

A Female Patient v Western Health & Social Care Trust

Disability discrimination case which settled in the County Court on 19 March 2015

Summary

The Plaintiff, a female, was admitted voluntarily to a mental health ward, Elm Ward, in the Tyrone and Fermanagh Hospital which was part of the Defendant Trust on 3 March 2012. The Claimant is HIV positive and has had a history of psychotic breakdowns since 2006.

The Plaintiff alleged that following her admission she did not have any spare clothes and she began to menstruate. She alleged that she asked the nurse for pants and a sanitary towel but was told that it would be sorted out after lunch.

However, the Plaintiff alleged that after lunch she was accused of stealing £2.00 by nursing staff and following a search of her cubicle the nursing staff found nothing. She alleged that she was subsequently required to strip so that a search could be carried out. The Plaintiff alleged that a request by her to contact the police or her solicitor was denied prior to this search. The Plaintiff alleged that she requested that the nurses purchase her pants and a sanitary towel from her money that she had brought in but this did not happen. The Plaintiff alleged that she was humiliated and distressed by this treatment.

The Plaintiff alleged that she was moved the following day to a locked ward because she was menstruating and was therefore classed as an infection control risk. Prior to being moved she had been in a cubicle of her own in Elm Ward and in Spruce Ward was given a side room. The Plaintiff believed that this move was unnecessary as she had a side cubicle. Later this was supported by her Consultant who wrote *"It is in my understanding that patient with HIV (when not virologically suppressed) and menstruating, should be supported in managing their sanitary requirement, standard universal precaution for handling patient's waste and linen should suffice, and isolation would not normally be necessary. Blood contaminant, if there is any, in the environment poses minimal risk in the absence of a sharp injury. A splash incident is unlikely in women during menstruation in provided appropriate general sanitary facilities"*.

The Plaintiff alleged that she was singled out because she was HIV positive. She believed that the allegation of theft was false and that her subsequent humiliation was because she was HIV positive. The Plaintiff also believed that she should not have been put in a locked ward, in a side room due to her HIV positive status but should have been permitted to remain in the cubicle in Elm ward with the appropriate infection control risks put in place. The Plaintiff had no complaint about the treatment she received whilst in Spruce ward.

The Plaintiff wrote a letter of complaint however the Defendant did not accept the Plaintiff's account and believed that nursing staff had acted appropriately.

In settling the case the Defendant without acceptance of any liability in respect of any of the matters alleged, expressed regret for any perceived injury to feelings, upset and distress experienced by the Plaintiff as a consequence of the matters that gave rise to her claim. The Defendant re-affirmed its commitment to the principle of equality of opportunity and undertook to continue to ensure that its policies, practices and procedures in terms of service provision for patients suffering from HIV conform to all relevant equality legislation applicable to Northern Ireland and in particular the Disability Discrimination Act 1995, as amended, and with all relevant Codes of Practice. The Defendant undertook to review any policies which touch upon the issue of service provision for HIV patients and for vulnerable adults to ensure that they remain effective and that account is given to the requirements as set out in the Regional Infection Control Manual as issued by the DHSSPSNI. The Defendant agreed to liaise with the Commission in respect of its policies, practices and procedures to ensure they are effective and conform with the requirements of the Disability Discrimination Act 1995, as amended and implement any reasonable recommendations made by the Commission. The Defendant undertook to provide all relevant employees with HIV awareness training and confirms that it will take such lead and advice from the relevant and necessary service leaders with regard to the nature and extent of such HIV awareness training as may be required. The Defendant confirmed that it is currently reviewing its Policy in relation to Fraud and will make such appropriate amendments in relation to theft in general. The Defendant confirmed that Best Practice Procedures in relation to collaboration between patients in acute mental health inpatient units and staff working in such acute mental health units are currently in place and the Defendant undertook to ensure that such practices and procedures as may be amended will continue to remain in place. The Defendant confirmed that in accordance with recommendations already made by the Regulation Quality Improvement Authority, specifically in relation to the Elm Ward, mandatory training in relation to vulnerable adults training and appropriate safeguards is in the process of being implemented and the Defendant undertook to ensure that this will continue to be done.