



The Regulation and
Quality Improvement
Authority

PROTOCOL FOR THE EXCHANGE OF INFORMATION BETWEEN THE REGULATION AND QUALITY IMPROVEMENT AUTHORITY AND THE NORTHERN IRELAND SOCIAL CARE COUNCIL

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Aim and Purpose

The attached protocol for the exchange of information has been updated to reflect the co-operation and exchange of information relating to each body's respective responsibilities for regulating the social care workforce and regulating social services.

This protocol defines the circumstances and processes through which the RQIA and NISCC will co-operate when carrying out their respective functions. Nothing in this protocol restricts the exercise by each body of their respective functions.

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1. INTRODUCTION

- 1.1 The objective of this Protocol is to set out the framework that the Northern Ireland Social Care Council (NISCC) and the Regulation and Quality Improvement Authority (RQIA) have agreed for co-operation, joint working and the exchange of information relating to each body's respective responsibilities for regulating the social care workforce and regulating social care services.
- 1.2 This Protocol does not affect existing statutory functions or supersede any policies or agreements relating to the activities of NISCC and RQIA. It does not imply any transfer of responsibility from one Agency to the other, nor does it imply any sharing of statutory responsibilities.
- 1.3 Nothing in this Protocol restricts the exercise of each body's respective statutory responsibilities.
- 1.4 This Protocol is not enforceable by law. However, NISCC and the RQIA agree to adhere to its principles and to show due regard for each other's activities.

2. Functions of NISCC

- 2.1 NISCC is a non-departmental public body, established under the Health and Personal Social Services Act (Northern Ireland) 2001.
- 2.2 The aim of NISCC is to protect the public through improving safeguards, raising the standards of social care practice and strengthening the professionalism of the workforce.
- 2.3 NISCC's key responsibilities include:
- Registering all social care workers
 - Setting standards of conduct and practice for social care workers and their employers through Codes of Practice
 - Setting standards of training, including post registration training and learning
 - Dealing with complaints against social care workers
 - Regulating social work education at qualifying and post qualifying level.
- 2.4 NISCC has a statutory responsibility to maintain a register of social workers and social care workers. In order to be registered, social workers and social care workers must meet a number of requirements for entry onto the register, including requirements relating to good character, health and training. Once registered social workers and social care workers must abide by the standards set in NISCC's Code of Practice for Social Care Workers, and continue to meet the requirements for registration.
- 2.5 NISCC has a statutory responsibility to investigate complaints about registrants, received from any source. NISCC has published Conduct Rules which set out its regulatory procedures. It has the power to suspend or remove registrants from the Register.

3. Functions of RQIA

- 3.1 The RQIA is an independent body established by the Department of Health and Social Services and Public Safety on 1 April 2005 under the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.
- 3.2 Under the provision of the Health and Personal Social Services (Quality, Improvement and Regulation) (NI) Order 2003 the RQIA is required to keep the Department informed about the provision, availability and quality of services and encourage improvement in the delivery of services. The RQIA has powers to conduct reviews, and carry out investigations and inspections into the management, provision, quality of, or access to and availability of HSC services, including clinical and social care governance arrangements.
- 3.3 Any person who carries on or manages an establishment or Agency must make an application to RQIA to register and once granted, RQIA issues a certificate of registration to the applicant. RQIA maintains a register of all approved establishments and Agencies.
- 3.4 Under the Mental Health (Northern Ireland) Order 1986, to undertake a range of responsibilities for people with a mental illness and those with a learning disability.
- 3.5 RQIA is designated as a national preventive mechanism (NPM) under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), an international human rights treaty designed to strengthen protection for people deprived of their liberty. OPCAT requires NPMs to carry out visits to places of detention, to monitor the treatment of and conditions for detainees and to make recommendations regarding the prevention of ill-treatment.

4. Data protection and Human Rights

- 4.1 In sharing information under this protocol, RQIA and NISCC will ensure compliance with the Data Protection Act 1998.
- 4.2 RQIA and NISCC are obliged to act in a way that is compatible with the Human Rights Act 1998.
- 4.3 Both organisations believe that the arrangements set out in this protocol are compliant with the relevant aspects of the legislation referred to above.

5. Joint Responsibilities RQIA and NISCC

- 5.1 The working relationship between RQIA and NISCC will be characterised by regular on-going contact and exchange of information in respect of areas of mutual interest.
- 5.2 Annual Meetings will be held between the Chairpersons and the Chief Executives of the two organisations. Each organisation will ensure their staff are aware of the content of

this protocol and the responsibilities it places on individual members of staff. Responsibility for ensuring that each organisation understands the other's respective regulatory responsibilities rests with the Chief Executives of the two organisations.

- 5.3 Relevant staff from both organisations will liaise with each other regarding issues needing co-operation and joint action.
- 5.4 The Director of Regulations and Standards at NISCC and the Director of Regulation and Director of Mental Health and Learning Disability Services at RQIA will meet six monthly. The Directors will ensure that there is, in so far as respective legislation, rules and policy allow, consistency between the two organisations in terms of the conclusions they reach on matters relating to the health, conduct and good character of applicants or registrants. To this end, there shall be an exchange of accounts of decisions by the organisations relating to refusal to register or removal from the register or conditions placed on their registration, which shall be used as a basis for discussion, and for informing decisions on individual cases. NISCC will ensure that the decisions of Conduct Committee Hearings are notified to RQIA. Any enforcement action taken by RQIA which could have direct implications for individuals on the social work register will be notified by RQIA to NISCC.
- 5.5 Examples of how the two organisations will exchange information and co-ordinate their activities are:**
 - 5.5.1 The sharing of information about issues which relate to the shared aim of supporting regulated services and the staff registered by NISCC working within them. NISCC will be advised of any RQIA Review Reports or reports of Clinical and Social Care Governance Reviews that have relevance to the work of NISCC. These can be accessed also via the RQIA website.
 - 5.5.2 Co-ordination of training programmes for appropriate staff, particularly those involved in registration and conduct within NISCC, and regulatory functions within RQIA.
 - 5.5.3 Each organisation will notify the other of any concerns they receive about persons or services that fall within their respective responsibilities. This might include anonymous or unsubstantiated reports e.g if NISCC receive information about a service that appears to be operating illegally, as an unregistered setting.
 - 5.5.4 Each organisation, to the extent that it is reasonably able to do so, will provide information for investigations and initiatives to promote the objectives of the two organisations. If asked, each organisation will endeavour to assist the other in securing expert advice.
 - 5.5.5 The organisations will share details of their procedures for dealing with complaints and guiding principles for initiating an investigation, ensuring that complainants receive accurate information about the most appropriate avenue for pursuing concerns.

- 5.5.6 The organisations will share details of their registration procedures and any enforcement activities eg. Failure to comply notices issued by RQIA.
- 5.5.7 Each organisation will consult the other in relation to internal guidelines where they relate to the other organisation's responsibilities or interests.
- 5.5.8 Each organisation will liaise with the other in order to determine how any media interest relating to a mutual concern is to be handled.

5.6 Examples of how the two organisations will communicate in order to promote consistency of advice on matters for external consideration will include:

- 5.6.1 Consulting each other in relation to guidance, drafts or sections of public reports produced by one organisation that refers to the responsibilities or functions of the other, to ensure factual accuracy and to benefit from each other's knowledge and expertise.
- 5.6.2 Involving each other, as appropriate in conferences and other public discussions about their respective roles and other matters of mutual interest e.g. User Participation.
- 5.6.3 Assisting each other to disseminate information about good practice in social care.
- 5.6.4 Involving each other as appropriate in working groups, meetings and discussions with other organisations e.g education providers on issues such as good practice in social care or regulatory processes.

6. Exchange of Information to support regulatory activities

- 6.1 NISCC has a responsibility for setting and promoting standards of practice for social care workers and their employers and discharges its responsibility by publishing Codes of Practice for Social Care Workers and Employers.

The Code of Practice for Social Care Workers is a list of statements describing the standards of professional conduct and practice required of social care workers as they go about their daily work. The Code of Practice for Employers of Social Care Workers sets down the responsibilities of employers in the regulation of social care workers.

RQIA is required to take account of relevant legislation, regulations and standards, and where appropriate the Codes of Practice, through its registration and inspection processes. Both organisations will collaborate to effectively enforce the adherence to the Codes and generally promote the quality of service provision and to share information on the adherence to the Codes within services.

- 6.1.1 RQIA staff will operate within their existing regulatory responsibilities and RQIA staff who are registered with NISCC have an additional responsibility to act within their

professional codes in order to protect the interests of service users and carers. If in the course of carrying out registration, inspection, complaints investigations or enforcement action, concerns arise about an individual's professional conduct which calls into question their suitability for registration as a Social Worker or Social Care Worker, this protocol, provides a mechanism by which NISCC can be informed. RQIA will inform NISCC of enforcement notices issued to registered persons; where urgent action is taken via the court to cancel registration and where prosecution is considered for specified offences. NISCC will assess information received from RQIA and will take action as deemed necessary.

RQIA staff will discuss their concerns, in the first instance with his or her line manager in order to consider the facts, which might be believed to constitute professional misconduct. NISCC also has a policy to hold information about people who are eligible for registration as well as those who are registered. Throughout the document, the phrase "person registered with NISCC" covers both those registered and those eligible to be registered. Accordingly RQIA staff referring social care workers to NISCC shall do so whether the social care workers are registered with NISCC or are merely eligible to be registered.

6.1.2 NISCC and the RQIA also have a responsibility to inform PSNI and other relevant authorities if they have reason to believe that a breach of the law has occurred.

6.1.3 Normally, the NISCC and RQIA will not disclose the content of Medical Reports, Criminal Record Certificates in order to confirm suitability for registration, save with the consent of the individual concerned. However, where disclosure is necessary for the protection of the public or in the public interest, consent will not be the overriding factor and paragraphs 7.1 and 9.1 will apply.

7. NISCC's Responsibilities

7.1 The Chief Executive of NISCC decides on a case by case basis to disclose to RQIA any information which it considers to be necessary for the protection of the public and/or in the public interest to disclose. Where it is determined that disclosure should be made, the relevant information will be passed to the Chief Executive of RQIA. Examples of information which might be disclosed are:

- Information NISCC receives which casts doubt upon the suitability of an individual providing services or working in registered settings.
- Information that may have a bearing on individuals' registration status with NISCC, including a referral to the Independent Safeguarding Authority.
- Information NISCC receives about service providers which casts doubt upon their practices and/or their effectiveness in implementing NISCC's Code of Practice for Employers.

- Information discovered in the course of a conduct investigation, or collected in connection with an application for registration which casts doubt upon the suitability of individuals to work in a regulated setting or agency or on the practices of Registered Persons.

8. Information about individuals working for RQIA

8.1 NISCC may receive a complaint about a registered practitioner who they know to be, or believe may be working for RQIA. NISCC, will in these circumstances, write formally to RQIA's Chief Executive to disclose appropriate information about any concerns. The Committee Clerk of NISCC will inform the Chief Executive of RQIA of the outcome of any conduct/investigation or hearing.

9. RQIA's responsibilities

9.1 The Chief Executive of RQIA decides on a case by case basis to disclose to NISCC any information which it considers to be necessary for the protection of the public and/or in the public interest to disclose. Where it is determined that disclosure should be made, the relevant information will be passed to the Chief Executive of NISCC. Examples of information which might be disclosed are:

- Information RQIA receives which casts doubt upon the suitability of a Registered Person to also be registered with NISCC.
- Information that may have a bearing on a Registered Person's registration status with NISCC, including a referral to the Independent Safeguarding Authority.
- Information RQIA receives about a Registered Person which casts doubt upon their practices and/or their effectiveness in implementing NISCC's Code of Practice for Employers.
- Information discovered in the course of an inspection or investigation, or collected in connection with an application for registration which casts doubt upon the suitability of a Registered Person to be registered with the NISCC.

9.2 RQIA will expect the Registered Person (i.e. the person registered with RQIA) to refer any issues that raise concerns about the conduct of Social Workers or Social Care Workers with NISCC. This would satisfy RQIA that the provider was fulfilling his or her duties and responsibilities as the registered person, in addition to his or her duty as the employer.

9.3 Where RQIA has considered that the Registered Person(s) is obliged to report the issue to NISCC and they have failed to do so, RQIA will report the issue to NISCC. RQIA may do this in addition to considering taking regulatory action under the Health and Personal Social Services (Quality, Improvement and Regulation) (NI) Order 2003.

9.4 Where RQIA issues a Notice that proposes the cancellation of a person's registration or itself makes a referral to the Independent Safeguarding Authority, based on information which may call into question that person's registration status with NISCC. RQIA will inform NISCC of this information.

10. Investigations and inquiries relevant to both RQIA's and NISCC's functions

10.1 It is possible that an investigation by NISCC into an individual's practice could coincide with an inspection of a setting, or an investigation into the conduct of the establishment or agency by RQIA. It might also be the case, in a child or adult protection situation for example, or a criminal investigation that other statutory agencies are involved. Should such situations arise then RQIA and NISCC will be committed to the following principles:

- RQIA and NISCC should co-operate closely with each other.
- The relevant Director(s) of RQIA and the Director of Regulation and Standards of NISCC will hold a strategy discussion or meeting. This will also consider the role that other investigating bodies such as the police may need to play.
- The outcome of this will be confirmed in writing. This will necessitate planning activities so that they are complementary, keeping each other informed of developments, sharing appropriate information in order to minimise burdens and enable greater efficiency and effectiveness, and pooling effort wherever possible.
- Care will be taken at all times not to contaminate a trail of evidence, which is the subject of either party's enquiries.

10.2 RQIA and NISCC will clarify respective roles and responsibilities for the two investigations at the time they are being planned. Those conducting the investigations will work closely together, but the investigations will remain separate. The limit of each investigation will be clearly defined.

11. Reconciliation of disagreement

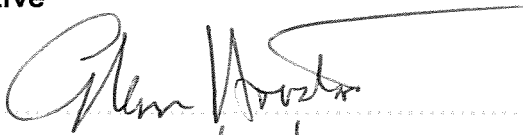
Both organisations will seek to resolve any disagreements amicably at a working level between the relevant officials. If this is possible, it may be referred upwards through those responsible for operating this Memorandum, up to and including the Chief Executive of the respective organisation, who will be responsible for ensuring a mutually satisfactory resolution.

12. Review of this protocol

If further opportunities for co-operation are identified, this protocol will be reviewed and revised as necessary to reflect the new proposals.

**Glenn Houston
Chief Executive
RQIA**

Signature



Date

10/10/13

**Colum Conway
Chief Executive
NISCC**

Signature



Date

10 October 2013