MUCKAMORE ABBEY HOSPITAL PUBLIC INQUIRY
CLOSING SUBMISSIONS ON BEHALF OF THE REGULATION AND QUALITY IMPROVEMENT AUTHORITY ("RQIA")

1. The Closing Statement is made on behalf of the Regulation and Quality Improvement Authority ("RQIA").

2. In its opening remarks, the RQIA acknowledged the suffering and distress experienced by the victims of abuse in Muckamore Abbey Hospital ("MAH") and the devastating impact upon their families. RQIA acknowledges the bravery and dignity of those victims of the abuse, and their families, who have come forward to provide evidence to this Inquiry in assisting it to meet its aims. RQIA has engaged actively and thoroughly with the Inquiry and listened intently to the evidence of witnesses. RQIA wishes to express its thanks for the invaluable assistance received from its employees, past and present, in presenting evidence to the Inquiry.

3. The RQIA arranges its closing statement as follows, seeking to address the Inquiry in respect of themes which it believes have emerged from the evidence and from lines of questioning developed by the Inquiry's legal team and the Panel itself:

   i) The Terms of Reference in so far as they relate to RQIA evidence.
   ii) The Evidence provided on behalf of RQIA.
   iii) The role and statutory duties of RQIA.
   iv) The powers available to RQIA in respect of MAH.
   v) The evolving nature of RQIA and its approach to inspection.
   vi) The nature of the inspection process.
   vii) Evidence of inspection and response.
   viii) The independence of RQIA.
   ix) Learning, areas for improvement identified and looking to the future.
   x) Concluding remarks.

Terms of Reference

4. The Terms of Reference identify the core objectives of the Inquiry as examining the abuse of patients at MAH, determining why the abuse happened and the circumstances in which it did, and seeking to ensure that such abuse does not occur again either at MAH or any other institution providing similar services in Northern Ireland. In seeking to achieve those objectives, the Inquiry will consider whether the abuse resulted from systemic failings within MAH or the wider health care support system in Northern Ireland.

5. The Terms of Reference of particular interest to RQIA, direct the Inquiry to consider the operation of supervisory and regulatory agencies and to examine the response of a number of bodies, including RQIA, when allegations of abuse or patients at MAH were reported to them. RQIA welcomes the Inquiry's investigation into the reasons for the abuse experienced by patients at MAH and the Inquiry's opportunity to provide recommendations which may serve to safeguard patients entrusted to the care of Mental Health and Learning Disability ("MHLD") services.

The Evidence

6. RQIA has provided evidence to the Inquiry in the form of witness statements, augmented by oral evidence, as follows:

   i) Ms. Briege Donaghy, Chief Executive, provided statements dated 24 February 2023, 15 November 2023 and 8 December 2023. She provided oral evidence to the Inquiry on 3 May 2023.

   ii) Ms. Lynn Long, Director of Mental Health and Learning Disability and Prison Healthcare("MHLD") provided statements dated 29 March 2024 and 26 April 2024. She provided oral evidence to the Inquiry on 19 June 2024.

iii) Ms. Wendy McGregor, Assistant Director of Mental Health and Learning Disability and Prison Healthcare provided a statement dated 28 March 2024. She provided oral evidence to the Inquiry on 20 June 2024.

iv) Mr. Alan Guthrie, Social Worker, provided a statement dated 28 March 2024. He provided oral evidence to the Inquiry on 20 June 2024.

v) Margaret Cullen, former RQIA Inspector, provided a statement dated 28 March 2024.

7. In addition, the Inquiry has received substantial disclosure from RQIA, relevant to the timeframe identified within the Terms of Reference.

The Role and Duties of RQIA

8. The Inquiry has received evidence from Ms. Donaghy concerning the role and duties imposed upon RQIA by statute. The organisation was established under the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 ("the 2003 Order") and came into existence in April 2005. It is the independent health and social care regulator, a non-departmental public body of the Department of Health in Northern Ireland. RQIA is accountable through the Permanent Secretary of the Department to the Health Minister.

9. RQIA's powers and duties insofar as they relate to MHLD services are primarily set out in the 2003 Order, the Mental Health (Northern Ireland) Order 1986 ("the 1986 Order"), and the Health and Social Care (Reform) Act (Northern Ireland) 2009 and, from 1 October 2019, parts of the Mental Capacity Act 2016. RQIA has an overall responsibility to keep the Department informed on the quality and availability of health and social care in Northern Ireland and to encourage improvement in these services.

10. From 1 April 2009, RQIA assumed statutory responsibility for the functions previously discharged by the Mental Health Commission ("MHC") under the

1986 Order. Until the transfer, RQIA had no function or powers under the 1986 Order. The RQIA's overarching duty under the 1986 Order is to keep under review the care and treatment of patients and the 1986 Order provides for the exercise of powers and discharge of duties contained within the Order. Prior to assuming the function of the MHC, RQIA discharged its role in relation to hospitals operated by HSC Trusts solely under Part IV of the 2003 Order.

11. As Ms Donaghy's evidence makes clear, RQIA's role and powers differ depending on whether or not the relevant establishment or agency is required to be registered with RQIA in accordance with Part III of the 2003 Order. In the former case, RQIA has the power to take enforcement action against registered services/providers up to and including cancelling registration. Hospitals, including MHLD hospitals that are operated by HSC Trusts, are not governed by Part III. However, in respect of those institutions, RQIA is under a duty to review and/or inspect HSC Trusts and the services that they provide, with particular reference to their adherence to a statutory duty of quality.

The Powers available to RQIA in respect of MAH

12. The Inquiry has received evidence in respect of the nature and extent of the powers available to RQIA in seeking to assess whether MHLD hospitals and services uphold certain minimum standards. These need not be repeated in full, however, in relation to MAH, RQIA had available to it the following methods of seeking to ensure compliance further to inspection, arising under the 2003 Order:

    i) The power to require a service to provide information relating to the service which RQIA considers necessary or expedient to have for the purposes of its functions.

    ii) The power to enter and inspect premises which are used by a service and inspect and take copies of any documents or records.

iii) The power to require a HSC Trust to provide RQIA with information which it considers necessary or expedient to have for the purposes of its functions.

iv) The power to recommend that the Department implements special measures in relation to the body or service provider in question with a view to improving the health and social care for which it is responsible.

v) The power to serve an "improvement notice" in accordance with Article 39 of the 2003 Order requiring a service to take steps within a specified time period where it has failed to comply with a Statement of minimum standards published by the Department under Article 38.

13. RQIA's duty under Article 86(1) of the 1986 Order is to keep under review the care and treatment of patients. RQIA is required to make inquiry into any case where it appears that there may be ill-treatment, deficiency in care or treatment, or improper detention or reception into guardianship, or where the property of any patient may, by reason of his mental disorder, be exposed to loss or damage. The duty extends to a requirement to visit and interview in private patients liable to be detained in hospital under the 1986 Order and to bring to the attention of the Department or a HSC Trust, any matter concerning the welfare of patients which RQIA believes ought to be brought to their attention.

14. Ms Donaghy explained in her evidence:

"…The purpose of inspection is to check compliance with the 2006 standards[1] and where they fail to comply to require them to address those issues through an improvement plan or we can take the most serious step we can, to issue an improvement notice. It is the extreme limit of RQIA's direct action against a service. The RQIA do not have the power to restrict the service or set conditions on it. Beyond that, the only other 'enforcement option' is to recommend to the Department of Health that they should consider special measures for an

[1] "Supporting Good Governance and Best Practice in the Health and Personal Social Services (HPSS)" ("the Quality Standards")

organisation within a particular service." These actions are designed to protect the safety of service users and to address situations where there are significant failings and/or a lack of improvement in the quality of service provision. In its approach to regulation, RQIA adopts the Principles of Good Regulation, Better Regulation Task Force, 2003 of proportionality, consistency, targeting, transparency and accountability.

The Evolution of RQIA and its approach to Inspection

15. The Inquiry has received evidence in respect of the evolving nature of RQIA and its approach to inspection. Following the transfer of functions from the MHC, RQIA was required to carry out a range of statutory functions specified in the 1986 Order. RQIA's inspections of MAH began after the transfer of functions from the MHC. As Ms Donaghy's first statement to the Inquiry observed *"At the time of its establishment in 2005, RQIA did not inherit or have prescribed any detailed or robust regional inspection methodology in respect of the services that it was tasked to regulate. RQIA sought to develop its own inspection methodology for regulated services and later MHLD hospital facilities from 2009 onwards."*

16. Ms Donaghy has described how the inspection methodology developed from 2009 onwards. Her evidence set out the development of an inspection methodology designed to assess the quality of services and identify areas for service improvement with reference to the Quality Standards. The evidence provides that, following assumption of the responsibilities of the MHC, RQIA had developed a *"full inspection methodology"* between 2010 and 2011. The methodology was characterised initially by a programme of mainly announced inspections of wards, patient experience reviews, analysis of returned questionnaires and self-assessment forms, speaking directly with patients and responding to concerns or intelligence received.

17. The evidence displays a willingness by RQIA to continue to review its inspection methodology and consider improvements to its inspections aimed at assessing quality and encouraging improvements. Ms Donaghy has provided detailed

evidence of the adoption of a pilot methodology between 2014 and 2015, which lead to the commissioning of an external independent evaluation of the methodology by Professor Roy McConkey that informed further development to the inspection methodology of MHLD wards. The desire to improve and develop its methodology led to further refinement of the methodology process between 2018 and 2019. The methodology was informed largely by the inspection methodology which had been deployed by RQIA in acute hospitals across Northern Ireland. The potential benefits of implementing a whole-site approach were further reinforced to RQIA by the findings of Dr Margaret Flynn and the "A Way to Go" report, which undertook analysis of RQIA's inspection findings from a whole-site perspective, allowing themes and trends that indicated wider concerns with the management and governance of MAH to be identified and explored.

18. The adoption of the new methodology in 2018-2019 saw the implementation of a 'systems' based approach to inspection focusing on the entirety of a hospital site, or the entirety of a service, as appropriate, rather than inspections of individual wards. The inspections were undertaken by multi-disciplinary inspection teams and were unannounced, lasting over two to three days. Evidence of the extent of the changes and advantages brought about by the 'systems' based approach has been set out within the second statement of Ms. Long. RQIA's continued review of its methodology has improved the nature of those inspections and what the organisation has been able to identify. In this regard, Ms Long observed in her evidence, as follows:

"Some of the matters that RQIA were raising were beyond the remit of the individual ward managers and staff within these wards and actually related to some of the systemic and governance issues with respect to the Trust…So although they were made about the individual ward [the previous inspection methodology] limited the ability of the individual ward manager to make those changes… I think when we moved to the multidisciplinary site inspection, where we were able to have very robust evidence that these matters were evident across a range of wards, and that they needed to be addressed through the leadership and governance arrangements within the Trust…it was at these

points in time that we had an ability and evidence base to bring the Trust to those Intention to Serve meetings, serve Improvement Notices and request recommendations from the Department to place the Trust in special measures."

19. Evidence has further been received from Ms. Donaghy in her first statement of the range of sources and expertise considered and which informed the development of its inspection methodology between 2009 and 2019. RQIA invites the Inquiry, having heard and considered the evidence, to conclude that RQIA is a learning and reflective organisation which created and developed an inspection methodology having drawn upon research from a number of resources both within and outside of the jurisdiction. The Inquiry is further invited to conclude that RQIA has been responsive and proactive in seeking to refine its systems, including its inspection methodology, with a view to improving MHLD facilities, including MAH, and enforcing the minimum standards set by the Department i.e. the 'Quality Standards'.

The nature of inspection

20. The Chair recorded in his opening remarks that it was obvious that bad practices were allowed to persist at MAH. We have heard a considerable amount of evidence of the effects and consequences of those practices from patients and their families. Unquestionably, the mistreatment of vulnerable patients by those charged with their care ought not to have occurred or been permitted to occur.

21. Inspection is an important tool deployed by RQIA in seeking to discharge its statutory functions and obligations. As the inspection reports show, inspections were being undertaken throughout the period of the Terms of Reference. The Inquiry has received evidence that inspections were carried out regularly and with diligence, in accordance with the methodology in place at the time. The inspection process may act as a deterrent for abuse, however, inspection alone will not be an effective tool in preventing abuse and bad practice from occurring. Inspection may highlight, as it has done, poor practice, identify that there are risk factors which indicate that abuse may be able to occur, and recommend

mitigations and safeguards aimed at reducing that risk. Frontline abuse was not detected in the course of inspection, as the evidence has established.

22. RQIA is independent of those it inspects. Inspection by RQIA in terms of the identification of bad practices is but one in a range of safeguards which ought to be in place. Inspection cannot be a substitute for effective management and internal oversight by a service provider of their facility and its operation.

23. The effectiveness of inspection is necessarily reliant upon the evidence that the inspections uncover. The Inquiry has received evidence from RQIA in respect of the manner in which evidence is managed. RQIA triangulates information received from various sources to ascertain whether there is robust evidence supporting a certain conclusion, or a basis for taking steps aimed at improving a service. As the Chief Executive observed to the Inquiry *"evidence influences our position."*

24. Inspection, by its nature, is limited in what it can achieve. RQIA continues to strive to improve its systems and methodologies however as Ms Long observed in her evidence *"…inspections are limited in what they can do. You're there for a period of time. You get a snapshot of a service during that time."* A system of inspection cannot guarantee the prevention of abuse and the limitations inherent in inspection must be acknowledged. The limitations underline the need for RQIA to rely on other sources of information. As RQIA has continued to evolve its methods, it has, since 2019, in reliance upon its statutory power, required that the Belfast HSC Trust notify it of specified safeguarding incidents at MAH.

Evidence of inspection and response

25. The Inquiry has received evidence of effective engagement with stakeholders and intervention as a result. Although a detailed assessment of the inspection reports over the period covered by the Terms of Reference is beyond the scope of these submissions, the statements of Ms. Long and Ms. Donaghy detail a number of examples of steps taken by RQIA following inspections of wards

within MAH, on occasions including holding Serious Concerns Meetings or serving Improvement Notices.

26. An important part of the Inquiry's focus has been the role of RQIA and others arising from allegations of abuse at Ennis Ward in 2012 and the subsequent adult safeguarding investigations between 2012 and 2013. The steps taken by RQIA have been described fully within Ms. Long's first statement between paragraphs 23-76 and need not be repeated in full. The evidence presented in that respect demonstrates the seriousness with which RQIA received the allegations. The Inquiry is invited to consider the following dates, extracted from the detailed timeline:

    i) RQIA first became aware of allegations of physical assault, degrading practices along with concerns over staffing levels in Ennis Ward on 8 November 2012 following a report by telephone call by the Operations Manager for the Priory Group.

    ii) The report was escalated to senior management promptly and contact was made with MAH Hospital Services Resettlement Manager who advised she would deal with the matter immediately and inform RQIA of MAH safeguarding procedures.

    iii) RQIA attended a Vulnerable Strategy Meeting with BHSCT and PSNI the following day, after which three members of staff were suspended and additional staff from other wards were diverted to work on Ennis Ward. RQIA attended a further six of these meetings.

    iv) RQIA undertook an unannounced inspection of Ennis Ward on 13 November 2012 which involved a review of a previous Quality Improvement Plan, and eleven additional recommendations were made (see paragraph 27).

v) On 15 November 2012, RQIA attended a further Vulnerable Adult Strategy meeting and continued to raise concerns over staffing levels on the day of the alleged abuse.

vi) On 15 November 2012, RQIA wrote to BHSCT and outlined its concerns following the unannounced inspection on 13 November 2012. In particular, RQIA sought an action plan to improve the situation at MAH, particularly in relation to staffing levels.

vii) RQIA remained in contact with BHSCT and the Public Health Agency and continued to raise concerns about staff shortages and patient dignity. Despite assurances received in respect of staff shortages from BHSCT on 12 December 2012, RQIA continued to hold concerns and planned further unannounced inspections.

viii) RQIA undertook an unannounced inspection on 20 December 2012 seeking to clarify the action taken by BHSCT in relation to the safeguarding investigation and review the safeguarding processes in place in Ennis ward. A further eight recommendations were included within a Quality Improvement Plan. RQIA continued to keep MAH on its Serious Concerns Group agenda until improvement could be evidenced.

ix) As a result of BHSCT's failure to satisfy RQIA that sufficient improvement had been made, RQIA undertook a further unannounced inspection on 29 January 2013. RQIA provided a further Quality Improvement Plan restating five recommendations and adding a further eight recommendations.

x) As part of its ongoing monitoring of staffing levels in MAH, RQIA, in accordance with its statutory powers, required BHSCT to notify it whenever staffing levels were below requirements. RQIA continued to keep MAH on its Serious Concerns Group agenda until BHSCT returned its response to the outstanding Quality Improvement Plan. RQIA

continued to correspond with BHSCT, seeking assurances in respect of patient care at Ennis ward and elsewhere within MAH.

xi) A further unannounced inspection of Ennis ward took place on 29 May 2013 resulting in eight recommendations being made in a Quality Improvement Plan. RQIA requested that BHSCT provide a copy of its investigation report.

xii) RQIA considered the content of the Ennis Safeguarding Report. At a Vulnerable Adult's Strategy meeting on 28 October 2013, RQIA agreed with the recommendations made in respect of about staff training with regard to Adult Safeguarding Policy, induction training, child protection training and whistleblowing training. . RQIA asserted that whilst it had not been possible to reach a conclusion in the report, it was RQIA's position that there was enough evidence to justify some concern about wider practice on the ward.

xiii) RQIA undertook an unannounced inspection of the amalgamated Erne ward on 29 January 2014 to monitor BHSCT's progress in implementing recommendations following previous inspections of Erne and Ennis wards. The inspection noted that progress had been made in a number of key areas and that all of the recommendations made in the unannounced inspection of Ennis ward on 29 May 2013 had been met.

27. The actions taken by RQIA in response to the allegations made at Ennis ward in 2012 arise only in the context of a 'snapshot' of the time considered by the Inquiry in accordance with its Terms of Reference. However, it is clear that RQIA took the allegations seriously, liaised appropriately with other agencies and was heavily involved in seeking to effect improvement at MAH through the steps outlined above. RQIA invites the Inquiry to find that the above demonstrates evidence of an organisation which acted promptly in committing a significant amount of its limited resources to require BHSCT to improve the issues which arose from the allegations of the abuse.

28. It was suggested by Counsel for the Inquiry that the concerns which arose from the allegations of abuse in 2012 and 2017 led to an increase in the number of inspections which were undertaken at MAH. However, the inspection reports which have been provided evidence regular inspections being undertaken by RQIA across MAH since 2010 (not solely focused upon Ennis Ward) prior to the allegations being made in 2012 and 2017. While it may well be the case that receipt of intelligence and evidence of risk of bad practice can result in increased inspection frequency over a period, effectiveness of inspection and regulation is not best measured with reference to frequency of inspection alone. As inspection methodology has developed, it has informed RQIA's view that improvement of methodology will be more effective at identifying risk and ensuring that service providers comply with minimum standards than simply increasing frequency of inspection.

Independence

29. A theme which developed through RQIA's evidence and from the questions posed by the Inquiry's counsel and the Panel members was the issue of RQIA's independence. The issue of independence arose in two respects, first in the manner in which RQIA seeks to inspect and make recommendations independently of the service which it inspects. Second, in respect of the degree to which RQIA can be satisfied that those undertaking the inspection, who may previously have been employed by the HSC Trust he or she is tasked to inspect, can do so independently.

30. The Panel questioned whether the fact that engagement takes place with the service provider, the relevant HSC Trust and HSCB/SPPG in considering whether to take enforcement action, such as the issue of an Improvement Notice, could serve to influence its decision and, perhaps, compromise its independence. It was further suggested by counsel for the Inquiry that in seeking to encourage resolution and work constructively with those bodies, there is a risk that inviting the provider to convince it of compliance may have the effect of 'watering down' RQIA's concerns.

31. RQIA's engagement with service providers involves the purposeful presentation of information and feedback of the information obtained during the inspection. Engagement with service providers serves the dual purpose of ensuring factual accuracy and providing the opportunity for a service provider to act upon any areas of concern as early as possible with a view to securing the safety of patients. The engagement does not involve advanced warning or early sharing of conclusions, but of information obtained in an inspection. It is important to recognise that an inspection is not concluded on the day of a given visit and will include consideration of evidence gathered before, during and after physical attendance at the service.

32. The timeline and evidence provided in respect of Ennis evidences the independence of the RQIA's discharge of its functions. RQIA invites the Inquiry to find that its actions in respect of Ennis ward in 2012 is evidence of an organisation which was unwilling to accept assurances of other bodies unless they have been supported by evidence of improvement in the areas identified as requiring action. As Ms. Donaghy stated in her oral evidence *"[service providers] will not persuade us by their words, they will persuade us by the evidence they present, and the effort they have put in. The evidence must be there…We are seeking to achieve improvement and if that can be achieved through us pointing out the non-compliance and the provider acting upon it immediately, then that is the outcome we are after."*

33. During Ms. Donaghy's live evidence, the Chair expressed possible concern about the independence of RQIA employees who had previously held roles in HSC Trusts or services that they then go on to inspect. RQIA continues to reflect on its processes in this regard as part of its wider learning from the Inquiry. RQIA recognises that a blanket "recusal" policy in a small jurisdiction with a small team of MHLD inspectors could not be implemented easily. There would be significant capacity and resource implications, and this would only tackle one aspect of the potential conflicts of interest. As Ms. Donaghy observed in her second statement, RQIA values its independence and has taken steps to mitigate any risk or perceived risk to that independence through a suite of measures such as peer-to-peer review of inspection outcomes, review of

outcomes and decisions by both a Senior Inspector and Director or Assistant Director of the MHLD directorate; and, as necessary, ensuring that inspections are undertaken in groups rather than by individual inspectors.

34. RQIA considers its independence vital to the effective performance of its statutory functions and obligations and it shall continue to take all steps reasonably available to it to protect that independence through its operational practices and inspection methodology.

Learning, areas of improvement and looking to the future

35. RQIA seeks to improve the services it inspects as well as the manner in which it discharges its own obligations. RQIA has listened to the evidence and considers that the Inquiry presents a valuable opportunity to self -reflect upon the areas in which it may improve in the future. RQIA continues to reflect upon the evidence the Inquiry has received and while not intended to be an exhaustive list of all matters under review by RQIA, RQIA has identified a number of areas that it shall seek to develop.

36. The Inquiry has queried the effectiveness of RQIA's system of inspections in analysing key themes over time. The Inquiry has heard much evidence of how RQIA's methodology has changed to allow for analysis of themes *across wards*, and RQIA is continuing to explore ways that it can improve its ability to identify and analyse themes *over time*. The limitations and age of RQIA's I-Connect data management system have been acknowledged in the evidence of Ms. Donaghy, Ms. Long and Ms. McGregor. Its effectiveness in identifying key themes and trends relies upon the inspectors' knowledge in the first instance. While inspectors will always be a key part of that process and there is no substitute for their knowledge and experience, RQIA would welcome an IT system that has the ability to support RQIA with the identification of emerging trends over time, not only on a service-by-service basis but with identifying trends across Northern Ireland.

37. The Inquiry has received evidence in respect of the resources available to RQIA, across the organisation and specific to MHLD. RQIA receives a relatively small budget. The lack of resources across the health and social care system is well documented. Ms. Long has provided evidence to the Inquiry in respect of resources allocated for the purposes of development of an improved IT system and RQIA welcomes the allocation of resources in this regard.

38. Ms. Long regretted in her second statement to the Inquiry that many families had never had contact with RQIA, and others did not know of the existence of RQIA or the role it performed. RQIA, having listened to that evidence, acknowledges that it must do more to ensure that it is function is known to all stakeholders across the HSC system. Ms. Long explained that raising the RQIA's profile had been an objective of the organisation in recent years and will continue to be so. RQIA has held a series of online engagement sessions open to members of the public to explain its statutory role relating to MHLD and RQIA will continue to consider ways in which to raise the profile of the important work that it undertakes.

39. RQIA wishes to restate its understanding of the importance of communication with families. RQIA has already taken steps to improve the way that feedback is sought from those families. The Panel queried whether information was received from family members and given sufficient weight in preparation of an inspection report. RQIA acknowledges that the views of family members must be afforded greater visibility in its reports, while being mindful of issues of confidentiality. RQIA will continue to consider ways in which the important views of family members are captured and recorded. The Inquiry has received evidence from RQIA that the opportunities for seeking feedback from families are much improved. In 2023, RQIA began requesting contact details of relatives from service providers to allow RQIA to contact relatives directly. While mindful of the fact that not all families wish to be contacted, RQIA remains committed to seeking involvement from patients' family members where it is wanted.

40. Ms McGregor, in her oral evidence, referred to the need to develop RQIA's work with mental health advocates and their involvement in the inspection process. RQIA recognises the need for the support and development of advocacy services. RQIA will continue to consider what improvements can be made in seeking the views of mental health advocates about the care and treatment received by patients in MHLD services. The organisation also intends to extend the use of Inspection Support Volunteers to inspections of MHLD inpatient services and other settings.

41. As MAH nears closure and patients are resettled into community settings, RQIA acknowledges the need to adapt to the evolving care model within Northern Ireland. RQIA's role of inspecting and reporting of inpatient hospitals is already well established. RQIA continues to use its existing statutory powers under the 1986 Order, and the 2003 Order (including its subordinate legislation and Standards set by the Department) to promote and monitor the safety and wellbeing of those living outside of inpatient facilities, including those being resettled from MAH.

42. The Inquiry has heard evidence of RQIA's use of a range of regulatory responses at MAH, including formal notification to the Department of Health, such as that which led to the establishment of the Muckamore Abbey Hospital Departmental Assurance Group ("MDAG") in 2019. As RQIA has observed earlier in these submissions, the flow of information into RQIA is essential to the effective discharge of its functions. The discharge of the statutory duty of reviewing the care and treatment of patients will be assisted by the provision of more information from HSC Trusts, particularly in respect of accommodation-based services. However, RQIA is conscious that receipt of that further information will only be effective in improving oversight and patient safety if additional financial investment is also provided for the regulatory capacity needed to process it and act upon it.

43. The Mental Capacity Act (NI) 2016 ("The MCA 2016") provides for the provision of information to RQIA about the deprivation of an individual's liberty and increases the number of notifications to RQIA about people deprived of their

liberty in community settings, including care homes and supported living settings. RQIA has concerns about its capacity to react effectively to the receipt of the additional information it receives in accordance with the MCA 2016, as additional resources to enable it to do so have not yet been provided. An impact of the MCA 2016 is that RQIA is more informed about those persons who are deprived of their liberty outside of mental health facilities. RQIA is concerned that viewing the provision of this information in isolation ignores the corresponding duties which arise under the 1986 Order and 2003 Order. Unless RQIA is appropriately resourced to enable it to meet its statutory duties further to receipt of that additional information by virtue of the MCA 2016, its capacity to assess and act upon information it receives will be very limited, and the protections envisaged in the legislation ineffectual.

44. RQIA adopts a risk-based approach to the exercise of its regulatory functions and continues to focus on the welfare of individuals whether detained under the 1986 Order or receiving treatment voluntarily in a hospital setting. It must however be mindful of how to best use available resources to fulfil its statutory duty to keep under review also the welfare of people living in a wide range of community settings. RQIA recognises that there are also many individuals living in their own homes, or with their families who are in need of the protections that regulation affords. The task of effective regulatory oversight in those settings represents a formidable challenge.

45. RQIA will continue to make use of existing legislative powers within the confines of available resources. However, it is proper to observe that there is insufficient capacity or resource available to RQIA to fulfil the requirements of its regulatory role across the varied environments in which, increasingly, people are now being supported. The provision of services in community settings has evolved considerably since the enactment of the 1986 Order, yet it is this legislation within which RQIA operates. Whilst the 1986 Order confers a broad range of duties and powers to RQIA, there are, regrettably, considerable limitations upon RQIA's ability to make full and effective use of its existing powers and duties given its current funded capacity. In addition, the 2003 Order and the overall framework for regulation of all health and social care services in Northern

Ireland have been in place, largely undisturbed, since commencement; and no longer reflect the changed service delivery landscape. A review of the legislation is necessary to meet that landscape.

46. This community model of care delivery is not only logistically more challenging but also requires RQIA to develop an understanding of how it can best fulfil its regulatory role in often complex community-based settings. This model of care often involves housing providers, the Housing Executive, care providers, and HSC Trusts. RQIA needs to fit its role into this complex community and social care model while being limited by existing legislation that did not necessarily envisage such models of care when enacted.

47. Guidance documents to the 1986 Order; including the MHO Code of Practice (1992), the GAIN Guidelines and the MHO Guide have likewise not evolved alongside changes to the delivery of care. RQIA welcomes the expected publication of a revised Code of Practice in 2025, following extensive consultation between a number of stakeholders including RQIA and the Department of Health. The introduction of a new Code of Practice will see the withdrawal of the existing GAIN Guidelines and MHO Guide.

48. RQIA welcomes the Inquiry's consideration of legislation that seeks to safeguard vulnerable individuals. RQIA is involved in the development of proposals for legislation with regard to adult safeguarding arrangements in Northern Ireland, which is led by the Department of Health. In 2022, the *'RQIA review of the Systems and Processes for Learning from Serious Adverse Incidents in Northern Ireland'* recommended reform of the current procedure for reporting and following up of Serious Adverse Incidents in Northern Ireland. This review was commissioned as part of the implementation of recommendations from the independent Inquiry into Hyponatremia related Deaths ("IHRD") conducted by Mr. Justice O'Hara. The Minister of Health accepted the recommendations of the IHRD generally in respect of review of the regulatory framework for health and social care in Northern Ireland, and the specific recommendation that *"the Department should expand the remit and*

resources of the RQIA in order that it might maintain oversight of the SAI process; be strengthened in its capacity to investigate and review individual cases; and scrutinise adherence to the duty of candour." RQIA wishes to ensure that in any development of patient safety processes, the role of regulation is not reduced and the importance of independent regulatory oversight is fully recognised.

49. The Inquiry will doubtless consider the range of powers available to RQIA and the degree to which those powers enable it to adequately fulfil the role of regulator. RQIA believes that it is equipped to continue to effect change and improvement with MHLD and other services. Ms. Long in her oral evidence observed that when RQIA deploys the enforcement powers available to it, they are considered serious by service providers and, further, that they have been effective in securing positive responses from HSC Trusts. That being said, the limitations upon RQIA's powers has likewise been observed. It does not enjoy, for example, the same powers available to the CQC in England and Wales. The Inquiry has received evidence from Mr McGuicken, on behalf of the Department of Health. The Department has not yet undertaken a full comparison of the powers of RQIA and CQC however intends to give further consideration to this work upon consideration of a current review and report into the operational effectiveness of CQC in England. RQIA welcomes any such work that considers the modernisation of regulation in the health and social care sector, in a modern landscape and across varied settings.

Concluding remarks

50. RQIA remains committed to its core purpose of securing and improving safety and quality in HSC services across Northern Ireland. RQIA thanks the Inquiry for the valuable opportunity to participate actively in the production of evidence. RQIA will continue to consider the evidence that the Inquiry has heard and will carefully reflect upon the Inquiry's findings in due course.