



EQUALITY COMMISSION FOR NORTHERN IRELAND

Summary Response to “*Transforming Your Care: From Vision to Action*” Consultation

Health and Social Care Board (HSC) Review Team

January 2013

Introduction

1. The Equality Commission for Northern Ireland (the Commission) welcomes the opportunity to respond to “Transforming Your Care: From Vision to Action” (TYC) public consultation exercise by the Health and Social Care Board (HSC) Review Team.
2. This response takes into account the consultation questionnaire provided. In making our response, the Commission provides feedback on equality aspects associated with:
 - the overarching vision;
 - draft strategic implementation plan and equality considerations/obligations; and
 - consideration of international human rights obligations such as the UN Convention on the Rights of Persons with Disabilities (UNCRPD).
3. This response draws on our work¹ across a range of equality grounds as well as work being progressed in our role as the ‘independent mechanism’ in Northern Ireland under the UNCRPD.

¹ See Annex 1 for further information on the Commission’s remit and functions.

Executive Summary - Comments and Recommendations

4. The Commission recommends that the Board Review Team should give further consideration to the following issues:
- **Principles and Intended Outcomes:** We endorse the key principles and intended outcomes set out in the overall 'vision' of the TYC proposals including the aspiration to make our health and social care system responsive to both the medium and future long term demands on health and social care, providing more local provision affordable and accessible to all.
 - **Equality and Human Rights Obligations:** The Commission considers that the Strategic Implementation Plan 'Regional Programmes' provide an opportunity for the Review Team to actively contribute to the progressive realisation of the right to health within a human rights framework.
 - **UN Convention on the Rights of Persons with Disabilities:** While some of the proposed measures correspond well with the delivery of Government's obligations under the UNCRPD, further consideration should be given to: the direct involvement and engagement of disabled people; access to information and services, including in relation to independent living; inclusion of disabled people within the cultural, social, economic life of the community with appropriate support; the multiple identities of disabled people and other equality groups.
 - **Section 75 Obligations and Disability Duties:** Further consideration is required in relation to the Board's obligations under Section 75 with regard to the screening exercise; analysis of equality impacts; and decision making with regard to equality impact assessment. Further thought should also be given to appropriate affirmative and positive action measures for Section 75 groups.

- **Configuration of Acute Services:** The proposed criteria for configuration should be expanded to include equality and human rights obligations in order to enable assessment of the extent to which localised services are accessible to traditionally excluded and marginalised groups e.g. disabled people, older people and ethnic minorities. Stakeholder engagement should be maximized using existing models where appropriate; targeted efforts to engage with marginalised groups; and through increased representation of such groups in public life positions.
- **Affordable Accessible Transport:** The Commission believes that the availability of transport provision and the development of transport infrastructure should be a key consideration in respect of options for the provision of acute services and wider health and social care provision. The implementation of the review of acute services should take into account the final recommendations contained within the Accessible Transport Strategy Action Plan 2012 – 2015 and subsequent Action Plans.
- **Transition Planning for Community Health and Social Care:** The Commission would seek assurances from the Review Team that the transition to community-based health and social care services using the mixed economy model of private and community/voluntary providers will not result in diminution of health and social care services. Arrangements for transition to supported living arrangements in the community must take into account the specific needs of a range of equality groups. The proposals need to take account of the Bamford Review of Mental Health and Learning Disability Services to ensure that transitional funding to deliver more services in the community does not take away from investment commitments in this area. The proposals should also take into account changes to social security provision and any adverse impacts arising from the current welfare reform agenda, which are likely to lead to greater future demands on health and social care services.
- **Capacity Building:** The Commission considers the commitment in TYC to provide capacity building on a

cross-sectoral basis as particularly important given the intention to develop new partnership-working between statutory agencies and the private, voluntary and community sectors. Capacity building should also be considered as a measure to inform and support the involvement of health service users in the decision making framework associated with TYC.

- **Procurement and Social Clauses:** The Commission recommends that the TYC proposals reflect strongly the commitment made in the Programme for Government to include social clauses in all appropriate public procurement exercises.
- **Proposed Investment Models:** The Commission advises that thorough consideration is given to the equality implications from both an employment and service delivery perspective when considering the use of Public Private Partnerships. It is important that equality considerations are given due weight in considering any future investment measures.
- **Age Appropriate Delivery of Services – Equality and Non-discrimination:** The Commission advises that care needs to be taken to ensure equality of opportunity in service provision applies to all aspects of health and social care regardless of age. The proposals in TYC should include a commitment to take appropriate actions, including an in-depth review of the degree to which age discrimination may exist within health and social care prior to the introduction of legislation prohibiting discrimination on the grounds of age in the provision of goods and services.
- **Monitoring and Review of TYC:** The Commission recommends that equality considerations are integral to the development, implementation and review of legislation, policies and programmes arising from TYC. Further consideration should also be given as to how the Section 75 and UNCRPD mechanisms can best assist in the monitoring and review process.

Specific Comments and Recommendations

Principles and Intended Outcomes

5. The Commission welcomes the aspiration to make our health and social care system responsive to both the medium and future long term demands on health and social care, providing more local provision affordable and accessible to all. We further welcome the strong emphasis given within the consultation to person-centered planning and decision making by service users in the development of personal care, health and social services provision.

Direct Payments and Individual Personal Budgets

6. However, the proposals do not contain a clear commitment to develop targets for each measure associated with personalisation, self-directed support or the uptake of Direct Payments. The Review Team, in adopting a regional approach, should undertake the development of challenging but realistic targets for the uptake of Direct Payments and Individual/Personal Budgets.

Home Care

7. The Commission welcomes the intended outcome of this new model to deliver increasingly accessible services within a localised framework, offering greater personal choice so that the future of health and social care will be centered around the “home hub” (health and care provision at home) rather than hospitalization or institutionalised care.²

² Health and Social Care Board (October 2012): “*Transforming Your Care*” *Draft Strategic Implementation Plan, Executive Summary*, paragraph 1, page 3. Available at: <http://www.tyconsultation.hscni.net/wp-content/uploads/2012/10/TYC-Strategic-Implementation-Plan-Oct-2012.pdf>

Equality and Human Rights Obligations

8. The Commission considers that the Strategic Implementation Plan Regional Programmes³ provide an opportunity for the Review Team to actively contribute to the progressive realisation of the right to health and social care as articulated, inter alia, in the International Covenant for Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Convention on the Rights of Persons with Disabilities (CRPD).

United Nations Convention on the Rights of Person with Disabilities (CRPD)

9. The Commission acknowledges that some of the proposed measures correspond well with the delivery of Government's obligations under the CRPD, but considers that further consideration should be given to the following issues:
- i. the direct involvement and engagement of disabled people in the provision of health and social care;
 - ii. access to information and services, including in relation to independent living;
 - iii. inclusion of disabled people within the cultural, social, economic life of the community with appropriate support⁴;
 - iv. the multiple identities of disabled people and other equality groups.
10. In its response to the draft 'Northern Ireland Executive Disability Strategy Equal Lives 2012-2015'⁵, we (as part of

³Ibid. 4.3 Regional Programmes, 4.3.1 Existing Regional Programmes, pages 47-52; and 4.3.2 New Regional Programmes Emanating from TYC, pages 53-56. Available at: <http://www.tycconsultation.hscni.net/wp-content/uploads/2012/10/TYC-Strategic-Implementation-Plan-Oct-2012.pdf>

⁴ The UN Convention on the Rights of Persons with Disabilities. Available at: <http://www2.ohchr.org/english/law/pdf/disabilities-convention.pdf>

⁵ 'Independent Mechanism for Northern Ireland (August 2012): *Response to the 'OFMdFM Disability Strategy – 'A Strategy to Improve the Lives of Disabled People - Equal Lives 2012-2015'* prepared jointly by the Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission, designated under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) as the independent mechanism tasked with promoting, protecting and monitoring implementation of UNCRPD in Northern Ireland. Available at:

the Independent Mechanism for Northern Ireland⁶) highlighted research by the Northern Ireland Human Rights Commission (NIHRC) which identified gaps and inconsistencies in the regulatory and policy framework that governs access to publicly funded medical care for non-British/Irish nationals in Northern Ireland. The research highlighted how people are at risk of being erroneously denied GP registration or charged for hospital care. The current situation gives rise to a risk that people with rights to special protection under international human rights law such as pregnant women and children (who are specifically referred to in Article 6 and 7 CRPD) are denied free health care.

11. Furthermore, the TYC proposals should take cognisance of the fact that in Northern Ireland HIV treatment (other than diagnosis and counselling) for persons classed as “overseas visitors” is not exempt from charges. This is in contrast to the situation in England where HIV treatment has been freely available to all persons living there regardless of residency status, since October 2012. A 2009 World Health Organisation policy brief notes that while the CRPD does not explicitly refer to HIV or AIDS in the definition of disability, “States are required to recognise that where persons living with HIV (asymptomatic or symptomatic) have impairments which, in interaction with the environment, results in stigma, discrimination or other barriers to their participation, they can fall under the protection of the Convention”. TYC should ensure that the regulatory and policy framework on access to publicly funded medical care complies with Article 25 (a) of the CRPD⁷.

Section 75 Obligations and Disability Duties

12. The Commission reminds authorities involved in the delivery of TYC of the importance of considering equality of opportunity and good relations at all stages of policy

http://www.equalityni.org/archive/pdf/IMNI_Response_DraftDisabilityStrategy_v1_310712.pdf See also Office of the First Minister and the deputy First Minister (March 2012): *A Strategy to Improve the Lives of Disabled People - Equal Lives 2012-2015*. Available at:

<http://www.ofmdfmi.gov.uk/index/equality/disability/consultation-draft-disability-strategy.htm>

⁶ See Annex 1 for further information on the Commission’s remit and functions.

⁷ ‘Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes’.

development. Consultation, whether at the pre-screening, screening or EQIA stages, is a crucial element in this process. We note there is a commitment to screen any policy decisions arising from Transforming Your Care. It would be helpful to list policies associated with TYC which have been already screened, so that these can be identified by consultees.

13. The Commission has a number of concerns in this area, including regarding the Equality and Human Rights Screening Template. In particular we have concerns with the screening questions, screening data and the potential lack of analysis leading to the decision not to subject the TYC proposals to an EQIA. We set out a summary of our concerns below:

Screening Questions

14. The Board does not appear to have used the screening form and questions recommended by the Commission's Guide to Section 75⁸, also contained in the Board's approved revised Equality Scheme⁹. These questions should be applied to all the Board's policies as part of the screening processes¹⁰. Failure to comply with an equality scheme commitment may give rise to a S75 complaint and subsequent investigation by the Commission.

Equality Impact Assessment

15. We note the decision to screen at the implementation stages of Transforming Your Care, specifically the commitment that each proposal in the Strategic Implementation Plan will be subject to equality screening consultation and, where relevant, equality impact assessment.
16. However, we are concerned that insufficient consideration and analysis has been given to the decision to conduct an equality impact assessment on the overall proposals

⁸ Equality Commission for Northern Ireland (2010): *Section 75 of the Northern Ireland Act 1998 – A Guide for Public Authorities*, pages 66-68.

⁹ Equality Scheme for the Health and Social Care Board at paragraph 4.7, page 24.

¹⁰ *Ibid.* at paragraph 4.11, page 25.

particularly when the screening template states that the proposals will have a major impact.

17. The Board's approved equality scheme indicates that it will 'normally' conduct an EQIA where screening identifies 'major' impact.
18. The Commission recommends that the Board considers how best to deliver its statutory duty to have due regard to the need to promote equality of opportunity by identifying the equality impacts of the strategy as a whole at this time and also when firmer proposals have been developed at a later stage. In either case, if screening concludes that the likely impact of a policy is major in respect of one or more of the equality of opportunity and/or good relations categories in relation to these proposals, an EQIA should normally be carried out.
19. We recommend that the Board seeks further advice on the consideration of equality impacts of the proposals from our Advice and Compliance Division.

Information and Data collection

20. While the screening includes data on the equality groups, we would stress the importance of using the new Census data as it is released in order to ensure that assessments are based on the latest available data, and that equality impacts are not assessed on previous Census data.
21. This will require the Board to screen for equality impacts at various stages of implementation of the TYC proposals taking account of new and changing data concerning Section 75 groups.

Disability Duties and Participation of those with Disabilities

22. The Board should consider what further opportunities there are, within the broad breadth of the proposals, to encourage the participation of disabled people in public life as well as participation in this regard of people from other Section 75 categories.

Affirmative Action and Positive Action Measures

23. It should be noted that actions to promote equality of opportunity for section 75 groups do not preclude positive actions for the benefit of specific equality groups where there is a clearly identified specific disadvantage, such as particular actions to address inequalities against women or people with disabilities. Positive action for particular groups can be seen as complementary to steps to promote equality of opportunity and to combat discrimination.

Configuration of Acute Services

24. Central to the proposals is the reconfiguration of acute health service provision and the reduction of this type of provision in favour of shifting resources to preventative measures and community provision.

The Commission notes the specific criteria to inform the development of the population plans, which include the need to consider issues such as ‘safety and quality, delivery and sustainability, effective use of resources, local access and stakeholder support’.

Equality and Human Rights Assessment

25. Decisions regarding the future location and delivery of acute services must also be set against a wide range of equality and human rights obligations¹¹ as well as the underlying commitment in the proposals to deliver more localised health and social care provision and access to specialist provision when needed.
26. In deciding the future of acute service provision, consideration should be given to the underlying commitment to deliver more localised service provision.
27. The Commission recommends that the proposed criteria are expanded to consider equality and human rights obligations

¹¹ For example: Article 12 of the International Covenant for Economic, Social and Cultural Rights; Article 25 UNCRPD; Article 24 of the Convention on the Rights of the Child; Article 5 (d) (iv) of the Convention on the Elimination of All Forms of Racial Discrimination; Article 12 (1) of the Convention on the Elimination of Discrimination Against Women.

so as to enable assessment of the extent to which localised services are accessible to traditionally excluded and marginalised groups e.g. disabled people, older people and ethnic minorities.

28. Further, evidence based decision making regarding the future location of acute services should also take into consideration the availability of infrastructure to deliver acute services, as well as broader health and social care provision, to the rural community, to reflect Article 25 (c) of the UNCRPD¹².

Stakeholder Support & Representation

29. The application of the stakeholder support criterion should incorporate the views of traditionally marginalised groups, such as older people and disabled people, in order to fully inform decision-making and ongoing review of acute service provision.
30. The Health and Social Care Board and Health and Social Care Trusts have an opportunity to better engage with stakeholders, in line with the public sector equality duties associated with Section 75 and the Disability Discrimination Act 1995, through the utilisation of existing or new models of stakeholder engagement.
31. In considering stakeholder engagement, the Board should consider utilising existing models such as the Patient and Client Council, the Bamford Monitoring Group and service user based fora at local Trust level.
32. Consideration should also be given to creating opportunities to increase representation of marginalised groups in public life positions e.g. in relation to the Local Commissioning Groups involved in the implementation and ongoing review of acute service provision..

¹² To 'provide health services as close as possible to people's own communities, including in rural areas'.

Affordable Accessible Transport

33. The Commission considers that the availability of transport provision and the development of transport infrastructure should be a key consideration in respect of options for the provision of acute services and wider health and social care provision. The lack of adequate, affordable transport provision is a key barrier to access¹³.
34. The existence of a transport deficit also serves as a barrier to marginalised and excluded groups who wish to engage with local and regional decision-making affecting their health and social care requirements.
35. The implementation of the review of acute services should take into account the final recommendations contained within the Accessible Transport Strategy Action Plan 2012-15 and subsequent Action Plans¹⁴.

Transition Planning for Community Health and Social Care

36. The Commission would seek assurances from the Review Team that the transition to community-based health and social care services using the mixed economy model of private and community/voluntary providers will not result in diminution of health and social care services.
37. For example, arrangements for transition to supported living arrangements in the community must take into account the specific needs of a range of groups including looked after children and older people and include appropriate safeguards.
38. The proposals need to take account of the Bamford Review of Mental Health and Learning Disability Services and the historical underinvestment in mental health and learning

¹³ Department for Regional Development (2012): *Accessible Transport Strategy Action Plan 2012-15*, paragraph 1.4, page 4. Available at: http://www.drndi.gov.uk/ats_draft_action_plan_2012-2015.pdf

¹⁴ Ibid. See also Equality Commission Response to this DRD consultation paper. Available at: <http://www.equalityni.org/archive/pdf/ATSFinalResponseApril2012.pdf>

disability services¹⁵. We seek assurance that transitional funding to deliver more services in the community does not take away from existing investment commitments in this area. We are aware that the majority of people with learning disabilities already live within a community setting and that continued financial support for health and social care provision should remain a priority beyond transition targets and commitments.

Health and Social Care at Home

39. The Commission would welcome greater clarity with respect to the arrangements in place to guarantee the quality of care within the home. Safeguards need to be in place to ensure people both have the capacity and the support, as appropriate, to live at home.

Capacity Building

40. The Commission welcomes the commitment in TYC to provide capacity building on a cross-sectoral basis as particularly important given the intention to develop new partnership-working between statutory agencies and the private, voluntary and community sectors¹⁶.
41. Capacity building should also be considered as a measure to inform and support the involvement of health service users in the decision making framework associated with TYC.

Technology – Health and Social Care

42. Although the Commission welcomes the proposed increased focus on the use of assistive technologies in the provision of health and social care to support people living at home, we would stress the importance of investment to develop people's capacity to use these.

¹⁵ Equality Commission for Northern Ireland (2007): Statement on Key Inequalities, paragraph 3, page 17. Available at: [http://www.equalityni.org/archive/pdf/Keyinequalities\(F\)1107.pdf](http://www.equalityni.org/archive/pdf/Keyinequalities(F)1107.pdf)

¹⁶ Health and Social Care Board (2012): *Transforming Your Care: Vision into Action consultation paper*, section 4.2 'Delivering Services at Home and in the Community – Integrated Care Partnerships', pages 19-21 and section 4.3 'Older People', paragraph 1, page 27. See also page 31 of Strategic Implementation Plan – 'Key Principles'.

43. Community and voluntary organisations in Northern Ireland anecdotally report lower internet usage by older people or people with sensory disabilities than by the general population. A 2011 survey on Internet usage by the Office for National Statistics revealed that, in Northern Ireland, people with a disability (46.3%) were much less likely than non-disabled people (77.4%) to have ever used the internet. The figures also reveal that Internet usage amongst disabled people here is less than the UK average for people with disability (63.8%)¹⁷.
44. The NI Executive's campaign to promote awareness of the digital switchover from analogue to digital television¹⁸ was effective in raising awareness of the new technology amongst older and disabled people. The lessons from this campaign should be considered with regard to their application to raising awareness of the benefits of new assistive technologies in the provision of health and social care.

Procurement and Social Clauses

45. The Commission recommends that the TYC proposals reflect strongly the commitment made in the Programme for Government¹⁹ to include social clauses in all appropriate public procurement exercises.
46. We further recommend that the Review Team and all other public sector bodies involved in the design, delivery and implementation of the TYC proposals routinely take account of the guidance²⁰ on equality of opportunity in public procurement jointly prepared by the Commission and the Central Procurement Directorate.

¹⁷ Office for National Statistics (2011): *Internet Access Quarterly Update 2011, Q1*. The disaggregated figures for disabled people in Northern Ireland contained in the raw data for this survey were unpublished and were obtained by Disability Action from the ONS in May 2011.

¹⁸ Northern Ireland Direct: *What is Digital Switchover?* Available at: <http://www.nidirect.gov.uk/what-is-digital-switchover>

¹⁹ Northern Ireland Executive (2012): *Programme for Government 2011-15: Building a Better Future*. Available at: <http://www.northernireland.gov.uk/pfg-2011-2015-final-report.pdf>

²⁰ The Equality Commission for Northern Ireland and the Central Procurement Directorate (2008): *Equality of Opportunity and Sustainable Development in Public Sector Procurement*. Available at: <http://www.equalityni.org/archive/pdf/ECNIPublicSector0508.pdf>

Proposed Investment Models

47. The TYC proposals state (at 'Finance', Section 5.4) that due to a projected shortfall of £800m in the draft Investment Strategy for Northern Ireland against estimated need, the use of Public Private Partnerships to fund infrastructural investment may be needed²¹. The Commission recommends that thorough consideration is given to the equality implications from both an employment and service delivery perspective when considering such proposals. It is important that equality considerations are given due weight alongside the principle of value for money in considering any future investment measures.
48. We welcome the consideration given to the social enterprise model within the community and voluntary sector as an opportunity to secure further investment in community infrastructure and services in the delivery of local health and social care provision²².

Age Appropriate Delivery of Services – Equality and Non-Discrimination

49. We welcome the commitment to develop a diverse range of age appropriate day support, respite and short break services as a significant positive step forward as outlined some regional programmes for specific Trust areas.
50. The Commission advises that care needs to be taken to ensure that equality of opportunity is considered in all aspects of health and social care provision and for each of the Section 75 categories. For example, services for children should accommodate disability matters rather than children with disabilities being treated within adult health and social care facilities.

²¹ Health and Social Care Board (2012): *Transforming Your Care: Vision into Action consultation paper*, paragraph 1, page 63.

²² Community door-to-door urban transport falls under the Social Enterprise Model – In Londonderry income regeneration methods such as 'passenger fares' is used to support investment in other services such as Foyleside Shop-Mobility Scheme for disabled and older people.

51. As advised in our response to the 'Fit and Well' Consultation²³, the Review Team will be aware that there is a commitment in the Programme for Government 2011-2015²⁴ to consult on legislation prohibiting discrimination on the grounds of age in the provision of goods and services with the proposed introduction of the legislation in Northern Ireland during 2014-2015.
52. Such legislation should help ensure that services are provided on the basis of people's individual needs, promote better outcomes for service users and ensure greater personalization of care.
53. We would highlight that similar legislation came into effect in Great Britain on 1 October 2012. In advance, the NHS in Great Britain had taken preliminary steps to prepare for its obligations under the new legislation. For example, the NHS Commissioning Board (NHSCB) Authority published an equality analysis at the beginning of 2012. In addition, a wide scale review of age equality in health and social care was commissioned by the Review Team of Health in Great Britain in advance of the legislation taking effect. The review included a series of literature reviews commissioned by the Team as well as, following the outcome of the review, the production of NHS Practice Guides on Achieving Age Equality in Health and Social Care²⁵. This resource pack included an audit tool for achieving age equality and a social care practice guide.
54. We recommend that an underpinning theme within TYC should be the promotion of age equality within health and social care. The proposals should include a commitment to take appropriate actions including an in-depth review of the degree to which age discrimination may exist within health and social care prior to the introduction of legislation prohibiting discrimination on the grounds of age in the provision of goods and services.

²³ Equality Commission for Northern Ireland (October 2012): *Response to 'Fit and Well: Changing Lives – 2012-2022 – A 10-Year Public Health Strategic Framework for Northern Ireland – A Consultation Document'*.

²⁴ Northern Ireland Executive (2012), Op. Cit.

²⁵ NHS Southwest and the Department of Health (2010): *Achieving Age Equality in Health and Social Care, NHS Practice Guide*. Available at: <http://age-equality.southwest.nhs.uk/downloads/guides/age-equality-nhs-practice-guide-ALL-chapters.pdf>

Children and Young People

55. There is clear evidence that children and young people experience difficulties in accessing **age-appropriate health and social care services** (including mental health services) and the TYC proposals are an opportunity to address this situation.
56. For example, the **Regulation Quality Improvement Authority (RQIA)** independent review of Child and Adolescence Mental Health Service (CAMHS) in Northern Ireland in February 2011²⁶ highlighted that whilst progress has been made since the *Bamford Review* in 2006, young people continue to be admitted to adult mental health wards. The review indicated that almost 200 children in Northern Ireland were detained on adult psychiatric wards between 2007 - 2009.²⁷
57. The Review Team was of the view that the admission of young people to an adult ward is an admission to an inappropriate environment. The report also highlights that some services were not accessible in particular areas; for example, in the Northern Trust children and young people did not have access to any crisis intervention or alcohol services.
58. It is of note that the UN Committee on the Rights of the Child highlighted in its Concluding Observations on the UK in 2008 that whilst one in ten children in the UK have a diagnosable mental health problem, only around 25% of them have access to the required treatment and care and that children may still be treated in adult psychiatric wards. It was particularly concerned that in Northern Ireland, due to the legacy of the conflict, the situation is 'particularly delicate'²⁸.
59. The Commission strongly recommends that further consideration is given by the Board and Health and Social Care Trusts to consulting with children and young people

²⁶ Regulation and Quality Improvement Authority (February 2011): *Independent review of CAMHS in Northern Ireland*. Available at:

http://www.rqia.org.uk/cms_resources/RQIA%20CAMHS%20Report%2022%20Feb%2011.pdf

²⁷ RQIA (2011): Op Cit. As regards young people in adult wards, within a 30 month period between 1 April 2007 and 30 September 2009, 197 young people had been admitted onto an adult ward.

²⁸ United Nations Committee on the Rights of the Child (20 October 2008): Forty-ninth session, Consideration of Reports submitted by States Parties Under Article 44 of the Convention, *Concluding Observations: United Kingdom of Great Britain and Northern Ireland*, CRC/C/GBR/CO/4, paragraph 56.

about the changes arising from the TYC proposals taking account of the Commission's guidance on consulting and involving children and young people as referenced in the appropriate equality schemes²⁹.

Parallels with the experiences of older people

60. In addition, there are parallels between the barriers experienced by older people in accessing health and social care and those experienced by children and young people. For example, the *Review into achieving age equality in health and social care* in Great Britain undertaken by the Department of Health found that:-
- some age groups, especially older people, were more likely to receive poor services;
 - there was a disparity of mental health service between older and working age adults; and
 - that a transition from one service to the other does not always meet the needs of individuals effectively³⁰.
61. They also highlighted a report by the Healthcare Commission in 2009 that found that older people were being denied access to the full range of mental health services that were available to younger adults. In particular, there were poor access to out of hours and crisis services, physiological therapies and alcohol services³¹.

Monitoring and Review of TYC

62. The Commission recommends that equality considerations be integral to the development, implementation and review of legislation, policies, programmes arising from TYC.
63. Further consideration should be given as to how the Section 75 and UNCRPD mechanisms can best assist in the

²⁹ Equality Commission for Northern Ireland (2008): *Let's Talk, Let's Listen – Guidance for public authorities on consulting and involving children and young people*. Available at:

[http://www.equalityni.org/archive/LetsTalkLetsListen\(Final\).pdf](http://www.equalityni.org/archive/LetsTalkLetsListen(Final).pdf)

³⁰ Carruthers, I. and Ormondroyd, J. (2009): *Achieving age equality in health and social care - A report to the Secretary of State for Health*, page 3; paragraph 3.12, pages 24-25; and paragraph 3.13, page 25. Available at:

http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_107398.pdf

³¹ NHS Southwest and the Department of Health (2010): *Op Cit.*, page 146.

monitoring and review process. We encourage the Board to meet with the Equality Commission in this regard.

Conclusion

64. Whilst the current consultation identifies a number of the equality and good relations issues central to the review and future implementation of the TYC, further consideration needs to be given to equality and human rights issues relevant to a number of groups including women, disabled people, older people, children and young people. This should aim at ensuring that:
- the transition to community-based health and social care services using the mixed economy model of private and community/voluntary providers will not result in diminution of health and social care services;
 - any current disadvantages experienced by equality constituencies are not compounded and new disadvantages are not created as a result of re-configuration of services from the public sector to the community and private sectors;
 - capacity building in support of public participation in decision-making is encouraged;
 - health and social care provision meets the specific needs of equality groups, affords greater choice and delivers fully accessible local services;
 - new investment models for the future of health and social care give due weight to the principle of equality; and opportunities are sought to include social clauses in all appropriate procurement exercises;
 - further consideration is given to statutory duty and international human rights obligations, including the UN Convention on the Rights of Persons with Disabilities;

- consideration is given to mitigating measures and the development of alternative policies to address any adverse impacts arising as a result of transition from statutory to community/private sector service provision;
- delivery of age appropriate equality services takes account of the introduction of age anti-discrimination law;
- the dignity, health and well-being of those most in need of health and social care provision in particular, vulnerable, marginalised and excluded groups, is protected; and
- equality considerations are integral to the development and implementation of Transforming Your Care and any legislation policies or programmes arising.

Equality Commission for Northern Ireland

January 2013

Annex 1: The Equality Commission for Northern Ireland

1. The Equality Commission for Northern Ireland (the Commission) is an independent public body established under the Northern Ireland Act 1998. The Commission is responsible for implementing the legislation on fair employment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.
2. The Commission's remit also includes overseeing the statutory duties on public authorities to promote equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998 (Section 75) and to promote positive attitudes towards disabled people and encourage participation by disabled people in public life under the Disability Discrimination Act 1995.
3. The Commission's general duties include:
 - working towards the elimination of discrimination;
 - promoting equality of opportunity and encouraging good practice;
 - promoting positive / affirmative action
 - promoting good relations between people of different racial groups;
 - overseeing the implementation and effectiveness of the statutory duty on relevant public authorities;
 - keeping the legislation under review;
 - promoting good relations between people of different religious belief and / or political opinion.
4. The Equality Commission, together with the Northern Ireland Human Rights Commission, has been designated under the United Nations Convention on the rights of Persons with Disabilities (UNCRPD) as the independent mechanism tasked with promoting, protecting and monitoring implementation of the Convention in Northern Ireland.