy; and 'Front of House' services, including managing contacts from public and service providers – telephone services.

The draft version of the Communications and Involvement Strategy for 2023-2028 is included in today's papers for initial consideration.

Authority Members noted the draft Strategy, commenting on its clear content and attractive presentation and commended the Working Group on its development. The final draft will be considered by BARC at its next meeting in February 2024, for recommendation to the Authority at its March meeting.

7.8

h) Digital

BARC had discussed the organisation's digital transformation, considering a timeline for future digital solutions. The iConnect System is upgraded, from an operating platform point of view, and it will be necessary to go through the proper procurement exercises when implementing any new system.

7.9

i) Policies and MoUs

i Review of Policies

ii. Policy: Complaints

iii. Policy: Management, Review of and Regulatory Response to Serious Adverse Incident Notifications and Investigation Reports received by RQIA

i Review of Policies

BARC Members had received an update in relation to the project to review all policies with regard to regulation, hearing that there has been a delay in progress due to sickness absence.

ii. Policy: Complaints

In relation to the Policy on the Management of Complaints about RQIA: this has been reviewed to ensure it remains extant following the review by NIPSO of Complaints Handling by Public Bodies in Northern Ireland.

NIPSO and has published a local government Model Complaints Handling Procedure (MCHP) in July 2023. The publication will result in all local government organisations adhering to and managing complaints according to the MCHP from 2024. NIPSO is also working with the HSC Trusts in the first instance to update their Complaints Procedures and to ensure there is consistency across the health and social care sector. NIPSO will move to working with the ALBs after this. RQIA will take forward a full review of the Complaints Policy via the Communications and Involvement Working Group.

The BARC Committee recommended that this Policy is approved as extant.

The Authority **APPROVED** the Policy on the Management of Complaints about RQIA as extant.

iii. Policy: Management, Review of and Regulatory Response to Serious Adverse Incident Notifications and Investigation Reports received by RQIA

BARC Members heard about the necessity to ensure a consistent approach to the management and receipt of Serious Adverse Incident (SAI) Notifications. RQIA receives notifications, as well as a full copy of the SAI report, when ready in relation to mental health and learning disability, in accordance with our duties under the Mental Health Order (MHO). This follows a patient-centred approach. This Policy is a first step and will provide all staff with the rationale for why we receive these SAIs, with a more operational focused policy to be developed after.

Following consideration, Authority Members **APPROVED** the Policy on the Management, Review of and Regulatory Response to Serious Adverse Incident Notifications and Investigation Reports received by RQIA.

7.10 k) RQIA Complaints Annual Report 2022/2023

The Complaints Annual Report for 2022/2023 was presented to BARC Members, with 11 complaints relating to RQIA received; a decrease from 16 received in 2021/2022. Each complaint was managed in accordance with the Complaints Policy. A new learning report has been developed with a learning log, setting out any recommendations with action owners and timescales for completion, alongside a progress update.

Following consideration, the Authority **APPROVED** the RQIA Complaints Annual Report 2022/2023.

8.0 Agenda Item 8 – Audit and Risk Assurance Committee (ARAC)

- a) Meeting of 30 November 2023: Verbal Update**
- b) Mid-Year Assurance Statement**
- c) Circular: HSC (F) 37-2023 - HSC Break-Even and Financial Recovery**
- d) Principal Risk Document**
- e) Directorate of Mental Health, Learning Disability, Childrens' Services and Prison Healthcare Risk Register**

- f) Internal Audit Update (including Audit on Nursing Home Inspections)**
- g) Audit Action Plan and Closure of Internal Audit Recommendation from Financial Review 2022/2023**
- h) Standing Reports**

8.1 a) Meeting of 30 November 2023: Verbal Update

MMCI provided the update for the ARAC meeting of 30 November 2023, as the Chair (NB) had been absent.

8.2 b) Mid-Year Assurance Statement

The Chief Executive had presented the Statement, setting out the systems and controls and highlighting any Internal Control Divergences, advising that some elements were being carried forward, which had been referenced before. The Statement had been submitted to the DoH on 12 October 2023 and this version was being recommended to the Authority for final sign-off.

The Authority **APPROVED** the Mid-Year Assurance Statement.

8.3 c) Circular: HSC (F) 37-2023 - HSC Break-Even and Financial Recovery

ARAC Members learned that this is a fundamental circular for end of year accounts, as noted previously. This circular redefines break-even, by halving the probability for organisations, with no opportunity for an overspend. ARAC Members noted how challenging this would be RQIA, given the current challenging financial climate.

8.4 d) Principal Risk Document (PRD)

The PRD was presented to the Committee, noting that some adjustments had been made to some of the risks.

MMCI pointed to a couple of the higher rated risks, such as:

- Cyber Security, which is not solely an issue for RQIA but also due to the fact that RQIA is part of the bigger health and social care system and our security is dependent upon other organisations; and
- RQIA's role under the Mental Capacity Act (MCA), outlining the 2 provisions in relation to people being detained inappropriately and their assets mismanaged.

Authority Members **APPROVED** the Principal Risk Document (PRD).

8.5 e) Directorate of Mental Health, Learning Disability, Childrens' Services and Prison Healthcare Risk Register

The Directorate Risk Register was presented to ARAC for recommendation to the Authority. ARAC Members noted several areas where the Directorate is not meeting its responsibilities under the legislation and the controls and mitigations in place to manage this.

Following consideration of the Directorate Risk Register, the Authority **APPROVED** the Risk Register for the Directorate of Mental Health, Learning Disability, Childrens' Services and Prison Healthcare for approval by the Authority at its next meeting in December 2023.

8.6 f) Internal Audit Update (including Audit on Nursing Home Inspections)

The Head of Internal Audit presented the update from Internal Audit, reporting that 2 audits have completed: Financial Review and the Nursing Homes Inspections, both with Satisfactory Assurance.

JM advised that, since the ARAC meeting, an audit of Complaints Management has completed with Satisfactory Assurance.

The audit on Nursing Home Inspections had resulted in 2 recommendations, around ensuring inspection records and validation checklists are managed in a timely way and the need to Implement formal procedures defining all stages of the inspection process. Both recommendations had been accepted by management.

In relation to the more significant finding of RQIA not fulfilling the statutory requirement to complete 2 inspections per year, Internal Audit has not made a recommendation as it is clear that RQIA is doing all that it can in this regard and both the Authority and the DoH are being kept advised of the position.

In relation to the Mid-Year Follow-Up at September 2023, 49 (70%) of the 70 recommendations examined are now fully implemented and 21 (30%) are partially implemented. All outstanding recommendations prior to 2021/2022 have been completed.

A report was made on the shared services audits in Accounts Receivable and Accounts Payable, both being Satisfactory Assurance.

The Head of Internal Audit also presented her Mid-Year Assurance Statement and advised this was presented previously and should be taken as read, as there is nothing new to report.

8.7 **g) Audit Action Plan and Closure of Internal Audit Recommendation from Financial Review 2022/2023**

The Audit Action Plan was presented for approval. All recommendations have been fully implemented from the previous years' audits, with 3 recommendations from the Audit of Recommendations to Trusts and 2 recommendations from the Audit of Information Governance in 2021/2022 remaining. It was noted that progress continues to be made to clear these outstanding recommendations.

In particular, BD raised the recommendation 1.1 from the Financial Review in 2022/2023, ie: "RQIA should ensure that sufficient in-house financial skills and expertise is developed within the organisation and in particular at Management / Senior Management level. It is appreciated that developing financial skills and advising the organisation is within the remit of the consultant currently commissioned to work with RQIA."

BD advised that this recommendation is being presented to the Authority requesting closure. BD outlined the rationale behind this requested closure (as outlined in the Authority papers), and as discussed at the ARAC meeting, concluding that the Accounting Officer and Authority must be at liberty to secure input from whatever reasonable source they see fit and should not be stifled in drawing in expertise to any parts of the organisation, by adhering to due process and within resource availability.

Internal Audit considers the recommendation partially implemented based on the continual reliance on an external associate to provide strategic financial skill and experience; however, RQIA does not agree with this opinion.

BD advised that this recommendation cannot be fulfilled to the satisfaction of Internal Audit and requested closure of same, as she, as Accounting Officer and not Internal Audit, carries this responsibility.

AM felt that Internal Audit was focusing on the longer-term accountability, rather than the present situation. AM noted that the Authority is very happy with the arrangement covered by the Financial Advisor (PC) and asked whether there is a plan in place for replacement.

BD noted this to be the same argument as is used for the provision of legal services from DLS. BD felt it would be prudent and useful for Internal Audit to report to the DoH that the shared services model is not working for RQIA. However, in doing this, BSO would be criticising its own delivery. Therefore, a conflict of interest and a matter of independence has arisen again with Internal Audit auditing their own services. All noted that this recommendation flies in the face of using the shared services model.

AM indicated that he was sure of what the financial service provided from BSO is like and noted that the auditor was recommending recruitment of an internal person.

CC advised that the introduction of the shared services model had brought a clear-out of RQIA staff, with a number of staff being lifted into BSO and RQIA now having to pay for a less than satisfactory service, overall. CC noted a completely unsatisfactory arrangement having been put in place by BSO previously with a cycle of temporary Agency staff from BSO working on the RQIA finances as our Accountant, and that this was highly unsatisfactory. The arrangement currently in place, with permanent staff from BSO, is not ideal. CC noted that RQIA had managed to improve the situation with staff being trained and the Financial Advisor there to support the Accounting Officer.

NB agreed with CC, explaining that the service from BSO leaves a lot to be desired and that, from a historical point of view, a significant resource had been removed from RQIA and transferred to BSO and yet RQIA was not seeing the benefit of what it once had, with a service that has got worse. NB advised that the Authority, under the leadership of the Authority Chair and Chair of ARAC should continue to write to the DoH, reporting that the shared services model is not fit for purpose, nor is working to a satisfactory level for RQIA. NB wondered if RQIA should also speak with NISCC, as they seem to have got a better service from BSO.

Following discussion, the Authority agreed to close this recommendation.

- 8.8 Resolved Action 267: RQIA to inform Internal Audit that the Authority has closed Recommendation 1.1 from the Financial Review in 2022/2023.**
- 8.9 CC also suggested that the DoH may wish to provide clarification about the shared services model and will consider writing to the DoH, along with the ARAC Chair (NB). Internal Audit should also be advised to list their concerns about RQIA using the shared services model and submit these to the DoH.
- 8.10 Resolved Action 268: The Authority Chair (CC) and ARAC Chair (NB) will consider writing to the DoH in relation to clarification about the shared services model and may also advised Internal Audit to list their concerns about RQIA using the shared services model and submit these to the DoH.**

8.11 Authority Members **APPROVED** the Audit Action Plan.

8.12 **h) Standing Reports**

Authority Members noted the Standing Reports.

MMcI referred to the report on Data Breaches, whereby hardcopy documents in respect of registration had been lost. The incident has been closed following an extensive search, appropriate reporting to the ICO and actions implemented for improvement, such as the digitisation of registration documents going forward.

8.13 CC thanked MMcI and Members **NOTED** the update with regard to the Audit and Risk Assurance Committee (ARAC).

9.0 **Legislative and Policy Committee (LPC): Verbal Update**

- a) **Meeting of 18 October 2023: Independent Medical Agencies (IMAs) with no physical presence in Northern Ireland**
- b) **Meeting of 7 December 2023**
- c) **Registration of Independent Medical Clinics**
- d) **RQIA Preliminary Mental Health Inquiry Process**
- e) **Mental Capacity Act: Position and Business Case**
- f) **Adult Protection Bill**
- g) **RQIA Authority since Closure of HSC Board**
- h) **Current Legal Cases**
- i) **Enforcement Powers and Actions**

9.1 AM presented the update for the LPC, explaining that the Committee has been considering a number of issues this year, several of which will have significant legal implications.

9.2 **a) Meeting of 18 October 2023: Independent Medical Agencies (IMAs) with no physical presence in Northern Ireland**

The meeting on the 18 October meeting had a focus on Independent Medical Agencies (IMAs), with a lengthy and constructive debate. AM advised there are a small number of agencies registered and Members considered 3 options. This was also discussed at a Business in Confidence Session of the Authority on 23 November, followed by a meeting with Counsel, who had advised that RQIA should request the legal advices which the DoH had obtained, which indicates that IMAs cannot be registered if they have no official base in Northern Ireland. An assurance has since been provided by the DoH that they will share their legal advice.

9.3 **b) Meeting of 7 December 2023**

c) Registration of Independent Medical Clinics

AM advised that the meeting of 7 December 2023, when the registration of Independent Medical Clinics was discussed. The Committee heard that recent legal advice had suggested that RQIA changes its policy and registers all clinics, except for those noted under the 1972 Order. RQIA has previously not registered these types of Clinics where the clinician has also been employed by the HSC. AM noted that, if RQIA is to change its policy, there remains a lack resources to pursue the registration and regulation of these Clinics. AM noted the LPC's acceptance of the legal position that these Clinics will require to be registered but that the organisation currently does not have the necessary resources to do so. AM also advised that the organisation is now exploring the proposal of a full cost recovery model and this has been discussed with the DoH, who indicate that this

would require updating of the current Fees and Frequencies Regulations. RQIA has also advised the DoH that additional resource will be required to pursue the registration and regulation of these Clinics.

9.4 d) RQIA Preliminary Mental Health Inquiry Process

AM explained that this Process was flowing from Judicial Review last Spring. He referred to the recently developed RQIA Preliminary Mental Health Inquiry Process, explaining that this represented a protocol for undertaking such an inquiry. Under the Mental Health Order (MHO), RQIA has a duty to keep under review the care and treatment of those with a mental health disorder and this is not exclusive to those “in a hospital”. In recent times, RQIA’s energies have gone into what happens in hospitals, such as Muckamore Abbey Hospital, Lakewood, etc. however, the legislation applies to all parts of RQIA’s activities and is not exclusive to the Directorate of Mental Health and Learning Disability. Awareness Sessions for RQIA staff have now been delivered and the topic continues to be raised for discussion at the Senior Leader’s Forum. The Inquiry Protocol is being developed to enable RQIA to ‘inquire’ into issues of concern for individual cases where the person is living in the community.

9.5 e) Mental Capacity Act (MCA): Position and Business Case

AM advised of the DoH position in respect of the Business Case (for approximately £400k) which was submitted during the Summer, and which the DoH has not approved as yet. Following a meeting with the Director of Mental Health, the DoH has written to RQIA inviting a re-submission of the Business Case, ensuring that the additional activities which RQIA would implement are spelt out comprehensively. The revised Business Case will be re-submitted in the coming days. AM noted this to be a major piece of work to set up the arrangements to ensure RQIA’s responsibilities under the MCA are met and are robust.

9.6 f) Adult Protection Bill

AM advised Members that the Adult Protection Bill is part of the legislation that will support adult safeguarding in Northern Ireland. CCTV is referred to in the Bill and the intent is that RQIA would be enabled to have a role in reviewing and the effectiveness of this in adult care settings, such as care homes, mental health inpatient hospitals, etc. This would be regulated with clear regulations, good practice guides and RQIA would have to develop protocols to allow the inspection of such. AM noted that this is not law as yet and the implementation of CCTV would have to be balanced with the appropriate protection of the individual. AM noted the challenges with those in supported living in relation to this, which is a concern for RQIA in relation to implementation in that this is an example of a group of people not registered in residential care or under the Housing Executive and this aspect of the Bill may apply.

BD also advised that RQIA has constantly pursued this conversation with the DoH when it was drafting the Bill, acknowledging that CCTV is only a very small part of adult protection. BD noted that there exists a Programme Transformation Board and Interim Adult Safeguarding Group. RQIA has also submitted a Business Case to outline the resources required should RQIA be asked to undertake this matter relating to CCTV consideration in some settings.

9.7 g) RQIA Authority since Closure of HSC Board

AM advised that the former HSC Board has been replaced by the Strategic Planning and Performance Group (SPPG), a branch of the DoH. Since the

closure of the Board and the establishment of the SPPG, RQIA still awaits formal correspondence from the DoH to outline the position in relation to RQIA's powers. AM went on to explain that this issue has resulted in RQIA having no lawful authority to inspect / regulate the SPPG, however, it had for the HSC Board. Sponsor Branch has been recommending a partnership approach in the absence of legislation and RQIA still awaits formal correspondence from the DoH to outline the Department's position, which was verbally advised that the DoH cannot direct RQIA to do something that is not contained within the legislation and that the powers, as previously stated, cannot be restored without further primary legislation.

9.8 **h) Current Legal Cases**

LPC noted the current legal cases, which cover 2 high court actions arising from 1 incident and medical reports are still awaited.

9.9 **i) Enforcement Powers and Actions**

AM reported that he has now met with 2 of the 3 Directors and a meeting is being set up for the third Director. AM is harnessing views on the effectiveness of prosecution and sanctions, with a maximum fine of £5k. AM noted that a few cases have been prosecuted, however the legislation is outdated and invoking these powers must be balanced against the practical use of already limited resources around prosecutions which are very time-consuming. AM also noted the suggestion of the creation of a dedicated Enforcement Team, whereby expertise and knowledge of processes and procedures can be developed, however, this would be for the future.

9.10 CC thanked AM and agreed this to be quite a substantial policy agenda, touching issues that have a strong policy and political dimension. CC believed this to be an example of where the organisation needs to build a good relationship with the DoH, being informed of how they formulate their policies, to ensure that these policies are aligned to what actually happens on the ground, the Adult Protection Bill being a good example.

9.11 AM agreed, explaining that there appear to be significant gaps in the legislation and pieces missing, particularly in the matter of the HSC Board and setting up of SPPG. AM felt that the implications and impact of this needs to be better understood, specifically around the importance of RQIA's assurance.

9.12 EH reminded Members that RQIA had, in fact, advised the DoH of these gaps at the time and provided a view to the Health Committee, following engagement with the DoH and having obtained legal advice. EH felt this would eventually become a public issue when someone will have an issue with SPPG and the question will then be asked as to why RQIA cannot intervene.

9.13 CC also commented that it was the DoH view that this could be rectified afterwards; however, then advised that this defect in the legislation could not be remedied.

CC thanked LPC members for their time in considering this significant agenda.

9.14 The Authority **NOTED** the update from the Legislative and Policy Committee (LPC).

10.0 Agenda Item 10 – Memorandum of Understanding (MoU): RQIA, Care Opinion and Queen’s University (QUB) (EP1: Governance)

- 10.1 BD introduced this item, saying she was grateful to SE in introducing us to QUB colleagues in this matter. The University is very much engaged in a programme of Artificial Intelligence (AI) Initiatives relating to two areas: health and social care; and the Agri Food Industry. QUB colleagues were delighted that RQIA had reached out to them.

BD explained that much of the work to date has been academic, however they were pleased to partner with RQIA and with Care Opinion (through Dr James Munro and Linda Craig- PHA) to work to develop questions which would be posed through an AI medium, thus allowing the benefit in exploring trends and themes which would ultimately help our regulatory work and patient safety.

BD advised that the MoU has been drafted and cover the exploratory part of the process, exploring the types of questions that could be asked. While RQIA is not a member of Care Opinion, we do work with the PHA in this regard and this is an important step for RQIA.

BD further explained that this could be used to develop trusted sources of information, particularly about Part IV services (HSC services) and may give RQIA ease of access to themes and experiences from patients.

BD recommended that the Authority should agree and approve this MoU, noting it’s a digital sign-off.

- 10.2 CC commended the work thus far, saying she is delighted with this initiative and this should be seen as another part of the RQIA journey in ICT and digital systems. She noted that there may be an opportunity at a future date to share the data through Encompass; this illustrating a great opportunity to work flexibly, ensuing the patient voice is embedded. CC noted also that RQIA may wish to ask PCC to consider joining the venture.
- 10.3 Authority Members **APPROVED** the Memorandum of Understanding (MoU): RQIA, Care Opinion and Queen’s University.

11.0 Agenda Item 11 - Financial Performance Report: 2023/2024 Month 7 (EP3: Resources)

- 11.1 BD presented the Financial Performance Report for Month 7, 2023/2024 and noted a slight surplus for the month, with a projection of a deficit of circa £100k. She invited PC to comment on the position.

PC referred to the earlier discussion in relation to the Internal Audit recommendation and noted that the service provided by BSO does not always meet what would be his expectations of the finance function.

PC explained that he and the Client Accountant have been working through a significant volume of provisions from the previous year’s accounts and this had initially had reported a negative expenditure into Month 7.

The 2023/2024 had commenced with a significant projected deficit, however, he already knew that the Month 8 position will be better again, with the projection of circa £100k reducing.

PC reiterated that substantial change in the Finance Circular issued from the DoH, whereby RQIA will not be able to have a deficit at year-end and he noted again the challenges to achieve this.

The DoH has also requested information for savings of 2%, 5% and 10% planning scenarios and already the recovery plan for next year is getting to the point of being impossible to deliver. However, this is reflected across the whole of the HSC and the current climate in which we are operating. PC did note that the new Chief Constable's approach has been to breach his Accounting Officer duties to pay his staff their justified pay awards.

Income levels have increased slightly and may reduce again marginally in the next quarter.

PC advised that the individual expenditure budgets are struggling to have the level of vacancies required to cover the over-commitment. RQIA has also been advised of around 5-6 resignations between now and the end of March 2024 and he thought it would be likely that the organisation will be asked to hold these posts by the DoH.

The expenditure on non-pay is quite stable and PC advised that he is confident that RQIA is getting much closer to break-even and could, in fact, break-even, if the DoH agreed to fund the additional resources to cover the identified legal costs. PC explained that it is incredibly difficult to call at the minute, on which side of the £20k RQIA will land.

11.2 BD thanked PC for his support. She hoped that the situation will improve further as there is tight scrutiny around all recruitment and spend, which must be approved by the Scrutiny Committee (Executive Management Team) which meets on a weekly basis. BD advised she has written to the DoH in respect of the additional legal funding which is needed in-year and which would help solve this problem, though only in-year; albeit this bid may not be looked upon favourably.

11.3 CC agreed that the organisation is facing an exceptionally difficult position like all others across the HSC. In RQIA's case, this has been compounded by 3 Public Inquiries (with sub-sets), which is imposing immense pressures on staffs' ability to meet these needs and continue to do their day jobs, as the independent healthcare regulator. CC advised that the Authority must meet in the New Year to take careful consideration of what needs to be done in the current financial year and also to look strategically ahead to the 2024/2025 year, taking whatever radical decisions are needed to cope with this challenging financial climate.

CC noted that the Authority will have to take decisions which will impact upon future years and it is important to flag this with the DoH.

11.4 BD further advised that would meet the Directors, along with PC to consider the elements to discuss at a Workshop and it would be held in early January 2024,

to consider same. RQIA will reply to the DoH's request for the savings scenarios by 12 January 2024.

- 11.5 PC also noted that no pay awards have been factored into any of these figures and he noted an issue in how BSO treats the pay awards. He noted also the outstanding pay award for Senior Executives and that there are provisions in the accounts for this, which the auditors may not like how this is handled in terms of how we make provisions for paying staff.
- 11.6 NB congratulated BD and PC on the level of detail presented to the Authority, noting that while this comprehensive report is good, it is also depressing reading and he felt it was incredible the DoH can come down to this level of overrun.
- 11.7 PC also noted the £2.5 Billion for Northern Ireland will meet the pay awards but will not take forward any improvements and this will have implications for the service user and it would appear that these implications for the health sector appear not to taken into full account when these decisions are being made.
- 11.8 BD expressed her gratitude and valued the input from PC and advised that the achievement of the break-even position is down to the senior team, their effective management of the budgets and compliance with joint decisions reached through Scrutiny.
- 11.9 CC agree, commenting that this achievement is very much attributed to the Chief Executive and her Heads and Directors. CC also noted that a £100k overspend is a much better position to be in rather than an underspend as the money is given to be spent to ensure the public is kept safe.
- 11.10 Resolved Action 269: An Authority session to be arranged to consider the financial position and the reply to the DoH in early January 2024.**
- 11.11 Following consideration, the Authority **APPROVED** the Financial Performance Report: 2023/2024 Month 7.

There being no other business, the Chair closed the meeting at 1:14 pm.

Date of Next Meeting:

Full Authority Meeting: Thursday 28 March 2024 at 11:30 am.

Signed






**Christine Collins MBE
Chair**



Date

18 January 2024

Authority Action List: Meeting of 14 December 2023

Authority Public Session: Action List					
Action number	Authority meeting	Agreed Action	Responsible Person	Date due for completion	Status
267	14 December 2023	Outstanding Internal Audit Recommendation: Financial Services: RQIA to inform Internal Audit that the Authority has closed Recommendation 1.1 from the Financial Review in 2022/2023.	Head of Corporate Affairs	28 March 2024	
268	14 December 2023	The Authority Chair (CC) and ARAC Chair (NB) will consider writing to the DoH in relation to clarification about the shared services model and may advise Internal Audit to list their concerns about RQIA using the shared services model and submit these to the DoH.	Authority Chair / Chair of ARAC	28 March 2024	
269	14 December 2023	An Authority session to be arranged to consider the financial position and the reply to the DoH in respect of savings scenarios in early January 2024.	Head of Corporate Affairs	12 January 2024	

Key

Behind Schedule	
In Progress	
Completed or ahead of Schedule	