Independent Whole Systems Review

into Safeguarding and Care at Dunmurry Manor Care Home

EVIDENCE PAPER: 3

Regulation and Inspection

October 2020

Contents

Section A: Introduction

Background

1. The experiences of many people living at Dunmurry Manor Care Home ("DMCH") between 2014 and April 2017, as documented by the Commissioner for Older People for Northern Ireland's ("COPNI") report *Home Truths,* amounted to a failure of the care home system. When such failings occur and older people do not get the care that they require then the public turns to the regulator and asks questions such as: Were statutory duties discharged? Were the staff employed to support regulation through inspection and compliance, trained and enabled to use their powers? What oversight and governance prevailed during the relevant timeframe? What steps would be taken to prevent the same happening to other care home residents and their families.[1] Just as in all fields of human endeavour, the public expects regulators to learn from their mistakes. It expects accountability.
2. The Regulation and Quality Improvement Authority ("RQIA") should rise to such challenges through its engagement with residents, families, carers, providers and commissioners. It is an independent arms-length body[2] responsible for regulating (registering and inspecting) as well as monitoring the availability and quality of health and social care services in Northern Ireland and encouraging improvements in the quality of those services. As such it is one of the foundations on which the Health and Social Care Board ("HSCB")[3] commission services and the Health and Social Care Trusts ("HSCTs") access and arrange appropriate care to support people, families and communities.[4]
3. The Independent Review Team ("IRT") did not find collaborative, positive cultures or the working relationships necessary for an effective care home system. As a result, many older people in Northern Ireland were not always getting what they required. That is, public funds were not deployed to best effect and employees across sectors found functioning in their professional domains frustrating. This applied to those providing daily personal care through to those overseeing contracts, commissioning and care management.
4. A robust, fiscal analysis of the true cost of care is overdue in Northern Ireland – such an analysis may show that resources and the need for more funding played a part in what happened at DMCH – however the Independent Review concerns all systems and structures.[5] Those with power, whether as government, commissioner or regulator, lacked

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1 A common question put to the Independent Review Team by people it met.

2 The Regulation and Quality Improvement Authority (RQIA) was established as a body corporate under The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003. It is the independent health and social care regulatory body in Northern Ireland. It is a public corporation; and an Arm's Length Body of the Department of Health.

3 The IRT was informed of a planned transfer of HSCB responsibilities to the Department of Health and the Public Health Agency and that key positions had not been filled when vacancies arose.

4 The RQIA Vision is to be "a driving force for improvement in the quality of health and social care (HSC) services in Northern Ireland."

5 The IRT has written six Evidence Papers concerning Adult Safeguarding/Protection, Complaints, Regulation and Inspection, Assessment and Care Management, Care Home Providers and Commissioning. It is the Paper on Commissioning (Evidence Paper 6) which includes a consideration of the 'market' and the part played by finance.

clarity of remits, powers and responsibilities. A risk averse culture ensued, one which could identify lessons, but was compromised in its ability to make effective change.

5. This Evidence Paper is about how the core activities of regulation including registration, inspection and enforcement of care homes are undertaken by RQIA. The IRT has considered the accounts[6] of (i) family members and carers of residents at DMCH, (ii) the provider, Runwood Homes, (iii) care home managers and employees at other homes at the relevant time and (iv) the Department of Health ("DH"), HSCTs, RQIA and other public agencies. A picture of events has emerged which has been set in a wider regulatory context.
6. The IRT recognises that RQIA is taking steps to modernise its inspection methodology, enhance its IT functionality and establish the role of technology in ensuring regulatory excellence.
7. However, the IRT has questioned:
   - Why a new home was allowed to open without the manager being registered by RQIA.
   - The prompts that caused the way registration categories are applied to change.[7]
   - What prevented RQIA from taking enforcement action sooner?

   RQIA's registration and inspection activities were investigated by the Care Inspectorate (Scotland) in work commissioned by the Department of Health ("DH"). The report[8] stated, ***"…the RQIA regulated Dunmurry Manor Care Home in accordance with the policies and procedures in place at the time*** [emphasis added]. Significant consideration has been given by RQIA into ways in which they can improve their systems and process and work is in progress in a number of areas covered in the recommendations in this report."
8. The IRT asked RQIA and DH to share the terms of reference and instructions that underpinned the Care Inspectorate (Scotland) commission. On 27 November 2019, the DH provided the requested information. The terms of reference were to provide the DH with an assurance as to the appropriateness of RQIA's remit in regulating DMCH and of RQIA's response when issues arose. The full terms of reference are set out below:

   "Specifically:

   (i) To review the actions taken by RQIA in respect of pre-registration; registration; and inspection activity to ensure these align with policies and procedures; (ii) To review and assess the actions taken by RQIA when non-compliance with standards and regulations was found by inspectors and determine if these actions were in line with policies and procedures and appropriate given the level and scale of any non-compliance; (iii) To make any recommendations for improvement in respect of the policies and procedures referenced above; (iv) To consider the powers granted to RQIA by The Health and Personal Social Services (Quality, Improvement and Regulation)

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[6] The sources of data and information are documented in Appendix A

[7] See paragraph 321

[8] *Rapid Investigation into the Regulatory Response to issues at Dunmurry Manor Care Home by the Regulation and Quality Improvement Authority (RQIA)* published October 2018. See https://www.health-ni.gov.uk/publications/reports-dunmurry-manor-care-home (accessed 18 December 2019). This is summarised in paragraphs 180-199.

(Northern Ireland) Order 2003 and consider any additional powers or flexibility under the legislation which would have enabled RQIA to have more effectively discharged their regulatory role in respect of Dunmurry Manor Care Home."

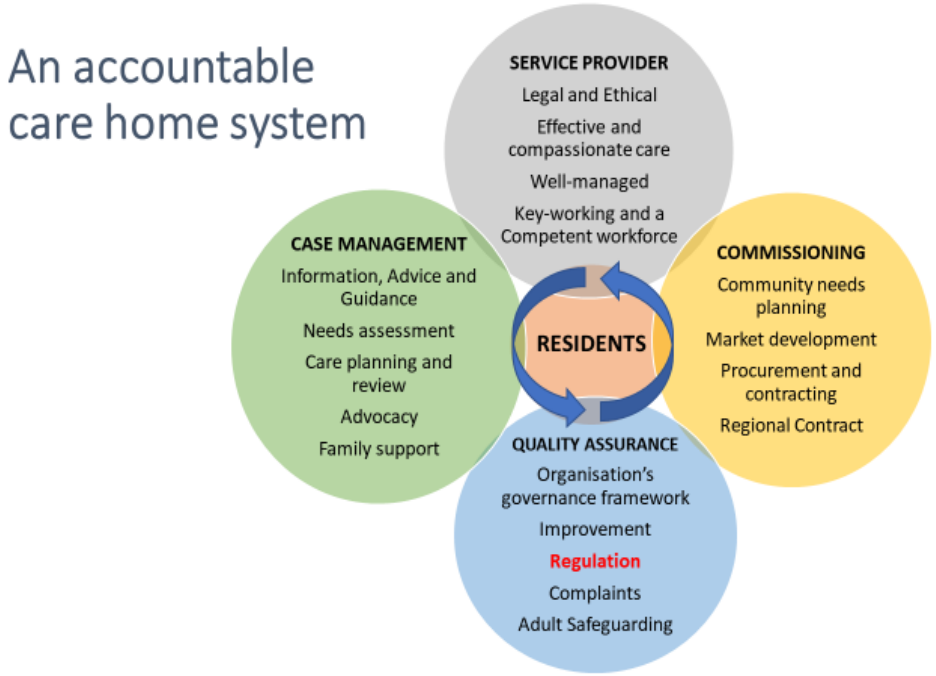
9. Questions are searching when failure in the delivery of care is associated with harm that potentially curtails an older person's life. It is at this point that other authorities become engaged and investigations and enquiries must be conducted for a quite different purpose. At the time of writing, the Police Service of Northern Ireland (PSNI) was investigating.

Context

> "The choice is not whether to keep services as they are or change to a new model. Put bluntly, there is no meaningful choice to make. The alternatives are either planned change or change prompted by crisis." R. Bengoa (2016) *Systems, not Structures: Changing Health and Social Care*

10. The families of DMCH residents approached the COPNI to express their significant misgivings about the standards of care at this home. They reported that since Runwood Homes, DMCH itself, RQIA, the HSCTs and the Patient and Client Council ("PCC") had not addressed their complaints, they had nowhere else to go. COPNI's report into the investigation of DMCH, *Home Truths,* was published on 13 June 2018. It is critical of RQIA. A set of nine of the 52 recommendations concern Regulation and Inspection.
11. The expectation is that care homes are fully compliant with regulations and standards. The regulation of care homes, the standards, the fitness[9] of those who own and manage them and the protection of older adults from neglect, harm and poor care are the legitimate terrain of RQIA, that is, its registration, inspection, enforcement, governance and statutory framework.
12. The position of care home service regulation in the context of the whole systems review is shown in the graphic below.

[9] Workforce regulation and its interface with RQIA is an important aspect of regulatory practice.



Methodology

13. The purpose of this Evidence Paper is to inform and advise those responsible for formulating and implementing change. It expands on the COPNI's findings; considers the service[10] regulatory system around care homes; the interfaces of adult safeguarding, complaints, contracts and regulation as well as between providers of care and the DH, the HSCB, the RQIA and HSCTs, for example. It addresses the question of what regulation achieved for the residents of DMCH and the broader impact on residents of all care homes and their families.
14. The Paper is based on data and information from a range of sources including desktop research, interviews, group meetings and larger, conference style gatherings.[11] The IRT has engaged with everyone who approached it - meeting with individuals, families affected by events at DMCH and other care homes, over an 18-month period. [12]
15. The Evidence Paper opens with the perspectives of families, care home proprietors, managers and staff concerning RQIA and DH. These underpin the need for participation in learning, change and the development of regulatory practice. Next, there is a consideration of the function of RQIA as the care homes' regulator; and of the registration and inspection of DMCH. A detailed narrative follows concerning RQIA's inspection and enforcement activities and the contract and quality monitoring undertaken by the HSCTs. This leads into an overview of how RQIA works and operates.
16. Summaries of critiques of RQIA since 2010, including *Home Truths,* are presented and lead to an overview of governance arrangements and accountability. The final sections consider

[10] An RQIA-regulated care home establishment provider has workforce regulators for individual professions as well as regulators related to health and safety, environmental health (specifically food hygiene), fire safety, charities and competition and markets.

[11] See Appendix A

[12] The fieldwork was conducted between September 2018 and March 2020. Dialogue with the Interim Chair and Chief Executive of RQIA throughout 2020 and into 2021 – as did discussions with DH officials.

the changing context of RQIA's operations and make the case for a renewed focus on the core activities of regulation – registration, inspection, enforcement and improvement.

17. Throughout sections are concluded with "POINTS TO CONSIDER." These reflect the IRT's emergent learning including suggestions and ideas for change as well as discussions with contributors – both professional and non-professional. They reflect the "no surprises" approach of the IRT. The process of identifying them has helped to clarify thinking and has shaped the specific advice and "Proposed Actions" in the final section of the Paper.
18. There are several actions that ought to be taken and can be initiated without waiting for the perfect solution or the right time. The interpretation and use of inspection data and information is one means of checking the conduct of a home. RQIA's improvement activities are directed at supporting providers to comply with regulations and maintain standards. Its enforcement activities should hinge on the gradual but timely and proportionate use of legal powers and duties to ensure providers comply with the regulations and meet standards.
19. Events at DMCH confirm the critical need for decisive action in making sure that homes are fully compliant with regulations and standards. This is not separate from the tasks of seeking to understand the factors which led to harm. Actions must be do-able, they should involve families and providers and demonstrably add benefit to people's lives. They must be proportionate, transparent, risk-benefit based and credible.

Section B: Experiences and Perspectives

The experience of older people and their families

20. The experience of older people and families is at the heart of this Review. For many, DMCH was their first contact with social care and the regulator, the RQIA. The IRT found that families do not really want to know about policy, procedure and practice when they see their loved one in an unacceptable condition. What they want is the issue resolved quickly and if it is not, they want to know what they can do about it – to challenge. For families at DMCH their experience was one of not being listened to or believed. The *Home Truths* report confirmed for families that their concerns were substantiated and that they were right to challenge. The IRT listened to what families had to say about their experiences and asked some searching questions. Families relayed reasonable and appropriate concerns with suggestions for change which reflected their personal contexts, were borne out of wanting the best for their loved one and what they believed a care home regulator should do.
21. Many families have met the IRT[13] and the Permanent Secretary at the Department of Health, convened a DMCH Families Meeting. All meetings presented opportunities to hear families' experience and questions concerning RQIA. The relevant contexts are the suffering endured by older people at DMCH; the inattention to their health, welfare and wellbeing; and the failure of compassion in dealing with their relatives' questions and complaints. Families were critical of the practice of individual inspectors; of the systems within which they worked; and of processes which were experienced as unresponsive and uncaring.
    a. There was a strong sense from families of the necessity of **fundamental RQIA re-design**:
        - "I don't want this to ever happen again to another older person or their families.
        - The whole structure is a farce. RQIA is a farce – they never visited at weekends or at night-time[14] and responsibilities are mashed up. It's disgraceful.
        - What are the baseline standards that RQIA are looking for? They focus on records too much and make judgements about homes from the records instead of getting involved with older people and families.
        - The whole system needs overhauling.
        - Drop the system and start afresh.
        - Why is work duplicated between RQIA and the Trusts? Who has the authority?
        - RQIA would not meet with us. All we wanted to do was to tell them about our concerns.
        - There were two care staff at the home who were very kind, but they were frightened when inspectors visited.
        - If they did an occasional arranged visit, then beforehand, families would know about it and be able to contribute and have their say."

[13] The meeting, which took place on 11 April 2019, was attended by the DH Senior Team and by 69 individuals as well as the IRT.

[14] The IRT was advised that RQIA's practice of visiting out-of-office hours has changed. This was recommended by the Donaldson Review and Care Inspectorate Scotland

b. Families said that they wanted their **complaints to be addressed.** They considered that inspection reports should take account of learning from complaints:
   - "The [inspection] report misses a lot of points, such as information about complaints.
   - Why don't they deal with complaints? What does it mean when they say it must be [a] breach of regulation?
   - The [inspection] reports at times don't make sense. They generally read all the same, don't cover some of the areas such as complaints, too much is generalised. Inspections are about checking records.
   - I was in the home [DMCH] when an inspection was being carried out. They were in a room and were looking at records. They popped in and out of the day rooms but I walked past them and they never stopped me. It is not about the people who live there it is about the records."

c. Relatives want assurance of **effective external scrutiny of nursing homes and care homes for older people**:
   - "Something like Trip Advisor – stars on the doors for homes.
   - Why don't RQIA do something about men going into my mother's room? They seem indifferent to everything – is it not their job to ensure people are protected?
   - [Paper] copies of inspection reports should be sent to relatives.
   - Inspections at the weekends and in the evenings – care homes can't demand to know when inspections take place.
   - They need to think about practical outcomes – all older people are different so why generalise everything? My Dad never looked clean and tidy, just sat in a chair. Why aren't inspectors picking this up?
   - I telephoned RQIA but they were not interested - said they would take a message and then advised me to go the Trust. I went to the Trust and the staff at the home. It is so wrong.
   - Safe staffing levels known so we understand what "fully staffed" means.
   - A staffing standard in the minimum standards which enable cover during staff breaks at night, for example.
   - Copies of the most recent inspection report available in homes' reception areas
   - More inspections, including out of hours.
   - Why doesn't RQIA have a website like the CQC's with videos and a blog for example?
   - Ratings of homes would be welcome – like Trip Advisor – and undercover visits/ mystery shoppers.
   - How many strikes before a home is out? It has to be clear why the RQIA is tolerating poor practices. How many times do homes have to get it wrong before any action is taken?
   - A more public facing RQIA.
   - A survey of families to get their views."

d. Families do not know **what to expect** prior to their relatives' admission to homes. The following suggestions underline the importance of engaging with older people's families and understanding that they care about their relatives. They want the best possible care for them and to maintain their relationships. Some of the suggestions matter a great deal and yet do not feature in the regulation and standards checks.
   - "Why are there no comments about how older people are admitted to homes in their reports? Do they check these areas during visits?
   - A factual Information Pack for people going into care homes – describing in simple language what the process is; the roles of the Responsible Individual and Registered Manager; and how to contact them for example.
   - Information visible in reception about the Responsible Individual; who to contact to make a complaint; how to contact the owners.
   - A clear structure. [knowing the senior management team at the home – who they are and what their role is]
   - A visible manager and accountability at the highest level.
   - Knowing about care managers and what they do. I'd never heard of them and when [I was] asked who Dad's care manager was, I said "I am" because I was caring for him.
   - Information about the qualifications [and training] of managers and staff."

e. Families' trust and **confidence in the experience, knowledge and training of staff in homes** has diminished because DMCH, during its first three years of operation, failed to provide adequate, "basic" care. Families identified the following potential improvements – which would require a shift in the powerbase of homes and RQIA –
   - "[Evidence of] working to need rather than numbers of residents.
   - Stopping managers who are *no good* moving around the homes.
   - Challenge to claims of "specialism" that are inaccurate e.g., it was called a new state of the art dementia home and yet one carer said, "we're only getting dementia training today."
   - Stop staff coming and going all the time. It's so hard for residents getting used to new staff.
   - Accountability so that homes don't get away with taking people's money [from fees] and harming them.
   - Get the essentials, the basics, right. We brought Mum out because of the way things were and she died within 24 hours.
   - We want accountability and consequence…large fines.
   - RQIA should look at the companies [with portfolios of care homes] as a whole."

(NB: the points presented are entirely the views and opinions of families and relatives. They are deliberately presented without judgement and include contradictions and considerations that are outwith existent policy and best practice. They "are what they are" in the context only of what happened to them at DMCH and their wider knowledge and experience of social care and other services.)

POINTS TO CONSIDER – Learning and Change

- ✓ Families' contributions to the Review point towards aspirations for: fundamental RQIA re-design; addressing complaints; effective external scrutiny of homes; knowing what to expect of care homes; and restoring confidence in the experience, knowledge and training of care homes' staff.
- ✓ An RQIA engagement and communications plan produced with older people and families would be helpful. For example, the IRT was told that it should undertake *surveys,* that *questionnaires don't work;* and that inspections should consider *what it is like for an older person to live in a care home.*
- ✓ RQIA should devise ways of capturing the experiences of people whose challenges and complaints had been dismissed.
- ✓ Inspectors should be expected to speak to care home residents and spend time observing residents' experience at the home.[15]
- ✓ Inspections can be arranged at times to suit relatives and to be 'visible and available' to the residents and staff of a care home.
- ✓ RQIA should be proactive in shaping public expectations. Families consider that inspections should reflect what they see as frequent visitors to homes.

The perspective of homes' managers, owners and staff

22. At working sessions with providers, at other meetings and during visits to homes, the IRT listened to people's accounts of managing and working in care homes. Views were expressed about the RQIA, about the HSCTs and DH and their interfaces.

Views about RQIA

- "There is inconsistency between inspectors and in how they assess and make judgements.
- They make judgements about the whole home from a small sample size of records.
- The feedback session at the end of the day is variable and issues appear in the reports that have not been discussed.
- Being called into "serious concerns" meetings and full information not disclosed to us and then the meeting being recorded, and we are not given copies of tapes. We have no choice in these matters, but this displays a lack of trust.
- We are powerless and they often don't listen, major issues with clarity on staffing levels.
- We would like to see the staffing changed because there are not enough staff and ratios restrict us so much. We are responsible for the staffing and we need to own that to be able to reflect to people's needs. This could lead to more people on duty at the times needed.

[15] See, for example, the Short Observational Framework for Inspectors (SOFI) https://www.cqc.org.uk/category/keywords/sofi (accessed 19 June 2020)

- Telling us what we can't do and not what we can do, [needs to change, for example,] using the advanced care practitioner[16] role for senior care staff.
- They would not listen to us about the impact of the registration categories on older people… they always know best.
- We are always to blame and get treated differently than people working in Trusts or hospitals.
- They do not treat us as equal professionals. They don't value care homes for older people and there is a blame culture."

Views about the Relevant Authorities (DH, HSCTs and RQIA) – at the interface

- "Major problem is the autonomy of the Trusts that leads to confusion and duplication, without any benefits for care or older people. What does the DH do about it?
- [There are] considerable levels of Notification to the Trusts as well as the RQIA, with no apparent benefits.
- Everyone expects and demands an over-medicalised care approach. Is that what the Department wants? Is it what people and their families want?
- Safeguarding and reporting to RQIA and Trusts is bound up with everything; with a considerable administrative burden for providers in time, attending meetings and completing paperwork.
- Different forms of which many are not fit for purpose.
- Families are left too long waiting for issues to be resolved.
- Trusts believe they are the monitors of care homes, arrive in homes unannounced and give variable instructions to staff. Many of these people from the Trusts have never worked in a care home.
- What is the role of RQIA and the role of the Trusts? Why are they all doing inspections?
- Homes are inundated with unannounced visits from Trust staff and others."

Care home providers are exercised by funding arrangements and the implications for residents' families. The matters are addressed in Evidence Papers 5 and 6 on Care Home Providers and on Commissioning.

POINT TO CONSIDER – Learning and Change

- ✓ Learning from the experience of the people who own and provide services and their employees underscores the importance of their participation in defining regulation, inspection and monitoring and the requirements of each. They favour being participants rather than spectators. Their experience illuminates the processes that impact on people's lives.
- ✓ The knowledge, skills and experiences of care home managers and staff are relevant to improving people's health and social care.

[16] Sometimes referred to as Care Home Assistant Practitioners (CHAPs)

Concerning the remits of the DH and HSC authorities

23. The IRT met for the first time with the sponsorship team at DH on the 28 November 2018. There were subsequent meetings and correspondence exchanged between them and the IRT. Correspondence dated 12 September 2019,[17] stated that "The Department is aware of confusion amongst some HSC staff, the general public, media and a number of other statutory agencies about [the] regulatory framework…RQIA regulate establishments and agencies…HSC Trusts (not RQIA) are responsible for monitoring the quality of care and the delivery of care plans for individuals for whom they commission domiciliary care, residential and nursing care" [para 4.7].
24. This position was augmented to the IRT in the statement following:
"The Department of Health's policy is that responsibility for quality of care sits primarily with the provider, then the commissioner and then the regulators (including those responsible for the regulation of Health and Social Care staff). Our regulatory policy and statutory arrangements reflect this.
RQIA regulates establishments and agencies. Providers and commissioners of services are responsible for the quality of care delivered to individuals and this principle underpins the regulatory framework in Northern Ireland.
The statutory arrangements within the 2003 Order which impose a Statutory Duty of Quality on HSC bodies requires that they have effective systems of governance in place with regard to the services they provide and the services they commission. The statutory framework, the role of commissioners and the arrangements described in the Adult Safeguarding Policy all align with this Statutory Duty of Quality.
It is not the Department's intention that the responsibilities of providers and commissioners, for the quality of care, should be weakened by transferring the responsibility for monitoring the quality of care provided, to individuals, to an independent regulator."
25. It is the system at the interface between the responsibilities for the individual older person and the establishment where they live that has exercised the IRT. The care regulator is RQIA. They describe themselves in their literature and on their website:
RQIA registers and inspects a wide range of health and social care services. Our inspections are based on care standards which will ensure that both the public and service providers know what quality of services is expected. Our inspectors visit a range of services…to examine all aspects of the care provided to ensure the comfort and dignity of those using the service.

    Other statements:

    The Regulation and Quality Improvement Authority (RQIA) is the independent body responsible for monitoring and inspecting the availability and quality of health and social care services in Northern Ireland and encouraging improvements in the quality of those services.

[17] Concerning "clarity…to allow a fuller understanding on Departmental policy matters falling to me."

Enforcement action is an essential element of the responsibilities of RQIA. There is a range of enforcement options to ensure compliance with regulations and minimum standards; to effect improvements; and to afford protection to service users.

26. RQIA is responsible for the registration of all care homes including the registration of the person responsible for overseeing the management of the registered establishment. The manager of the establishment also requires registration. It is responsible for the regulation of *all aspects* of the quality of the service.[18] Whereas the duties and responsibilities of HSCTs are in the commissioning role of contributing to and funding placements in care homes. The remit of HSCT's involvement with people needing support services and their families is about the individual. The individual person is assessed by the HSCT and outcomes of that will determine the type of services a person needs. The HSCT care manager[19] then has a responsibility to ensure the services are meeting the person's assessed needs. A way of ensuring this should be by regular care reviews.[20]
27. HSCT's staff are not inspectors and do not have the powers and remit attached to care inspection work. The approach of HSCTs of having monitoring teams purely for care homes creates confusion and duplication of work and adds to the burdens of already pressured families and care homes. The IRT noted evidence of differences of opinion in respect of standards between the RQIA and the HSCT in relation to DMCH that added to confusion for families and care home managers.
28. The intensive monitoring of DMCH by HSCTs for over two and half years was a prime example. It did not lead to sustained improvements or changes. The many people involved, often with their own views of what should happen, in fact caused confusion for families. If the approach of HSCTs had been to carry out more individual care reviews, prepared reports to inform care plans and listened to the views of residents and families then perhaps there would have been timely improvements and/or changes for individuals.
29. At working sessions with providers and other meetings with people and organisations who are involved in care homes, the IRT heard that:
    - "Admissions and discharges and general approach for care of older people are not good enough. The DH is not proactive enough in policy terms. There are examples of older people being taken out of their beds in hospitals and left to sit in day rooms, often without support for long periods,[21] awaiting discharge.
    - No choices in care provision and for too many older people the only choice offered is care homes.

[18] This includes RQIA serving Failure to Comply Notices and Cancellation of Registration where there is evidence of continuing non-compliance with the care regulations.

[19] Care managers are commonly social workers and sometimes nurses or occupational therapists. Care management is the subject of Evidence Paper 4.

[20] There are a small number of privately paying residents living in care homes where an HSCT is not the commissioner and has no contractual role.

[21] Families and hospital social workers confirmed how people are moved from their beds to a lounge to await discharge and there are times there is no staff present.

- Managers and senior staff from homes complain when they visit the person in hospital and are not allowed to see the records and are often misled about the ability of the person to care for themselves. The system doesn't work.[22]
- [There are] no consistent approaches to what the criteria are for residential or nursing care.
- People from the Trusts visit and monitor the homes, but they don't see us as important. We are not valued. We carry out most of the care work with the residents but aren't recognised or seen as well trained, but we often get blamed when things go wrong. We are invisible - so why do this work?
- So many care staff leave this work not just because of the demands of the job but because we are not recognised or valued. It is worst in nursing homes.
- Nurses in care homes are not valued or seen as equal to Trust or hospital staff.
- [There is] no joined-up planning on the workforce issues about numbers of nurses needed.
- RQIA changed the parameters on registration categories without discussion and left us to work with older people and families who had to move rooms and homes. It was very distressing. As commissioners of care, we want to see older people settled and live out their lives in care homes and that must be an aim for the future – services to people and not people to services.
- RQIA expect us to follow up on Failure to Comply Notices when it must be their job.
- No idea how RQIA are held to account by the DH."[23]

30. If families of DMCH residents were to list their aspirations across the HSC system, it would include:
    - Valuing and respecting people's rights and preferences.
    - Acknowledging that care homes are people's homes and that residents require security of tenure. The practice of transferring residents within a home and to another care home because of changing support needs should cease.
    - Ensuring: the provision of services to promote faster recovery from illness, prevent unnecessary acute hospital admission and premature admission to long term residential care; that age is not a barrier to older people getting the right care, health and medical treatment as required; that older people's relatives are listened to and actions are taken when there are misgivings about services; and that DH, HSCTs and care providers are transparent about mistakes, holding agencies to account, taking the necessary action and apologising.

[22] The IRT was not advised to the contrary during its fieldwork or of any process to improve hospital discharge.

[23] NB: the points presented are entirely the views and opinions of providers and organisations met by the IRT. They are deliberately presented without judgement and include contradictions and considerations that are outwith existent policy and best practice.

31. Although these aspirations do not directly impact on RQIA's operations,[24] they are of strategic importance to the context of care:
    - "The funding arrangements for care should be reviewed totally.
    - The base line fee is too low. Tariff is controlled by the Trusts.
    - Top Ups are confusing. Older people are not allowed to be involved leading to pressure on families.
    - The phrase "Top Up" is derogatory.
    - Personal Allowance and the controls on what people can spend reduces choices for people, most particularly for residents with learning disabilities.
    - [There is] too much variability from Trusts.
    - Northern Ireland needs more options for older people requiring care. Who leads on this at the DH?"[25]

POINTS TO CONSIDER – Learning and Change

- ✓ The DH, RQIA and HSCTs' policies are the basis for putting human rights into practice. "The registration and inspection process must ensure that care providers comply with the legal obligations imposed on them in terms of human rights". (*Home Truths* recommendation 6)
- ✓ Clarification of the remit, powers and resources of HSCTs is overdue and would be welcomed.
- ✓ RQIA has powers in registration, inspection and enforcement to hold care home providers to account and oversee improvements.
- ✓ Impact assessments of policies – such as changing registration categories – must consider the implications for residents' rights.
- ✓ Overseeing care home establishment enforcement action is RQIA's responsibility. The statutory duty of quality requires HSCTs to ensure the quality of service to individuals.
- ✓ Where there are overlapping statutory duties, no agency can abrogate responsibility for discharging these. They can clarify lead responsibilities and avoid duplication.

[24] Although the questions of commissioning and 'the market' is the topic of Evidence Paper 6 they are included here both as context and to reflect the reality that families do not think or communicate their views in neat organisational silos.

[25] NB: the points presented are entirely the views and opinions of people and organisations met by the IRT. They are deliberately presented without judgement and include contradictions and considerations that are outwith existent policy and best practice. There is learning from what people say even if it is sometimes inaccurate.

Section C: The operation of RQIA

Regulating care homes

The Terms of Reference for the Independent Review includes:
"The quality assurance system considering the **remits and responsibilities of regulators**, commissioners and providers to ensure quality and robust governance for the provision of care, how well these are understood by different parts of the system and how well they are discharged."

The purpose of regulation

32. Care homes are regulated to provide confidence that residents are receiving a standard of service that ensures their safety, well-being and rights.
    - Through a registration process, the regulator confirms that the person(s) in control of the care home and the manager are fit persons and legally entitled to provide the service.
    - Through a registration process, the regulator may exercise control over who and what type of care home services are available.
    - Through inspections, the regulator may observe and report on standards at the home.
    - Through enforcement, the regulator may determine when regulations are not met and use its legal powers to effect improvements with appropriate, timely and proportionate interventions.
33. The RQIA is an advisory partner in the development and implementation of DH policy. Their professional expertise and knowledge of the field make an important contribution. All applications to register a care home must be considered and there is a determined regulatory process. Applicants may be informed about the direction of DH policy - the importance of *Power to People*[26] for example – the priorities of commissioners, the state of the market and the aspirations of older people and families for privacy, choice, safety, amenities, activities and community connectedness. As part of the process RQIA may advise, for example, about the preferred model of care; and the type of environment most suited to meeting the needs of older people.
34. If an application meets legal, policy and procedural requirements then it should be granted. Models of accommodation and the operations of the provider are business decisions. For example, the accommodation model may enable:
    - a 'seamless service' to enable residents to remain in their rooms or homes when their needs change;
    - a single staff group for a home registered for residential and nursing;
    - social care and health care assistants to carry out the same tasks;

[26] Kelly, D. and Kennedy, J. (2017) *Power to People: Proposals to re-boot adult care and support in NI – Expert Advisory Panel on Adult Care and Support*

- specialist training and career progression.

Registering a service

35. Registration is the opportunity for the regulator to ensure that all aspects of the care home service are fit for purpose. The process confirms that the care to be provided is suitable for prospective residents and their families.
36. People make their homes and build their lives in care homes. The way older people are cared for varies over time - especially as they approach the end of their lives. There are examples of older people retaining control over their lives in care homes and benefitting from new experiences and opportunities.
37. The owners, managers and staff of care homes are pivotal in ensuring the best of care, support and accommodation. There is an expectation that the person in control of the business is knowledgeable and trustworthy, for example.
38. It is the responsibility of the registration applicant(s) to demonstrate suitability of the premises, financial viability, workforce standards and the philosophy of care through policies and procedures. It is up to the regulator to use due diligence in gathering information and making a judgement. The phases in the registration of an individual or company seeking to open a care home are inter-related.
39. At the pre-application phase, on request, the care regulator provides an application pack for the potential registration applicant. This contains checklists and guidance about the application process. The documents must be returned with the required fee (Just over 10% of the costs of all RQIA activities are covered by fees levied – the regulated have a financial interest in the regulator) and the regulator processes the application. It is usual for new providers to seek a meeting with the regulator at which point it may be helpful for the regulator to set out the requirements of service types.
40. The second phase involves assessing the fitness of the application and ensuring that all parts are appropriately completed. Applications are made by different types of business – single individuals, partnerships and companies/corporate bodies. The process of assessing the application always involves interviewing the person to be registered and may involve others. A standard question: why do you want to become registered to operate a care home business? The concept of "assessing fitness" is the source of much debate and has exercised care standards tribunals [in England].[27]
41. The third phase concerns a judgement - Register or Refuse.[28] This Notice of Decision may:
    - Grant Registration
    - Refuse Registration
    - Vary, Remove or Impose conditions of registration

[27] For example, the term "fitness" has two inextricably intertwined components physical and mental attributes for example being well adapted or suited, good enough, qualified, competent, and the other constituent is moral qualities such as integrity, honesty, reliable, dependable, trustworthy, it is impossible to separate elements as they are all part and parcel of the whole. (Decision 340)

[28] The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 and associated Regulations, especially, The Regulation and Improvement Authority (Registration) Regulations (Northern Ireland) 2005

- Issue a Notice of Proposal about which the applicant may lodge an appeal
- Specify Conditions such as the maximum number of people to be accommodated and the category of person to be accommodated.

42. The registration process arises from extensive guidance. (Appendix B sets out the legislative architecture and details the content of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.)

Registering people – responsible individual and the registered manager

43. The Guidance Notes state: "Regulations pertaining to the individual regulated service types prescribes that the RQIA needs to be assured of the person responsible for overseeing the management of registered establishments [DMCH] and/or agencies. It is the legislative requirement under The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003, for a provider to make an application to RQIA in order to carry on a registered establishment or agency. A provider will come forward as either a sole person, a partnership or an organisation, as defined within Part 1 of The Regulation and Improvement Authority (Registration) Regulations (Northern Ireland) 2005. Where the provider is an organisation, [Runwood Homes] a nominated responsible individual must come forward in respect of this organisation, and where the provider is a formal partnership, all partners must apply to register as responsible persons….'responsible individual' means an individual who is a director, manager, secretary or other officer of an organisation and is responsible for supervising the management of an establishment or agency…"[29]
44. The application to register must come from the provider and if a company be signed by a director or senior employee – although the guidance appears to address the responsible individual. It includes a vetting process and requires an interview with the prospective responsible person(s). The requirements which relate to financial and business matters consider those who may be "supervising the management" of a care home and those controlling the business.
45. Each registered provider must have a responsible individual and a manager and, in certain circumstances, this may be the same person. The terminology[30] is sometimes confusing. It has changed over the years and is, on occasions, used interchangeably.

[29] RQIA *Application for Registration as person responsible for carrying on an establishment or agency – Guidance Notes* https://rqia.org.uk/RQIA/files/00/0012ea58-5560-40f2-8a14-2cd97a50b4d6.pdf (accessed 12 December 2019)

[30] See Citarella, V. and Kinsey, P. (2014) *Nominated as Responsible,* National Skills Academy for Social Care, page 15

- **The Registered Provider** is the owner/ person in control who runs the business and is ultimately responsible. Confusion arises when the terms Registered Person/ Responsible Person are applied to the person nominated to oversee the service. Nominated Person/ Nominated Individual may also be used.
- **The Responsible Individual** acts on behalf of the company in overseeing the service, reports to the board/owner and is responsible for the Regulation 29 visits.[31]
- **The Registered Manager** – has day to day control of the care home service.

46. Regulation 8[32] concerns the appointment of a home's manager. There are minimum standards which specify the criteria for manager registration. A person seeking to be the registered manager of a home must make an individual application to RQIA. Following a vetting process, applications may be granted or be subject to conditions. Only a registered provider may apply to remove these conditions. In addition, care home registration specifies the employees' requirements. Since at the point of registration the provider may not know all the employees, typically the requirement is addressed by reference to human resource policies, recruitment, training, numbers of staff, staff structure, skill mix and sample rotas.
47. Fulfilment of the role of the Registered Manager[33] is enhanced by professional supervision and support. In organisations that have groups of homes the Responsible Individual should either undertake this, delegate to a senior person or ensure that there are systems and arrangements in place to ensure supervision, governance and management oversight.[34] RQIA has to be satisfied with the management and governance arrangements for the care home which can be achieved through the Regulation 29 reports.

Models of service

48. In terms of the model of a care home service, at the point of registration RQIA will consider: the statement of purpose and service user guide, policies and procedures, information about the workforce, site and floor plans, the accommodation, facilities and services, the charges, security, fire safety and everything about the environment. If the applicant is an existing provider, RQIA may consider information about how the company operates. RQIA may seek assurances about how the care home will meet regulations, standards and DH policy objectives – such as supporting people to be independent and advancing their community and family connectedness. It is a statutory requirement that each care home have a

[31] Regulation 29, The Residential Care Homes Regulations (Northern Ireland) 2005 and the Nursing Homes Regulations (Northern Ireland) 2005. The visits can be delegated to a senior person or external consultant.
[32] Regulation 8, The Residential Care Homes Regulations (Northern Ireland) 2005 and the Nursing Homes Regulations (Northern Ireland) 2005
[33] See, for example, Frederick C. and Article Consulting (2017) *'In our own Words', what makes the Manager of an 'Outstanding' residential care home* https://www.nottinghamshire.gov.uk/media/125154/whatmakesoutstandingcareprovider.pdf (accessed 2 February 2020)
[34] *Good and Outstanding Care Guide*, Skills for Care, updated and online edition (2018), page 247

statement of purpose and service user guide[35] as well as guidance about how they can be made "bespoke."[36]

49. Part IV, Clause 35 of the 2003 Order sets out the role of RQIA. The IRT considers that RQIA could have made greater use of its powers. RQIA did not take an enabling view of its legislation. Its role in Quality Improvement, which flows from the Order, was viewed as secondary. RQIA's leadership could have been demonstrated by:
    - ensuring registration categories which promote people's expectation that their space is their home;
    - allowing providers to demonstrate that they have the appropriate skill and qualification mix e.g., it does not always insist on a residential home and a nursing home in the same facility having two registered managers.
    - seeking closer alignment with the workforce regulators and demonstrating support to employers recruiting, training, supervising and retaining motivated practitioners and managers; and
    - assisting providers to advance residents' human rights and their access to community health services.

Inspection

50. This is perhaps the most familiar feature of regulation's processes. Inspections are based on regulations and statements of minimum standards. They ensure that the public and the service providers know what is expected of services. RQIA inspectors may visit care homes at any time, request information, conduct private interviews and examine premises. The RQIA has the power to carry out both Announced and Unnanounced Inspection Visits at any time and there are instances when each are appropriate and meaningful in gathering a full and rounded view of how a care home operates. Reference to inspection reports, including DMCH, reveal that RQIA principally conducts unannounced inspections.
51. The resulting reports set out:
    - Requirements where regulations are not met.
    - Recommendations for improvement where standards are not being met, with progress to be reviewed.
    - Housekeeping points to assist providers to make rapid improvements to more minor problems; and
    - Examples of good practice.
52. The RQIA Provider Guidance 2016-17 for Residential Homes and 2019-20 for Nursing Homes both state:

    Our reports will reflect the findings from the inspection. It should be noted that inspection reports should not be regarded as a comprehensive review of all strengths and areas for

[35] In respect of DMCH these are considered in more detail in Evidence Paper 5 on the Care Home context.

[36] RQIA (2011) *Guidance for developing a statement of purpose* https://www.rqia.org.uk/RQIA/files/a7/a7d30261-5299-457d-a84a-0eba99f5137c.pdf (accessed 2 December 2019)

improvement that exist in a service. The findings reported on are those which came to the attention of RQIA during the course of the inspection.

This statement is on the front pages of inspection reports. This may create difficulties when identifying a home as a 'failing service and non-compliant'. If enforcement action is to be taken, then the inspection visit must be in depth and cover all areas of the home. This will then reassure people using the service and families and constitute a full and rounded view of how a care home operates.

53. For the provider, the inspection reports are what they are judged on. The importance of the regulator getting this right cannot be underestimated. Reports should not contain surprises for the care home manager. In all inspection reports the inspector will record any areas for improvements and areas of non-compliance with the regulations. These include a date of compliance. The IRT found that these contained phrases such as "to be completed and ongoing from the date of the inspection" or "to be completed immediately and ongoing". Some have specific dates and some add "ongoing". The care home managers and/or senior team need to be made aware of these requirements during the inspection feedback.
54. Yet providers told the IRT that at times the reports contained detailed information not shared with them at the feedback session. Drafts reports should allow for providers' comments and, perhaps disagreements, to be included in the final report. This should be sent "without delay…to each person who is registered in respect of the establishment or agency."
55. The provider can comment on the draft inspection report in writing to the RQIA within a time frame. The IRT heard from home managers and providers that if they submit comments on the report often the RQIA do not change the report. Discussion was held with RQIA about the importance of putting in place an independent feedback mechanism. Providers and managers expressed to the IRT how they would feel more comfortable if they could feedback independently on how the inspection was carried out and their names not supplied to RQIA.
56. There needs to be work on the factual accuracy of reports. Further work should consider opportunities for including or attaching provider comments to the report. There is benefit for the public in the regulator being transparent and providing full information.
57. Families and HSCTs' staff questioned the inspection report format. They suggested that the first part of the report could be at the end because it focuses on compliance since the last visit. They challenged the absence of in-depth information about the quality of people's lives, the number and types of complaints made and how these were managed. They reflected that the focus on record keeping and clinical issues trumped analysis and stated that the reports were repetitive. Regarding DMCH, there was a difference in findings between HSCT staff visiting the home and the information in inspection reports. One family member asked: *what baseline are the RQIA and Trust staff using? They see things so differently. Surely observations should be a main part of an inspection visit - appearance of people, standards of their rooms? Too many times people left in their rooms on their own.* The families who read inspection reports before visiting homes reported that they would not recognise the homes from these.

58. It was noted that RQIA may "recommend that the Department take special measures in relation to the body or service provider in question with a view to improving the health and personal social services…or the way the body, service provider…is being run."[37] In circumstances of serious concern in a registered service, the legal process should take precedence. Although DH may be briefed and consulted, the powers reside with RQIA to enforce compliance.

Enforcement and improvement

Policy and procedure

59. RQIA's website reveals ten policies and procedures: six of which concern Enforcement:
    - RQIA Enforcement Policy
    - RQIA Enforcement Procedures
    - RQIA Enforcement Review Panel Procedures in Respect of Written Representation Regarding Improvement Notice/s[38]
    - RQIA Enforcement Review Panel Procedures in Respect of Written Representation Regarding Failure to Comply Notice/s
    - RQIA Decision Making Panel Procedures in Respect of Notice/s of Proposal.
    - RQIA Decision Making Panel Procedures in Respect of Urgent Procedures

    The other RQIA policies and procedures are:
    - RQIA Escalation Policy and Procedure
    - RQIA Policy for Inspection
    - RQIA Research Policy and Procedure
    - Policy and Procedure on the Management and Handling of Complaints against RQIA, April 2018
60. This is appropriately suggestive of a remit that is concerned with implementing policy to the prescribed regulations and standards. Notwithstanding RQIA have a wider public interest remit in influencing not just regulation policy but that related to DH social care objectives. RQIA policies and procedures can be designed to ensure care homes are *homes* rather than just *establishments.* RQIA should have an input into the development and implementation of the processes of assessment and care management in relation, for example, to admissions and care review.
61. The enforcement policy states:

    "This policy sets out the general principles and approach that RQIA will follow in relation to enforcement. The 2003 Order[39] provides RQIA with statutory powers to take enforcement action. These actions are designed to protect the safety of service users and to address situations where there are significant failings and/or lack of improvement in the quality-of-service provision.

[37] Health and Social Services (Reform) Act 2009, Part IV, Quality of Health and Social Care, Paragraph 35 (5)

[38] An improvement notice specifies the evidence concerning a failure to comply in relation to minimum standards and the improvements the RQIA considers necessary

[39] The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003

RQIA advances a system of "firm but fair" regulation. It has adopted the principles outlined in the Principles of Good Regulation, Better Regulation Task Force, 2005. These principles are proportionality, consistency, targeting, transparency and accountability.

It should be noted that RQIA may employ simultaneous enforcement actions in regard to a registered service, provided the action is related to separate breaches of standards and/or regulations.

RQIA may increase inspection activity to monitor compliance and ensure that the necessary improvements are being made.

RQIA may also escalate enforcement actions at any time. Enforcement action will be proportionate and related to the level of risk to service users and the severity of the breach of regulation. RQIA will follow up enforcement action to ensure that quality improvements are achieved."

62. Enforcement's staged process starts with making requirements against regulations in an inspection report. It is not possible to enforce recommendations because these are advisory. However, they can be taken into account and failure to heed advice or respond to a recommendation may become evidence of a breach of regulation which would then lead to a requirement. Stage two concerns issuing a Failure to Comply (FTC) Notice[40] and the third stage imposes conditions – which can be undertaken without the FTC. The final stage concerns the cancellation of registration. This has three routes – voluntary with three months' notice; through Notices of Proposal and Decision; and urgent, which must be put before a Justice of the Peace.

Voluntary Cancellation - the care home provider gives three months' notice

Cancellation – RQIA issues a Notice of Proposal to cancel the registration of either a manager or a home. This is used when a provider is unable to meet requirements and/or sustain improvements.

Urgent Procedure for Cancellation - RQIA must apply to a JP for an urgent cancellation "if it appears to the justice that…there will be a serious risk to a person's life, health or well-being…"

Appeals to the Care Tribunal – appeals against an RQIA or JP decision of RQIA or JP must be made within 28 days of receiving notice.

63. The IRT considered many inspection reports of several care homes. There are times when minor breaches of regulations have been stated as recommendations rather than requirements. It is evident that this can lead to inconsistencies in reporting amongst inspectors even though individual inspectors maybe doing this to be constructive. It is important that reported information for providers is clear and consistent on these issues.

[40] This results if a care home or nursing home fails to comply with specified regulations or any statement of minimum standards.

64. Imposing conditions is an important tool in enforcement. An HSCT has contractual powers related to individuals they fund, however, RQIA must factor in people's right to choose a care home and fund themselves. Different actions by the HSCT and RQIA bemused families who could not fathom the contrast between the HSCT's action and what they considered RQIA's apparent inactivity.
65. The IRT have reviewed the enforcement activity contained in the Annexes to the RQIA's Annual Reports and the 'Compliance Achieved' information held on the RQIA website. The period reviewed is from July 2014 - March 2020. The Annexes contain enforcement activity covering registered services. The information relating to care homes is detailed and shows the RQIA use of the Failure to Comply Notices and Conditions on Registrations. The information about other services is generalised. It is interesting to note the lack of compliance from Dental Services and how the Notices of Proposal and Decisions focus on conditions, refusal to register and cancellation of registration.

Data summary

66. The following overview provides detailed information of the enforcement activity as reported by RQIA in its Annual Reports. It is followed by a summary of enforcement activity related to Runwood care homes. The IRT consider the wider picture of what makes for successful and "failing" care homes in Evidence Paper 5.

Enforcement action from 1 April 2015 to 31 March 2016

67. During this time there were 44 services subject to enforcement action. There were 17 Dental Clinics with one being subject to two actions (18 total), five Domiciliary Care Services and two Skin/Laser clinics. There were 42 Failure to Comply ("FTC") Notices issued, six FTC to Dental Clinics, one FTC to a Laser Clinic, five FTC to Domiciliary Care Services.
68. The IRT focused on the enforcement activity in care homes. There were 30 FTC issued to 15 care homes, with four having other enforcement actions such as Conditions and Notices of Decisions. In reviewing the care homes actions the details of the FTC are:
    - four homes receiving one notice.
    - three homes receiving two notices.
    - four homes receiving three notices.
    - two homes receiving four notices.

    Two care homes were also issued with Notices of Proposals to place conditions on the registrations but achieved compliance resulting in RQIA withdrawing the further actions. Two care homes were issued with Notices of Decision to apply conditions. Information shows that one home had conditions placed on the registration in April to June 2013 with compliance achieved in December 2013. One home was issued with conditions in September 2014 and reached compliance in February 2016.[41] One home was issued with a Notice of Decision to cancel the registration of the manager.

Enforcement action from 1 April 2016 to 31 March 2017

69. The enforcement actions listed in the Annual Report demonstrate that of the 37 services subject to enforcement action: 22 actions related to Dental Practices, two related to

[41] Both care homes feature in the Annual Report 2015/16 with no explanation why compliance took so long.

Domiciliary Care, one related to Day Care and one to a Laser Clinic. 33 FTC Notices were issued in total with 16 issued to 9 care homes.

70. There was one care home subject to Notice to cancel the registration, but this was withdrawn as a new provider was registered. One care home was listed as previously having conditions placed on the registration in 2013 and compliance achieved in May 2016.
    - three care homes had one notice.
    - five care homes had two notices.
    - one care home had three notices.

Enforcement action from 1 April 2017 to 31 March 2018

71. The enforcement actions listed show 23 services involved. 25 FTC Notices were issued. There were 2 Dental Services with 2 FTC and 2 received Conditions. One day care service received two FTC and three conditions which resulted in a voluntary closure. Three Domiciliary Care services receiving four FTC Notices and one service receiving three conditions on the registration. Three Ambulances Trusts were issued with two Improvement Notices.
72. Of the twelve care homes involved in enforcement actions, one received an Improvement Notice, one received three conditions and one was closed. In total nine care homes received 17 FTC Notices.
    - four homes had one notice.
    - three homes had two notices.
    - one home had three notices.
    - one home had four notices, (initially three and then a further one added).

Enforcement action from 1 April 2018 to 31 March 2019

73. The Annual Report demonstrates that 22 services were involved in enforcement actions. The Ambulance Trust was issued with one Improvement Notice and it was compliant with three previously issued Improvement Notices. Two Day Care Services received two FTC Notices each, two Domiciliary Care Services each received one FTC Notice, one received two FTC Notices and one Domiciliary Care agency was issued with a Condition pre-opening. One Recruitment/Domiciliary Care service was now fully compliant. There were eleven care homes involved in enforcement actions with one formally closed by RQIA. One care home had two conditions placed on the registration and one was issued an Improvement Notice. 21 FTC Notices were issued during the year. In total eight care homes were issued with 13 FTC Notices.
    - four homes had one notice.
    - three homes had two notices.
    - one home had three notices.

Enforcement action from 1 April 2019 to 31 March 2020

74. The Annual Report demonstrates that 35 services were involved in enforcement actions. 55 Failure to Comply Notices were issued across all services. The Ambulance Trust and one of the HSCTs received a single Improvement Notice each. There were three related to Muckamore Abbey Hospital. There were eight FTC notices across two Clinics and three Domiciliary Care agencies. Plus, there were two agencies where there were conditions and

one with a Notice of Proposal to cancel the registration. 24 care homes were the subject of actions – five of which had conditions and 19 had 47 FTC Notices between them.

- one home had seven notices. (It had a further three enforcement actions - two conditions placed on the registration and one Notice of Proposal to cancel the registration of the Responsible Person issued on the 27 December 2019 which was withdrawn on the 31 January 2020.)
- four homes had four notices.
- two homes had three notices.
- six homes had two notices.
- six homes had one notice.

Summary of enforcement actions - Runwood Homes

75. The IRT reviewed the enforcement action taken with Runwood Homes.

YEAR	HOME	ACTION	OUTCOME
2015-16	Clifton	On the 22 December 2014 RQIA issued three FTC Notices, Further enforcement included a Notice of Proposal to place conditions on the registration.	The RQIA withdrew the proposal as the home had complied with the FTC Notices. Although this Notice was issued in 2014 it was further referenced in the 2015-16 annual report to show compliance.
	Rose Martha	On the 27 March 2015 Rose Martha Nursing Home was issued with three FTC Notices.	Compliance was achieved on the 10 June 2015.
2016-17	Ashbrooke	On the 18 November 2016, Ashbrooke was issued one FTC Notice.	This was assessed as complied with on the 13 February 2017.
	Dunmurry Manor	On the 26 October 2016, Dunmurry Manor Care Home was issued with three FTC Notices.	One notice had achieved compliance by the 27 January 2017.
	Dunmurry Manor	The home was issued with a Notice of Decision on the 10 March 2017 with three conditions to be placed on the registration.	
2017-18		The above Notice was not effective until 13 April 2017.	It was fully complied with on the 31 July 2017.

	Glenabbey Manor	Three FTC Notices issued on the 27 February 2018	These were complied with by the 27 March
	Ashbrooke	Urgent cancellation by RQIA in August 2017	
2018-19			The home was formally closed on the 13 April 2018 following Runwood withdrawing their appeal to the tribunal. Whilst the home was closed Runwood upgraded the environment, and it was registered as Meadow View in January 2019.
	Glenabbey Manor	One FTC Notice	Compliance achieved by 17 October 2018.
2019-20	No Runwood Homes involved in enforcement actions during the year.		

76. Over the years reviewed care homes were involved in 60 enforcement actions. There were 123 FTC notices issued, 16 of which were to Runwood involving five care homes. The enforcement action taken in respect of Dunmurry Manor Care Home is considered in the full context of the regulation of the establishment at paragraphs 166-177.
77. A review of the Enforcement Policy[42] is 17 months overdue. Pertinent questions include:
    - How does the timeframe concerning Requirements and Failure to Comply Notices relate to (i) the non-compliance matters identified and (ii) the time taken to issue Notices of Proposal and Decision?
    - How and when may RQIA use its power to impose conditions on registration?
    - How does the policy provide independent assurance about the quality, safety and availability of health and social care services in Northern Ireland?
    - How does the policy promote (i) continuous improvement in services and (ii) people's rights?
    - How are matters raised at corporate level with larger care home providers? Are meetings held with directors when failings are identified? Is the care home provider CEO/Board held accountable for improvement planning? How are finance directors asked to account if money appears to be at the heart of non-compliance?
    - How does RQIA use its powers to ensure that care for older people provides security?
78. Further questions arise from the following table:

YEAR	FAILURE TO COMPLY NOTICES ISSUED (all services)	FAILURE TO COMPLY NOTICES ISSUED (care homes)	NUMBER OF HOMES

[42] https://www.rqia.org.uk/RQIA/files/87/87d1ee32-eb91-4336-9dd4-cbab81a43cb1.pdf (accessed 1 May 2020)

2019/20	55	47	19
2018/19	21	13	8
2017/18	25	17	9
2016/17	33	16	9
2015/16	42	30	15

79. How far the changing proportions of FTC notices issued since 2016 reflects either a deterioration in standards and/or secured improvements is not known. However, the recent increase could be construed as a reaction to *Home Truths.* It might also suggest that the regulator is reflecting public and media opinion or that key policies are not protecting care homes' residents. The IRT was advised that HSCTs are increasingly taking action - imposing a no admissions directive on care homes based on the Regional Contract - pending improvements in homes' standards. If confirmed it is indicative of a Health and Social Care system that is not aligned. If a HSCT or RQIA is considering action to improve standards, then it should share information and determine a course of action. The powers reside with RQIA regarding care homes. The HSCTs are responsible for individual residents.
80. The IRT questions the adequacy of a mechanical and stepped approach to compliance, improvement and protection since "firm but fair" regulation failed DMCH residents. Illustrative case studies concerning how the principles of proportionality, consistency, targeting, transparency and accountability might result in practical regulatory action and would provide examples of discretion in decision-making. Such case studies would capture the day-to-day practice and real-life experiences of inspectors. RQIA should not fetter its discretion and be clear when it must act.

The Care Tribunal for Northern Ireland

81. The Care Tribunal is the avenue for appeals and independent adjudication.[43] It hears appeals against decisions relating to the regulation of residential care homes, nursing homes, children's homes, nursing agencies, independent health care providers and other care services. Its decisions are matters of public record and are published extensively. Its jurisdiction extends to proprietors, prospective proprietors, managers and prospective managers of an "establishment" or "agency" (as set out in the Health and Personal Social Services (Quality, Improvement and Regulation) Northern Ireland Order 2003), against a decision of the RQIA in respect of their registration. In respect of Social Workers and Social Care Workers it hears appeals against a decision of the Northern Ireland Social Care Council (NISCC) in respect of their registration.
82. A review of decisions on the Department of Justice Northern Ireland website indicated that there were three decisions in 2013, four in 2014, one in 2015, one in 2017, totalling nine since 2013. In all cases the Respondent was NISCC with no decisions reported with RQIA as the Respondent. Care home proprietors reported reluctance in challenging RQIA's decisions.

[43] Under the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003, the Care Tribunal is set up to hear appeals against decisions made by the regulator. It is an independent judicial body which deals with appeals from proprietors, prospective proprietors, managers and prospective managers of an establishment or agency in respect of their registration.

(In contrast, England's Care Quality Commission has responded to around 100 appeals to tribunal in the last 10 years.)

83. The absence of NI cases could be construed as; indicative of an acquiescent sector; of there being effective, pre-challenge mechanisms or indicative of RQIA not wishing to be tested on how it interprets policy. The IRT was unable to draw a firm conclusion on this issue. When the enforcement policy is reviewed it must engage with care home providers, managers, staff, residents and families on these points. As with any form of regulating, there must be consent from those being regulated.

Changing the operation of the regulatory processes

84. The last publicly available RQIA Corporate Performance Report for the period January to March 2019, subsumed the matters linked to *Home Truths* into the *Inspection Methodology Improvement Programme.* That is, "RQIA incrementally [making] a shift from a command-and-control model of regulation to a model that empowers providers to assure the quality of their own services; a regulator that supports improvement and innovation in Health and Social Care in equal measure, to compliance with regulations and standards." It sought to "take forward the decision made by the Executive Management Team on 11th December 2018 to commit to working towards the organisation adopting a meta-regulation model. Meta-regulation is a form of regulation that encourages governance through self-regulation by providers, with the regulator challenging and assuring the provider's assurance arrangements. This activity is complemented, when necessary, by a more traditional *command and control* approach to regulation."
85. The Corporate Performance Report reveals that the Dunmurry Manor Action Plan and the overall Transformation, Modernisation and Reform framework were "red" rated.[44] Of the DMCH Action Plan, it states it is "…in the Assurance Directorate…Fourteen of the twenty-two identified actions arising from the internal review of Dunmurry Manor Care Home have been fully implemented as at the end of March 2019. Eight actions have not been delivered; three actions rely on a review of the 2003 Order and five actions have projects initiated to be completed during 2019/20."
86. RQIA shared a Combined Progress Report for the Inspection Methodology work dated August 2019. It set out planned project work concerning inspection reports, scheduling and scope, professionals' decision making, inspection role diversification and the compliance recording process as well as work specific to children's services and domiciliary care. Some work had been delayed due to staff availability, sickness and holidays. The reports conveyed a commitment to involving inspectors, care providers and service users and set out a plan which would indicate that a revised and agreed inspection report was operational.
87. Several project areas were identified for future work:
    - "Gathering evidence on inspection.
    - Involvement of service users and families / representatives

[44] A red rating indicates that "action has not been achieved by the completion date. A brief exception report should be produced detailing the remedial action required to ensure achievement of action by year-end"

- Strengthening provider governance and quality responsibilities – including decisions around registration
- Involvement of Lay Inspectors / Experts by experience
- Registration – How registration decisions are made and arrangements for acting managers.
- Registration – Lean review of registration processes
- Explore other sources of provider information – open feedback on RQIA website, Provider Information Returns, links with HSC Trusts, NIHE etc.
- Inspection Policy and Procedure
- Registration – Identification of excess registration and plan to reduce."

88. Such priorities are consistent with the calls and ideas for change in Northern Ireland. Currently, it is a requirement for inspectors to be qualified in nursing or social work. However, it is not known whether post-holders have experience of working in care homes or possess core skills in care regulation. The IRT was told that training for inspectors involved shadowing another inspector. When enquiries were made about whether the training included evidence gathering, investigation skills and interviewing techniques, the response was that these were not required. The IRT has proposed a common approach to action learning between registered managers, care managers and inspectors in the Evidence Paper concerning Adult Safeguarding/Protection. The proposal is relevant to other aspects of the work.
89. A good standard of training for managers and staff working in care homes is expected, therefore it is imperative that all people working in a regulatory role equally have the appropriate training, knowledge and skills. A core skill and knowledge base should include all aspects of how a care home works. Programmes such as *My Home Life* are useful in providing an understanding of a relational approach and the practicalities of how staff approach their work.
90. Care home providers and managers said:
    - "We are being judged by people who have never done the job. How can we really trust them?
    - Many of the inspectors don't understand the group living and the compromises that have to be made.
    - There is so much inconsistency from inspectors – we are part of a company and in some homes the policies and rotas are accepted and then in other homes they are not.
    - At times, they seem to make it up as they go along."

POINTS TO CONSIDER – Learning and Change

Registration

- ✓ RQIA's work programme on registration should be reviewed with care home providers.
- ✓ RQIA's vetting process should include the applicant for the provider, the responsible individual and the owner or Chief Executive in the case of a company.

- ✓ Registration is an opportunity to initiate a working relationship with a care home and the owner.
- ✓ Automatic interview requirements reduce the risk of poor and/ or inexperienced managers moving around the system.
- ✓ There is a case for the basic qualification requirement for registered managers being set at level 5[45] Leadership for Health and Social Care Services (Adults' Management).

Inspection

- ✓ The programme of work on inspection methodology, reporting formats and recording remains to be concluded.
- ✓ For the provider, the inspection reports are what they are judged on. The importance of the regulator getting this right cannot be underestimated. Reports should not contain surprises for the care home manager.
- ✓ A more iterative approach to inspection is feasible, that is, a readiness to accept that involvement is an unqualified good. There needs to be greater clarity on what has been looked at during an inspection with more details in the report on the people who have contributed to ensure there is no doubt about the evidence base.

Enforcement and Improvement

- ✓ The Enforcement Policy and Enforcement Procedures were due for review during April 2019. These remain to be undertaken.
- ✓ The RQIA should develop an approach to raising issues with care home providers at a corporate level. One approach, recommended by Care Inspectorate Scotland, is to have a senior inspector responsible for the business relationships with such providers. There are alternatives on which RQIA can consult trade associations and providers.

Change

- ✓ All care regulation inspectors should have core skills training at post qualifying level and inspection teams should have access to specialist skills.
- ✓ The providers and managers of care homes seek positive engagement with RQIA.
- ✓ Residents, families and the public require assurance that registered managers are 'fit to practice' and that the providers are 'fit to operate.' There is no quick fix.
- ✓ RQIA could consider using its statutory power to develop an annual provider return. This could include self-assessment, quality assurance mechanisms as well as [workforce] data.

Clinical and social care governance reviews

91. Article 34 of The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 places a duty of quality on statutory organisations to, "put and keep in place arrangements for the purpose of monitoring and improving the quality of the health and personal social services which it provides to individuals; and the environment in which it provides them."

[45] Level 5 qualifications are defined as being "diploma of higher education (DipHE), foundation degree, higher national diploma (HND), level 5 award, level 5 certificate, level 5 diploma, level 5 NVQ"

92. Historically, RQIA has a remit to assure the quality of services provided by statutory health and social care boards, Trusts and agencies, to ensure that every aspect of care reaches the standards laid down by the DH. In early 2007, RQIA undertook the first generic review of quality standards across every health board, Trust and agency in Northern Ireland to help improve the standard of health and social care services. The approach included (i) self-assessments by organisations on how they were meeting the quality standards and (ii) a visit from an independent review team which included lay and peer reviewers to examine corporate leadership, accountability, and safe, effective care. Recommendations from earlier reviews were followed up and RQIA reported on progress in the implementation of a clinical *early warning assessment* for patients in acute hospital settings.
93. Since then, an extensive programme of reviews has been undertaken initiated by both the RQIA and DH.[46] All reviews involve a report to the DH. The IRT were advised that the review programme offers an important opportunity for DH to receive independent assurance with regard to governance within HSC bodies, the quality of health and social care services, the effectiveness of which HSC services are commissioned, planned and delivered, levels of compliance with statutory requirements and DH endorsed standards and guidelines as well as the extent to which DH policy has been implemented and adhered to.
94. In noting that under its legislative framework, the RQIA review programme is a core requirement for the organisation, the IRT queried whether such reviews detract from the functions of registration, inspection and enforcement. Arguably other bodies or organisations are better placed to undertake such work. It is not clear how the review programme complements the Quality Improvement remit of RQIA in respect of care homes[47]

RQIA remit and reporting

95. RQIA's annual reports demonstrate how the legislation has been interpreted. RQIA's Annual Report 2017-2018 notes:

> "We have a range of powers and enforcement measures available to drive improvements in safety and quality for all those using the services. In line with the principles of good regulation, any intervention by RQIA aims to be proportionate to the identified and assessed risk. These include: areas for improvement linked to regulations, care standards, detailed in inspection reports, quality improvement plans, an improvement notice - where a service is failing to meet relevant standards, a notice of failure to comply with regulations - where a service is in breach of regulations, a notice of proposal, which sets out the action(s) RQIA intends to take with respect to cancellation of registration, variation, imposing or removing conditions on registration, a notice of decision confirming actions outlined in a notice of proposal, cancellation of registration, an urgent

[46] See Appendix C.

[47] Academic institutions think tanks and policy commentators, such as the King's Fund, typically undertake similar commissions. In Northern Ireland, the work of the Northern Ireland Audit Office (NIAO) is notable and on 31 July 2020, it published a report about Workforce Planning for Nurses and Midwives. Similarly, the work of the Northern Ireland Statistics and Research Agency (NISRA) could be more fully integrated into providing the evidence base for review work.

procedure for cancellation of registration, where we believe there is a serious risk to a person's life, health or wellbeing. We may take prosecution action in parallel with other enforcement activity. We may also consider prosecution for failure to register when a person is providing an unregistered service, which is subject to regulation, to ensure compliance with legislation and for the protection of those availing of the service. The RQIA may recommend that the Department of Health takes special measures in relation to a HSCT."

96. RQIA's Annual Reports bear a great deal of similarity to each other and restate RQIA's duties and powers. What appears to be a template is populated with data and commentary about the year's activities, statistics and annual accounts.
97. The Annual Report of 2017-2018 describes inspection methodology development:

    "In partnership with the Queen's University of Belfast, RQIA reviewed and evaluated evidence, including findings from previous work by The Health Foundation, for the effectiveness of an inspection assessment framework in facilitating improvements in quality-of-care outcomes in health and social care.

    Results indicated that the effectiveness of specific rating scales for improving care quality cannot be reliably assessed based on existing evidence as their impact has not been systematically investigated. Findings from the project are being used to inform the development of our inspection framework in the future."
98. A lot of reliance is placed on the Risk Adjusted, Dynamic and Responsive (RADaR) Framework for Inspections:

    "During 2016, the Department of Health consulted on proposed amendments to The Regulation and Improvement Authority (Fees and Frequency of Inspections) Regulations (Northern Ireland) 2005. The proposed changes, which are likely to be introduced from April 2019, include moving from a minimum of two inspections of care homes per year to a minimum of one, to allow RQIA to target inspection resources where they are most needed.

    To support this, in partnership with Ulster University, we initiated a project to review data held within RQIA and wider sources, to assess the potential to identify risk within nursing and residential care homes in the first instance. This has resulted in the development of a risk-adjusted, dynamic and responsive (RADaR) framework to identify, quantify and respond to regulatory risks more robustly. It will identify those services where the quality of care is poor or changing and as such may require additional inspection. This will enable RQIA to focus its resources on organisations, sectors and issues that present the highest regulatory risk and ensure our inspection programme is appropriately focused and proportionate. It will identify those services where the quality of care is poor or changing and as such may require additional inspection. During 2017-18 a pilot RADaR inspection

framework was developed, which will be tested and refined during 2018-19, prior to its development for use across all RQIA's inspection programmes." [48]

99. RQIA has a remit with Serious Adverse Incidents (SAIs) and, at the time of writing, a Review of SAIs is underway. Surveys were issued as part of the Review. The IRT found no evidence that RQIA are involved in SAIs for older people.

    "We monitor all serious adverse incidents (SAIs) relating to patients who are known to mental health and learning disability services, including those in prisons. During the year, we reviewed recommendations relating to 116 SAI investigations. Where there were concerns relating to deficiencies in care or treatment, these were followed up to ensure appropriate learning from these incidents."

100. RQIA's remit concerning complaints and whistleblowing is described in the Annual Report 2017-2018:

    "Complaints about Health and Social Care Services: Under regional guidance for complaints published by the Department of Health in 2009 (Complaints in Health and Social Care: Standards and Guidelines for Resolution and Learning), complaints about any health and social care service must, in the first instance be investigated by the provider of the service. The provider is required by legislation to ensure that complaints are fully investigated and to make every attempt to achieve local resolution. Local HSC Trusts have a continuing duty of care to the service user and may also assist in resolving complaints through enhanced local resolution.

    Complainants can also receive advice and support in pursuing a complaint from the Patient and Client Council (PCC)."

101. The remit of the Ombudsman is highlighted:

    "Where local resolution is unsuccessful, a complainant can refer their concerns to the Northern Ireland Public Service Ombudsman (NIPSO)."

102. RQIA interprets its statutory powers as follows:

    "Help and Advice on Raising a Concern about a Care Service: While RQIA does not have legal powers to investigate complaints about health and social care services, we take every concern brought to our attention seriously. If a concern is raised with us about a health and social care service, we will use this information to inform our inspection or review work. We share the information received with our inspectors for the service, to determine whether there are any potential breaches of regulation or of standards and guidelines, or if any other issues that require the attention of RQIA. In early 2018, we published two new guides which provide simple guidance on raising a concern or complaint about an independent service, (for example, a care home or domiciliary care agency) or about a health and social care service such as a hospital or mental health facility.

[48] Arguably RQIA's relationship with Independent Health and Care Providers (IHPC) is underdeveloped because RADaR's design and approach did not involve the sector. RQIA has reported no established arrangements for provider engagement concerning major strategic developments.

Each guide provides advice on how to raise a concern about a service, and details of organisations that can help you – including local health and social care trusts and the Patient and Client Council. If a complainant is dissatisfied with the service's response to their complaint, they may raise this matter with the Northern Ireland Public Service Ombudsman for their consideration.

Through our regulatory activities, RQIA also ensures that each provider has a complaints and investigations procedure in place."

103. In respect of whistleblowing, RQIA states:

"Under public interest disclosure legislation, anyone wishing to raise concerns about wrongdoing in their workplace can bring these to the attention of RQIA. During the year, we were contacted by telephone, email and in writing by around 140 staff, from a range of statutory and independent health and social care settings, who wished to raise concerns about the quality and safety of the services being provided in their own workplace. These included: concerns around the quality-of-care provision, issues relating to staffing, and how services were being managed and general care concerns. While many staff provided their name and contact details, allowing us to seek further information on their concerns, others wished to remain anonymous.

This information provides RQIA with invaluable intelligence and insight into services, and we treat every instance of whistleblowing seriously. In each case we considered the information carefully to determine what action was required. We followed up these disclosures and sought assurances that the concerns were being addressed in an appropriate manner. Where necessary, we conducted unannounced inspections, to determine whether there were any concerns in relation to the quality and safety of care. In several cases this led to formal enforcement action to address the concerns identified and drive improvements in the quality for those using these services. In other cases, we found no evidence to substantiate the allegations."

104. The Annual Report of April 2018 to March 2019, details RQIA activities and achievements:

"We ensure transparency in our work by publishing reports of our findings from around 2,500 inspections and reviews. Our reports highlight areas of good practice and issues that require improvement in the services we regulate, and across Northern Ireland's health and social care trusts. We are in the process of piloting a new evidence-based approach to inspections. In the year 2018-2019 there were inspections carried out across 248 nursing homes and 232 residential homes across 5 HSC Trusts, that was the number of registered services during the year. In 7 nursing homes and in 31 residential care homes inspected there were no areas for improvement identified. 49% of all homes are registered to care for those with dementia."

105. Reference is made to the work of the Independent Review following *Home Truths*, as follows:

"During 2018-19, several high-profile reports were published examining care provision in several settings. In June 2018, the Commissioner for Older People published his report into care at Dunmurry Manor Care Home. In his report he highlighted shortcomings in

care and made a series of recommendations for health and social care organisations. RQIA submitted its actions to address the recommendations to the Department of Health who coordinated a response on behalf of all HSC organisations. RQIA's Executive Management Team and Board is monitoring progress of our action plan to ensure learning from this investigation report."

106. In addition, it is reported in the Progress against Strategic Themes:

"Encourage Quality in Health and Social Care Services: We will implement the steps outlined in our action plan arising from our internal review of steps taken in respect of Dunmurry Manor Care Home and consider recommendations made by the Commissioner in respect of actions arising for RQIA in the report of his investigation… Many of these actions have been subsumed into the review of inspection methodology. The Review of Inspection Methodology Programme was agreed at the March 2019 RQIA Board meeting, and the first Project Board meeting will be held on 22 May 2019. Background research is underway and the first three elements to be progressed are improved report formats, the use of information to inform scheduling and decision-making. The Dunmurry Manor Care Home Action Plan remains in place in the Assurance Directorate with fourteen actions completed to date."

107. RQIA makes several statements about their commitment to engage with service users, carers and families.

"We value the involvement of the public in our work, and during the year we worked to increase lay involvement in our inspections and reviews, bringing a fresh perspective to these activities. We also established our Membership Scheme, which we will develop further in the coming year, in recognition of the importance of ensuring we listen to service users, carers and families about their experiences of care services."

108. The IRT has gathered that there is confusion about the purpose and intent of a membership scheme.[49] Families did not understand what the scheme was for or their role. It appears to hinge on invitation to events without reference to RQIA's Personal and Public Involvement work. Families are sceptical and believe that getting inspection "right" should be prioritised over the creation of a membership scheme.

109. RQIA has held "open days" with care home providers. Families have asked questions about RQIA's operations. They would have wished to question inspectors and managers directly about the care of their relatives.

110. RQIA gives a commitment to implement recommendations to ensure that improved services are delivered. The Annual Report 2018-19 states:

"The recommendations from external inquiries including those into hyponatraemia related deaths, led by Sir John O'Hara, and the Commissioner for Older People's report on care at Dunmurry Manor continue to have a significant impact on health and social

[49] Its terms and conditions are not known. Do members pay fees and, if so, what are the incentives to becoming members? Is there an annual subscription? Are there personal and associate members? How does it work? This is a topic about which the IRT was given no information by RQIA.

care across Northern Ireland. We will work to oversee the sustainable implementation of these recommendations to ensure improved services are delivered."

111. It was in this light that the IRT sought to reconcile the RQIA response to *Home Truths.*[50] RQIA accepted, via DH, eight out of the 59 recommendations in its September 2018 response to 30 of the recommendations. In October 2019, again via DH, it provided a more detailed response to nine recommendations where COPNI had not been satisfied. In January 2020 COPNI reported on progress and continued to seek assurance "that enough work has been done to make the necessary improvements to the safeguarding and care of residents in care homes."[51] Another approach would be to consider what is expected of an Arm's Length Body ("ALB"). An ALB should exercise proportionate independence when presented with a report about the failings of a care home over which it was the primary statutory regulator. Notwithstanding DH's instruction of coordinated 'HSC family' responses to the 59 recommendations, RQIA could have reasonably set the expectation that it should be an independent and substantive responder. Although the three recommendations directed at Runwood[52] might have fallen outside the boundaries of RQIA's responses, all others, including those requiring ministerial input, were deemed by the IRT to be so central to RQIA's statutory role that a proactive response was in the public interest.

POINTS TO CONSIDER – Learning and Change

- ✓ In 2009 the Department instructed its Arm's Length Bodies to implement one Complaints Policy for all of the HSC, as a consequence RQIA ceased to deal with complaints about care homes from members of the public. The IRT has devised several proposed actions concerning Complaints in Evidence Paper 2, including a redefined remit for RQIA in respect of care home complaints.
- ✓ The RADaR system should include data and information concerning complaints about care homes' practices to inform inspections, commissioners and the public (as recommended by Care Inspectorate Scotland).
- ✓ The RADaR system should not be limited to identifying risks of harm. It should consider data and information about benefits to residents and what they and their families perceive as working well.
- ✓ How far will the RADaR system add value? How will it be received by a care home sector which played no part in its development? Introduction of an annual provider return offers a collaborative approach to data and in addressing workforce issues.
- ✓ The rationale for a regulator's Membership Scheme is unclear.
- ✓ Annual Reports are vehicles of accountability providing information and reassurance - yet completed actions concerning DMCH are not set out in RQIA's Annual Reports.

[50] See paragraphs 255-258 for a "Summary of responses from RQIA to COPNI as contained in DH Document"
[51] COPNI, 29 January 2020
[52] Recommendations 24, 44 and 49

- ✓ *Home Truths* resulted from a statutory investigation. It cast doubt on the performance of RQIA. Every effort should have been made to proactively demonstrate that system failings have been addressed.

Section D: The regulation of Dunmurry Manor Care Home

Overview

112. This section considers each of the processes of regulation – registration, inspection and enforcement and how they were applied to DMCH. The overview of DMCH's RQIA Inspection Reports spans 2014-2019 and it includes DMCH's Notifications[53] to the RQIA 2014 - 2017. The period covered in this section extends beyond the timeline of the COPNI report to give a broader view of the continuum of the RQIA' s work at DMCH.
113. Since DMCH opened there have been a total of 35 documented inspections.[54] Before August 2018, these covered the nursing and residential parts of the home and 23 took place: one during 2014; on seven occasions during 2015; four times during 2016; eight times during 2017; and on three occasions during 2018. Subsequently DMCH was renamed as Oak Tree Manor Nursing and Residential Homes. The nursing home was inspected once in 2018 and four times in 2019; and the residential home twice in 2018 and five times in 2019. Overall, 19 were care inspections. There were seven medicines inspections, three estates inspections, two "enforcement compliance" inspections, three variations to registration inspections, and a single finance inspection. The titles of the inspection reports from January 2015 reveal that 28 inspections were unannounced and seven were announced.

The registration process

114. During December 2013, Runwood applied to register a new-build care home. The initial application was incomplete resulting in exchanges between RQIA and Runwood. RQIA may not process an incomplete application.
115. The registration of DMCH on 16 July 2014 confirmed that all the systems, documentation and quality assurance systems were in place. The unpublished report stated "scrutiny of this information means that registration of DMCH is recommended, no requirements relating to this matter have been made in the inspection report and three recommendations were made…"
    1. The Statement of Purpose to include information in respect of DOL [Deprivation of Liberty] safeguards 2009 and how the home will embrace the safeguards.
    2. It is recommended that the Patients Guide includes financial information including scale of charges for specific services and facilities and if necessary, any activities or events that have costs.
    3. It is recommended that regular dementia audits are completed in terms of the environment and quality of life for persons with dementia in the home. Evidence

[53] Of death, illness and other events – See Regulation 30 The Nursing Homes Regulations (Northern Ireland) 2005, The Residential Care Homes Regulations (Northern Ireland) 2005, made under powers conferred in The Health and Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003

[54] https://www.rqia.org.uk/inspections/view-inspections-as/map/oak-tree-manor-nursing-home/ (accessed 20 March 2020). On this date, this part of RQIA's website contained 28 of 35 inspection reports. The remaining seven reports feature on https://www.rqia.org.uk/inspections/view-inspections-as/map/oak-tree-manor-residential-home/ (accessed on 20 March 2020). Neither of these parts of RQIA's website refer to the existence of the other

should be present of any action taken where a shortfall has been identified through the auditing process."

116. Although DMCH was registered on 16 July 2014 - the date on RQIA's Registration Certificate. An application for the manager to be registered was sent to RQIA during June 2014. RQIA had not processed the application before the home opened, even though Runwood's Responsible Individual did not intend to be in charge on a day-to-day basis. The registration of a manager was deemed important because: "Managers of regulated services hold responsibility for safeguarding and promoting the welfare of vulnerable people in their care. They should have knowledge of and commitment to good care and possess the competencies necessary for the management of the service. Honesty, integrity and trustworthiness are essential requirements in determining the suitability of an applicant for registration." The regulator's assessment was based on documentation.
117. Runwood had appointed a person to manage the home in April 2014, prior to the home opening. An application for the manager to be registered was submitted to RQIA on the 10 June 20. This was confirmed as being received by RQIA. The application was approved on the 14 August 2014 subject to a query. It is of concern that RQIA registered the service before the manager was approved. The IRT heard from managers that although applications were submitted, they were not always approved. Therefore, RQIA did not prioritise approving managers in a timely way as they are required to do. The IRT raised this with RQIA during meetings. The situation changed on 1 April 2018, when RQIA confirmed it would no longer register a new service with an acting or temporary manager in place: "Through the registered manager, leadership, management and governance oversight is provided. These are critical to the delivery of safe, effective and compassionate care. The registered manager is also responsible for the development of a new team at the home, and the phased admission of patients or residents to the service." [55]
118. The RQIA is responsible to show due diligence during the registration process in ensuring the persons and company are fit for purpose of carrying out a care home. An important part of the process should be the CEO of a company or the owner as this is where the authority and accountability lie. This person/role is responsible for the allocation of resources, policies, health and safety, employment of staff and all other statutory responsibilities. Where a company has homes that have not maintained full compliance and enforcement action has been taken, or where a care home closed under urgent cancellation order, applies to open a new service then the CEO/owner should have been required to attend for an interview. There would have been an impact on residents, families and staff which necessitates the regulator to judge and be assured that that the CEO/owners now have a greater understanding of what is required of them.
119. In the case of DMCH, an interview with the Chief Executive and owner would have been appropriate since other Runwood homes had been in difficulty.[56] The Regulations have

[55] Letter from RQIA to care home providers 22 March 2018
[56] See paragraphs 75 and 308.

sufficient flexibility to have allowed for interviews and there is scope for the regulator to judge the degree of due diligence required.

Background to the inspections

120. This section sets out in tables what was required of Runwood Homes Ltd consequent of each inspection visit that followed initial registration. The distinction between requirements and recommendations - until October 2017 - is unclear in terms of their content. Problems prevailed from the outset, even though DMCH was not occupied to capacity. However, because the inspections ceased to record the numbers of people accommodated after the 11 November 2015 inspection, it is not known whether DMCH was subsequently occupied to capacity.
121. Information concerning the home's Statutory Notifications to the RQIA feature after each table. The information supplied under Regulation 30[57] by the care home provider was recorded and referenced and the IRT has worked on the basis that the Notifications reached RQIA.[58] Notification information is not reflected in the inspection reports which prompted the IRT to ask: How are Notifications used to inform inspections? What criteria are used to assess Notifications – for example aggression between residents? What should be notified? Are comparators and outliers considered? DMCH made around 60 Notifications to the RQIA over five months during 2014; around 130 Notifications during 2015; around 100 during 2016; and around 20 in the first three months of 2017. Although DMCH was advised that some Notifications were not required, the data supplied by RQIA to COPNI, and data supplied to the IRT in the form of graphs and actual Notification forms submitted by DMCH are consistent.
122. With reference to the statutory position of Registered Manager, the inspection reports reveal overall instability since several managers of differing standings are cited. In the inspection reports, there are eight references to individual managers working in an "acting" capacity with eight references to their registrations "pending." In addition, it is noted of some managers that, "application not yet submitted…no application submitted…[and] no application required." Similarly, the statutory position of Responsible Individual[59] was occupied by three people – two of whom were initially "acting." It was noted of the most recent one referenced that his registration was "pending" during January 2018.
123. It should be noted, however, that *Home Truths* lists 10 managers between July 2014 and April 2017 (p123) and the IRT's data about managers follows this paragraph. In setting out the contrasting numbers the Review highlights the fact of ambiguity. That a clear picture of the management of the care home cannot be readily ascertained from RQIA's inspection reports is a significant finding. It calls into question the fitness of all the Registered Persons – the Registered Provider, the Responsible Individual and the Registered Manager - to "carry on a nursing home."[60]

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[57] Regulation 30, The Residential Care Homes Regulations (Northern Ireland) 2005 and the Nursing Homes Regulations (Northern Ireland) 2005

[58] The opportunity to fully validate data and information with the RQIA was not available

[59] The individual who is registered as responsible by the provider/organisation

[60] The Nursing Homes Regulations (Northern Ireland) 2005 – see Part II, regulations 7-11 and Schedule 2, 1-7

124. The IRT has compiled a table of managers:

DATE*	DATE**	MANAGER	APPLICATION	REGISTRATION STATUS
16 July 2014 – 31 August 2014	7 April 2014 – 1 Sept 2014	First	10 June 2014 (Started in April 2014 before the registration of service (approx. length of time as manager 5 months)	(Pending)
1 Sept 2014 – January 2015	2 Sept 2014 - 26 January 2015	Second	26 September (length of time as manager 5 months)	(Pending)
January 2015 – 9 August 2015	5 March 2015 - 7 August 2015	Third	No application submitted. It is not known how often they were at the home because they were also the regional manager (approx. length of time as manager 6.5 months)	Not registered (Acting)
10 August 2015 – 22 November 2015		Fourth	No application submitted. (approx. length of time as manager 4 months)	(Acting)
23 Nov 2015 - February 2016 (last notification signed 15 January 2016)	23 November 2015 – 15 February 2016	Fifth	No application submitted (approx. length of time as manager 3 months)	(Pending)
16 Feb 2016 – 21 August 2016	16 February 2016 - 22 August 2016	Sixth	No application submitted until 18 April 2016 (approx. time as manager 6 months)	Registered on 5 August 2016 and left 16 days later
22 August 2016 – 23 October 2016		Seventh	No application submitted (approx. length of time as manager 3 months)	Not registered (Acting)
24 October 2016 - 13 December 2016	24 October 2016 - 14 December 2016	Eighth	No application submitted (approx. length of time as manager approx. 2.5 months)	Not registered (Pending)

14 December 2016 - leaving date unknown. RQIA email of 9 March 2016 says 'acting to date'		Ninth	No application submitted (approx. length of time as manager 2/3 months)	Not registered (Acting)
March 2017 – October 2018	20 March 2017 - 2 Nov 2018	Tenth	Application submitted (approx. time as manager 20 months)	Registered during August 2017
	12 November 2018 - 28 August 2019	Eleventh	(12 months as manager)	Registered on 15 March 2019
	26 August 2019 - 17 October 2019	Twelfth	3 months	Not registered
	22 October 2019 current at 16 Sept 2020	Eleventh (returns)		(Pending)

*Dates from information supplied to COPNI by RQIA and SET

**Dates supplied by Runwood on 16 September 2020

125. In contrast, RQIA has provided continuity of inspectors. Each of the reports describes the methods of the inspectors and typically presents quotations from residents, their relatives and staff. The maintenance of compliance and standards is tracked and reveals the recurrence of similar topics. There was a build-up of concerns as regulatory transgressions persisted. There were identifiable trends and the cumulative picture troubling. The HSCT told the IRT that it became concerned about the sustainability of improvements and the perceived lack of action from RQIA. It escalated support by deploying senior nurses in the home to offer practical assistance. Arguably, the support and investment of additional resources from the Trusts and the operational practices of RQIA at that time masked the sub-standard and reportedly harmful nature of care experienced by some residents.
126. Information about the names of Responsible Individuals, Registered Managers, other managers present at inspections and of Inspectors can be gleaned from publicly available RQIA inspection reports. Names are excluded from the Papers and reports of the IRT as the terms of reference are about the functioning of the system rather than personal attribution. The information included has been abstracted from an RQIA email[61] of 9 March 2017, a *Home Truths'* Infographic and information supplied by Runwood Homes.

[61] The positions of the sender and recipient are not known

The inspections

127. **Care Inspection of 15 October 2014**

Registered Manager: The second (Acting).[62] (The Registration Certificate of 16 July 2014 identifies the first Manager as registration pending.) *Home Truths*' table of managers[63] lists the application as being submitted, approved and then withdrawn.

Registered Provider: Runwood Homes Ltd, the Managing Director

The home was accommodating 19 Patients (it had a capacity for 40) and 10 Residents (the home had a capacity for 36).

Purpose: The inspection was triggered by South Eastern HSCT's concerns about wound care.

Requirements[64]	**Recommendations**[65]
Treatment and services should accord with the home's statement of purpose; all aids and equipment should be suitable and maintained	There should be one pressure risk assessment tool in use
Records should be up to date, available and retained; and contemporaneous notes of nursing care maintained	All drinks offered should be recorded as either consumed or refused
At all times there should be suitably qualified, competent and experienced staff in such numbers as are appropriate for the health and welfare of patients and the needs of people with dementia	Staff duty rosters for one month should be reviewed by the RQIA
There should be systems for reviewing the quality of nursing and other service provision; an audit of all care records should identify areas for improvement	Menu choices which meet the needs of people with dementia should be adhered to
Food and fluids should be nutritious, adequate and provided at appropriate intervals; they should be suitable and choices should be provided	Staff should have fire training
	International nurses should be subject to a period of supervised practice experience

[62] Between 16 July and 31 August 2014, was the first manager - registration application submitted 10 June 2014; The second manager was between 1 September 2014 and "January 2015" – their employment ceased before registration was approved; the COPNI report notes that the first home manager was in post for seven weeks (p75)

[63] *Home Truths* Page 123

[64] …the actions which must be taken so that the registered person/s meets legislative requirements based on The Health and Personal Social Services (Quality Improvement and Regulation) (Northern Ireland) Order 2003 and the Nursing Homes Regulations (Northern Ireland) 2005 (Page 2 of the Quality Improvement Plan)

[65] *These…are based on The Nursing Homes Minimum Standards (2008), research or recognised sources. They promote current good practice and if adopted by the Registered Person may enhance service quality and delivery* (Page 7 of the Quality Improvement Plan)

	The RQIA should be informed when admissions to the nursing unit recommence

Observations:

It appears that there was no Registered Manager when the home was registered, however an application had been submitted by the first manager on 10 June 2014 which had not received a response.

The wound care records of three patients were reviewed. The Area Manager voluntarily agreed to cease the admissions of people requiring nursing from 17 October 2014.

There were **12 Notifications to the RQIA** during **August 2014**: concerning falls and illnesses.

There were **8 Notifications to the RQIA** during **September 2014:** concerning falls and illnesses.

There were **12 Notifications to the RQIA** during **October 2014:** these concerned illnesses and deaths.

There were **16 Notifications to the RQIA** during **November 2014:** concerning "behaviour," illnesses and deaths.

There were **16 Notifications to the RQIA** during **December 2014:** concerning medication, illnesses and accidents.

128. **Pharmacy Inspection of 14 January 2015**

Registered Manager: The second (registration pending).[66] *Home Truths*[67] lists the Manager as "Acting" there had been an additional manager since the first inspection report. By January 2015, there had already been three managers.

Registered Provider: Runwood Homes Ltd, the Managing Director

45 people were accommodated at the home

Purpose: to examine the arrangement for the management of medicines

Requirements	Recommendations
The community nursing team is consulted to ensure that residents' health needs are managed	The care plan of an insulin dependent resident to be updated
All prescribed medicines must be identifiable and labelled	Auditing should cover all aspects of medicines management
Personal medication records should be up to date	Medicines and external products are labelled and stored at the correct temperature
Medicines' administration records should be accurate	Where applicable, pain assessment should be in place

[66] *Home Truths* states that by mid-January, a third Manager was in place and at the end of January, the second manager resigned (p78)

[67] Page 123, *Home Truths*

Medicines receipt records should be accurate	The site of the rotation of prescribed patches should be evidenced
Medicine's refrigerators should be maintained within the appropriate temperature range	

Observations:

The inspection found no significant areas of concern. The home was told that its registered nurse should cease to administer insulin to a resident since the nursing input to residents is the responsibility of community nurses.

129. **Unannounced Care Inspection of 21 January 2015**

Registered Manager: the second (registration pending)

Registered Provider: the Managing Director[68]

20 patients and 23 residents

Purpose: to review the progress made to address the requirements and recommendations made on 15 October 2014.

Requirements	Recommendations
All aids and equipment must be clean and maintained; and people's personal care appropriately addressed – including nail care	International nurses should be subject to a period of supervised practice experience
There should be sufficient numbers of qualified, skilled and experienced staff; they must complete an induction programme and mandatory training; and the nursing staff in charge must have their competency and capability assessed by the manager	Staffing should be reviewed
Audits of care records, infection prevention and control, cleanliness, accidents/ incidents should evidence a system of re-audit in the event of shortfalls	Patients/ residents' care is supported by research and guidelines; and life story information should be gathered to deliver person-centred care
Records should be up to date and safely stored, including the Patients' Guide, a record of the home's charges to patients and Regulation 29 reports	Care records should be accurate and factual and include continence assessments and bowel patterns
All staff should be trained in fire safety and evacuation which is updated	Nursing staff should be up to date in urinary catheterization and the management of stoma appliances
Dementia awareness training should be provided	Identifying a link nurse at the home for continence management should be considered

[68] Technically the Responsible Individual for the Registered Provider which was Runwood Ltd.

Newly qualified registrants should have a period of supervised practice before being in charge of the home	All sections of care records should be completed
There should be planned activities for people with dementia with additional training for activities' coordinators	Nursing patients should not have to wait for their meals until the residents have been served
The nursing, treatment and supervision of patients should be evidenced in care records which should state a person's weight and continence needs and note and follow the recommendations of health professionals	There should be a policy about accompanying patients/ residents to hospital
No patient is subject to restrictive practice without a risk assessment	
Staff training should include the use of restrictive practice, the management of challenging behaviours and the Deprivation of Liberty Safeguards	
Care plans must evidence the involvement of patients and/ or their representatives	
The RQIA must be notified of death, illness and other events and staff should receive training concerning what is reportable	
Staff must adhere to regional guidance concerning safeguarding	
All parts of the home must be clean; and staff trained to adhere to the company's infection control policy	
The home's charges must be transparent and feature in the residency contract for example	
Complaints must be investigated; a record maintained; feedback should be sought; and, if required, complainants advised of next steps	

Observations:

The inspection included scrutiny of the complaints, accidents and review records. It was noted that the complaints protocol displayed in the home's foyer recorded the name of the previous manager. Although the number of complaints was not specified, one originated from a neighbour troubled by a noisy extractor fan.

There were **28 Notifications to the RQIA** during **January 2015**: concerning falls, illnesses and accidents.

There were **28 Notifications to the RQIA** during **February 2015:** concerning falls, illnesses and accidents.

There were **13 Notifications to the RQIA** during **March 2015:** mostly concerning falls and "resident on resident" behaviour.

130. **Unannounced Care Inspection of 23 April 2015**
Registered Manager: the third[69] (confirmed as acting manager from February 2015)
Registered Provider: Runwood Homes Ltd, the Managing Director
17 Residents and 17 Patients

Requirements	Recommendations
Care records should be accurate and factual and include continence assessments and bowel patterns	Care records should be complete with reference to restrictive practice and continence needs
	Quality auditing of care records should be expanded and embedded and managers should verify completed actions

Observations:
The requirement concerning care records had been a recommendation in the previous inspection. How may an accurate and factual care record be incomplete? Why is it only recommended that care records should be complete? Why is the recommendation concerning "complete" records only advisory? This is the last report which distinguishes between the numbers of residents and patients. The spelling of the names of the Registered Provider and Manager are subject to variation across the inspection reports.

There were **6 Notifications to the RQIA** during **April 2015**: concerning "resident on resident" behaviour and illnesses.

131. **Unannounced Medicines Management Inspection of 6 May 2015**
Registered Manager: the third (Acting)
Registered Provider: Runwood Homes Ltd, the Managing Director
39 people accommodated at the home

Requirements	Recommendations
	The care plan of the insulin dependent resident should reflect the roles and responsibilities of care staff
	Pain assessments should be in place
	The recording system for "as and when" required medication should be reviewed
	Care plans are maintained for the patients prescribed medication for pain management

[69] Manager between "January" and 9 August 2015 – no registration application was submitted

Observations:

The inspection report contains the statement, "It should be noted that this inspection report should not be regarded as a comprehensive review of all strengths and weaknesses that exist in the home. The findings set out are only those which came to the attention of RQIA during the course of this inspection. The findings…do not absolve the registered person/ manager from their responsibility for maintaining compliance with minimum standards and regulations. It is expected that the recommendations…will provide the registered person/ manager with the necessary information to assist them in fulfilling their responsibilities and enhance practice within the home." This disclaimer features in all subsequent reports and would be unnecessary if the reports stated what was looked at and who was spoken with.

There were **10 Notifications to the RQIA** during **May 2015:** concerning "resident on resident" behaviour, illnesses and accidents.

132. **Unannounced Care Inspection of 9 July 2015**

Registered Manager: the third

Registered Person: Runwood Homes Ltd, the Managing Director

52 people accommodated

Purpose: to ensure that concerns regarding the home's recruitment and selection procedures were investigated.

Requirements	Recommendations
Care records should be accurate and factual and include continence assessments and bowel patterns	Staff to be informed of responsibilities concerning infection prevention and control
Copies of Regulation 29 reports must be available	Staff should be trained in care planning
The auditing of care records should ensure that all sections are completed e.g., restrictive practice and continence needs	
Recruitment and selection procedures should be revised	

Observations:

The repetition of requirements and recommendations within the inspection reports is conspicuous within a nine-month timeframe.

There were **13 Notifications to the RQIA** during **June 2015**: concerning "resident on resident" behaviour and falls.

133. **Unannounced Finance Inspection of 30 July 2015**

Registered Manager: the third[70]

Registered Organisation/Person: Runwood Homes Ltd, the Managing Director

56 people accommodated

[70] *Home Truths* states that by the end of August 2015, a fourth manager was appointed (p82); the fifth manager was appointed during November; by February 2016, this manager had resigned and the sixth manager was appointed (p84)

Requirements	Recommendations
Copies of agreements sent for signature should be retained on file	The home reviews its standard agreement
Ensure that a standard ledger format details all transactions concerning residents/ patients' comfort funds	
Ensure there is appropriate follow-up of documents from patients' representatives which provide the home with authority to spend a patient's money	
Ensure a "safe book/ register" records all items held in the safe place	
Ensure an up-to-date inventory of the furniture and personal possessions of newly admitted patients	

There were **13 Notifications to the RQIA** during **July 2015**: concerning "resident on resident" behaviour and medication issues.

134. **Unannounced Care Inspection of 11 November 2015**

Registered Manager: the fifth[71] (application not yet submitted). *Home Truths'* [72] lists this as being the fifth manager of the home.

Registered Organisation/Person: Runwood Homes Ltd, the Managing Director

43 people were accommodated

Requirements	Recommendations
The auditing of care records should ensure that all sections are completed e.g., restrictive practice and continence needs	Staff to be informed of responsibilities concerning infection prevention and control
Ensure staff undertake mandatory training within the required timescales	Staff should be trained in care planning
Ensure all records are available	A policy on communicating effectively should be written
	There should be training on communicating effectively and end of life care
	There should be a system to evidence that staff have read communication and end of life care policies
	The home's policies on palliative and end of life care should reflect current best practice and regional guidelines
	The Regulation 29 report should reflect single visits

[71] Between 10 August and 22 November, was the fourth Manager – no registration application submitted; and the fifth Manager was between 23 November 2015 and 15 February 2016 – no application submitted

[72] Page 123

	Complaints must be investigated; a record maintained; feedback should be sought; and, if required, complainants advised of next steps

Observation:

This is the last report which specifies the number of people accommodated at DMCH.

There were **15 Notifications to the RQIA** during **August 2015**: concerning illnesses, behaviour and medication issues.

There were no **Notifications to the RQIA** during **September 2015**.

There was **1 Notification to the RQIA** during **October 2015**: concerning "resident on resident" behaviour.

There was **1 Notification to the RQIA** during **November 2015**: concerning an accident.

There were **10 Notifications to the RQIA** during **December 2015**: concerning "resident on resident" behaviour, medication issues and deaths.

135. **Unannounced Care Inspection of 22-24 June 2016**

Registered Manager: the sixth[73] (Registration pending). *Home Truths*[74] lists this as being the sixth manager of the home.

Registered Provider: Runwood Homes Ltd, the Managing Director

Requirements	Recommendations
Ensure that people's dependency levels are kept under review	The induction training records should be signed
There must be documented evidence of staff registration with the appropriate professional regulatory body	The rationale for locking the front door should be in the statement of purpose
	Attend to environmental matters such as storage shelving and the garden
	Review dining - people should not have to wait for 45 minutes to be served meals
	People's care and grooming requires regular assessment and they should be appropriately dressed

Observations: From this date DMCH is described as a Nursing Home. This is the last inspection report to cite the weekly tariff.

There were **13 Notifications to the RQIA** during **January 2016**: concerning "resident on resident" behaviour and expected deaths.

[73] The sixth Manager was between 16 February and 21 August 2016 – their application was submitted 18 April, registered on 5 August 2016 and left employment two weeks later; *Home Truths* states that the seventh manager was appointed

[74] Page 123

There were **24 Notifications to the RQIA** during **February 2016**: concerning "resident on resident" behaviour, medication issues; and expected deaths.
There were **11 Notifications to the RQIA** during **March 2016**: concerning "resident on resident" behaviour and expected deaths.
There were **12 Notifications to the RQIA** during **April 2016**: concerning "resident on resident" behaviour and illnesses.
There were **8 Notifications to the RQIA** during **May 2016**: concerning falls, medication issues and expected deaths.
There were **7 Notifications to the RQIA** during **June 2016**: concerning falls.
There was **1 Notification to the RQIA** during **July 2016**: concerning an expected death.
There were **2 Notifications to the RQIA** during **August 2016**: concerning a fall, behaviour and a medication issue.

136. **Unannounced Medicines Management Inspection of 7 September 2016**

Registered Manager: the seventh[75] – Acting Manager – no application submitted. *Home Truths*'[76] lists this as being the seventh manager of the home.

Registered Org/Person: the Managing Director

Requirements	Recommendations
Ensure that records indicate that staff are trained and competent in the work they perform	The recording of "as and when" medicines should be reviewed
Ensure medicines are administered according to the prescribers' instructions	Ensure robust arrangements for the disposal of medicines
Ensure robust arrangements to manage medicine changes	Ensure that bisphosphonate medicines are administered according to the manufacturers' instructions
Personal medication records must be accurately maintained	Recent photos should facilitate the safe administration of medicines
Ensure records of medicines' administration and non-administration	Two trained staff should transcribe medicines information onto records
Ensure arrangements for the management of pain	The date and time of opening should be recorded on all medicines
There should be a robust system to audit medicines' management	

There were **3 Notifications to the RQIA** during **September 2016**: concerning "resident on resident" behaviour.

137. **Unannounced Care Inspection Report of 17, 18 & 24 October 2016**

[75] Manager from 22 August to 23 October 2016 – no application submitted.
[76] Page 123

Registered Manager: the seventh (Deputy Manager) and the eighth (application pending). This demonstrates that the home was about to have its eighth manager.[77]

Registered Org/Person: Runwood Homes Ltd, the Managing Director

Purpose: The inspection was informed by an anonymous complaint concerning "environmental aspects of the home"

Requirements	Recommendations
Ensure that people's dependency levels are kept under review	The induction training records should be signed
Ensure that the "correct times medications are administrated are stated (sic) on the medication records"	The recommendations of other professionals should be strictly adhered to
All safeguarding actions should be documented	Care planning should result from consultation
Needs' assessments are comprehensive, they should include pain management, and be regularly reviewed	Ensure that the day's menu is displayed and in a suitable format
Ensure staff are trained and competent in managing distressed reactions, dementia awareness, the dining experience, prevention and management of pressure ulcers, and pain management	Attend to environmental matters such as storage shelving and the garden
Accurately record and monitor accidents and incidents	The rationale for locking the front door should be in the statement of purpose
Care records should be accurate and factual and include risk assessments, person centred plans and reviews. Nurses must record according to NMC guidance	
Enhance the dining experience	
A record of food is maintained to enable judgements about nutritious diets – and special diets detailed	
Copies of Regulation 29 reports must be available	
Complaints must be investigated; a record maintained; feedback should be sought; and, if required, complainants advised of next steps	
Audits should review nursing care, accidents and incidents, complaints management and adult safeguarding actions	

Observations: The inspection report resulted in twelve requirements and six recommendations of which several were being repeated. On the 26

[77] *Home Truths* states that the seventh manager resigned during October 2016 (after two months in post) and the eighth manager was appointed during the inspection (p88)

October 2016 **three failure to comply notices** were issued. (see paragraph 167 below)

138. **An announced Premises Inspection of 24 October 2016**

Registered Manager: the seventh[78] (Acting). This suggests that the seventh manager was still in post at the time of this inspection.

Registered Provider: Runwood Homes Ltd

Responsible Individual: the Managing Director

Requirements	Recommendations
Work to be completed to address problems with blended water and water pressure	Review the action plan concerning the legionella risk assessment
	Work concerning the emergency lights should be confirmed to RQIA
	Arrangements for the ongoing management of premises should ensure the timely continuity of maintenance

Observations:

This was the first inspection of premises since the home was registered; although the Registered Provider's representative has become the "Responsible Individual," two inspection reports of March 2019, cite "Registered Provider" and "Responsible Individual" respectively.

There were **3 Notifications to the RQIA** during **October 2016**: concerning "resident on resident" behaviour, a fall and medication issues.

There was **1 Notification to the RQIA** during **November 2016**: concerning an expected death.

There were **16 Notifications to the RQIA** during **December 2016**: concerning falls, "resident on resident" behaviour and an expected death.

The home was **closed to new admissions during November 2016**.

139. **Unannounced Enforcement Compliance Inspection of 4 January 2017**

Registered Manager: the ninth,[79] acting – no application. This demonstrates that the home had its ninth manager.

Registered Org/Person: Runwood Homes Ltd, the NI Director of Operations

Purpose: to assess compliance regarding three Failure to Comply Notices (of 26 October 2016) concerning governance, people's health and welfare, and staffing arrangements and deployment

[78] The eighth Manager was from 24 October 2016 – 13 December 2016 – no application submitted.

[79] Manager for a day – 14 December 2016 – no application submitted; *Home Truths* states that during December 2016, the eighth manager resigned and a ninth one was appointed – the ninth in 2.5 years (p92-93)

Observations:

The report notes that "evidence at the time of inspection was not available to validate full compliance with the…Failure to Comply Notices…enforcement action remains ongoing." It concludes, "…there was evidence of some improvement and progress made to address the required actions within the notices. Following the inspection, RQIA senior management held a meeting on 5 January 2017 and a decision was made to extend the compliance date up to the maximum legislative timeframe of 90 days. Compliance with the notices must therefore be achieved by 27 January 2017."

Unannounced Enforcement Compliance Inspection of 27 January 2017

Registered Manager: No registered manager in post – the ninth, Acting Manager

Registered Org/Person: Runwood Homes Ltd, the NI Director of Operations

Purpose: Unannounced Enforcement Compliance

Observations:

Due to the continued non-compliance, "notice of proposal to impose conditions on the registration of the home was issued on 6 February 2017." There were three conditions (i) admissions to cease until full compliance has been achieved; (ii) the provider must ensure that a nurse manager with sufficient clinical and management experience is working at the home "on a day-to-day basis" and (iii) monitoring reports, including Regulation 29 reports, must be submitted to the RQIA within three working days of the visits/ the reports being completed. The Notice of Conditions did not take effect until 13 April 2017 (see paragraph 168 below)

There were **5 Notifications to the RQIA** during **January 2017**: concerning expected deaths.
There were **9 Notifications to the RQIA** during **February 2017**: concerning falls and "resident on resident" behaviour.

140. **Unannounced Medicines Management Inspection of 16 March 2017**

Registered Manager: the ninth "Acting – no application required"[80]

Registered Org/Person: Runwood Homes Ltd, the NI Director of Operations

Requirements	Recommendations
Ensure arrangements for the cold storage of medicines	Ensure arrangements for the disposal of medicines

There were **6 Notifications to the RQIA** during **March 2017**: mostly concerning falls.

141. **Unannounced Care Inspection of 4 May 2017**

Registered Manager: the tenth, "application not yet submitted" This demonstrates that the home now had its tenth manager since opening.

Registered Org/Person: Runwood Homes Ltd, the NI Director of Operations

[80] *Home Truths* states that during March 2017, the ninth manager resigned and the tenth was appointed (p94)

Requirements	Recommendations
Ensure that registered nurses monitor in the event of head injuries	The rationale for locking the front door should be in the statement of purpose
	Ensure that staff undertake refresher training in moving and handling

Observations:

This is the last report which distinguishes between requirements and recommendations. The distinction now made is between regulations (it is a requirement that these are complied with) and standards (it is usual to recommend that these are met as not doing so can be evidence of a breach of regulations).

142. **Unannounced Follow-up Care Inspection of 29 June 2017**

Registered Manager: the tenth, "registration pending"
Registered Provider: Runwood Homes Ltd
Responsible Individual: the NI Director of Operations
Observations:

"This inspection was carried out following information received from an anonymous telephone caller and a whistleblowing letter to RQIA."

Areas for improvement identified at the previous inspection were not due for review. There were no new areas for improvement identified in respect of regulations and standards. Some areas of good practice were identified.

The report states that "The concerns raised by the whistle-blower and the anonymous caller were not substantiated and at the time of the inspection patients' needs were being met in a safe, compassionate and effective manner."

143. **Unannounced Care Inspection Report of 28 July 2017**

Registered Manager: the tenth, "registration pending"
Registered Provider: Runwood Homes Ltd
Responsible Individual: the Chief Operating Officer (Acting)
Observations:

"The inspection was undertaken following communication from the responsible individual (acting) for Runwood Homes, (Named), he advised the organisation considered that Dunmurry Manor was now compliant with the actions outlined within two Failure to Comply Notices issued on 26 October 2016. The areas identified for improvement and compliance with the regulations were in relation to the governance and management arrangements of the home…and the health and wellbeing of the patients…As a result of this inspection and the sustained improvement in the areas inspected, the conditions imposed on the registration of the home on 13 April 2017 were removed. A new certificate of registration to reflect this has been issued to the registered persons." No requirements or recommendations resulted.

144. **Unannounced Follow-up Care Inspection of 19 August 2017**

Registered Manager: the tenth, registered 10 August 2017
Registered Provider: Runwood Homes Ltd
Responsible Individual: the Chief Operating Officer (Acting)
Observations:

"As a result of serious concerns, in relation to the well-being of patients in a nursing home operated by Runwood Homes Ltd.,[81] a lay magistrate issued an order to cancel the registration of that home. This inspection was undertaken to provide an assurance that appropriate arrangements were in place for the safety and well-being of patients accommodated in Dunmurry Manor…There were no areas for improvement identified during this inspection."

145. **Unannounced Medicines Management Inspection of 18 October 2017**

Registered Manager: the tenth, registered 10 August 2017
Registered Provider: Runwood Homes Ltd
Responsible Individual: the Chief Operating Officer

Areas of improvement: regulations	Areas of improvement: standards[82]
Ensure arrangements for the cold storage of medicines	Review current systems to ensure that a record of all incoming medicines is maintained.

146. **Announced Premises Inspection (including Pre-registration report) of 23 January 2018**

Registered Manager: the tenth, registered 10 August 2017
Registered Provider: Runwood Homes Ltd
Responsible Individual: the Chief Operating Officer (registration pending)
Observations:

"The purpose of the inspection was also to assess the suitability of the 36-bedded ground floor for registration as a residential care home as per an application made by the provider. This was found to be satisfactory and the application should be granted from an estates perspective."

Areas of improvement: regulations	Areas of improvement: standards
	Complete the risk assessment and installation of the gas service emergency interlock isolation valve adjacent to… "means of escape" doorway
	Confirm that satisfactory arrangements are implemented to provide assurance that medical devices are maintained in accordance with manufacturer`s instructions

[81] Ashbrooke Care Home, Enniskillen, now Meadow View Care Home, operated by Runwood Homes.
[82] Areas for improvement replaced requirements and recommendations in the reporting format.

147. **Unannounced Care Inspection of 29 January 2018**

Registered Manager: the tenth, registered 10 August 2017

Registered Provider: Runwood Homes Ltd

Responsible Individual: the Chief Operating Officer

Areas of improvement: regulations	Areas of improvement: standards
	Ensure that registered nurses record any changes re: catheter care and management in accordance with best practice and clinical guidelines

148. **Unannounced Care Inspection Report of 9 & 11 May 2018**

Registered Manager: the tenth, registered 10 August 2017

Registered Provider: Runwood Homes Ltd

Responsible Individual: the Chief Operating Officer

Observations:

"RQIA received information from an anonymous source, raising concerns in relation to the management and governance arrangements within Runwood Homes which included staff recruitment and selection processes, registration of staff with their professional body and that two of the registered homes were being used to conduct business in respect to another service."

Areas of improvement: regulations	Areas of improvement: standards
Ensure that the system to monitor staff registration with NISCC is more robust	Ensure that the infection control areas identified on inspection are managed appropriately
Ensure that registered nurses given the responsibility of taking charge of the nursing home in the absence of the registered manager will have completed a competency and capability assessment for the nurse in charge role	Ensure that wound dimensions are recorded regularly when completing wound observation charts at the time of wound dressing
Ensure that all chemicals are securely stored in keeping with COSHH legislation[83]…ensure that patients are protected from hazards to their health	The registered person shall that (sic) [ensure that] the nurse in charge of the home in the absence of the registered manager is identified on the duty rota

149. **An Unannounced Post Registration Medicines Management Inspection[84] report of 5 September 2018**

Oak Tree Manor Residential Home

Registered Manager: the tenth (registered 6 July 2018).

[83] The Control of Substances Hazardous to Health is the law that requires employers to control hazardous substances in order to prevent ill health.

[84] This features on https://www.rqia.org.uk/inspections/view-inspections-as/map/oak-tree-manor-residential-home/ (accessed 6 April 2020). It is described as a "Care" inspection

Registered Provider: Runwood Homes Ltd
Responsible Individual: the Chief Operating Officer

Areas of improvement: regulations	Areas of improvement: standards
	The registered person shall closely monitor the administration of liquid and inhaled medicines
	The registered person shall update one resident's care plan re diabetes
	The registered person shall…ensure correlation between personal medication records and medication administration records

150. **Unannounced Care Inspection of 6 November 2018**[85]

Oak Tree Manor Residential Home
Registered Manager: the eleventh
Registered Provider: Runwood Homes Ltd
Responsible Individual: the Chief Operating Officer
Observations:
The inspection reported positive findings and no areas for improvement were identified.

151. **Unannounced Medicines Management Inspection of 8 November 2018**

Oak Tree Manor Nursing Home
Registered Manager: the tenth
Registered Provider: Runwood Homes Ltd
Responsible Individual: the Chief Operating Officer
Observations:
"Evidence of good practice was found in relation to medicines governance, training and competency assessment, the standard of record keeping, care planning and the safe storage of medicines. No areas for improvement were identified at the inspection."

152. **Unannounced Care Inspection of 17 January 2019**

Oak Tree Manor Nursing Home
Registered Manager: the eleventh – registration pending. This demonstrates that the home now had its eleventh manager.
Registered Provider: Runwood Homes Ltd
Responsible Individual: the Chief Operating Officer

Areas of improvement: regulations	Areas of improvement: standards
Ensure that the system to monitor care staffs' registrations with NISCC is more robust	Ensure that patients' hoists are maintained clean at all times and that patients' own slings are stored appropriately
	Ensure that storage areas within both identified kitchenettes are maintained clean and hygienic

[85] This features on https://www.rqia.org.uk/inspections/view-inspections-as/map/oak-tree-manor-residential-home/ (accessed on 6 April 2020)

	The management of mealtimes for patients to ensure adequate gaps between meals to be reviewed

153. **Unannounced Follow-up Care Inspection of 5 February 2019**[86]
Oak Tree Manor Residential Home
Registered Manager: the eleventh – registration pending.
Registered Provider: Runwood Homes Ltd
Responsible Individual: the Chief Operating Officer
Purpose: "RQIA was contacted by another body to advise that they had received information from a source relating to a variety of issues in the home. The source did not wish to be identified to RQIA. RQIA met with representatives of the South Eastern HSC Trust to share the information received and to agree a plan of action... There were no areas for improvement identified during this inspection, and a QIP is not required or included as part of this inspection report."

154. **Announced Variation to Registration Premises Inspection 7 March 2019**
Oak Tree Manor Nursing Home
Registered Manager: the eleventh
Registered Org/Provider: Runwood Homes Ltd, the Chief Operating Officer
"The former first floor bedroom number 76 was converted and combined with the existing quiet lounge to form a large lounge area ("The Sun Lounge") for the nursing home patients. Sub-compartment fire walls were repositioned to maintain…compliance and approved by the local authority building control department. The number of patient bedrooms has been reduced from 25 to 24 as a result of this variation. The variation works were found to be satisfactory from an estate's inspector`s perspective."

155. **Announced Variation to Registration Premises Inspection 7 March 2019**[87]
Oak Tree Manor Residential Home
Registered Manager: the eleventh
Registered Org/Provider: Runwood Homes Ltd, the Chief Operating Officer
"The number of bedrooms will increase from 36 to 51 as a result of the additional 15 bedrooms specified in this variation application…This inspection resulted in no areas for improvement being identified."

156. **Announced Variation to Registration Care Inspection of 7 March 2019**
Oak Tree Manor Nursing Home

[86] This features on https://www.rqia.org.uk/inspections/view-inspections-as/map/oak-tree-manor-residential-home/ (accessed 6 April 2020).
[87] This features on https://www.rqia.org.uk/inspections/view-inspections-as/map/oak-tree-manor-residential-home/ (accessed 6 April 2020)

Registered Manager: the eleventh

Responsible Org/Provider: Runwood Homes Ltd, the Chief Operating Officer

"The variation to registration to reduce the number of registered [nursing] places from 40 to 24 was granted from a care perspective following this inspection... This inspection resulted in no areas for improvement being identified."

Areas of improvement: regulations	Areas of improvement: standards
Ensure that the system to monitor care staffs' registrations with NISCC is more robust	Ensure patients' hoists are maintained clean at all times and that patients' own slings are stored appropriately
	Ensure that storage areas within both identified kitchenettes are maintained clean and hygienic
	The Registered Person shall review the management of mealtimes for patients to ensure adequate gaps between meals

Observations:

Irrespective of the statement that there were no areas for improvement identified, four were cited.

157. **Announced Variation to Registration Care Inspection of 7 March 2019**[88]

Oak Tree Manor Residential Home

Registered Manager: the eleventh – application received – registration pending

Registered Provider: Runwood Homes Ltd

Responsible Individual: the Chief Operating Officer

"The variation to registration to increase the number of beds from 36 to 51 to accommodate older people was granted from a care perspective following this inspection…This inspection resulted in no areas for improvement being identified."

158. **Unannounced Care Inspection of Dunmurry Manor Residential Home of 13 June 2019**[89]

Oak Tree Manor Residential Home

Registered Manager: the eleventh – registered 15 March 2019

Responsible Individual: the Chief Operating Officer

Areas of improvement: regulations	Areas of improvement: standards
Ensure that RQIA is notified of all incidents…[including] unplanned activations of fire alarm; accidents…involving residents where medical intervention needs to be sought	Ensure that the following records are held separately for the residential home: staff supervision; appraisal; training; fire drills; complaints and compliments; governance audits

[88] This features on https://www.rqia.org.uk/inspections/view-inspections-as/map/oak-tree-manor-residential-home/ (accessed 6 April 2020)

[89] This features on https://www.rqia.org.uk/inspections/view-inspections-as/map/oak-tree-manor-residential-home/ (accessed 6 April 2020)

	Ensure that calibration checks are completed each time the scales are used and that this is recorded

159. **Unannounced Care Inspection of Dunmurry Manor Nursing Home of 13 June 2019**
Oak Tree Manor Nursing Home
Registered Manager: the eleventh – registered 15 March 2019
Registered Provider: Runwood Homes Ltd
Responsible Individual: the Chief Operating Officer
"Areas requiring improvement were identified. These were in relation to notifications to RQIA, records for the residential home being held separately to the nursing home and calibration of the weighing scales." These do not feature in the areas specified below but refer instead to the inspection carried out by (Named) on the same day. See above.

Areas of improvement: regulations	Areas of improvement: standards
Ensure that wound care plans contain accurate dressing regimes and frequency of dressing. Wound care plans must be updated	Ensure that all storage areas within both identified kitchenettes are maintained in a clean and hygienic manner
	Ensure that all appropriate pre-employment checks are conducted prior to all new staff members commencing in post
	Ensure that falls in the home are monitored on a monthly basis for patterns and trends and that a preventative action plan is developed
	Ensure that patients who are brought to the dining room are supervised at all times
	Ensure that patients' fluid targets are consistently met and the patients' care plans identify the actions to take when this target is not met

160. **Unannounced Follow-up Care Inspection of 4 & 6 October 2019**[90] by Senior RQIA Staff
Oak Tree Manor Residential Home
Registered Manager: the twelfth (registration pending). This means that the home now had its twelfth manager.
Registered Provider: Runwood Homes Ltd
Responsible Individual: the Chief Operating Officer
Number of registered places: 51; total number of residents: 33

[90] This features on https://www.rqia.org.uk/inspections/view-inspections-as/map/oak-tree-manor-residential-home/ (accessed 6 April 2020)

"This is a residential care home with 51 beds which provides care to people who have dementia. The home is also currently registered to provide care to older people. An application has been submitted to change this category of care to allow the home to provide dementia care only."

Purpose:
Review of areas for improvement from the last care inspection dated 13 June 2019
Respond to intelligence from adult safeguarding SE HSCT: (a) concerning the isolation of a resident by staff; and (b) the potential of a resident to harm peers.

Observations:
The report sets out one requirement and two recommendations in its "Areas for improvement from the last care inspection dated 13 June 2019." NB there were two inspections on this date and these areas refer to the inspection by (Named). The "Areas for Improvement" concern (i) notifications, which include "unplanned activations of the fire alarm [and] accidents…involving residents where medical intervention needs to be sought; (ii)…ensure that the following records are held separately for the residential home: staff supervision, appraisal, training, fire drills, complaints and compliments, governance audits; (iii)…ensure that calibration checks are completed each time the scales are used and that this is recorded…"

With reference to the allegations concerning (a) the isolation of a resident, a staff member was suspended and the investigation concluded that there was "no evidence this practice was common." Allegation (b) concerns a man's potential harm to peers. The records were insufficiently detailed with poor handover of information between shifts, for example. In addition, there was a period of planned leave when there was neither a manager nor deputy present at the home.

Although a meeting was held on 16 October 2019, with a view to issuing a Failure to Comply Notice, "the registered persons provided written evidence and verbal accounts of actions taken in progress and planned…" so the Notice was not issued. The following areas of improvement were identified.

Areas of improvement: regulations	Areas of improvement: standards
The registered person shall ensure that RQIA is notified of all incidents [including] unplanned activations of the fire alarm; and accidents… involving residents where medical intervention needs to be sought	The registered person shall ensure that the following records are held separately for the residential home: staff supervision, appraisal, training, fire drills, complaints and compliments, governance audits
The registered person shall ensure that all incidents in the home are consistently recorded	
The registered person shall ensure that referrals are made to other agencies as appropriate [and recorded]	

The registered person shall ensure that residents' care records are detailed and complete	
The registered person shall ensure that all staff are proved with individual log-in and identification numbers [to use] the home's information system	
The registered person shall ensure that there are suitable arrangements during the absence of the manager	

Summary of inspections

161. These reports underscore the negative impact of management instability at DMCH between 2014 and 2017. Further, they confirm the subsequent, positive impact of management stability between 2017 and 2019. Information concerning the home's managers and their registration status is inconsistently recorded. The failure to provide management continuity is arguably exemplified by the repetition of requirements over the sum of inspections.
162. There appears to have been an inability to conduct a comprehensive analysis of the entirety of the inspections or to take a consolidated view about the nature of care, standards of practice and the experience of residents. The inspection reports present misleading information concerning prior, unattended "areas of improvement" and, given that RQIA's website does not include detailed registration and inspection, history, location or ownership information, they beg questions about transparency.
163. Challenges arose from RQIA's fragmented types of inspections which factored problems into the topics of care, pharmacy, estates or finance and resulted in problem-specific solutions or requirements. Challenges arose too from the scrutiny and actions of the HSCTs which perceived care homes and nursing homes as shared territory. Most care managers did not consider they should be undertaking a role monitoring care homes however IRT members were told on two separate occasions that there were care managers who described their role as "like inspectors but worse". The IRT deduced that there were occasions when Trusts complemented and/ or supplanted the remit of the RQIA, albeit without the resources, leverage or statutory powers to act and be operationally effective.
164. Some allegations of neglect and abuse were substantiated and received an appropriate response. Typically, however, allegations are often difficult to prove. Aggression between residents does not lend itself to a perpetrator and victim approach. Older people may be fearful of speaking out and relatives may be rendered powerless by professionals' explanations. Allegations may involve those who do not have the mental capacity to describe events. When injuries have been sustained, they may have occurred without witnesses. Practices at DMCH during the period in question were not characterised by effective record-keeping, as testified by the inspection reports.
165. Cycles of concern, resident and patient neglect, inspection and reform efforts are not explicit in DMCH inspection reports. The inspections appeared to be insulated from Notifications.

Similarly, intelligence arising from complaints was lost and had a dwindling influence in RQIA's work. It cannot be right that more and better-quality information about DMCH became available via newspapers, radio and TV broadcasts than were contained in RQIA's inspection reports of 2014 to 2017.[91] The IRT was told that families had no confidence in the inspection reports during this period and that they were of little value to prospective residents and their families. At this time, DMCH provided poor care and residents were harmed[92] - which reflected adversely on Runwood Homes' reputation. That said, the IRT learned, from visiting all Runwood Homes – talking with the home manager, other staff and people present in the home at the time - and reading RQIA Inspection reports, that there were other care homes which exhibited – at different times - similar characteristics to DMCH as well as homes where confidence was expressed in their local good reputations.

Summary of enforcement action

166. During 2015 and 2016 there were indicators of serious difficulties at DMCH such as many changes of managers, high turnover of staff, increasing complaints from families. The HSCTs were monitoring activity and on the 14 August 2015 imposed a condition under contract to suspend admissions which was lifted on the 24 November 2015. On the 21 October 2016, an HSCT imposed a formal suspension notice on admissions.

167. Following the RQIA inspection in October 2016 three Failure to Comply (FTC) Notices were issued. The date of compliance was 5 January 2017. In the interim there were some improvement, but the notices were not met. The time for compliance was extended to the 27 January 2017. A further Compliance Inspection took place and two FTC notices were still not fully met. On 6 February 2017, a Notice of Proposal to impose conditions was served. It covered three areas including the suspension of admissions. The Notice of Conditions was to become effective on the 13 April 2017. The Notice took 66 days to be put in place and implemented. The areas of non-compliance were first identified on the 24 October 2016. On the 27 January 2017 Inspectors still found two notices of non-compliance.

168. There were over five months between identifying the non-compliance and the serving of a Notice of Conditions. The Notice was in place until the 28 July 2017 when inspectors were satisfied the conditions of the notice were met. There had been opportunities for RQIA to act during 2015 as well as when it did in 2016/17. It could have prevented more people moving into DMCH and given it the opportunity to stabilise and make improvements. RQIA was slow in acting, did not make tactical use of its powers to impose conditions and took too long when it did act.

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[91] See, for example https://www.bbc.co.uk/news/world-europe-38175181 (accessed 16 July 2019); https://www.irishcentral.com/news/belfast-care-home-investigation-inhuman-treatment (accessed 16 July 2019); http://sdlp.ie/news/2018/heading-calls-for-criminal-investigations-into-horrendous-abuse-at-dunmurry-manor-care-home/ (accessed 16 July 2019); https://www.lisburntoday.co.uk/news/dunmurry-manor-scandal-council-seeks-answers-over-dreadful-catalogue-events-1020024 (accessed 16 July 2019);
In addition, since August 2018, Radio Ulster's "The Nolan Show" has given considerable coverage to the experience of residents at DMCH

[92] See *Home Truths*

169. It is not known why the regulatory powers vested in RQIA were not fully mobilised or how the time frame for improvements was determined. From families' perspectives, this was a crucial period when the welfare of residents was severely compromised. The opportunities for RQIA to have made decisive regulatory interventions in the patients' and residents' interests were not taken.
170. Necessarily, the rigour and validity of RQIA's inspection regimes, its moderation methods, the management of those operating them and the tolerance of a home's enduring problems prompt questions about leadership, governance, engagement and communication. It is helpful to consider the policy position of RQIA at the relevant time. Its Enforcement Policy (April 2017) stated that "enforcement action will be proportionate and related to the level of risk to service users and the severity of the breach of regulation."

    On any analysis, the level of failure at DMCH over this period would have merited urgent regulatory action because the RQIA's own Enforcement Policy's threshold had been met. RQIA's inspections and notifications were not the only evidence of failings at DMCH. Complaints' information – most particularly concerning inattention to their outcomes - and the care failings reported by HSCTs should have provided the evidential impetus.

171. The South Eastern HSCT, as host Trust, reported such care failings at DMCH which were initially logged during October 2014 by a Clinical Nurse Facilitator. These concerned three residents' pressure ulcers. Alarm arising from a monitoring visit by the Northern HSCT on 10 March 2017, resulted in inter-Trust meetings. They identified poor staffing levels, lack of record keeping, medication administration problems, foul smelling bathrooms and carpets, and a lack of person-centred care. RQIA responded with an unannounced medicines management inspection on 16 March 2017. The failings identified by the HSCTs were not found by the inspector.
172. The HSCTs remained concerned about the same risks to residents and continued their monitoring visits. The IRT was advised by families that it was not all areas of DMCH that had been affected at the time. The care home manager, met by the IRT in May 2018 who came into post on 17 March 2017, said that her predecessor had responded to the issues raised by the HSCTs.
173. The monitoring, clinical review and inter-Trust activity regarding DMCH continued throughout 2014 to 2017. Highlights include an inspection on 21 January 2015 that resulted in 17 Requirements (three being restated for the second time) and nine Recommendations; a serious concern meeting with RQIA on 11 February 2015 that gave DMCH eight weeks to address the issues; placements were suspended between 14 August 2015 and 24 November 2015; evidence of action plans supplied by Runwood to the South Eastern HSCT; and meetings with regional directors and the CEO of Runwood. The picture conveyed is one of intense monitoring over an extended period and yet RQIA took no enforcement action.
174. The HSCTs reported that they were not confident that RQIA accepted the urgency merited by their findings concerning the overall management of the home, its inability to sustain improvement, the changes in senior staff, the turnover of care staff and its high use of

agency staff. These concerns paralleled those that led to the three Failure to Comply notices, namely,

- *Must* manage the home with sufficient care, competence and skill; and
- *Must* provide services to each patient which reflect their needs and best practice; and
- *Must* be appropriately staffed by skilled employees.

175. RQIA's efforts to influence quality through the enforcement of regulations and standards did not enhance the lives of DMCH's residents. The integration of policing quality with quality improvement creates a regulatory design dilemma: how encouraging should the regulator be to a service with unstable management and a deteriorating track record? It is not clear how RQIA sought to ensure that its processes did not become ritualistic.

176. When the RQIA Board review enforcement policy and processes, they are advised to reflect on what happened at DMCH and other care home case scenarios to see what may be learned. For example, in taking more immediate actions. Crucial considerations are, how they work in harness with HSCTs, who have duties towards individual residents, and how the rights of self-funding residents are protected.[93]

177. Responsiveness to the urgency concerning DMCH residents and their families was not assured by complaints, independent advocacy, Notifications or inspections. It was gifted by COPNI. *Home Truths* has been instrumental in highlighting the consequences of diffused accountability through the DH and the HSCTs responsible for commissioning services for individual residents, the directors of Runwood Homes, DMCH and the delays and failure of RQIA's regulatory mandate.

POINTS TO CONSIDER – Learning and Change

Recognising the importance of the registered manager

- ✓ No home should be registered without a registered manager.
- ✓ When a care home manager leaves, the provider must recruit and ensure that the name of the person deputising during recruitment is known.
- ✓ A manager's application to register should coincide with the post's confirmation.

Assisting care homes to avert failure

- ✓ Residents and relatives should be invited to advise on a more accessible format for inspection reports.
- ✓ There is basic information that should be in all reports such as the number of people in residence.
- ✓ The perspectives of residents and their relatives did not feature significantly in DMCH's inspection reports. An RQIA engagement and communications strategy should be published.

[93] It is understood that self-funding, privately paying residents have the option to make use of the HSCT care management system including care reviews. Families of such residents spoken with by the IRT said that did not have information about this role of the HSCT either before or after admission.

- ✓ RQIA should be open to care home providers' challenges and be prepared to explain how it has reached its conclusions.
- ✓ Approaches to inspection fieldwork that are more than a visit, seek broader engagement and on occasions are thematic, may be of benefit to the care home and its residents, families and staff.
- ✓ RQIA inspections ought to make the connections between management instability, its statutory notifications, unattended complaints, safeguarding referrals and HSCTs' alerts.
- ✓ Inspections and Regulation 29[94] reports are opportunities for families to share their views.

Dealing with a "failing" care home

- ✓ RQIA should set out what constitutes a "failing" care home. (During October 2018, the DH posted RQIA's responses to *Home Truths* on its website. RQIA responded to recommendation 29: "The definition of a "failing care home" must be set and agreed centrally before a protocol could be developed.") It is within the powers of the regulator and its professionals to determine what constitutes a "failing care home". Documentation concerning repeated regulatory transgressions, failing to meet timescales and evidence of resident harm and neglect are pertinent to "failing."
- ✓ "The RQIA is the independent body responsible for monitoring and inspecting the *availability* [emphasis added] and quality of health and social care services in Northern Ireland and encouraging improvements in the quality of those services." Does the threshold of failure move according to a service's availability?
- ✓ RQIA should lead when a home is failing or rather non-compliant with regulations and standards. Insisting that requirements are met is the first stage of enforcement. HSCTs have neither the resources nor legislative leverage of RQIA.
- ✓ Reports should clearly state what is failing and how it can be corrected. It can do this by providing evidence of which standards are not met and why this constitutes a breach of a regulation.
- ✓ The interface between the RQIA and HSCT remit, powers and responsibilities require recalibrating to ensure the organisations work to ensure clarity of role reduce the duplication and act in a timely way.
- ✓ The timeframes for improvement and enforcement should feature in inspection reports. They should be realistic. The evidence suggests that those applied at DMCH were not justified.
- ✓ RQIA should consider how it can ensure greater transparency and accessibility for those seeking information about specific homes over time. Basic information about the owners of care homes and the history should be available on the RQIA website.

[94] Regulation 29, The Residential Care Homes Regulations (Northern Ireland) 2005 and the Nursing Homes Regulations (Northern Ireland) 2005

Section E: Reviews of RQIA

Introduction

178. *Home Truths* provided a critique of RQIA. Unlike reviews that RQIA or the DH has commissioned, *Home Truths* was pivotal in challenging the adequacy of regulation and inspection at DMCH. As Appendix D reveals, *Home Truths* and RQIA's Action Plans provide a window to assess RQIA's registration and inspection practices - which commissioned reviews have not revealed.
179. This Section starts with the findings of previous reviews, beginning with one by Care Inspectorate Scotland (1 October 2018) which answered the question: Were the actions of RQIA appropriate to the conditions at DMCH? This is followed by the RSM McClure Watters review which was published in 2014 and RQIA's 2015 response to its recommendations. During July 2016, RQIA initiated three reviews: (i) Governance (undertaken by BSO Internal Audit); (ii) Information (undertaken by a Northern Ireland Statistics and Research Agency secondee); and (iii) Workforce (undertaken by the HSC Leadership Centre). Each of these is considered in turn. A review promised by Minister Wells during 2015 is of significance because, as of March 2020, it had not really begun.[95] The Section concludes with the IRT's reflections on RQIA's responses to *Home Truths* and to the independent review by RSM McClure Watters.

Care Inspectorate Scotland (2018)

Rapid Investigation into the Regulatory Response to Issues at Dunmurry Manor care home by the Regulation and Quality Improvement Authority[96]

180. This was published on the Department's website on 1 **October 2018**. It is a brief report, possibly a summary, and the only one that is easily accessible/ publicly available. The work had a limited scope.

> "The purpose [was] to provide the Department of Health with an assurance as to the appropriateness of the Regulation and Quality Improvement Authority's (RQIA) role in regulating Dunmurry Manor Care Home and of RQIA's response when issues arose."

181. With reference to the pre-registration, registration and inspections of DMCH, the reviewer found that "Given the assurances provided to RQIA the registration was appropriately recommended…decision making around level of scrutiny, type of inspection and frequency was informed by professional discussion between the lead inspector and programme lead… in line with the procedure in place at the time" (p4).
182. In addition, the investigation determined that "Actions taken by RQIA when non-compliance with standards and regulations was found by inspectors were appropriate and in line with the policies and procedures in place at the time covered by this review" (p4).
183. The reviewer acknowledged that "work was already in progress in a number of the areas covered" by Care Inspectorate Scotland's recommendations, noting that "from July 2014 to

[95] It is understood that the Minister agreed to a consultation on a draft policy in July 2020.
[96] https://www.health-ni.gov.uk/publications/reports-dunmurry-manor-care-home (accessed 20 December 2018)

the current time, inspections were increasingly focusing on experiences and outcomes for residents and partnership working" (p6).

184. The recommendations are embedded in the text and draw from Scotland's experience of regulation and inspection. They are clear and robust warranting action from RQIA. For example, "Over the past two years, the Care Inspectorate has evolved its approach to work more collaboratively with providers; with a focus less on compliance and more on improvement activity, where scrutiny activity is very much seen as the diagnostic tool to identify opportunities for improvement. One significant change for the Scottish regulator is that we have made fewer requirements of services and where we have made these there is a strong focus on improving experiences and outcomes for residents, as opposed to more technical requirements. RQIA could consider embedding this approach in their policies and procedures and reviewing the guidance for staff on when they make requirements" (p6).
185. It is the experience of the IRT that the Care Inspectorate strikes a balance between compliance and improvement – using the former to achieve the latter. The Care Inspectorate refreshed the Improvement Strategy for 2019-22 to grow the capacity and further embed a culture of continuous improvement across the care sector. It develops an approach of scrutiny, assurance and support improvement for care providers. The strategy promotes and supports the process of self-evaluation. Scrutiny provided by the Care Inspectorate drives continuous improvement and acts as a diagnostic tool on which they plan improvement support activity.
186. RQIA already have a role of improvement and this could be extended to care homes. An annual return with a self-evaluation format could provide examples of what care homes do well alongside areas for improvement. Providers and manager should be aware of how the service is performing, the direction of travel and plans. If RQIA adopted this type of approach it would form a basis of improving engagement with care homes providers and begin to change the culture of how regulatory work is carried out.
187. During meetings with providers the IRT was told of a lack of engagement with care home owners, managers and those at the forefront of care provision. This pervasive theme included the Independent Health and Care Providers ("IHCP"), the main trade association for the sector in Northern Ireland.
188. With reference to DMCH's managers the Care Inspectorate Scotland's investigation said: "…the reviewer found in some instances that it could take a period of time before applications were received and processed and in the case of Dunmurry Manor there were a number of times that the manager had been in post and then left before their registration had been processed. RQIA should give consideration to ways in which they could reduce the amount of time taken to carry out the relevant checks to identify that the individuals who are taking on these roles are suitably equipped to do so" (p6).
189. It went on to say that: "Consideration should be given to [the frequency and timing of inspections] including guidance for staff on using intelligence to assess risk and support decisions about the timings of inspection to ensure the experience of residents is fully captured, including in the evening, first thing in the morning, overnight and at

weekends…this review found that each specialist area (care, medicines, finance, premises) made assessments in their own area and only followed up on their own requirements. RQIA should consider reviewing how their specialist resources are best utilised to ensure services are clear on what is required to improve and have the support to do so" (p7).

190. When using the specialist inspectors, it is important to review how they report on the visit. Families commented to the IRT that all the reports on inspection visits seem to be covering the same areas and useful information may be lost.
191. The investigation report promoted the Care Inspectorate Scotland's approach to linking with localities and homes. "This greatly assists the Care Inspectorate to enhance capacity for collaborative working, supporting improvements and gather intelligence about the strengths and areas for improvement of that provider. At a programme lead level RQIA link in with providers and representatives from the Trusts, however they could consider enhancing this work by the development of the 'Relationship Manager' role" (p7).
192. The IRT note that the Care Inspectorate like to recruit inspectors who have relevant experience such as registered care service managers for a care home, care at home, housing support, deputy managers and nurses with experience of social care settings or an operational manager in social care and operational experience in older people's services. It appears that they look for people with relevant qualifications and are prepared to undertake a Professional Development Award in Scrutiny and Improvement at SCQF level 10.[97] Inspectors assessing the workforce in care homes have greater credibility if they have experience of working in care settings and understand the dynamics of group living.
193. Thus, Care Inspectorate Scotland's investigation contains "mixed messages" about provider engagement and appears to draw varying conclusions about whether RQIA has forged appropriate stakeholder relationships.
194. Care Inspectorate Scotland's statutory responsibility for receiving complaints informs its "overall regulatory activity." The reviewer recommended that "Consideration should be given to ways in which communication around the outcome of complaint investigations could be improved" (p7). Its approach to enforcement differs from that of RQIA. That is, "If improvement is not demonstrated and people are at risk, we have extensive enforcement powers to require improvement, including through the courts. These are exercised rarely because we always seek to support improvement first. However, in specific circumstances where there is a risk to the life, health, or wellbeing of people we may at any time issue an 'Improvement Notice' which can result in cancellation of registration, where the service does not comply with required improvements within the specified time period" (p8). Although

[97] The professional development award (PDA) in Scrutiny and Improvement Practice (Social Services) at SCQF level 10 has been designed specifically to meet the Inspection of Health and Social Care Standards, which form part of the National Occupational Standards (NOS). The award has been approved and quality assured by SSSC.

the arrangements in Scotland are different, Care Inspectorate Scotland made a measured suggestion about linking complaints information to inspection and enforcement. [98]

195. "As part of a communication strategy it is normal practice at the Care Inspectorate for allocated inspectors and managers to attend meetings in services where enforcement action is taken to assure people that we are monitoring the service and to ensure the provider answers questions that residents and their relatives may have about the actions they will take to improve. RQIA should consider including the potential benefits of introducing this practice in their enforcement procedure" (p8).
196. The reviewer noted that "At the time of carrying out this review the registration for Dunmurry Manor was being changed to have separate registrations for the part of the home providing nursing care and the part providing residential care. (Previously both areas of the home, despite providing different categories of care as defined by the legislation, were under one registration). This may help provide clarity about what the service can provide when residents are placed there and help providers and regulators to apply the specific regulations" (p9).
197. It is notable that the regulations are different in Scotland. A care home service is one that provides accommodation together with nursing, personal care or personal support for persons by reason of their vulnerability or need. They can accept older people with a nursing or residential care need. If people have nursing needs, then there must be nurses on the staff, but the home manager is not required to be a nurse.
198. Care Inspectorate Scotland's reviewer found no fault with RQIA's actions in relation to DMCH. However, they advised "a strong focus on improving experience and outcomes for residents;" the timely processing of prospective home managers' applications; the experience of residents reflected in inspections; collaborative working with care providers; attention to the outcome of complaints; the strategic use of enforcement powers; visible monitoring of a failing service; and clarity concerning registration.
199. Assurance is given that policy compliance had been achieved. However, there is a lack of specificity about which policy RQIA had complied with. The reliance on policy positions and do not readily translate into specific changes e.g., "RQIA has begun to further develop their policies, procedures and practices in respect of strengthening an improvement-based approach to regulation" (p6). The general comfort that appears to have been derived from the report warrants some probing of the detail where there are pointers around what RQIA could do better. For example, it cannot be determined why the relationship manager proposal was rejected and what alternative ways were determined to be more effective in maintaining oversight of a provider with 12 homes. More broadly, there is no evidence that the content was acted upon and RQIA does not appear to have been held to account for responding to the Report.

[98] Care Inspectorate have a separate team of people to deal with the complaints. They advise the link inspector for the service who then decides if it triggers an inspection for an overall view if the complaint is upheld.

RSM McClure Watters (2014)

Review of the Regulation and Quality Improvement Authority

200. The last major review of RQIA was commissioned by the Department of Health.[99] It appointed the accountancy and consulting firm, RSM McClure Watters, to scrutinise RQIA's efficiency and effectiveness, the performance of key individuals, its structure and systems, its relationship to the Department, communication with the public, its use of technology, data analysis and resources; and to make recommendations, including those concerning fulfillment of statutory obligations. The final report was published during **October 2014**. It is also referred to as "The Quinquennial Review."[100] The document contains three appendices and spans almost 700 pages.

201. The review sets out the legislative context in which RQIA operates; the relevant health and social care policies; and regulation frameworks across the UK and internationally. It acknowledges the "expanding remit" of RQIA, having merged the work and team from the Mental Health Commission, for example.

202. RQIA published Corporate Strategies over three-year periods. These were developed with stakeholders and approved by the then DHSSPS[101]. The review considered the corporate periods of 2006-09; 2009-12; and 2012-15. (**Appendix 1** of RSM McClure Watters' review draws on the targets set out in the Corporate Strategies, the Annual Business Plans and Quarterly Performance reports. It is exceedingly long and contains multiple tables identifying strategic objectives, actions, performance and whether the objectives have been achieved, partially achieved or not achieved.)

203. The review summarises the conclusions and recommendations (and whether these have been addressed) of two previous external reviews, that is:

    (i) Northern Ireland Audit Office (NIAO), (2010), *Arrangements for ensuring the quality-of-care homes for older people.* Recommendations of note include: "We welcome RQIA's intention to focus more on outcomes for service users in the residential care and nursing home sectors, as these are a vital indicator of quality of care and go beyond compliance with standards…We welcome RQIA's intentions to report in a more detailed way on the overall quality of care in nursing and residential care homes… there is scope for… information [from inspections] to be utilised to give an overall view of quality of care across all homes, direct inspection activity towards areas of greatest concern, reduce costs, facilitate the sharing of good practice and inform commissioning decisions…We are concerned that, while records of complaints in independent sector homes are a prime source of data on quality issues, not all data is formally captured and included in complaints monitoring by the Trusts, the HSC Board, or RQIA…"

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[99] https://www.health-ni.gov.uk/topics/safety-and-quality-standards/regulation-and-quality-improvement-authority (accessed 1 March 2020)

[100] A Quinquennial Review (QQR) is conducted every five years. It is a process of evaluating a Statutory Body against its statutory objectives and making recommendations for change

[101] Until 9 May 2016, the Department of Health was called the Department of Health, Social Services and Public Safety

(ii) Gibson, P., Hayes, E. and Rea, E. (2014) *Independent Review of the Actions Taken in Relation to Concerns Raised about the Care Delivered at Cherry Tree House, Carrickfergus.* Recommendations of note include: ensuring that complainants receive timely feedback and that they are satisfied with the handling of their complaint; that whistleblowing features in RQIA's annual reporting mechanisms; and that "inspectors should adequately prepare for inspections by gathering and analysing…complaints, untoward incidents and concerns;" and RQIA should "review its enforcement policy and procedures…" The COPNI's Foreword to *Home Truths* states "…the independent review report on the Cherry Tree Nursing Home in Carrickfergus also revealed serious shortfalls in the standard of care and the inspection regime…the response to these recommendations has been slow and disjointed" (p5).

204. It is difficult to assess and interpret the Appendix detailing the content of RQIA's strategies and plans from 2006-14.[102] The RSM review states that RQIA "focused on measuring activities and outputs generated rather than outcomes or impacts. As a result, it is difficult to conclude the overall impact that RQIA has had over this period. It is therefore important that RQIA makes a fundamental shift to measuring the outcomes and impacts it, as an organisation, is intending to deliver. We welcome the change in the new Corporate Strategy to measuring if the care being provided is safe, effective and compassionate. The challenge will be to develop outcome measures that relate to the specific contribution and role of RQIA" (p61-62).
205. In terms of "Income and Efficiency," the RSM review reported that RQIA was overseeing five projects to achieve efficiency savings. It concluded that RQIA was unlikely to be able to identify further opportunities for savings.
206. With reference to "Structure and Staffing," RSM stated that RQIA's structure was appropriate for the "current strategy," however, "resourcing [was] tight." Areas of concern regarding resources included new legislation, e.g., the Mental Capacity Bill and "significant changes in standards." In terms of "Capability and Capacity," it noted the "risk that the role of RQIA is not understood…may result in a lack of confidence of RQIA as regulator…" (p96).
207. The RSM review stated that RQIA's senior managers' "discharge of their respective governance procedures…arrangements…are broadly fit for purpose…it clearly operates in a transparent manner with key corporate documents and minutes of meetings being readily available to its stakeholders" (p115).
208. RSM's "consultation findings" confirmed "an ongoing need for the functions of RQIA" and sufficient independence of the Department and Minister. Stakeholders wanted RQIA to make more use of external expertise when undertaking external reviews, not least since some recommendations were "not implementable." There was general agreement that the RQIA was effective in driving up standards.

[102] https://www.health-ni.gov.uk/publications/independent-review-regulation-and-quality-improvement-authority-oct-2014 (accessed 1 March 2020)

209. Some features of inspection reports were questioned, that is: the quality of the research; undue reliance on staff feedback; RQIA should be more proactive in highlighting poor standards and driving improvements; early warnings would be welcome; and "common themes" across Trusts are unknown to individual Trusts. The Department noted that "it is not RQIA's responsibility [to ensure that recommendations are actioned, it is up to] Trust senior executives, Trust Boards, the HSCB and the Department." Finally, RQIA's recommendations require prioritising and attention paid to the use of technical language because this "is difficult for lay people to understand."
210. With reference to communication, it was noted that "there was a general perception amongst all stakeholders that RQIA had a low profile amongst patients and carers…[and] communication between service providers and RQIA could be more explicit and formal" (p120).
211. **Appendix 2** of the RSM review deals with two "business cases" which were submitted to the DH for additional resources during April 2013 and May 2013 – neither of which were approved "due to budget constraints." The first concerned "a risk-based approach to regulation in order to minimise, mitigate and manage risks on behalf of DHSSPS;" and the second sought, *inter alia,* "additional staff resource(s)…to plan, manage, and deliver a programme of inspection, review and follow up of concerns about patient safety in mental health and learning disability hospitals."
212. **Appendix 3** of the RSM review sets out the resource requirements of such "additional work" as:
    - inspections of acute hospitals, residential homes (inspections had increased 10.3% in the year) and domiciliary care
    - serious adverse incident reporting "…RQIA's role is to ensure that the reviews have been completed in a robust and appropriate manner"
    - Mental Capacity – new legislation "…RQIA has submitted a business case to the DHSSPS for an additional Band 7 Inspector, to ensure that we can fulfil our statutory function."
    - Review of Treatment Plans - Pre-Judicial Review "…The DHSSPS has requested that RQIA provide all second opinions of Treatment plans…"
    - Whistleblowing "…RQIA would frequently undertake an unannounced inspection following these concerns…"
    - The implications of the Francis Report
    - Expansion to cover unregulated services
    - Inspections of dental practices
    - Finance inspections
    - Human Rights
    - Standards
    - Article 129 of the Mental Health Order 1983
    - Need for Data to Support Risk Analysis and production of Analytic Packs.

213. During **April 2015**, RQIA published an "Action Plan to respond to the recommendations of RSM McClure Watters DHSSPSS Review." This 17-page document is in the form of a table. It lists the 26 recommendations, the responsible organisation, the current status, the planned actions, the person responsible and the completion date. All recommendations should have been achieved by March 2016, since with two exceptions, no date exceeds this.
214. The following table is not as detailed as the Appendix to the RSM McClure Watters DHSSPSS Review. It lists the recommendations and summarises how they were to be realised.

Recommendations	**Processes identified**
RQIA discuss with the Department the opportunity to change the Fees and Frequency Regulations; and "move to a risk-based approach to inspection"	A Departmental working group to consider
RQIA "moves to a single inspection that covers areas critical to patient safety"	Since the approach is determined by regulation and standards, RQIA does not support this
Review the current charging policy to cover costs	A Departmental working group to consider
Clarify RQIA's "independence when conducting reviews and/ or examinations albeit that such activities may be undertaken at the direction of the Department"	Will continue to affirm role as NDPB and address any perceived conflict of interest
Consider prioritising "or traffic light system for recommendations within inspection reports and reviews"	Will consider approaches to this
Consider "ways in which their inspection process can take greater account of patients' views in order to strengthen the voice of the patient"	Will extend the involvement of lay assessors; extend 10,000 voices to include residential and nursing homes
Consider the production of "less technical" reports "to increase accessibility for the patients and the general public"	Provide executive summaries in reports; streamline standard inspection reports; place on Knowledge Exchange website
Reports should rely more "on outcome-based data"	Revise inspection methods: reports will validate evidence obtained
Develop the SLA with DHSSPS/ HSC/ PHA so that RQIA can "access data and information that will inform the preparation and planning needed for inspections"	Will establish a formal information sharing agreement with HSC Board
Develop Key Performance Indicators "to include outcome measures that show how	Will develop a suite of strategic measures hinging on safe, effective and compassionate care

the organisation is contributing to patient safety…"	
The governance statement should only be agreed when necessary assurances have been received	RQIA will continue with current arrangements
The Information Security Policy requires attention	The Board and Audit Committee will continue to receive the necessary assurances
Given the pace of change in IT, review periods for security policy may be inappropriate	It will be reviewed in 2018 unless there is a change in guidance, law or best practice
Should have provision for an annual independent assurance on the IT systems and services	To monitor this against the SLA
The effectiveness of the HR subcommittee should be assessed	Audit of self-assessment to be carried out
A means to enable a review via external audit should be undertaken in a consistent manner	The audit strategy is noted by the RQIA Audit Committee
The risk register should be comprehensive if it is to comply with the mandated risk-based approach	Internal audit does not believe their approach is non-compliant with mandated requirements
The audit plan should be presented at the spring meeting of the Audit Committee	Approval at the April meeting
Internal audit work should be completed in year	The validity of this is questioned
"Given the criticality…of enforcement action to the reputation of RQIA, this is an area where the Board could benefit from some independent assurance"	A review of the enforcement policy and procedures is currently underway
Management should report issues re Business Services Transformation Programme and seek timelines for their resolution	Will continue to identify issues directly via established channels
"The Department should issue guidance to provide greater clarity on roles and responsibilities of service providers and commissioners on the implementation of recommendations set out in RQIA inspection reports and reviews"	DHSSPS to nominate a responsible person
The development of a risk-based approach to inspections to enable the RQIA to focus	RQIA will engage with DH "to take account of the recommendation"

resources on the highest risk organisations with the emphasis on patient safety	
Develop a resource model to calculate what each inspection requires	Will develop a workforce plan…based on the Skills for Health workforce methods
Resources for new areas of work should be subject to review	RQIA will engage with DH
Move to a zero-based budgeting approach	Will produce a zero-based budget for 2016/17

215. The IRT could not find an analysis of the actions and outcomes completed as a result of the RSM McClure Watters DHSSPSS Review, even though the Action Plan dated April 2015 is still available on the DH website.[103]

216. Arguably the RSM review exemplifies the observation of Donaldson *et al* (2014):[104]

"The way in which central bodies seek to achieve compliance with their policies and make broader improvement changes is based on a very traditional and quite bureaucratic management model. There is much detailed specification of what to do, how to do it, and then extensive and detailed checking of whether it has been done. This has strengths in enabling the central bodies and the government to demonstrate their accountability and give public assurances, but it can greatly disempower those at the local level. It can cause those managing locally to look up. Rather than looking out to the needs of their populations" (p4).

217. There has been no subsequent quinquennial review. The IRT was advised by the DH Sponsorship Team that this would be commissioned after the completion of a more fundamental review of regulation and 'the Order' instructed by Ministers (see document referred to below).[105]

Reviews commissioned by the RQIA in 2016

i) Governance (undertaken by BSO Internal Audit)

218. The IRT was made aware of the work of the Internal Audit - Business Services Organisation (BSO). The primary objective for the BSO is to provide an independent and objective opinion to the Accounting Officer, Board and Audit Committee on the adequacy and effectiveness of risk, control and governance arrangements and on the basis of such reports the RQIA Board agree completion of the Annual Internal Audit Plan. An extract of the RQIA Annual Report 2018-2019 which was laid before the Northern Ireland Assembly on 25 July 2019, is set out below:

"During 2018-19 BSO Internal Audit reviewed the following systems:

[103] This matter would have been raised with RQIA's Board had the scheduled meeting taken place on 10 March 2020.

[104] Donaldson, L., Rutter, P. and Henderson, M. (2014) *The Right Time, the Right Place: An expert examination of health and social care governance arrangements for ensuring the quality-of-care provision in Northern Ireland*

[105] Details of the Fundamental Review were shared by Sponsor Branch by email attachment on 4 July 2019

- *Performance Management – satisfactory level of assurance received*
- *Financial Review - satisfactory level of assurance received*
- *Compliance with DoH Permanent Secretary's Instructions Regarding Travel 2018/19 – satisfactory level of assurance received*
- *Risk Management 2018/19 – satisfactory level of assurance received*
- *Inspections 2018/19 - limited level of assurance received. There was one priority one weakness in control identified in relation to the 2018/19 Audit Programme, Inspections 2018/19. The focus of the audit was on the Inspection process in RQIA including compliance with statutory requirements, appropriate planning, review and reporting (see p.63 Identification of New Issue for further details). The audit was based on the risk that services are not appropriately regulated if there is not an effective inspection service in place which is compliant with legislation.*

The objectives of the audit were as follows:

- *To ensure that there is an effective inspection /regulation service in place within RQIA*
- *To ensure that RQIA are effectively using the information team in the inspection process. Fieldwork conducted during this audit focused solely on the care sector. In the annual report the Head of Internal Audit reported that there is a satisfactory system of internal control designed to meet the Authority's objectives. Internal Audit also conducted a consultancy piece across all HSC ALBs to examine Assurance Process Post-Controls Assurance Standards and recommended closer working across all ALBs to ensure a common approach and will be taken forward through the Arm's Length Bodies forum.*

10. Review of Effectiveness of the System of Internal Governance.

As Accounting Officer, I have responsibility for the review of effectiveness of the system of internal governance. My review of the effectiveness of the system of internal governance is informed by the work of the internal auditors and the executive managers within RQIA who have responsibility for the development and maintenance of the internal control framework, and comments made by the external auditors in their management letter and other reports. I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the Audit Committee and a plan, to address weaknesses and ensure continuous improvement to the system, is in place."

219. The IRT were not given access to the primary evidential documents and have relied upon the extract in the Annual Report 2018-2019. At the time of writing the Annual Report 2019-2020 has not been published and was "delayed."

220. In respect of governance another extract from the Annual Report 2018-2019 (page 50) reads as follows:

"3. Governance Framework

RQIA recognises that to deliver its strategic aims, objectives and priorities successfully, it needs sound corporate governance arrangements in place. Corporate governance is founded in statute, policies, processes, systems, organisational culture and behaviours, and together they provide a system for the way in which an organisation is directed, administered,

controlled and goes about its business. RQIA's governance framework sets out the roles, responsibilities and procedures for the effective and efficient conduct of its business. As an Arms-Length Body (ALB) RQIA is committed to governance excellence and is accountable for its decisions and activities."

221. The commitments given here are clear. The IRT cannot verify the statements about "governance excellence" having never given access to the "plan, to address weaknesses and ensure continuous improvement to the system." This is a serious omission and the comprehensive audit trail of correspondence between the IRT and the RQIA demonstrates the strenuous efforts made to address this deficit.

ii) A review of information and potential for analysis to inform the work of the RQIA

222. This was presented and discussed at RQIA's Board on **6 July 2017**. The author is referred to in the Board's minutes as "RS"[106] The impetus for this review/ scoping study/ project[107] had three elements:
    - RQIA Corporate Strategy 2017-21 which "focused on how best information could be used to assess risk, prioritise inspection activity, respond to public concern and to improve inspection and review processes;"
    - RQIA's commitment "to using information to support a programme of continuous improvement of internal operating systems and processes to streamline activity and reduce unnecessary Bureaucracy;"
    - and to "understand the extent to which the current analytical service offering contributes to the RQIA Corporate Strategy and thus to the business activity of RQIA."
223. The "project" considered the information collected, analysed and stored by RQIA; its potential to provide RQIA with relevant information to "monitor and improve" services; to consider whether data sources could "better inform" its work; and "the likely analytical resources" required.
224. This 10-week review stated that it was, "difficult to assess the extent to which the actions set out in the corporate plan were actually taken forward…and the extent to which these contributed to corporate themes. It is particularly difficult to trace how the analytical activity undertaken by RQIA analytical staff actually contributed in a meaningful way to the work of the Directorates[108]…it does not appear to be properly focused and managed" (para 11). In the absence of "sufficient direction and purpose" (para 16), the Team was drawn into IT support activities.
225. A "suite of dashboards" developed for the Directorates was determined to be of "limited value" because they "are mainly confined to counts of the number of inspections [and] notifications…" (para 22).
226. The work of the Information Team does not feature in the business planning of any of the Directorates. Although it is skilled, the Team "has little knowledge of the information that

[106] Believed to be a NI Statistics Research Agency secondee
[107] All three nouns are used in the document
[108] There are four: Regulation; Mental Health and Learning Disability; Reviews; and Corporate Services

could be available to them from within the wider HSC…collaborative working with inspectors would go a significant way to ensuring that the analytical team become familiar with the type of information required to support inspections and reviews" (paras 25-26).

227. All inspections are "unannounced…inspectors write in advance to request a significant amount of information from providers...a large amount of the information requested is already held…but is in a format that cannot be interrogated easily" (para 30). In addition, "There is not currently a suitable tool for calculating levels of risk within services" (para 33). Since April 2015, a team of four administrators has been manually inputting data from 15,000 questionnaires a year and around 400 notification forms a week (para 36).

228. The recommendations are themed. The abridged and paraphrased recommendations concerning the Information Team are:

    1. The work of the Team should reflect RQIA's business needs and priorities
    2. The RQIA Business Plan should set out the Team's measurable objectives and actions
    3. The work of the analysts and manager requires purpose and direction
    4. The Team's accountability requires strengthening
    5. A skills audit and training to address the gaps
    6. A job analysis and grading of information staff
    7. The Team's work should focus on the information needs of each Directorate
    8. The Team should be more engaged with RQIA's "mainstream business"
    9. The Team should continuously engage with the Directors of Inspection and Review
    10. The Team should "inform itself" of relevant data sources and make connections with agencies producing these.

    With reference to RQIA's IT infrastructure:

    11. The infrastructure and software should provide flexibility
    12. The administrative burden on staff should be reduced and information acquired more efficiently and cost effectively

    With reference to the Mental Health Directorate:

    13. A "proper mental health information system" is required which can capture pre- and post-inspection data
    14. There are benefits of collaborating with mental health policy and analytical staff within the DH

    With reference to Regulation and Mental Health Directorate Inspection Teams:

    15. "RQIA should explore the use of a risk assessment tool to help it better target inspection activity"
    16. The web portal should be reviewed to ensure the means of alerting RQIA to "issues of concern"
    17. "RQIA should look at how and where it gathers information to support its inspection and review activity and seek to familiarize itself with the full range of information available throughout the HSC relevant to its activities."

229. It is not known whether RQIA acted on these recommendations.

iii) HSC Leadership Centre (2017)

Regulation and Quality Improvement Authority: Organisational Review

230. The Strategic Framework of Transformation, Modernisation and Reform[109] acknowledged the changing landscape of health and social care and was buttressed by the publication of two reports which were commissioned by the DH. These highlighted the importance of reform if sustainable and responsive services were to result:
    1. the Donaldson Report[110] (2014) noted Northern Ireland's "very traditional and quite bureaucratic management model" and recommended, *inter alia,* a transformation in care, commissioning, regulation and a new focus on patient safety, with new technology supporting system wide data; and
    2. the Bengoa report, *Systems, not Structures - Changing Health and Social Care* (2016) argued that it was essential to achieve a new model of care based on such aspects as personal care, preventative services, a more service user-oriented health care and social care.
231. Both reports confirmed that Northern Ireland's HSC system must undergo significant transformation to be fit for the future. In response, the Minister of Health, Michelle O'Neill, launched a ten-year strategy, *Health and Wellbeing 2026: Delivering Together* (2017) which outlined how services would be transformed to respond to the challenges of sustaining a healthy population and improving the quality of services. The principal themes of both reports were the integrated health and social care model of service delivery, the necessity of change and the development of the health and social care workforce.
232. RQIA acknowledged that (i) it needed to be responsive (ii) it had to develop its thinking about regulation and (iii) consider how its inspection of services might adapt. RQIA determined that the best way forward was a project - hence, the HSC Leadership Centre's organisational review.[111]
233. In *Transformation, Modernisation and Reform* (2017), RQIA endorsed four priorities:

    "Leadership The restructure will support strong effective leadership. We will embrace collective leadership. We will improve leadership capacity at all levels.

    People Staff will be appropriately empowered. We will improve our digital offering to staff and customers.

    Customer Focus We will review and revise all our processes to make them more efficient and effective for staff and customers. We will engage effectively with all our customers. We will improve customer end-to-end experience.[112]

    Measurement We will turn information into intelligence and use this to focus our activity."

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[109] Following the HSC Leadership Centre Report, the RQIA embarked on a change programme that was defined in the Transformation, Modernisation and Reform: A Strategic Framework Document.

[110] Donaldson, L., Rutter, P. and Henderson, M. (2014) *The Right Time, the Right Place: An expert examination of health and social care governance arrangements for ensuring the quality-of-care provision in Northern Ireland*

[111] The Organisational Review paper was delivered to the RQIA Board on 6 July 2017

[112] RQIA does not specify who the "customer" is or what this means

234. The "RQIA Transformation Programme [was described as] a medium-term programme of work that is likely to take 18-24 months to complete. The key milestones and measurement across the four reform priorities are: Organisational restructure – in place by January 2018 and fully operational by 1 April 2018. Inspections process review – complete by January 2018 and new processes in place by 1 April 2018. Customer relations programme of engagement – designed and commenced by September 2017. Re-evaluation of reviews methodology and reporting – commenced by September 2017; completed by January 2018. Service quality project – instigated September 2017; developed by September 2018; piloted and in place by 1 April 2019. Leadership capacity building – designed by January 2018; programme to commence 1 April 2018."
235. This Transformation Programme was the basis for deferring the 2019, quinquennial review and yet there is no reported outcome. What have the restructure, the reviews, the re-evaluation and capacity building achieved?
236. RQIA commissioned the HSC Leadership Centre to undertake a review of "the entirety of the organisation, including all Directorates and roles." The principal purpose was to "future-proof" RQIA since there had been leadership and staffing changes and a revised remit.
237. The Terms of Reference were to:
    1. Identify the core business of RQIA at the time of the review and what it will be like in the future.
    2. Review how existing structures support the delivery of effective services in terms of how they are aligned, where accountability lies as well as defined roles and responsibilities.
    3. Examine workloads in relation to core business in terms of effectiveness and efficiency:
        - The nature of the work
        - The volume of work
        - How work is allocated
        - The level of staff undertaking the pieces of work.
        - The processes and approaches used to carry out the pieces of work.
    4. Benchmarking with other organisations that carry out similar roles in order to identify different ways of working.
    5. Compile a report which provides evidence of how RQIA is delivering the service.
    6. Make recommendations for improvement, based on feedback and best practice.
238. The reviewing process involved scrutiny of relevant documents; interviews with individuals and groups; observations of meetings; shadowing; and making comparisons with the business models of similar organisations. The findings are set out in (a) to (i):
    (a) **RQIA's current core business** hinges on the "clearly identified and accepted" aspects of regulation. "Quality improvement" occurs only "if there is time." RQIA's impact is unknown.
    (b) There was consensus concerning **what the future core business should be**: "to drive quality improvement, RQIA had to become more focused on using the intelligence within the organisation as well as what is held across the system to make a difference

and improve care and services; that the risk-based approach to inspection would provide an opportunity to re-focus and rebalance the organisation; [that the] four domains (safe, effective, compassionate, well-led) were a good foundation for driving service improvement; [and that] RQIA should clearly state its business as quality improvement; proactively lead the region in achieving this [and] successfully achieve its ultimate aim - better care and services."

(c) In terms of **how this might be achieved**, the proposals concern: understanding and using existing data and information; measuring how RQIA adds value; maximising its employees' skills; enhancing its profile; and investing in training and development.

(d) **The alignment of its structures** does not yield a corporate approach because of silo working - irrespective of the similar activities of each Directorate or the merits of sharing best practice internally and across the wider system.

(e) **Variation within the organisation** is exemplified by: many different processes used within and across teams; absence of contingency arrangements should the individuals responsible for certain tasks be unavailable; "variations in the approach to inspections;" the four domains[113] are "overcomplicated when implemented." In contrast, there was consensus that inspections should "ensure that safe, high quality compassionate care was available…[and] provide assurances to the DH about the care provided…"

(f) With reference to **accountability**, the review identified an impression of decision-making being escalated to more senior managers – arguably due to the pressures arising from public scandals and external scrutiny. The outcomes included a greater emphasis on processes; disempowered staff under pressure; an increase in checking and re-checking; with limited succession planning.

(g) In terms of **roles and responsibilities**, although clinical and professional training adds value, these employees are undertaking tasks below their skill levels and their limited IT skills impact on the administrative staff; the latter, and those in Personal Assistant positions could assume broader roles; experts bring a richness and credibility to RQIA; sessional professionals provide a wider perspective; and the use of lay inspectors is limited.

(h) The **effectiveness and efficiency** of RQIA is compromised by poor access to information and an inadequate IT structure. Either administrative teams, or inspectors, or both, prepare for inspections; the latter vary in length; tasks are duplicated; "the move to shared services has had a negative impact on efficiency and effectiveness;" and the use of information and IT skills is determined by skills and motivation.

(i) **Benchmarking** considered inspectorates in England, Scotland, the Republic of Ireland and Northern Ireland.

[113] *Is care safe? Is care effective? Is care compassionate? Is the service well-led?*

239. The HSC Leadership Centre team recommended that inspectors need to: understand what safe, effective care looks like; recognise if there is strong leadership in place; have the confidence and credibility to challenge; and set out findings in reports which provide assurance. To do this, inspectors should be managed under a single Directorate.
240. In addition, the Leadership Centre recommended that: inspectors continue to originate from clinical or professional backgrounds; skill mix is considered; an "expert team" is established to provide the required knowledge of regulations, legislation and statutory requirements; the division of a QA Directorate into children's and adults' services, supported by their own administrative teams which include individuals proficient in IT troubleshooting; the establishment of a Directorate of quality improvement and, separately, a Business Support Unit; plus a highly trained and skilled Information Team and, separately a Communications Team; better and planned use of clinical and professional staff, sessional professionals and lay assessors; and "significant investment" in skills enhancement, that is, in IT, quality improvement, data analytics and information management, and leadership development.

Review of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003

241. During **January 2015** "Minister Wells announced that he had instructed officials to begin a review of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 ("the Order") [and that] The review was led by Quality, Regulation, Policy & Legislation Branch (QRPL)" of the Department of Health. It was noted that "Preliminary work identified a number of weaknesses with the legal provisions contained in the Order, not least because clinical procedures and healthcare provision had evolved since 2003. Internationally, thinking around regulation of health and social care has also moved on." During August 2016, Minister O'Neill agreed that a more fundamental review looking at the principles of regulation should be undertaken.[114]
242. The legislation dealing with the regulation and inspection of health and social care services is based on policy proposals (*Best practice, best care: the quality standards for Health and Social Care*), which was published during April 2001. The Terms of Reference of the prospective *Review of Health and Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 and underpinning policy* noted that, "Since 2003, a number of initiatives and developments relevant to quality in health and social care have taken place both locally and nationally. This review will take cognisance of such developments and any requirement to amend the Order as a result. Considerations include (but are not limited to) those outlined below:
    - The Review of Public Administration;
    - The statutory duty of involvement (Patient and Public Involvement);
    - The Quality Strategy for Health and Social Care (Q2020);

[114] April 2017, Appendix 6, *Review of Health and Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 and underpinning policy: Project Background and Terms of Reference*

- Robert Francis' report into failings at the Mid-Staffordshire NHS Trust;[115]
- Subsequent reports from Berwick,[116] Cavendish,[117] Clwyd & Hart[118] and Keogh;[119]
- The introduction of fundamental standards of care for the NHS in England;
- The introduction of a statutory duty of candour for health and social care organisations in England and Scotland;
- The expanded remit of health and social care regulators in other jurisdictions and gaps (or perceived gaps) in the scope of RQIA's powers;
- Service development that has resulted in models of care that are unregulated or not effectively regulated under the current provision; and
- The implications of *The Right Time, The Right Place* Donaldson Report[120] – in particular, strengthening the regulation of acute hospital provision."

243. In tandem with these developments, bodies such as the Better Regulation Taskforce and the Professional Standards Authority (PSA), were developing thinking about what regulation means and how it may be delivered. For example, "*Right-touch Regulation*" (PSA, 2015)[121] advocated a risk-based approach to regulation and a proportionate response to risks. Such an approach has been adopted in several jurisdictions including England and Scotland.
244. During **January 2017**, regulators within the UK carried out a *Regulatory Futures Review*,[122] one of a series of reviews of arm's length bodies. Included within the recommendations is a move to a more outcome-based approach to regulation; periodic review of regulatory approaches ("around every five years)…to limit accumulations of excessive standards and process controls [and] make use of other agents in minimising harm and improving the quality of services as part of regulatory strategies" (p12).
245. In Northern Ireland, the Terms of Reference for the DH's review of the Order stated that a "departmental reference group" would be convened and would quality assure the output…" In addition, it stated that the review would engage "with key stakeholders (internal and external) [involving, for example,] critical friends, key commissioning leads; service providers and users throughout the development stage. This engagement will include organised workshops; meetings and through the sharing of information electronically and in hard copy." The timeline stated that the "The initial phase of the project will commence in **May 2017** and take 6-12 months…Phase 2 will commence in early **2018** and will be informed by

[115] Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry, published 6 February 2013
[116] *A promise to learn - a commitment to act*: Improving the safety of patients in England, D Berwick, published 6 August 2013
[117] The Cavendish Review: an independent review into healthcare assistants and support workers in the NHS and social care settings, C Cavendish, published 10 July 2013
[118] Review of the NHS Hospitals Complaints System: Putting Patients back in the picture, A Clwyd MP and Professor Tricia Hart, published 28 October 2013
[119] The Mortality Review, Sir Bruce Keogh, published 16 July 2013. Followed by Transforming urgent and emergency care services in England, Report: Sir Bruce Keogh, published 13 November 2013
[120] The Right Time, the Right Place, Sir Liam Donaldson, published 30 December 2014, presented in the Northern Ireland Assembly by Minister Wells with an oral statement on 27 January 2015
[121] https://www.professionalstandards.org.uk/what-we-do/improving-regulation/right-touch-regulation (accessed 14 June 2019)
[122] https://www.gov.uk/government/publications/regulatory-futures-review (accessed 1 March 2019)

Phase 1. Detailed background and revised Terms of Reference will be established for Phase 2 on completion of Phase 1."

Phase 1	Phase 2
Consider and clarify a robust rationale for why we monitor and regulate HSC provision and what establishments/agencies and services we need to monitor and regulate and alternatives to regulation to meet our needs	Consider the role and powers of the current NDPB (RQIA) within Northern Ireland to determine future remit
Consider the adoption of the Principles of Regulation to underpin these monitoring and regulatory processes	Consider current legislative monitoring and regulatory base and identify future legislative requirements
Consider the adoption of Right Touch Intelligence Driven monitoring regulation based on the robust, proportionate and transparent assessment of risk of harm (supported by robust analytical capability and the introduction of a range of regulatory mechanisms) and a desire to support quality improvement	Establish a formal and costed implementation plan and associated communication strategy
Consider current assessment and monitoring mechanisms to support quality improvement and how these might be enhanced across both statutory and private sectors	
Inform legislative revision	

246. Phase 1 did not begin during **May 2017**. During **September 2017**, the Department of Health published a Project Initiation Document, *Review of Health and Social Services (Quality, Improvement and Regulation (Northern Ireland) Order 2003 and underpinning policy.*[123] This identified six "fundamental issues" to be addressed:
    - Why, what and when we regulate;
    - The principles that should underpin regulation;
    - The methodology of regulation;
    - The role of risk and the use of intelligent data analysis to inform risk assessment;
    - The link between regulation and quality improvement; and
    - The legislation required to support the regulatory and quality improvement framework.
247. The document endorsed the two-phase approach and added to each some "key deliverables" and "key milestones." No timetable is specified for this approach. The components within the Phases had been amended. For example, Phase 1 no longer references "alternatives to regulation" or "robust analytical capability and capacity."

[123] Version 1, draft

Phase 1	Key Deliverables	Key Milestones
Why, what and when we regulate, and set out a rationale for each of these decisions	A draft policy document for the regulation and quality improvement of registered HSC Services (approved by the Minister)	Scoping/ research to develop a discussion paper
The adoption of Principles of Regulation to underpin monitoring and regulatory processes	A public consultation document on the draft policy	Identification of key stakeholders and critical friends and engagement to develop policy
The adoption of a Right Touch approach to regulation, based on the robust, proportionate and transparent assessment of risk of harm	Consultation response document	Ministerial approval of draft policy and consultation
How assessment and monitoring mechanisms can support quality improvement		Public consultation
		Post consultation assessment and finalisation of policy
		Ministerial approval of finalised policy

248. Similarly, by **September 2017**, the components of Phase 2 had been amended. There was no reference to how the impact would be assessed. It was clear that the policy published in 2002 formulated from the "Best Practice-Best Care" Consultation in April 2001 was still being relied upon.

Phase 2	Key Deliverables	Key Milestones
The role and powers of the current health regulator (RQIA) within Northern Ireland and how this aligns with the remit set out in policy	A formal and costed implementation plan and associated communication strategy	Engagement and development of a detailed, robust scored risk matrix
The amendments required to legislation to provide the necessary regulatory framework to support the policy	A policy memorandum to Executive and agreement to drafting a bill	Engagement and defining each regulatory response

Implementation of the policy with regards to each regulated provider type	Drafting instructions to Office of Legislation Counsel and drafting period by November 2019	Engagement and defining enforcement powers and sanctions
	Consultation on the draft Bill	Drafting of associated legislation (after) Ministerial approval)
	A report of the consultation responses	Ministerial approval of draft legislation and consultation
	Bill to be laid before the Assembly (subject to Ministerial approval)	Public consultation
		Post consultation assessment and finalisation of legislation
		Lay the Bill before Assembly
		Engagement and development of an Implementation plan
		Commencement of Bill

249. The Project Initiation Document stated, "Gaps and limitations with the existing policy and associated legislation have already been identified and, whilst this project will address those issues, it will also produce a policy which reflects current national and international best practice and which allows for effective, focused and flexible regulation." The identified constraints included: competing priorities; "potential complexity of the policy considerations…potential difficulties in achieving agreement between agencies regarding roles and responsibilities…potential difficulties in getting stakeholders to engage with the project; and financial constraints preventing full engagement with stakeholders."

Progress since the Project Initiation Document

250. It was envisaged that an initial consultation document covering Phase 1 would be issued during the summer of 2019. The second phase of this review was to begin following agreement of the policy consulted on in Phase 1. However, on **5 March 2020**, the DH Sponsorship Team representative gave evidence to the Health Committee of the Northern Ireland Assembly. They were introduced as the "Chair of the RQIA Remit Subgroup" and set out RQIA's "reform programme" which was said to have moved beyond a review of the 2003 Order. They imparted the delay to the work and stated that there is now "a need for a

fundamental review of regulation to bring it back to first principles" with attention to such questions as, "Why do we regulate? Who would be within the scope of regulation?" There will be a consultation during June 2020 which will inform the following phase of review. Although not committing to a timescale, they stated that the Subgroup was "going back to the drawing board." It was said that the second phase would not begin before the end of the year.[124]

RQIA's responses to *Home Truths*

251. The statutory remit of the COPNI (see Appendix E) provided a credible and authoritative framework for the scrutiny of DMCH and the Relevant Authorities. Relevant Authorities are widely defined within the Commissioner for Older People (Northern Ireland) Act 2011 and include RQIA and all Health and Social Care organisations. The Commissioner has extensive powers to conduct investigations and the investigation concerning DMCH was the first time these powers had been utilised. As well as the Commissioner's findings and recommendations it is pertinent to consider the responses filed by the DH on behalf of Relevant Authorities. These were based on the feedback obtained from all Relevant Authorities and formulated into a composite response.
252. In his Foreword to *Home Truths*, the Commissioner explained that "regrettably this report outlines a disturbing picture where there were many significant failures in safeguarding, care and treatment which led to many of the residents not receiving adequate protection for prolonged periods of time. It reveals a system that is disjointed and failing in its duty to provide the care and protection that residents of Dunmurry Manor were entitled to. It shines a light on a home where despite multiple concerns being raised repeatedly by families, care home staff, Health and Social Care (HSC) Trust employees and others, there was a slow and inadequate response from the authorities involved in ensuring that minimum standards of care were met."
253. For the purposes of this Section, RQIA-related responses are set out below and maybe viewed alongside RQIA's action planning documents (see Appendix D and F). It appears that this constitutes RQIA's formal response to the *Home Truths* report. DH did not appear to set an expectation that RQIA would be a substantive responder to a Statutory Report which made 59 recommendations for change in the context of a "failing" care home where it was reported that there was "inhuman and degrading treatment of older people".[125]
254. RQIA's responses to *Home Truths'* recommendations featured in the DH's 8 October 2019, aggregated response to COPNI[126] and the responses concluding the COPNI's investigation which were published on the Commissioner's website on 29 January 2020.

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[124] See https://niassembly.tv/committee-for-health-meeting-thursday-5-march-2020/?cn-reloaded=1 at 1 hour 24 minutes 50 seconds for the full transcript. (accessed 10 March 2022)

[125] *Home Truths,* Executive Summary page 8.

[126] See Annex C on https://www.health-ni.gov.uk/publications/reports-dunmurry-manor-care-home (accessed 15 January 2019); it also features with all other responses on https://www.copni.org/news/2020/january/commissioner-for-older-people-concludes-his-home-truths-investigation-into-dunmurry-manor-care-home (accessed 15 February 2020)

i) RQIA's response to **Recommendation 13** (p5 of Annex C)[127] is inconsistent. The Recommendation suggests that RQIA should proactively seek the involvement of relatives and families. RQIA stated that a pilot had begun but due to the publicity surrounding DMCH, the Care Group undertaking the pilot had "disengaged" and instead a "membership scheme" had been launched on 6 June 2018. The response was silent about the rationale for this scheme, its impact assessment or onward reporting. The DH response to COPNI noted that RQIA had established an inspection methodology improvement programme. "The aims of the programme include ensuring a clear focus on the experience of people who receive care and those who are important to them. This will include work to strengthen our direct engagement with service users…" (p26)

   The Health and Social Care response from the DH states that "RQIA will take the lead in implementation of this Recommendation, including full implementation of the Personal Public Involvement (PPI) requirements and DOH Co-Production Guidance." (p26)

ii) **Recommendation 29** (p12) suggests that a protocol for dealing with failing care homes should be developed and implemented. RQIA responded by stating that a definition of a "failing" care home would need to be agreed before a protocol could be developed and that RQIA already informs Trusts when enforcement action is being taken.
   This is foreign to the relatives of people who have been harmed and to the professionals who have sought to remedy a home's conspicuous inadequacies. If the RQIA as the statutory regulator of homes couldn't arrive at a definition, then who could and should?
   The DH response to COPNI includes no response from RQIA.

iii) **Recommendation 41** (p16) suggests that a high level of staff turnover should be considered a "red flag" issue.[128] RQIA responded by stating that it "routinely considers staff turnover as part of inspections" and that DH is responsible for changes to care standards. It confirms that work is underway with the Ulster University to analyse risk. The DH response to COPNI includes no response from RQIA.

iv) **Recommendations 49-54** (p20-22) are about complaints and RQIA's response is that it has no role in complaints handling. The DH response to COPNI has no response from RQIA to **Recommendations 49-53**; and in response to **Recommendation 54** concerning complex and serious complaints, the DH states:
   "This Recommendation will be responded to by the Department of Health as policy lead. The Trusts and RQIA will implement any changes to their role and function that any new legislation or Departmental Policy change will require."

[127] https://www.health-ni.gov.uk/publications/reports-dunmurry-manor-care-home (accessed 15 February 2020)

[128] The Review was advised that RQIA's new IT system identifies high manager turnover as a risk-factor

v) **Recommendation 59**, concerns escalation policies, that is, these should be in place to ensure serious, protracted or otherwise significant matters are made known to senior officials. RQIA stated "this is already in place in RQIA." Further details are given about the RQIA's Serious Concerns and Complaints Group and states that the Chief Executive's brief to the RQIA Board is published on RQIA's website and includes an overview of regulatory activity.
The IRT has not seen RQIA's Board briefing on the specific DMCH issues. The Briefing is not publicly available and the work of its Serious Concerns and Complaints Group does not appear to be publicly reported.

The DH response to COPNI has no response from RQIA.

Summary of responses from RQIA to COPNI as contained in DH Document

255. RQIA's response, "This Recommendation will be responded to by the Department of Health as policy lead. The Trusts and RQIA will implement any changes to their role and function that any new legislation or Departmental Policy change will require" served nine out of 59 Recommendations: 1, 2, 22, 35, 36, 37, 40 (adequate),[129] 47 and 54.
256. RQIA did not respond to Recommendations, 3, 4, 5, 7, 8, 9, 10, 11, 12, 14, 15, 16 (adequate), 17 (adequate), 18 (adequate), 19, 20 (adequate), 24 (adequate), 25, 26, 27, 29, 33, 38 (adequate), 39 (adequate), 41, 42, 43, 44 (adequate), 45, 46, 48, 49 (adequate), 50, 51, 52, 53, 55, 56, 57, 58, 59. This constituted 41 out of 59 Recommendations arising from COPNI's overview of the high profile failings at a single care home.
257. RQIA responses to Recommendations 6, 13, 21, 23, 28, 30, 31 (adequate), 32, 34 constituted 9 out of 59 Recommendations and included one Recommendation where the Commissioner determined the response was "adequate." In these, repeated emphasis is placed on inspection methodology review, development of risk-based approaches and dependence on projects and project boards.
258. The substantive RQIA responses merit careful consideration since they contain several consistent statements and themes.
    i) RQIA states of **Recommendation 6,** relating to human rights, "the review of registration processes was deferred to align with the overarching review of inspection methodology." The RQIA response to this recommendation had attached project documentation in respect of the review. It did state "RQIA would be happy to talk through the review and project plans in more detail if you feel this would be helpful."
    ii) **Recommendation 13** relies on the review of inspection methodology
    iii) The notification of and response to medication errors is the subject of **Recommendation 21.** DH accept the recommendation and state that RQIA will "ensure this continues to be a component of inspection planning and inspections". For their part RQIA describe their practice when notified of medication errors and

[129] This is a judgement of COPNI advised by his Expert Panel

indicate they were unaware of any evidence they were "not reviewing all notifiable medication incidents". There appears to be an information conflict.

iv) **Recommendation 23** relates to inspection of premises. RQIA states that "Inspectors use an observation and assessment tool - the results of which is captured as part of the record of inspection on RQIA's internal system. Inspection processes are monitored/assessed by a variety of means including through supervision, peer review of reports and performance management where necessary. Information on these matters is recorded on internal systems." There are other references to information held on "internal systems" but no reference to how such information might be accessed or transparently reported.

v) In response to **Recommendation 28,** concerning integrated inspections and **Recommendation 30**, concerning reliable information from residents and their families, RQIA refer to (i) the reform of inspection methodology and notes that (ii) "a project board has been established and members include the Chief Social Worker, provider groups, a representative for HSC Trusts, the PCC and RQIA senior and executive staff and board. This is an extensive work programme that will run throughout this business year" respectively.

   Details of the Project Board's activities are not known to IHCP, Patient and Client Council (PCC), Providers and Trusts, and there is no evidence of its activities. This "extensive work programme" does not feature in either of RQIA's two action plans (see Appendix D) provided to the IRT nor in RQIA's comments to DH concerning post-*Home Truths* progress (see Appendix F).

vi) **Recommendation 31** concerns staff engagement and RQIA states that it "had determined that any mechanism should be taken forward with the involvement of all relevant trade unions and that this would form part of the discussions at the next meeting with TUs"

   During the IRT's meetings with Unison and the RCN, neither Trade Union had been approached by RQIA and they had no knowledge of this initiative. Similarly, the IHCP was unaware of RQIA's discussions – arguably because Trade Union membership in the sector is reported to be low.

vii) **Recommendation 32** relates to the use of lay assessors in the inspection of care settings for older people. RQIA state that the use of lay assessors is included in the inspection methodology improvement programme. Previous advertisements had not proved value for money. "The methodology is embedding in this strand of work as we are deliberately taking time to ensure it is effective." The timeframe was not specified.

viii) **Recommendation 34** relates to "out of hours" inspections. The RQIA reported "we have developed a dynamic risk assessment tool that supports decision making in respect of inspection planning. RQIA uses out of hours' inspections where active intelligence indicates risk."

The IRT's reflections

259. The findings and recommendations consequent of the COPNI investigation of DMCH were reported in *Home Truths*. The failings at a single care home had a high-profile. For RQIA, as regulator, fundamental questions had been asked about whether and how it had fulfilled its statutory duties when there were problems at DMCH.

260. RQIA was alerted to issues by the HSCT at DMCH in October 2014 and issues of concern continued until mid-2017 as this Evidence Paper sets out. The IRT was concerned about why the RQIA did not use its statutory powers to step up the enforcement actions to secure compliance until late October 2016. Whilst the South Eastern HSCT used contractual failings to suspend placements at the home it is questionable why RQIA did not place formal conditions on the certificate to stop admissions during 2015 and early in 2016. There were concerning indicators of possible service failure in the high number of managers and high use of agency staff. The action of using conditions would have prevented new admissions. At the same time, it may have provided opportunities for the home to settle down with managers and staffing and possibly reach a state of full compliance. Additional problems arose from how the RQIA and HSCTs worked together in assessing the concerns and in not reaching mutual agreements on actions.

261. The RQIA response to *Home Truths* in September 2018, albeit endorsed by DH, asks further questions about why, during the many RQIA inspection visits, the failings in care standards many residents experienced were not picked up or recognised and responded to. It is difficult to ascertain how information from families and the HSCT findings from monitoring visits were incorporated in the inspections. A year later in October 2019, still within a composite DH response, the questions become how far RQIA was fulfilling its responsibilities after the event, in response to COPNI and to this Review. The public interest in having a proactive, responsive and independently accountable regulator is compelling, not least since there is no shortage of reports recommending RQIA's reform.

This is the context for a more incisive consideration of the responses given and actions taken by RQIA, to reduce the likelihood of the failings at DMCH happening again.

i) The IRT is exercised by what appears to be a pattern in meetings of RQIA not recognising or actively listening to the concerns of families who really felt they and their older relative at DMCH had been let down by them. Other feedback gleaned from a wide range of organisations by the IRT was similarly not accepted when put before RQIA. The IRT had hoped for a more forthright and attentive reception. Instead, it encountered some suspicion, difficulties in arranging meetings and a response to the Review which did not embrace the intention to support change and opportunities to learn. For example, a key Board Meeting scheduled for 10 March 2020 as part of the IRT's 'no surprises' approach discussing findings as they emerge, was cancelled at the eleventh hour on the basis that the DH was coordinating implementation of *Home Truths* recommendations and despite an assurance that the IRT would be sharing

proposals for action.[130] The meeting was cancelled by the RQIA Board after advice from the Sponsor Branch of the DH. Engagement with RQIA has been experienced by the IRT as defensive and reactive whereas a facilitative and forthcoming response was anticipated. A "working session" with RQIA prompted the request for the rationale for this. RQIA wanted to know why the session did not involve the HSC Trusts. It could have been perceived that the RQIA were attempting to direct the Review and determine the ways of working of the IRT.

ii) Despite repeated requests for documents and information about "what has changed and been learned" as a result of *Home Truths*, little was proffered. Requests for clarity or additional documents have resulted in unhelpful responses such as a letter saying the enquiry should be directed to RQIA's interim Chair.

iii) RQIA's Board appears not to have exercised the governance oversight that might have been expected in the formulation and approval of the RQIA response to the DH and ultimately to COPNI. In September 2018, the DH signed off and submitted a limited response to the *Home Truths* recommendations which COPNI deemed inadequate. The further response that was sent to COPNI in October 2019 suggests a lack of scrutiny and a low threshold of expectation of the regulator, for which the DH holds ultimate accountability.

iv) The relationship between the RQIA Board/Executive and the Sponsor Branch did not emerge as the type of challenging and mutual learning style expected. The picture appeared to be blurred with the RQIA not always getting the recognition of an ALB and corporate body with significant powers and responsibilities to carry out statutory duties. Both RQIA and Sponsor Branch engaged with the Review – face to face sessions, correspondence and at the Reference Group - and accepted the practical role of the regulator in what occurred at DMCH, however the IRT perceived that this was not followed through into open questioning of key policies (namely regulation and complaints). The IRT received explanations of the current law and policy but little was shared as regards objective considerations of its impact, continued suitability or alternatives.

v) The IRT's evaluation of documents – policies and procedures - seen and those in the public domain regarding the period considered by COPNI in *Home Truths* brought into question whether and how RQIA discharged its statutory duties. They appeared to show that it failed residents, families, staff, the public and the provider itself. As the Commissioner noted "I was disappointed by the defensive and sometimes unhelpful nature of some of the Relevant Authorities" (p5). RQIA did not embrace the rationale for the COPNI investigation and subsequently publicly challenged the outcome. It similarly did not accept that the role of the regulator was integral to a review of the whole care home system.

[130] The IRT had engagement with the RQIA until the cancelled meeting scheduled for 10 March 2020. Communication was re-established during June 2020 but could not be progressed due to the departure of the RQIA interim Chair and the Board.

vi) Documents shared with the IRT, some of which originated from families who had embarked on the exhaustive process of submitting Freedom of Information Act ("FOI") requests, are suggestive of RQIA's dismissive stance. It was difficult to understand why the issues being raised were not looked into. This may have been a scenario where RQIA could have looked to Sponsor Branch for constructive advice.

vii) Under Article 4(2) of the Order, the general duties of RQIA in relation to the provision of services are to keep the relevant department informed about the provision of services (particularly on matters of availability and quality) and "encouraging improvement in the quality of services." When discussing this duty with participants at working sessions held with care home managers and RQIA staff, the emphasis on the duty to inform the department about availability appeared, at times to be interpreted as going further than a duty to inform. If the duty were interpreted as being a duty to maintain availability, then that would initiate a discussion about how far standards could, or perhaps should, be compromised to maintain a service in the absence of other provisions. The IRT reached no conclusion on this point – it is discussed in more detail in Evidence Paper 6 on Commissioning and the Care Home Market.

viii) What learning and change has resulted from recommendations arising from the various commissioned reviews about RQIA since 2010 concerning: enhanced attention to "improvement activity… outcomes… [a] risk-based approach to inspections… targeting areas of greatest concern…ways in which their inspection process can take greater account of patients' views…[informing the preparation of inspections with] data and information…[using] relevant data sources and [making] connections with agencies producing these…[attention to] the web portal; the skill mix of inspectors; and investment in skills enhancement," for example?[131]

ix) The impact on the care home sector of "Trust monitoring," that is, their turning up unannounced and adopting an inspectorial approach to contract compliance, is well known in the sector and yet has received no attention. Care home managers and providers told the IRT that visits were about the environment, housekeeping and workforce issues rather than focussing on the care arrangements for individual residents. The high level of resources allocated by the HSCT's to monitoring DMCH did not bring about sustainable improvements. Similarly, there has been no credible attempt to improve RQIA's engagement with providers. For example, meetings that are recorded are more meaningful if providers are given a transcript.

x) HSCTs considered that, on occasions, responsibility was transferred to them to follow up on enforcement actions. Regulatory matters are the responsibility of RQIA. The host HSCT said that at DMCH it took the action it thought appropriate in line with its contract. The IRT was told by a range of professionals from HSCTs and by family

[131] As part of preparing this Paper the then Interim CEO of RQIA was invited to prepare a response because of the inevitable delay between drafting and publication. That updated response is included at Appendix H and addresses these and other questions.

members that RQIA did not take responsibility for action. For example, the IRT received evidence about a Nursing Home,[132] experiencing serious failings, which led in December 2019, to a notice of decision to cancel the registration and close the home. In this case, the notice was lifted and the home did not close. The arrangements for a registered care provider, responsible individual and for contracts were not clearly determined. Reliance was placed on the Southern HSCT to provide support to the home over a 12-month period. The degree of support and actions went far beyond the remit of a Trust supporting individual residents placed in the home. Senior staff from the HSCTs provided information about how they felt they needed to act as RQIA was not following up on the concerns. It was felt that RQIA should have used its powers. Further examples were provided when they received information the RQIA was issuing Failure to Comply Notices to homes and expected the Trusts to follow up on them including checking them over the weekend. It is the regulator's responsibility to follow up on their enforcement actions. Another example is when homes experienced difficulties with management and Trusts felt they had to step in and provide support and at times leadership. If there are management failings at a home, it is only the RQIA that has the powers to deal with them. An impact is that the Trusts are obliged to draw resources away from assessment, care management and reviews which dilutes direct work with individual older people and their families.

xi) Four of Northern Ireland's Health and Social Care Trusts had residents at DMCH. The statutory duty of quality requires the Trusts to "put and keep in place arrangements for the purposes of monitoring and improving the quality"[133] of the services by the provider. The duty of care extends to the individual living in the home, but within a broader quality context. This has been open to different interpretations and has resulted in inconsistent approaches. The impact of this on care home managers and owners is to be "regulated" by two bodies involving mixed messages and duplication.

xii) HSC Trusts must have confidence in the services they commission and when problems arise, they "escalate" to RQIA. The latter should lead to quick responses where there is evidence that a care home is failing its residents and carrying out the necessary investigations to understand the cause. RQIA should expect support from HSC Trusts with the care management arrangements for individual residents. However, HSCT professionals are not "mini-inspectors" and their care management role is, and should remain, very different to that of the regulator. The IRT found examples of an inspectorial approach to contract compliance, most particularly during weekends and holiday periods.

xiii) Quality and improvement are the products of leadership from care home managers and providers. However helpful the intent from HSCTs in their monitoring role their bureaucratic position rarely contributes to improvements and when recommendations are inconsistent it can be counterproductive. Quality cannot be

[132] Not a Runwood Home.
[133] Ibid

imported into a care home or sustained without credible governance, committed and involved staff, training and development and a positive organisational culture. Registered Managers and Responsible Individuals – care providers - must be engaged and direct coordinating responses to their services' failings. Ultimately it is the owner's responsibility to improve a care home so that it is compliant with regulations and standards. It is management, leadership and accountability that summarise the principal lesson of the DMCH experience which flows from the very start of the regulatory process.

POINTS TO CONSIDER – Learning and Change

- ✓ In its consideration of the governance arrangements of RQIA the IRT sought evidence of independence, transparency and proportionality with clear and separate responsibilities between i) Sponsor Branch, ii) RQIA Board and iii) RQIA Executive/Operational management.
- ✓ RQIA needs to provide a summary of how they are responding to the recommendations from the *Home Truths* report that are applicable to them and what progress they have made and next steps.
- ✓ If a review is commissioned by RQIA they need to demonstrate a timely response to the report and how they use it to improve their service
- ✓ RQIA should develop a process for responding to "failing" services and lead such work with the assistance of other agencies.
- ✓ RQIA should develop an independent feedback process on inspections and reviews as this will offer confidentiality for the providers and provide good information in continuous improvement.
- ✓ As part of the three reviews of RQIA that are being planned or are currently underway, consideration should be given to whether new powers are needed to take a view of corporate bodies operating several homes or care settings. The purpose is to determine whether they are operating personalised systems, cultures and working practices.
- ✓ A quinquennial review is overdue. If the existing reviews are effectively consolidated this may not be necessary.

Section F: Governance and the regulatory context

RQIA's statutory and policy framework

262. RQIA described **governance** in a PowerPoint of 16 October 2019,[134] quoting Sir Alan Langlands: "Good governance leads to good management, good performance and, ultimately good outcomes." The PowerPoint set out the principles of governance:

"Conducting the business of the agency with integrity and fairness.

- Being transparent with regard to all operations.
- Making all the necessary disclosures and decisions.
- Complying with all regulations and standards.
- Accountability and responsibility towards the stakeholders."

263. The PowerPoint stated that good governance in relation to care homes "is about the processes for making and implementing decisions [and that] having robust governance structures, and ensuring these processes are implemented and practised within an authority requires vigilance and a continuous improvement approach so trust is sustained."

264. RQIA recognised "…that to deliver its strategic aims, objectives and priorities successfully, it needs sound corporate governance arrangements in place. Corporate governance is founded in statute, policies, processes, systems, organisational culture and behaviours, and together they provide a system for the way in which an organisation is directed, administered, controlled and goes about its business. RQIA's governance framework sets out the roles, responsibilities and procedures for the effective and efficient conduct of its business. As an Arms-Length Body ("ALB"), RQIA is committed to governance excellence and is accountable for its decisions and activities." [135]

265. There are around 120 ALBs (16 accountable to DH) delivering public services in Northern Ireland, and the partnerships/relationships between these ALBs and departments are "critical to the delivery of high-quality public services."[136] While ALBs should all operate with a level of autonomy in order to deliver their services/business, departments will always be responsible to the NI Assembly for the funding granted to them.

"Based on the framework of outcomes prepared by the Executive formed after the election in May 2016, the aim is to build ways of working within the Northern Ireland Civil Service and wider public sector that are outcomes-based and are characterised by focus on impact through collaboration with others."[137]

266. The concept of "proportionate autonomy" means "…that ALBs that deliver their agreed outcomes on an ongoing basis and provide sound and reliable assurances should be able to operate with a high degree of autonomy from their department in recognition of that level

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[134] https://rqia.org.uk/RQIA/files/a9/a9e9e9a0-d2f7-45f8-b7e5-e8f196b7437f.pdf (accessed 8 December 2019)

[135] RQIA *Annual Report and Accounts 1 April 2018-31 March 2019*

[136] Department of Finance (2019) *Partnerships between Departments and Arm's Length Bodies: NI Code of Good Practice*

[137] *Partnership Working: Proportionate Autonomy for ALBs*, FI1/19/1263423

of trust that has been established and consistently demonstrated…Where things do go wrong, however, any response by departments should be proportionate to the risk posed."

267. Against the backdrop of legislation (see Appendix B), the *Management Statement and Financial Memorandum for the Regulation and Quality Improvement Authority* (October 2018)[138] sets out the broad framework within which RQIA operates in terms of: its overall aims, objectives and targets in support of the Department's (DH) wider strategic aims and the targets contained in the Programme for Government ("PfG"); the rules and guidelines relevant to RQIA exercising its statutory duties, functions and powers; the conditions under which any public funds are paid to RQIA; and how RQIA is to be held to account for its performance.
268. Linked with the *Memorandum* is the *Regulation and Quality Improvement Authority: Standing Orders* (April 2019). These provide the mandatory framework for the management and operation of RQIA. Both documents form RQIA's Corporate Governance Framework - the system by which this ALB is directed and controlled at its most senior levels to achieve its statutory objectives and meet standards of accountability, probity and openness.
269. With reference to care homes, "RQIA is the registration authority responsible for formally approving and granting registration to persons or establishments or agencies providing or managing eligible services. Minimum care standards[139] to be introduced by the DOH ensure that service providers have a benchmark against which to measure the quality of their services" (1.2).
270. The *Standing Orders* are descriptive, for example "RQIA has a major role to play in encouraging improvement in the quality of services commissioned and provided by HSC and other organisations. It is to promote a culture of continuous improvement and best practice through clinical and social care governance arrangements monitoring and inspection/ review…Where serious and/or persistent clinical and social care governance problems come to light, it has a key role, in collaboration with other regulatory and inspectoral bodies, to play in the investigation of such incidents and works with these bodies and service providers to ensure that appropriate remedial and preventative action is taken."
271. The *Standing Orders* and the *Memorandum* are the principal documents that set out the RQIA's chain of accountability and its governance. They are pivotal in evaluating whether what is set out translates into action. The governance of RQIA is consistent with that of other ALBs. The significant feature of both documents is that the operation of autonomy may differ according to the risk factors. Given the concerns associated with the handling of DMCH and the RQIA's reach of responsibilities across the sector, the IRT takes the view that the medium to high-risk category was merited.
272. The statutory framework, regulations and relevant standards are described at Appendix B. There was dissonance between what families and the public expected of a regulator, that is, it has responsibility for dealing with safeguarding concerns, complaints, inspections and standards of care. During the investigation stage of the COPNI work, RQIA was reported as

[138] Issued by the Permanent Secretary of DH
[139] A standard is a fundamental, agreed level of quality

being “clear in terms of their role not extending to monitoring the performance of Dunmurry Manor and the management of complaints by families” (p141, *Home Truths*). The Commissioner concluded that such “…strict adherence to their current approach to inspection proved unhelpful in recognising, reporting and addressing the evident failures of care and treatment in the home.” For this reason, the Review sought to find out the post-DMCH changes made to inspections and how these are addressing failures in care.

273. It was surprising that “RQIA inspectors and managers did not deem the knowledge of problems at Dunmurry Manor to require escalation to the most senior executive or Board level.” (p141, *Home Truths*). At the meeting between RQIA Board and the IRT on 16 January 2020, the topics of governance and escalation were raised. The Board provided assurance that it had been kept informed and enforcement reports were given at Board Meetings. When the IRT explained that this was not evident from Board minutes it was suggested that there had been private session briefings. The IRT has not been given access to relevant minutes of private sessions of the Board, despite requests.
274. The Commissioner for Older People for Northern Ireland concluded that RQIA’s Board “…does not appear to take a more active involvement in the strategic oversight of failing care homes.” The follow up discussion with the RQIA Board scheduled for 10 March 2020, was cancelled by RQIA. The IRT was unable to pursue the matter further and found that the evidence submitted was of limited value in answering remaining questions.

Background to the Health and Personal Social Services (Quality, Improvement and Regulation) (NI) Order 2003

275. The Executive’s First Programme for Government included a commitment to improve the quality of services and the background to the aim of “Working for Healthier People” set both plans for a new quality framework to raise the standards in services and address performance concerns across Health and Personal Social Services (HPSS). A consultation document was issued entitled "Best Practice - Best Care" in April 2001. The results of this consultation were made public in June 2002. The purpose of the Order was to enact those public pledges and to translate the relevant parts into the statutory model.
276. The key documents were:

    "Programme for Government," published March 2001.

    "Best Practice - Best Care, A Consultation Paper," published April 2001.

    "Best Practice - Best Care, Responses to the Consultation," published June 2002.

277. The proposals contained in "Best Practice - Best Care" focused on:
    - developing and disseminating clear service standards for the HPSS;
    - securing accountability at local level for the delivery of services; and
    - improving monitoring and regulation of the services.
278. The development of standards and guidelines did not require primary legislation, however, the other parts of the plans depended on legislation. The Department consulted widely on proposals in the "Best Practice - Best Care." The results showed widespread support for the introduction of a statutory duty of quality, new clinical and social care governance

arrangements for the HPSS and a new system of regulation of care services extended to cover a much wider range of services.

279. The consultation elicited different views on which body or bodies should inspect and regulate services and raised concerns about the cost of creating multiple new bodies. Ultimately the proposal in the consultation document to create two new Non-Departmental Bodies was replaced with a new proposal to create a single, integrated, authority.

280. The draft Order in Council and Explanatory Memorandum were issued for consultation from 18th November 2002 to 16th December 2002, to provide an opportunity for interested parties to consider the proposals and to suggest amendments. The latter included, *inter alia*:

> **Improvement Notices - Article 39** – It was suggested that the article relating to Improvement notices should be strengthened so that the RQIA can "specify" rather than "recommend" improvements. Such a change strengthened the provision.
>
> **Personal Care - Article 10(3)** - The definition of "Personal Care" in Article 2 should be amended to ensure full consistency with the definition used in the Health and Personal Social Services Act (Northern Ireland) 2001.

281. Some additional changes were included to address issues identified by the Department during consultation in discussions with Health and Social Services Boards, Regional Inspection teams and the Department's advisers. Principally, these were changes to Schedule 1 to add provisions giving powers to the Department to act, should HSSRI (Health and Social Services Regulation and Improvement Authority) fail to fulfil its functions and to arrange for the transfer of staff, assets and liabilities from HSS Boards to HSSRIA. The provisions within the Order enacted arrangements which were equivalent to those already in place in Scotland, England and Wales.

282. On 27 February 2003, the Health and Personal Social Services [HPSS] (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 ("the Order") was made. It established RQIA as a new, independent body with overall responsibility for monitoring and regulating the quality of health and care services delivered in Northern Ireland. This was formally renamed as the Health and Social Care Regulation and Quality Improvement Authority (RQIA) in accordance with Article 1(2) of the Health and Social Care (Reform) Act (Northern Ireland) 2009. The Department of Health, (DH)[140] is the relevant sponsoring department and RQIA is an ALB.[141]

283. The effect of the 2003 Order was to introduce a statutory duty of quality to be placed on Health and Social Services (HSS) Boards, HSS Trusts and other special agencies providing services. The Order gave the RQIA statutory powers to review and inspect the quality of services provided by the Health and Personal Social Services (HPSS) including evaluating

[140] The Department of Health, Social Services and Public Safety (DHSSPS) until 9 May 2016.

[141] An Arm's Length Body is a way of delivering public services with a degree of independence from government whilst remaining accountable to ministers. The NI Code of Good Practice (March 2019) aims to set out principles of good practice which can be applied to derive greater value from, and bring consistency to, relationships between departments and Arm's Length Bodies
See: https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/daodof0319att.pdf
(accessed 17 November 2019)

clinical and social care governance arrangements within HPSS bodies designed to underpin the statutory duty of quality placed on HSS Boards, HSS Trusts and others.

284. RQIA's remit and powers extend to regulate a wide range of care services including many services (establishments and agencies) which had previously been unregulated, and many services delivered by the HPSS as well as services delivered by the independent sector. The other significant change was a regulatory system that was based on a set of minimum standards established by the Department. The three main areas of RQIA's work are:
    (i) Regulation and inspection of statutory and independent (private and charitable) health and social care services;
    (ii) Assuring the quality of services provided by HSC Trusts, the HSCB and other agencies and
    (iii) Protecting the interest of individuals with learning disabilities and those with mental health conditions
285. A ten-year strategy[142] to improve the quality of healthcare in Northern Ireland was launched in 2011. This defined quality under the themes of safety, effectiveness, and patient and client focus. It became a framework for RQIA.
286. The Donaldson Review (2014)[143] led to RQIA initiating unannounced inspections at all acute hospitals in Northern Ireland.

The RQIA governance

The Northern Ireland Assembly

287. The Northern Ireland Act (1998) stipulates that the Northern Ireland Assembly and the Northern Ireland Executive can deal with any transferred matter which is defined as anything that is not excepted or reserved. There is no absolute prohibition on Northern Ireland legislating on excepted and reserved matters and the Secretary of State for Northern Ireland can give appropriate consent. The UK Parliament has residual power to make laws for Northern Ireland on any matter and there are constitutional conventions to ensure such powers are exercised with consent.
288. Assembly Committees are formed, and they have the status of statutory committees. They have a scrutiny, policy and consultation role; they can take the committee stage of Assembly Bills; approve secondary legislation; and call for persons to appear before them and for reports to be submitted to them. The UK Government continues to play a role through the Northern Ireland Office and the Northern Ireland Civil Service conduct departmental work in the government departments within Northern Ireland.
289. The legislative set up and system in Northern Ireland differs significantly from that in Scotland, England and Wales with functions such as health and social care falling to the HSCTs, including many of the duties and responsibilities that would typically lie within local government in England and Wales. Whilst the interface of social care and housing in

[142] *Quality 2020*

[143] Donaldson, L., Rutter, P. and Henderson, M. (2014) The Right Time, the Right Place: An expert examination of health and social care governance arrangements for ensuring the quality-of-care provision in Northern Ireland.

Northern Ireland has followed a different trajectory like the rest of the UK most care homes in Northern Ireland (91%) are independently owned. However, unlike the rest of the UK there are markedly lower numbers of residents (16%) funding themselves.[144]

The Minister and Department of Health

290. RQIA as an ALB is accountable to the Assembly through:
    i) The Minister "is accountable to the Assembly or Parliament for the activities and performance of RQIA and his/her responsibilities include approving its strategic objectives, reporting on its performance to the Assembly, approving and securing funds for it, making appointments to the Board."[145]
    ii) The Permanent Secretary, as the Departmental Accounting Officer, "is accountable to Parliament for the funds provided to RQIA and designates the Chief Executive as RQIA's Accounting Officer…"[146]
    iii) "The Quality, Regulation, Policy and Legislation Branch (Sponsor Branch), under the guidance of the Department's Chief Medical Officer acts as the primary point of contact for RQIA. The Sponsor Branch determines the RQIA's performance framework in light of the Programme for Government (PfG), the Department's wider strategic aims, and its current PfG objectives, expected outcomes and targets. The key targets, standards and actions to be delivered by RQIA are set out in its Corporate Strategy and Annual Business Plan."[147]

The chair and board

291. RQIA's Chair is ultimately "accountable to the Minister and ensures that RQIA's policies and actions support the wider strategic policies of the Minister and that its affairs are conducted with probity. In addition, he/she shares the corporate responsibilities of the Board with the other Board members and has a particular leadership responsibility on the following matters: the Board's role in the formulation of RQIA's Corporate Strategy; ensures RQIA's Board, in reaching decisions, takes proper account of guidance provided by the Minister or the sponsor Department and complies with directions issued by the Department and any requirements communicated to RQIA by the Department…"[148]
292. In respect of the time under consideration by the Review the Chair: [149] "…was appointed to RQIA's board in April 2013 for a four-year term and is currently acting Chair" (p119, Annual Report 2018-19). The RQIA Chair's time commitment is 2-3 days per week. Although the Board's collective decisions are based on a majority vote, the Chair holds a casting vote. The Chair and Chief Executive attend bi-annual accountability reviews with the Permanent Secretary.

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[144] See Evidence Paper 6 on Commissioning
[145] RQIA (2019) *Standing Orders* page 11, para 1.3
[146] *ibid*
[147] *ibid*
[148] *ibid*
[149] After concluding fieldwork and drafting of Papers the IRT have been conducting final stages of the work with an incoming Interim Chair, Chief Executive and management team at RQIA.

293. RQIA has an independent board[150] of ten non-executive members including the acting Chair and a vacancy. This is a reduction from thirteen in 2016/17. Each board member is appointed by the Minister for Health, for an initial four-year term. Board members may serve a maximum of two terms.

294. The "Board has corporate responsibility for ensuring that the aims and objectives set by DOH and approved by the Minister are fulfilled and promote the efficient, economic and effective use of staff and other resources as follows; appoint with Permanent Secretary's approval a Chief Executive to RQIA and in consultation with Sponsor Branch, set performance objectives and remuneration terms linked to those objectives, which give due weight to the proper management and use of public funds; work closely with the RQIA Chief Executive to establish the overall strategic direction of the RQIA, within the policy and resources framework determined by the Minister, the Department and Sponsor Branch; constructively support and challenge RQIA's executive team in their planning, target setting and delivery and reporting of performance; ensure that Sponsor Branch is kept informed of any changes which are likely to impact on the strategic direction of RQIA or on the attainability of its targets, and determine the steps needed to deal with such changes; ensure that any statutory or administrative requirements for the use of public funds are complied with and operate within the limits of its statutory authority and any delegated authority agreed with Sponsor Branch in accordance with any other conditions relating to the use of public funds; and that, in reaching decisions, the RQIA Board takes into account all relevant guidance issued by Department of Finance and the Department; receives and reviews regular financial information concerning the financial management of RQIA; is informed in a timely manner about any concerns about the activities of RQIA; and provides positive assurance to Sponsor Branch that appropriate action has been taken on such concerns; maintain high standards of corporate governance at all times."[151]

295. The Non-Executive Board Members are directed to "act in accordance with their wider responsibilities as Members of the RQIA Board – namely to: comply at all times with RQIA Standing Orders which seek to ensure the maintenance of public service values and high standards of personal conduct of board members; comply with the rules and guidance relating to the use of public funds and to conflicts of interest; subscribe to the Code of Conduct and Code of Accountability for Board Members of Health and Social Care Bodies; not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations; and to declare publicly and to the RQIA Board any private interests that may be perceived to conflict with their public duties; comply with the RQIA Board's rules on the acceptance of gifts and hospitality, and of business appointments; act in good faith and in the best interests of the RQIA."[152]

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[150] At the time of drafting this Paper the Minister had set in train the process of recruiting a new interim Board and had appointed temporary support to the incoming Interim Chair.

[151] RQIA (2019) *Standing Orders* page 12, para 1.3

[152] *ibid*

296. The *Standing Orders* require RQIA to submit its "…Corporate Strategy to the Sponsor Branch covering an agreed period of normally three to five years. RQIA shall have agreed with Sponsor Branch the issues to be addressed in the Corporate Strategy and the timetable for its preparation, submission and approval…The business plan shall include key targets and milestones for the year immediately ahead and shall be linked to budgeting information so that resources allocated to achieve specific objectives, can be readily identified by Sponsor Branch."
297. RQIA's Business Plan "…should include reference to SMART[153] objectives that; Support the delivery of PfG commitments; Support the delivery of DOH policy and strategy; Deliver on the statutory functions/services etc. specified in RQIA's founding legislation; Address known areas of underperformance, the findings of inquiries, reviews etc. and respond to particular events, serious adverse incidents and near misses; Include references to staff – training, development, learning etc." (1.4.2).
298. Thus, in terms of "good governance,"[154] questions are pertinent about how the Sponsor Branch holds the RQIA to account and exercises its oversight role, fulfils statutory objectives and delivers value for money.

Chief Executive Officer and management team

299. The CEO is responsible to the Chair and members of the Authority for the general exercise of its functions, the day-to-day operations and management. They are employed by the RQIA. The CEO is designated as RQIA's Accounting Officer and is accountable to the Permanent Secretary of the DOH. The Accounting Officer is personally responsible for safeguarding the public funds for which he/she has charge and for ensuring propriety and regularity in the handling of those public funds."[155]
300. The CEO advises the Board, manages risk and resources and accounts for RQIA activity and "…reports on proportionate assurance and compliance with quality standards to the Department of Health; ensures that a business continuity plan is developed and maintained; ensures that effective procedures for handling adverse incidents are established and made widely known within RQIA; ensures that the Department is advised in a timely way on relevant issues arising from inspection, audit or review activity; ensures that the requirements of relevant statutes, court rulings, and departmental directions are fully complied with; ensures that an acceptance and provision of Gifts and Hospitality Policy is in place that set out the principles and requirements under which gifts and hospitality can be received and in turn when such offers can be made; ensures that RQIA has effective

[153] Specific, Measurable, Achievable, Realistic, and Timely

[154] The principles fundamental to "good governance" are: a clear focus on the organisation's purpose and outcomes for service users, clarity about roles and functions, managing risk and transparent decision-making, engaging with key stakeholders and ensuring accountability (Social Care Institute for Excellence (2013) *Social care governance: A practice workbook* NI, 2nd Edition, London: SCIE). See also paras 149 and 150

[155] RQIA (2019) *Standing Orders* page 13, para 1.3

processes in place to engage and involve stakeholders in its delivery of its programme of work..."[156]

301. The Executive Management Team has two principal positions, a Director of Improvement and Medical Director, and a Director of Assurance.[157] Their two directorates are supported in their work through RQIA's Business Support Unit. RQIA also has two Senior Inspectors, a Communications Manager, an Assistant Director of Improvement and a Deputy Director of Assurance. The Executive Management Team produces RQIA's Corporate Strategy every 4/5 years to align with the Programme for Government. Production of RQIA's Annual Business Plan is undertaken to ensure that key corporate actions are identified against the organisation's strategic objectives. The Team advises the Board on the performance of RQIA, compared with its aims and objectives. It ensures that adequate internal management and financial controls are maintained and that the Corporate Risk Assurance Framework is produced quarterly and Risk Management Strategy annually.
302. RQIA's organisational structure deals with the management of its 122 employees.
"During 2018-19, we implemented a new organisational structure following a workforce review, placing a clear focus on assurance and quality improvement. We wish to make it easier to do business with RQIA, and we also wish to ensure we are able to respond effectively to the changing external environment" (p40).[158]

The governance of care homes including Runwood and DMCH

303. The topic is covered by the IRT in Evidence Paper 5. Insofar as regulation and inspection by RQIA this is covered through:
    i) the registration of a manager and of the registered provider and its nominated Responsible Individual.
    ii) the inspection of the way the service is led

The centrality of governance to assuring quality in care home is demonstrated in the RQIA diagram below:

[156] RQIA (2019) *Standing Orders* page 15, para 1.3
[157] RQIA's Executive team has changed since the IRT drafted the Paper and is now understood to have 3 Directors.
[158] RQIA (2019) *Annual Report and Accounts 1 April 2018 to 31 March 2019*

304. Whilst it is possible for care homes to be owned and run by sole traders and partnerships many are organisations, such as Runwood, which is a private limited company. Understanding the ownership of a registered provider is an important aspect of regulating the quality of the service it offers. Runwood for example is a "family business" with lengthy history and experience in England and over the last 10+ years in Northern Ireland. It is managed and led by a Board of Directors currently with six members, five of whom hold formal job roles in the business including the Chief Operating Officer, who is the Responsible Individual in both Northern Ireland and England. The Chief Executive owns 100% of the company's shares and in legal doctrine is the "controlling mind". Thus, the Runwood arrangements for governance and accountability for quality are relatively straightforward when compared to scenarios where share ownership is more distributed, or ownership is in the hands of charity Trustees.
305. Three foci of RQIA for registration and inspection are shown in the diagram below:

306. RQIA found nothing untoward in the DMCH registration documents. They were typical of an untested, new home. There is no indication that the performance of other Runwood homes in Northern Ireland was taken into account. As a private limited company operating principally in England and as a company noteworthy for its expansion since its entry into Northern Ireland in 2008, there are questions about the degree to which companies should be subject to checks at the outset and prior to acquisition or new build projects. There is no evidence that RQIA sought an interview with the company CEO on receipt of the application to register, before going on to interview the Responsible Individual and proposed Registered Manager.
307. The reported principal activity of the Runwood Group is to "provide high quality residential and day care services for older people's needs and those living with dementia or having a requirement for nursing care" (Runwood Homes Limited, Directors Report and Consolidated Financial Statement for year ended 30 September 2017).
308. During August 2017, Runwood's Ashbrooke Care Home in Enniskillen was closed by the RQIA "because of serious risk to life." This was the first time that RQIA had sought an urgent order for the closure of a service through the courts. Forty residents[159] had to be relocated and in September 2017, Runwood lodged an appeal against the closure with the Care Tribunal part of the Northern Ireland Courts and Tribunal Services, with a hearing set for June 2018. During April 2018, the appeal was withdrawn. The timeline merits scrutiny because the COPNI

[159] https://www.bbc.co.uk/news/uk-northern-ireland-41000136 (accessed 2 June 2020)

investigation commenced in February 2017 and reported in June 2018. The home has since reopened under Runwood's management with a new name, Meadow View.

309. In the time under consideration, the Northern Ireland homes were managed by a Regional Director of Operations and a team who had access to people in support roles locally and centrally. The Regional Director was accountable to the Chief Operating Officer/Managing Director who was accountable to the company Board. Mostly the COO/MD has been the Responsible Individual under regulation for all registered services in England and Northern Ireland. There was a time when the Regional Director performed the role – from 24 November 2016 to 21 December 2016 and 31 March 2017 to 20 July 2017. During the Review, there have been changes of the Regional Director. COPNI found a lack of evidence of Runwood Board oversight.

310. The IRT has seen some of the evidence supplied to COPNI of how the arrangements for addressing deficits in care identified in *Home Truths* were working. In January 2020 COPNI confirmed to Runwood that he deemed this response to be adequate. Information from former and current employees of Runwood reported the CEO and previous COO/MD to have a supportive style, although they travelled infrequently to Northern Ireland. The central management team was seen as less supportive and, on occasions, remote. It was noted that the Finance Director[160] had imposed robust budget arrangements.

Independent Health and Care Providers

311. The Independent Health and Care Providers (IHCP) functions as a trade body and as a commentator on developments and trends in the sector. Its place in governance is as a representative collectively of independent and voluntary care homes.[161] The IHCP holds a membership directory and all IHCP members have care services registered with the RQIA. There is an advice function for members and it recognises the achievements of members through awards and publicising its initiatives. It presents evidence to support financial arrangements for care and represents the views of its members to Civil Servants, the Assembly and to the Minister. It has a small Board of Management which includes directors and nominated members with an interest in progressing the organisation. The Board meets every two months and discusses membership and topical issues. IHCP has three members of staff including a part-time CEO, who works three days per week. Its Chair works part time.

312. IHCP members provide services to over 30,000 people[162] in Northern Ireland and span the private, not-for-profit, charity and church-affiliated organisations, providing residential and nursing home care, sheltered housing and care in the home. The IHCP is a member of the Five Nations Care Forum and promotes collaboration across the UK. IHCP has a Code of Conduct which is binding on members. The aim of the IHCP is predominantly to support providers in delivering quality care services.

[160] The IRT was advised on 3 September 2020 that there had been a change in Finance Director and the incoming postholder was not a director of the company like the predecessor.

[161] In addition to domiciliary care and day centres

[162] http://www.ihcp.co.uk/ (accessed 14 July 2020)

313. Since membership is not compulsory, IHCP does not have complete coverage of the sector it represents. IHCP holds forum meetings on current issues in the sector. Some members of the IHCP are small providers providing homes to just a few people. Four Seasons - the largest provider in Northern Ireland with 42 care homes[163] - is a member and has a presence on the IHCP Board. Runwood Homes has been a member of the IHCP but at the time of this Review, its membership had ceased. IHCP submits evidence for the tariff setting for care provision. It is approached by the DH and others for input at a strategic level on issues relating to policy and practice.
314. IHCP has an important role in supporting and profiling the care homes in Northern Ireland. It is critical that good news stories about care homes have a higher media profile to help inform the public and older people of the good work that many care homes carry out daily. Recognition is necessary that care homes support and engage with families and IHCP could develop working partnerships with organisations working with families. Many providers spoke about the difficulties of some of RQIA's approaches and assisting members to consider and raise challenges is a relevant role.
315. IHCP has limited member services and most member issues are resolved by members turning to others in the network. Member advisory functions are limited to voluntary effort and best practice promoted through *My Home Life*.[164] It is a stand-alone Northern Ireland organisation although affiliated with other UK organisations.

The challenges of governance

316. At this point it makes sense to consider governance across the system from the standpoint of the IRT's engagement with (i) the Sponsor Branch of the DH responsible for RQIA and (ii) the part of the DH responsible for commissioning this Review. Of the latter, the Chief Social Work Officer led on behalf of the Permanent Secretary. Officers of the Elderly and Community Care Branch were made available via the Director of Mental Health, Disability and Older People to facilitate contacts, access paperwork and sort out other practicalities.
317. The IRT met the Permanent Secretary, with the Chief Social Work, Medical and Nursing Officers at the DH. In the early stage's questions were raised about the Commissioner for Older People for Northern Ireland's methodology, remit and powers and some senior officials were apparently reluctant to accept *Home Truths*.[165] Subsequently, there were accountability and update meetings with the individuals responsible for commissioning the Review at which the IRT's independence was confirmed. As findings emerged, they were shared, and the IRT provided advice for the DH to consider as part of forming its responses to COPNI.

[163] As of 14 October 2020.

[164] In Northern Ireland this programme is led by a team at Ulster University in partnership with Age NI and Independent Health and Care Providers (IHCP). The programme reinforces community and transition as well as improving healthcare and promoting a positive care home culture. It undertakes research and practice development and supports shared decision making

[165] Evidence in documents provided by DH

318. It appeared to the IRT that the Sponsor Branch had limited knowledge concerning RQIA's response to *Home Truths*. For example, in response to a "Final Call" for information emailed to the DH Sponsor Branch a response was received by way of notes annotated to the original.[166] The contents either direct the IRT elsewhere, indicate the request has already been met, a substantive response eschewed because the matter is policy, operational or outside of the Review's terms of reference, and in the case of a query about DMCH, asks the IRT for information.
319. Most importantly the email response shows that the Sponsor Branch was unaware of the existence of RQIA's DMCH Action Plan. Notwithstanding the existence of a DH DMCH working group, this suggests that being aware of the progress made by RQIA on implementing the recommendations of *Home Truths* was not a priority.
320. That said, the IRT takes the view that it is with the RQIA Board – an independent arms-length body – where the responsibility rests for the oversight of operational matters such as implementing the recommendations of *Home Truths.* The DH Sponsor Branch would be kept informed on a "need to know" basis (*Home Truths* was a high-profile report) and be available for advice and support. The RQIA did not inform the IRT they had a DMCH Action Plan. It would have been helpful if it had been provided earlier rather than discovering its existence on reading the Annual Report.
321. With reference to so-called "dual registration" the email told the IRT that it was "Departmental Policy" to assert the separate categories of registrations of nursing and residential homes Having found that legal advice had underpinned this policy decision, a letter dated 13 January 2020 was addressed to the Chief Social Worker. This requested waiving legal privilege and disclosure to the IRT. On 7 August 2020, the IRT received an apology for not putting in writing his verbally relayed earlier response "that advice between a lawyer and client is generally considered confidential and that government did not, as a general rule, share legal advice received in confidence." Similar correspondence to RQIA, yielded no reply.[167] A selection of vignettes illustrating the impact of the policy communicated to the IRT by care home managers, families and family group representatives appear in Appendix G. The way the policy was to be implemented clearly came as a surprise to care home residents, families and providers. It caused distress to people who had to move to different homes or within an establishment.
322. The IRT requested "Background and papers about the cessation of complaints handling by RQIA." The response was: "Would have been subject to Ministerial decision in 2009 – Civil Servant 4's business area." The IRT could not find this Ministerial decision and no one was able to describe how the complaints' jurisdiction of the RQIA had changed until the RQIA Board Meeting on 16 January 2020, when the IRT was told by an RQIA Board member that it was a directive from the Department of Health.

[166] In evidence files.

[167] Records show that RQIA Board was told that the advice was "verbal".

323. In respect of the quinquennial review due during 2019, the IRT had been given reasons for the delay. One factor was the RQIA's Transformation Programme, however, no one could advise the IRT of this Programme's progress against timelines and milestones.

324. RQIA's governance arrangements reflect current guidance for ALBs[168] and may provide reassurance that everything is and was in order. However, there are evidential gaps in the records of RQIA Board discussions held since those which were privately minuted have been denied to the IRT and no information has been shared about the accountability meetings between DH, DH Sponsor Branch and RQIA. In a letter dated 13 January 2020, from the IRT to RQIA, it was made clear that this remained an area where more information was required:

> "Accountability of RQIA: I wanted to remind you of another outstanding aspect of our request as follows: The IRT would like details of how the RQIA is held to account by the Department of Health, including how the sponsorship branch of the Department of Health works with RQIA and what methods are used to evaluate impact and performance. We are seeking your perspective on this topic."[169]

To date no further response to that request has been received.

325. The scrutiny processes of DH have been described but no supporting, documented evidence has been provided. The correspondence trail between RQIA and the IRT confirms that accountability arrangements, the record of DH scrutiny and how RQIA explained developments post *Home Truths* are matters of sensitivity. It is in this context and those of the relevant *Memorandum* and *Standing Orders* that the DH deemed the RQIA response to the COPNI recommendations acceptable. These public documents are the apparatus of accountability. However, during the reviewing period, in the opinion of the IRT, the arrangements did not work. The Sponsor Branch had no knowledge of the DMCH Action Plan, even though it is referenced in RQIA's Annual Report 1 April 2018 to 31 March 2019 - in the Chair's Foreword and at page 104:

> "We will implement the steps outlined in our action plan arising from our internal review of steps taken in respect of Dunmurry Manor Care Home and consider recommendations made by the Commissioner in respect of actions arising for RQIA in the report of his investigation…The Dunmurry Manor Care Home Action Plan remains in place in the Assurance Directorate with fourteen actions completed to date."

326. The IRT requested: sight of the "Internal review" - this was denied; and the "Dunmurry Manor Care Home Action Plan" - this was refused on the basis that it was "not a public document." A hard copy was finally given to the IRT at the Reference Group meeting on 15 January 2020. The relevant correspondence[170] was received weeks after the "final call" for information and after a long period of requesting evidence about what had changed since the publication of *Home Truths*.

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[168] https://www.gov.uk/government/publications/partnerships-with-arms-length-bodies-code-of-good-practice (accessed 12 March 2020)

[169] Extract from the letter of 13 January 2020

[170] For example, attachment to an email from RQIA Chair giving a March 2020 update on the DMCH Action Plan of February 2018.

327. The IRT was left with information gaps in its consideration of governance. At the time of writing the RQIA Annual Report for 2019-2020 was delayed, there were new interim arrangements for the Chair and CEO of RQIA, two temporary non-executive directors recently appointed pending recruitment of interim Board members and an Independent Review[171] being announced by the Minister of Health on 23 June 2020.

328. Care home providers and managers' comments concerning RQIA's inspections, post *Home Truths,* complete this section.

One registered manager said:

> *I have worked in care homes for older people for a very long time and it is the worst it has ever been. We are not trusted to do the job and yet evenings and weekends we see no one from Trusts or RQIA. I could walk away from this but the older people matter to me. People from RQIA and the Trusts don't see this as people's own homes. The Trust's monitoring team are just awful and show little respect. They don't make appointments, just turn up and expect the person and staff to be available. I am a highly qualified nurse and yet they say they have to check on basic health issues. The inspectors just 'nit-pick' and don't spend enough time with the residents and staff. We don't have opportunities to challenge them when we know they get it wrong they say 'We are inspectors and we are always right.' Interestingly, very few have worked in care homes. That should be part of a skill before they are recruited. The dominance is always about the paperwork. That is what we are always judged on and yet they don't understand being right on records will not always guarantee good care. There must be a major overhaul of all the approaches around care homes. The profile of the rights and choices that older people are entitled to are not being upheld, as they should be, by the way things are done.*

It was not unusual for staff from care homes to inform the IRT about how they were treated by monitoring teams and the way they carried out their responsibilities. On the one hand, inspections are understood but on the other, a more positive working relationship in the interest of safe and effective care for each resident was expected with professionals in care management.

A family member said:

> *Inspections are really about the 'records' not about the older people. No one helped my Mummy to regain her skills. Three months before having to go to hospital she was living alone and [was] mainly independent. The approach from the hospital and the care home was not about helping people to get better. I feel so guilty about this. As a*

[171] The Terms of Reference of that Review were initially published and then a revised version was published on 11 September 2020. Given the circumstances that have arisen the IRT has sought advice and determined that it would be potentially prejudicial to include any further comment about the governance arrangements between the DH and RQIA at this time, pending the outcome of the Ministerial Independent Review.

family we let our Mummy down. Inspectors did not seem to focus on improvements – just compliance.

Sector representatives noted:

- "Disproportionate;
- Impact of COPNI on the sector, staff suffered abuse and it impacted on the wider sector making many older people feel frightened of going into a care home;
- Knee jerk reaction from RQIA to cover themselves;
- Still no understanding of why RQIA had not picked up some/many of the issues;
- Inspectors focusing on issues they had not previously such as forcing keypads to be installed on many doors, issues with fire standards;
- Jar of Sudocreme in the bathroom, inspector said this should have been a notification and was on the Quality Improvement Plan (QIP);
- Nit-picking on minor issues and reporting on them in the QIP even if sorted whilst inspectors were present in the homes;
- More homes told not fully meeting standards;
- Summoned to meetings without knowing the details of issues to be discussed;
- Confusion over what do they do, other than inspect;
- Staff feel they are being punished all the time and cannot get it right;
- No tolerance of genuine mistakes;
- Major issue of increasingly wide variation from Inspectors on whether things were acceptable or not acceptable. They seem to be making the rules up as they go along. Fault finding predominates."

329. During January 2020, COPNI published "The Commissioner's View" in which he expressed disappointment concerning the delayed responses to *Home Truths* and stated that many were "lacking in substance." [172] After meeting COPNI, Robin Swann, the Health Minister stated, "I want to see a far-reaching programme of change to improve the quality of nursing and residential homes in Northern Ireland."

POINTS TO CONSIDER – Learning and Change

✓ Businesses' quality assurance – such as that of Runwood Homes[173] – exist as well as statutory regulation. Greater emphasis could be placed on this through an Annual Provider Return which includes key data on residents – occupancy, on the workforce – staff and manager turnover, as well as on plans. This need not be overly bureaucratic

[172] https://www.copni.org/news/2020/january/commissioner-for-older-people-concludes-his-home-truths-investigation-into-dunmurry-manor-care-home (accessed 1 February 2020).
The COPNI also stated that "…the relevant authorities have had 16 months to demonstrate action on these recommendations and I am not assured that enough work has been done to make the necessary improvements to the safeguarding and care of residents in care homes"

[173] Runwood provided the Review Team with information about Homes Development Plans in September 2020 – something about which they had advised COPNI in their response to *Home Truths*

and would assist providers, managers and RQIA to present a more rounded picture of a care home.

- ✓ As well as regulations and Human Rights, RQIA policies should reflect DH policies and guidance.
- ✓ Make use of Regulation 29[174] visits, involving families, to develop RQIA's work concerning "signal detection."[175]
- ✓ RQIA should be accountable to the wider community of stakeholders affected by its decisions and actions. RQIA's accountability as an Arm's Length Body should be supplemented by performance assessment and evaluation.
- ✓ RQIA was a reluctant participant in *Home Truths* and in this Review. That was disappointing as RQIA has a central role in regulating care homes and the systems that surround them.
- ✓ RQIA's continuing programme of commissioned work merits scrutiny in terms of value for money and outcomes achieved.
- ✓ No transparent audit of RQIA's governance was made available. Boundaries between the Sponsor Branch, RQIA's Board and Executive Management cannot be sharply drawn and changes in personnel present an opportunity for recalibration. [176]
- ✓ An independently moderated feedback mechanism for quality assuring the work of inspectors, merits consideration. The four-eyes principle is a useful concept.[177]
- ✓ Providers wishing to challenge the RQIA, and inspection outcomes may require support. Their comments should be in the public domain along with the final report. A mediation service could be developed, funded by an industry levy.
- ✓ It is in the collective interests of the HSC system to support strengthened trade associations committed to influencing the delivery of care. A coalition of providers and representative groups could bring status and focus to the sector.

Wider regulatory context

The Care Homes Market Study

330. During June 2015, COPNI published *Modernising Adult Social Care in Northern Ireland* with the primary aim of the research being to compare the Northern Ireland legislative framework with other jurisdictions and to suggest reforms. The introduction of support visits to older people to determine care needs and assist with planning for the future was a primary recommendation. COPNI suggested that this arrangement was consistent with the

[174] Regulation 29, The Residential Care Homes Regulations (Northern Ireland) 2005 and the Nursing Homes Regulations (Northern Ireland) 2005

[175] The idea is that signals developed within homes are routinely tested and shared by the care home's Registered Manager with the possibility of providing a valuable supplement to Regulation 29 reports.

[176] Evidence Paper 1 on Adult Safeguarding contains at page 81 a Layers of Outcome table. Such an approach could be usefully applied to the regulation and quality assurance of care homes.

[177] The requirement that a business transaction should be approved by at least two individuals https://www.collinsdictionary.com/dictionary/english/four-eyes-principle (accessed 8 November 2019)

requirements of policies such as *Transforming your Care* (2011)[178] and the later report, *Delivering Together* (2016).

331. Necessarily, such commentaries on the delivery and quality of health and social care in Northern Ireland are pertinent to RQIA. The *Care Homes Market* Study[179] provided a significant overview. It stated that there were around 12,000 care home beds for older people in Northern Ireland, 75% of which were in nursing homes. The CMA directed recommendations to the Northern Ireland Executive, the RQIA, the Health and Social Care Board and Trusts and the industry across the UK to address the issues they identified.
332. CMA advised that it would take measures to protect residents' rights and to ensure compliance with consumer law, acknowledging that those entering care face significant barriers. For example, "They are unlikely to have given the matter prior consideration and planning and will not know how to find the right kind of home. It is also known that once established in a home, very few residents are willing and able to move." The vulnerability of residents means that they are a specific type of consumer, making the consumer protections and the rules and legislation in the sector of greater importance. The CMA recommended that more support should be given to people when making important decisions about care and that accurate, clear information should be provided.
333. CMA received a submission from COPNI which cited "statistics from 30 June 2016 when there were 12,368 residential and nursing home care packages, two-thirds were nursing care packages and approximately a third were residential care packages. Only 5% of placements were privately arranged in May 2017. The HSCB sets the regional tariff for care home both (residential and nursing) placements and that is used as a critical element of the cost which each HSC Trust commissions care at, leaving no room for competition between care providers." COPNI observed that: "This creates a "cost control" situation in Northern Ireland due to commissioning arrangements and the fact that demand for places in certain geographies outstrips supply." The Commissioner proposed that there should be greater financial transparency and clarity about the arrangements for 'top up' fees and the commitments being sought from families that they will meet these financial arrangements.
334. COPNI supported the need for better complaints systems, for it to be easier for residents and their families to raise and escalate complaints. COPNI set out its experience of hearing from older people with concerns about reprisals, in the event of complaints. For example, the asymmetry of power included threats to evict residents. COPNI raised the fact that the older person is not a party to the contract since the latter is between the care home and the HSCT.
335. CMA acknowledged the differentiation between state-funded residents and private funders. The former has the protections of HSC Trust oversight and the use of regional contracting. Problems identified included the lack of clear transparent pricing and non-provision of contracts, as well as difficulties in making complaints. It called on the DH to "work with

[178] https://www.health-ni.gov.uk/topics/health-policy/transforming-your-care (accessed 12 December 2019)
[179] Competition and Markets Authority, 30 November 2017

providers, HSC Trusts and the third sector to deliver a programme of actions to help people make good choices about their care needs:

(a) requiring HSC Trusts to provide clear information to prospective residents on how the care system works and their entitlements, and on choosing care homes in the local area. Some HSC Trusts already do this well, but they should all effectively match best practice;

(b) increasing the use of supported decision-making to help people understand their care options. Such support could be provided via online tools, telephone advice, leaflets and/or trusted professionals; and

(c) undertaking a programme of work to promote awareness and encourage and support people to consider potential care options in advance. This will help people make better decisions - and potentially take steps to avoid the need to enter a care home - when a need for care becomes evident."

336. CMA's report made pertinent recommendations. For example, "To address the shortcomings in the current complaints and redress systems…

(a) the RQIA to include an assessment of how complaints and feedback systems are working within their inspections;

(b) the Northern Ireland Executive to review the coverage of advocacy services for care home residents; and

(c) the remit of the Northern Ireland Public Services Ombudsman to be extended to hear complaints from private funders."

337. In addition, CMA recommended that "the Department of Health in Northern Ireland introduce new oversight of the HSC's Trusts' commissioning practices. This is with a view to provide enhanced planning with accurate and meaningful forecasts of future care needs."

RQIA Trend Report

338. RQIA has itself illuminated[180] the changing context of regulation. During June 2019, it published *Registered Nursing and Residential Homes and Beds, Trend Report 2008-2018*. This stated that during October 2018, there were 16,007 registered beds in all registered nursing and residential care homes across Northern Ireland - representing a 4% increase in the total number of beds in the sector over a 10-year period. The number of nursing beds increased by 10% between October 2008 and September 2018 and the number of residential beds decreased by 6% over the same period.

339. The *Trend Report* revealed that the profile of the largest nursing home providers had changed. That is, Four Seasons - the largest provider - reduced its portfolio by about 10% and Southern Cross - the second largest provider - left the sector, making way for new companies to move in. Most notably these included the English-based Priory Group and Runwood Homes, but also local based companies such as Larchwood Care Homes and Healthcare Ireland. Some existing providers increased the numbers of their homes.

[180] This information is provided as part of the context of regulation of care homes – its significance is the subject of analysis in Evidence Papers 5 and 6.

340. The report indicates that on 30 September 2008, Runwood Homes had a single home in Northern Ireland and ten years later it had ten nursing homes, eight with residential places and one residential home. Between 2008-2018, Runwood Homes registered six new nursing homes which represented 17.6% of new provision. It had 239 registered beds in new nursing homes in Northern Ireland. [181]

341. An analysis undertaken by RQIA and published in its *Trend Report*, shows that during 2018, the top ten nursing home providers controlled 48% of homes and 52% of the beds. Many residential homes (45%) registered in 2018 are by a sole person, a partnership or a company that does not carry on any other residential homes in Northern Ireland. Several of these entities are registered to undertake other services - mostly nursing homes or supported living services. The picture regarding statutory residential homes is similarly illuminating. During October 2008, the Trust statutory sector accounted for 24% of residential care homes and 35% of the total registered residential beds. By October 2018, the Trust statutory sector had reduced to 19% the number of registered residential homes, the five HSC Trusts accounting for 22% of the total registered beds.

342. The number of homes registered to provide dementia care has increased significantly with 49% of care homes now registered for category DE (Dementia).[182] The *Trend Report* notes that four of the five HSC Trusts feature in the list of top ten residential care home providers. The South Eastern Health and Social Care Trust had the highest number of registered beds. None of the HSC Trusts feature in the list of top ten nursing home providers as of October 2018. Appendices to the *Trend Report* show that, in relation to residential beds, all HSC Trusts reduced numbers with the exception of BHSCT which increased its numbers by 188 beds. Regarding nursing beds, all Trusts' areas had an increase in nursing bed numbers, except for the BHSCT that reduced by five, between 2008-2018.

Other regulators

343. Finally, there are wider regulatory considerations. RQIA is the regulator responsible for care home establishments and agencies, albeit in a crowded arena. In addition to RQIA's regulatory powers, there are other specialist regulators – health and safety, fire, environmental health, workforce – which may make periodic checks or whose specialist support RQIA may wish to call upon. All registered managers are either on the professional register of NMC or NISCC as well as being registered with RQIA. Any person carrying out social care work in care homes must be NISCC registered.

344. Regulators fulfil broadly similar functions such as maintaining registers, setting standards, and investigating and adjudicating on circumstances where standards have not been upheld or compliance has not been achieved. All regulators have methods of identifying where steps need to be taken to meet requirements and associated powers of prosecution for cases of

[181] The Review Team has received information from Runwood that shows the opening or acquisition year of each of its care home facilities in Northern Ireland. The detail is in Evidence Paper 5.

[182] See https://www.rqia.org.uk/RQIA/files/10/104e24c9-fbb9-48cc-808f-142e40615886.pdf for categories of care (accessed 19 March 2021)

misrepresentation or falsely purporting to have registered status. Section C of this Evidence Paper describes the unique powers of RQIA to:

- Register and deregister a care home provider and close a home
- Enter a registered service
- State conditions for a registered service to operate
- Look at all records in a care home including people who self-fund

345. The interfaces between regulatory responsibilities, contract and quality monitoring and the criminal and civil justice systems need clarification in addressing, for example:
    - abuse and neglect in care homes when it is not deemed criminal but is prevalent beyond individual residents – the so-called 'institutional' or 'whole home' investigations. Multiple safeguarding referrals may be indicative of a care home that is not compliant with regulations and standards.
    - matters of health and safety including food hygiene and fire safety. A PSNI investigation may conclude that it was doing the work of HSE, for example.
    - issues of recruitment, retention, training and support of the workforce in social care settings is primarily the business of the care provider as the employer.
346. The professional regulatory landscape was subject to detailed scrutiny by the **Law Commissions** in 2012 – 2014. A project with the Scottish Law Commission and the Northern Ireland Law Commission reviewed the legal framework governing the regulation of health care professionals in the United Kingdom and social workers in England only. The Law Commissions published their final report in April 2014.
347. The Law Commissions proposed a simplified transparent and responsive system of regulation. It observed that having 31 different health professions regulated by nine regulatory bodies with different legal frameworks made the system complex and difficult to navigate for the public. The Law Commissions concluded that a single Act of Parliament with broad rulemaking powers, without any direct oversight by Parliament or Government, was the solution. There would be safeguards such as a duty to consult widely and accountability hearings before the House of Commons Health Committee and the devolved assemblies. The Government would have default powers to intervene where a regulator failed or was likely to fail to perform any of its functions.
348. Among other proposals, it was suggested that certain regulatory decisions would not be left to regulators but would lie with the Government in the form of new regulation-making powers. Decisions such as new professions to be regulated, circumstances that could have a major impact on the public purse and decisions to merge any existing regulators would fall into a "public interest" category. It was envisaged that the statute would impose consistency across the regulators where this was in the public interest. The legislative changes proposed have not materialised. However, there is much to commend their work and the approach adopted by the Commissions – gathering the experience of England/Wales, Scotland and Northern Ireland demonstrated that much can be achieved through careful analysis and evidence gathering as well as consultation. A further consultation was undertaken between 31 October 2017 and 23 January 2018, entitled "Promoting professionalism, reforming

regulation." The Government response was published in July 2019. The UK and the devolved governments of Northern Ireland, Scotland and Wales are now charged with developing and consulting on draft secondary legislation to provide a modernised regulatory framework for the professions. In April 2020, the Professional Standards Authority published a Review of Research into Health and Care Professional Regulation and concluded that "the study of the regulation of professionals in health and care does not yet have a strong and well-defined identity as an academic discipline/field of academic study." The development of regulation of individual professionals must link with the regulatory systems of organisations and entities.

POINTS TO CONSIDER – Learning and Change

- ✓ Where is the evidence that CMA's recommendations of November 2017 have been considered and progressed?
- ✓ When an authoritative body such as the CMA makes recommendations about Northern Ireland, the responses should be publicly reported.
- ✓ DH should lead and hold organisations to account for implementing changes in response to reports such as the CMA's.
- ✓ RQIA is not a business adviser to care home providers but its approach to all aspects of regulation can positively influence how the 'market' develops, embed best practice and encourage innovation.
- ✓ Registered Managers are professionals as well as managers of a care home service. Is there scope for the service and workforce regulator to work more closely to reduce duplication and improve standards?

Section G: Learning and change – proposals for action

Key findings

349. The evidence to support a summary of key findings in respect of regulation resides in *Home Truths,*[183] in a review of the documentation provided to COPNI by the relevant authorities, in consideration of law, policy, procedure and research, and substantially in the contributions of the many people – care home residents, families, professionals and managers – and organisations who contributed to the whole systems review.[184] The Paper dwells on RQIA not to reinvestigate the shortcomings well documented by COPNI but because of the significant role RQIA has in care home system improvement. As COPNI concludes:

> *Solving these difficult challenges in the management of poor performance by independent providers will not be possible if the Department takes the findings of this investigation and asks each part of the system to address the problems identified in their part of the service. That has not worked in the past. The changes that are required to be made will have to be worked through the whole system of care assessment, placement, monitoring, funding and regulation.* (P.54)

As the care sector regulator, it is RQIA that *carries a significant amount of power in the system* sufficient, if necessary, to *enforce change.*

350. The main findings documented in this Evidence Paper are:
   - Up to the Unannounced Follow-up Care Inspection of 4 & 6 October 2019 there have been 35 inspections at DMCH since it opened in 2014. The rationale for *excluding* relevant information in inspection reports is not known, e.g., the numbers of people accommodated and of staff employed; complaints concerning the home's practices; numbers of Notifications to RQIA; management instability and staff turnover; and repeated regulatory transgressions and "areas of improvement." This volume of inspection activity had little impact on the living conditions of DMCH residents.
   - over the four years 2014-18, five out of 12 Runwood care homes were subject to enforcement action. It is not known how RQIA enforces compliance at a corporate level. Regulatory focus on a single home without reference to its corporate context must be challenged.
   - Given the preventable harms to which some DMCH residents were exposed, RQIA has not revealed why its regulatory powers were not fully mobilised or how DMCH's timeframe for improvements was determined.
   - Regulation must refresh and adapt to respond to: the challenges of dealing with social media; covert surveillance; high public expectation; the demands of providing effective care and support to an ageing population; and the fragile state of the care home sector in Northern Ireland. The latter is associated with a paucity of skilled care workers and

[183] Specific attention is drawn to the conclusions drawn by COPNI about RQIA on page 53 and the findings and recommendations about regulation and inspection on pages 30-34

[184] See Appendix A

managers. Instead of investing in relationships with the sector as an important complement to its work, RQIA shut off opportunities for participation and collaboration.

- The rigour and validity of RQIA's inspection regimes, the management of those operating them, and the tolerance of DMCH's enduring problems prompt questions about leadership, governance and reliance on cautious, process-driven methods.
- RQIA should be proactive in shaping public expectations, not least in terms of accountability.
- HSC Trusts are being asked by RQIA to deal with matters which are within their own statutory purview.
- RQIA has not been a keen participant in the work of the IRT, nor was it able to demonstrate a timely response to recommendations from other reviews or how they used them to improve their service (for example, *Home Truths,* the last quinquennial review and the Care Inspectorate Scotland report)
- DH saw fit to submit inadequate and limited RQIA's responses to COPNI *Home Truths'* recommendations. It should have been the RQIA Board that signed off the submission which could have been more expansive and forthright in respect of *Home Truths* as well as including information concerning RQIA's (i) response to recommendations arising from reviews of its operation and (ii) the belated review of the model of regulation.
- It is the responsibility of Sponsor Branch to develop and oversee regulation policy. The processes of development and change - for example, the complaints policy and the changes in how registrations categories are applied – lacked the type of co-productive involvement and participation with those affected to embed positive change and improvement.
- During 2009, as a consequence of the Department instructing of all its Arm's Length Bodies) to implement one complaints policy for all of the HSC, RQIA ceased to deal with complaints about care homes from members of the public. The rationale for the policy decision unpinning this change is unknown, yet it resulted in the loss of valuable intelligence. Assertions that information concerning complaints informed inspections are without credibility.
- Annual reports are vehicles of accountability and yet the actions concerning DMCH are not adequately reflected in RQIA's reports.
- Evidence of the way RQIA is governed that demonstrated independence, transparency and proportionality - with clear and separate responsibilities between i) Sponsor Branch, ii) RQIA Board and iii) RQIA Executive/Operational management - was not forthcoming.
- a DH review of regulation and inspection was promised by Minister Wells during 2015 which had not really begun until a consultation was agreed in July 2020.
- The RQIA operates in a crowded regulatory arena; as well as the regulatory powers enshrined in the 2003 Order there are a range of other regulators which have different roles in relation to aspects of the environment, the workplace and the individuals who work or have professional contact with care homes.

Analysis

351. *Home Truths* was a response to family complainants – which it did well – and, in so doing, it set out the performance of the statutory agencies. In highlighting these failings, it did not examine causation. The overview about DMCH was largely based on complaints and the experience of residents and informed by RQIA's inspections, Notifications, Trusts' reports. Inspection reports about DMCH did not draw on existing information or comment on the home's repeated transgressions. Yet it was the experience of DMCH residents and their families and *Home Truths* that challenged RQIA's approach. The families' experiences cried out for acknowledgement, debate, action and change and they remain stunned that far-reaching criticism has barely impinged on the identified failings and flaws of regulation and inspections. However, the services of another UK regulator (Care Inspectorate Scotland), were called upon to conclude that DMCH was regulated "in accordance with the policies and procedures in place at the time." As a result, there is understandable cynicism concerning apologies and commitments to reform in the wake of repeated high-profile scandals.
352. There is no case for drafting inspection reports without offering an analysis of a service's performance over time. Busy lists of "areas of improvement" should not obscure the ability to discriminate and make critical judgements. "Cut and paste" approaches, as well as repetition of terms that are unfamiliar to the public and, most importantly, to relatives and residents, have no place in inspection reports. It should not be left to residents' families and the families of prospective residents to undertake the heavy lifting of analysis.
353. Families reported several issues when using the RQIA website[185], there were constraints in the ability to track the history of an establishment, especially when homes with two separate registrations, one nursing and one residential, did not have identifiable links. This was significant as families recognised that with the potential for deterioration in the health of an older person comes the possibility of transfer into different parts of the home in the future. Other issues raised were concerns about understanding previous events if homes had changed their names and the inability to access an archive of information. Home managers expressed concerns about the lack of updating of the RQIA website and they wanted the ability to include more information about staffing. The content on initiatives such as the RQIA Membership Scheme was deemed to be light on detail and the navigation of the site was reported to be challenging for many. Families also discussed with the IRT the difficulties they experienced with undertaking analysis and understanding the context of the home, its ethos, services and what "a day in the life of" the older person would look like.
354. It is understood from the documentation provided to the IRT that a revised report format was selected from six options and, after amendment, that this was the subject of consultation with residents, families and care home providers. It was scheduled for piloting during the Autumn of 2019. At the time of writing the IRT do not know the current position.

[185] The website has improved during the time of the Review and some of the points raised have been addressed. There remains much to do regards engagement and communication including use of social media.

355. RQIA functions without established arrangements for provider engagement about such strategic developments as the design of RADaR.[186] It is regrettable that it does not use existing avenues to full effect, to gauge responses and elicit views. For example, it is not clear that RQIA accepts that its inspections and HSCTs' "monitoring" require attention. The lack of service engagement in developing IT solutions such as RADaR, that have their success criteria rooted in the ability of others to use them effectively, is at best naïve and at worst, represents management and governance failings. All organisations must constructively relate to people outside their familiar networks. RADaR's slow pace of development, implementation, evaluation and absent piloting reflect poorly on RQIA's engagement with the sector. During 2016 the RaDAR project was initiated; in 2017-2018 a pilot RaDAR inspection framework was developed which was due for testing and refinement during 2018-2019, prior to its use across all RQIA's inspection programmes.[187] The means and ends of RADaR require sector participation and endorsement if it is to prove credible and effective.

356. The RSM McClure Watters review[188] stated that RQIA was "focused on measuring activities and outputs generated rather than outcomes or impacts…" and the Competition and Markets Authority[189] advised attention to complaints and feedback mechanisms in RQIA inspections. The Leadership Centre[190] recommended a "significant investment" in RQIA's skills enhancement, that is, in IT, quality improvement, data analytics and information management and leadership development. CPEA's prior work on a "rapid review"[191] recommended that "The delivery of care and support to older people is a matter of public interest and a readiness to be accountable should be evidenced by all relevant agencies." What does the accumulation of their similar recommendations amount to? Many commissioned reviews concerning RQIA, including *Home Truths,* have not formed the basis of change. There are no accounts of RQIA's discussions about whether to act on recommendations and there is no information about whether the Department's Sponsor Branch pressed for information about follow-up.

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[186] The "risk-adjusted dynamic and responsive" (RADaR) model is designed to detect meaningful signals of risk from patterns of data.

[187] RQIA *Annual Report 2017-2018* page 27

[188] https://www.health-ni.gov.uk/topics/safety-and-quality-standards/regulation-and-quality-improvement-authority (accessed 1 March 2020). RSM McClure Watters (2014) Review of the Regulation and Quality Improvement Authority

[189] The *Care Homes Market Study,* Competition and Markets Authority, 30 Nov 2017

[190] HSC Leadership Centre (2017) Regulation and Quality Improvement Authority: Organisational Review, presented to the RQIA Board on 6 July 2017.

[191] On 11 June 2018, DH published (i) a preliminary CPEA Report about the standards of care and support at DMCH (ii) the Care Inspectorate Scotland Report and (iii) a statement from the Chief Social Worker. The CPEA report reflected a period of greater management stability at the home and recognised that "the home went through difficult times resulting in the many inspection visits from the care inspectors, pharmacy and estates. There were additional weekly visits from professionals from commissioning Health Trusts who carried out audits." This report provided a limited perspective of care and standards over a two-day visit during May 2018. CPEA's findings at that time were consistent with improvements identified in RQIA reports of the same period.

Proposals for action

357. The Evidence Paper has eight high-level proposals for action. They have been derived from considering the perspectives of families, of leading professionals – including proprietors and managers of care homes – and of the relevant authorities and related agencies. The Paper considers the regulatory context and the associated processes. It reflects on how policy is developed – complaints and registrations categories for example – and how they impact on people whose home is a care home. Necessarily the registration, inspection and enforcement activities regarding Dunmurry Manor Care Home are examined in some detail however the Paper primarily concerns the system of regulatory policy, procedure and practice. There have been a host of reviews concerning or implicating RQIA, yet it is not clear that the learning offered has led to change. The IRT proposals are not just about the safety of people who live in care homes they are intended to create a regulatory environment where people can enjoy being at home. They are:

a) Implement the *Home Truths'* recommendations

RQIA should publish a report setting out its completed actions arising from *Home Truths'* recommendations. It should include the DMCH Action Plan cited in its Annual Report and an updated programme of further work. This should include details of the modernisation of its inspection methodology and the plans related to RADaR implementation and evaluation. A working protocol for information sharing and responding to whistle-blowers concerning alleged care home failings should be drafted and agreed with the COPNI. RQIA's Annual Report 2019/20 should detail how it has addressed the COPNI recommendations.[192] Their implementation is a matter for public record.

b) RQIA should lead when a care home is "failing".

The RQIA is a statutory Quality Improvement Authority. The quality improvement element of the RQIA's functions merits particular consideration due to its interface with complaints, serious adverse incidents, adult safeguarding and statutory notifications - each of which resides in the quality assurance domain. The conflicts between these tasks are exposed when a care home is not compliant with regulations/standards and unable to make or sustain improvements.

A "failing" care home is commonly one where there are persistent fluctuations between compliance and non-compliance with regulations and standards. The provider is either unable to make or to sustain improvements. It is suggested RQIA should resist describing care homes as "failing". It should demonstrate defensible decision-making in enacting its duties and powers in these difficult circumstances. It can do this by making clear its general approach to improvement and enforcement whilst acting purposely to the circumstances and information appertaining to each care home.

[192] The Annual Report 2019/20 was published on 7 October 2020, which was after the draft of this Evidence Paper was made available to DH for factual accuracy checking. In the Chair's foreword, it stated: "As a learning organisation we respond positively to recommendations arising from external review, including those undertaken by the Commissioner for Older People and the CPEA in relation to care homes. We continue to review our own practices so they reflect and support stakeholder need."

c) Redefine the remit of RQIA in respect of care home complaints.

RQIA requires oversight of complaints in the registered care home sector as part of its range of intelligence to enable it to target its inspections. Consensus on the optimum approach remains to be negotiated and consulted on. The regulator should be aware of all complaints, be satisfied they are being correctly managed by the care home provider, be able to determine how and by whom more complex investigations are conducted and utilise its regulatory powers to investigate when necessary.[193]

On each inspection, RQIA should publish information about the type of complaints received and their outcomes. It should contact some of the complainants to check their satisfaction with the outcome.

The policies and models in place across the UK warrant consideration to understand their differences and strengths regarding the remit of the care regulator in responding to complaints. Irrespective the emphasis must be on the care provider with the regulator being empowered to act in a time critical way.

d) Learn, change and improve through data and information

There are "data-gaps" in RQIA's inspection reports which prompt questions about how the regulator detects "what matters" and how information is used to effect change, promote improvements and ensure timely intervention when a care home is failing. These "data-gaps" reveal gaps in perspectives - most especially those of residents, their families, care homes and the public.

Consultation is necessary to identify "what matters" and "what works" to ensure that RQIA's RADaR system, for example, is (i) relevant, (ii) accurate and reliable, (iii) timely, (iv) accessible and clear and (v) coherent and comparable. The task is not to generate hundreds of signals, rather ones which highlight residents' and families' experiences of care homes that may be easily documented and reported by Registered Managers - to sharpen the focus on care home residents' experience. Once "what matters" and "what works" have been established, RQIA should publish significant statistics relating to care homes annually.

e) Publish an RQIA engagement and communications strategy

All agencies have to rise to the challenge of engaging with individuals in ways that cause them to think and act as citizens. Accepting questions and challenges about our organisations is a necessary insurance against blindness and a critical step in learning how to deliberate together.[194] People's lives – their wellbeing and safety as care home residents are matters of enduring relevance. The first-hand testimony of residents, their families and

[193] The current policy position and guidance is that "The RQIA has a duty to assess and report on how the HSC and the regulated sector handle complaints in light of the standards and regulations laid down by the DOH. The RQIA will assess the effectiveness of local procedures and will use information from complaints to identify wider issues for the purposes of raising standards."

[194] See Heffernan, M. (2011) *Wilful Blindness: Why we ignore the obvious at our peril* London: Simon and Schuster

care providers would give them a voice, complement accounts of RQIA regulation and inspection and endorse their expertise.

The IRT supports the findings of families that the search and navigation of the RQIA's website is impenetrable. Since its website is the "front door" of the organisation, attention to improving access to the history of homes is required. This is the information which families want when the placement of their relatives becomes an urgent priority. How may they assess the comprehensiveness of inspections if they do not know how inspectors determine the adequacy of a home? What the RQIA does and how its purpose differs from that of the Health and Social Care Trusts requires setting out in simple terms.

Effective engagement should extend beyond the website's individual visitors and reach audiences through media coverage. If there is an existing engagement and communications strategy encompassing different media, it is difficult to discern. Some care home providers perceive that there is a one-sided approach to the RQIA's use of social media, providing potentially premature coverage of issues without adequate opportunity for providers to provide explanations. Who is the target audience for such coverage and what is the purpose? Such questions matter as an engagement and communication strategy is framed and a timeline for outreach efforts is identified.

f) Attend to the governance of RQIA

There is confusion about the oversight, supervision arrangements, governance and accountability of RQIA. Although there is an independent RQIA Board and Chair, the primary accountability is perceived, by professionals and the public, to be to the DH as a whole, not just to the sponsorship team. RQIA's autonomy remains to be recalibrated and asserted. The partnership agreement between DH and RQIA should exhibit the independence necessary for a service regulator.

Minimally, a clear statement about RQIA's accountability is required if public trust and confidence in services and individuals are to be revived.

g) Use learning from reviews to undertake the quinquennial arrangements for RQIA

A quinquennial review of RQIA should incorporate and consolidate all completed and planned reviews. As such there is no necessity to cover much of the ground again but rather to put the learning identified into practice. It should *not* resemble the previous quinquennial review of RSM McClure Watters. Its Terms of Reference should be shaped, insofar as care homes for older people are concerned, by people whose challenges and complaints had been dismissed, home owners, managers and providers of services; care managers; and the Department of Health, for example.

The objective of the review should be to lay the foundations for the type of flexible and creative regulatory policy which facilitates the regulator to put in place procedures and practices that support a policy shift from 'placing' people 'in care' to caring for and about people living in a place they call home.[195] "Long-term care is about living one's life. Good

[195] Bryony Shannon, Rewriting Social Care 2020, Wordpress

care homes have a good atmosphere and warm relationships among residents, staff and relatives. Policy goals for residential care must reflect this by prioritising social needs alongside safety".[196]

Concluding statement

358. Families were right to challenge the adequacy of RQIA's responses to DMCH. It has all the essential legal powers to be an effective regulator, and yet some residents sustained harm at DMCH. Since the publication of *Home Truths*, these families want to know if the corrections or improvements to any home's practices are genuine, active and promising of permanent change. Regrettably, this is not something the IRT can answer.
359. The IRT's evaluation of documents in the public domain regarding the period considered by COPNI in *Home Truths* brings into question whether and how RQIA discharged its statutory duties. Did the RQIA make suitable use of its enforcement powers? During this time, the residents and their families, staff, the public and the provider itself were let down.
360. Confidence in the regulatory system is essential and will be enhanced by reliable public information and a willingness to admit learning from mistakes and demonstrate self-correction. COPNI expressed concern that there was "a degree of desensitivity to what are acceptable norms in a care home."[197] He considered that RQIA did not identify the issues "quickly or effectively" asking "How long is long enough to work in a collaborative way to ensure that older people are protected and well cared for in a care home?" The IRT concurs with COPNI that RQIA had an "inadequate response" to DMCH's failings. It is not known whether that was a result of ineffective internal communication, including up to the Board, the latter's risk blindness, the leadership or skills.
361. There is a good deal of consensus concerning the nature and extent of the changes required. "We all want to live in the place we call home with the people and things that we love, in communities where we look out for one another, doing the things that matter to us".[198] "Some of the most influential publications which have set the commonly accepted standards of residential care are quite explicit about the 'home' as a model: *Home Life* (Avebury 1984), *Homes are for Living In* (Department of Health, 1989), *A Better Home Life* (Avebury 1996) and *Creating a Home from Home* (Residential Forum 1996)."[199]
362. The proposals for action in this Evidence Paper, like the recommendations in *Home Truths,* have been prepared to support DH work "through the whole system of care assessment, placement, monitoring, funding and regulation." RQIA has the part and power of "referee" in the creation of such a whole system – one that manages and mitigates the risk of harm and neglect in care homes. Listening and involving older people and their families is essential to making the changes and improvements which will build a better environment in which people who live and work in care homes may flourish and live out their lives in a place they choose and wish to remain.

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196 "Home from Home", Alzheimer's Society 2007
197 This quote and other unreferenced quotes in this section are from *Home Truths*
198 Social Care Future (Accessed 11 October 2020)
199 Burton J, *Managing Residential Care*, Routledge 2006

Summary of appendices

The full appendices are in a separate document

Appendix A: Sources of data and information

Description: This Appendix lists meetings with key stakeholders, including the HSCB, HSCT's, DH, DH Reference Group Meetings, Chief Medical Officer and Sponsorship Team for RQIA, Chief Nursing Officer and Sponsorship Team for the Patient and Client Council (PCC), PCC, Complaints Policy Team (DH), Workforce Policy Team (DH) NIPSO, NIHRC, COPNI, RQIA, IHCP. The Appendix lists dates of meetings with Runwood and visit dates to all Runwood Homes. Visit dates to other homes in Northern Ireland are listed. There is a list of contributors including trade unions, the voluntary and charity sector as well as academics and education organisations. Regulators such as the NMC and NISCC are listed as contributors, as well as organisations such as NIPEC. Contact and communication with families also feature and the identities of those families are held confidentially. The Review Team has maintained a comprehensive schedule of meetings and main contacts, which does not form part of any papers, Appendix A has been drawn from that primary source.

Appendix B: The legislative architecture

Description: This Appendix examines key statutory material.

Appendix C: RQIA review programme 2015-18

Slide from RQIA presentation DHSSPS Lunchtime Seminar, 3 February 2015.

Description: This slide sets out lists of RQIA reviews.

Appendix D: RQIA – learning from Dunmurry Manor Care Home

Document dated 16 February 2018, provided to the Review Team on 15 January 2020

Document untitled provided to the Review Team on 6 March 2020 by email from the then Interim Chair of the RQIA.

Description: This Appendix is in two parts, the first is the DMCH Action Plan that was requested in correspondence on 9 December 2019, on 16 December 2019, the RQIA responded by explaining that this was an internal document and had been superseded. The DMCH Action Plan was mentioned throughout the RQIA Annual Report 2018/2019 as an authoritative source of progress reporting on DMCH. It was provided to the Review Team in hard copy on 15 January 2020, at the DH Reference Group Meeting.

The second document was sent to the Review Team on 6 March 2020, by email, following correspondence that followed the session with the RQIA Board on 16 January 2020, as the Review Team had repeatedly asked for a summary of action post *Home Truths*. Follow up correspondence after the Board meeting consolidated outstanding information requests. In correspondence the RQIA referred the Review Team to Annex C on the COPNI website, part of the DH response to *Home Truths*. That document is Appendix F. These two action plans and the Annex C comprise the main responses to *Home Truths* by RQIA. The follow up meeting for 10 March 2020 with the RQIA Board was cancelled. Subsequently there has been

re-engagement with the incoming Interim Chair of RQIA to fulfil the Review Team's "no surprises" principle.

Appendix E: The role of the Commissioner for Older People for Northern Ireland in the context of complaints and regulation

Description: This Appendix gives an overview of the Commissioner's powers and the derivation of those powers. This is intended to give context to the investigation and the *Home Truths* Report.

Appendix F: Comments from RQIA to DOH on COPNI recommendations

Sourced from COPNI website published January 2020 as part of "Commissioners View."

Description: This is the Annex C that the Review Team were referred to when seeking detail about actions taken by RQIA post the *Home Truths* Report. This document is on the COPNI website as part of the DH response.

Appendix G: Vignettes

Description: These are included to show the impact of the 'dual registration' decision on older people as communicated to the Review Team by care home managers, families and family group representatives

Appendix H: RQIA Update/Postscript to Evidence Paper 3, draft July 2021

Description: A draft paper dated 21 July 2021. This emanated from a meeting with the Interim CEO of RQIA and DH in January 2021. The delays in the publication of this Paper made it appropriate to offer the opportunity to prepare a postscript to give the up-to-date position of RQIA on the subject matter covered by the IRT.