

Response from the Equality Commission for Northern Ireland to the consultation by WHSCT 2017/2018 Financial Planning Savings Plan

1 Section 75 responsibilities

- 1.1 The Trust is obliged to have due regard to the need to promote equality of opportunity and regard to the desirability of promoting good relations when carrying out its functions.
- 1.2 We note the context in which the Western Health and Social Care Trust is operating with regard to budget reductions requested by the Department of Health i.e. that *'HSC Trusts have been tasked by the Department of Health (DoH) with developing draft savings plans to deliver their share of a total of £70m of savings in 2017/18 and it is imperative that the full £70m of savings are achieved as part of the overall financial plan for this year'*.
- 1.3 Our comments focus on the 'Section 6 Equality Duties and Appendix 1 and in particular how this aligns to the Trust's Equality Scheme commitments.
- 1.4 **Terminology:** the screening refers to 'initial assessment' and a commitment to an 'on-going assessment'. It is important that there is clarity as to how such terms relate and adhere to the Trust's Equality Scheme commitments. The screening notes that the proposals, if they take effect, will be temporary in nature. The Trust's Equality Scheme applies to temporary policies. I refer to the Commission's advice note: [S75Advice-ScreeningEQIA.pdf](#)
- 1.5 **Policy Appraisal / Scoping:** we note the principles which the Trust has taken into account in determining the potential areas of spend reduction. It is unclear whether other proposals could have been, or were considered, in terms of identifying alternative policies. The Commission emphasises that there is an imperative to ensure that existing inequalities are

considered at the planning stages and are not aggravated through a disproportionate or unintended impact of the proposals on particular groups.

- 1.6 **Absence of Available Data:** the Trust's Equality Scheme obliges the Trust to answer the screening questions on the basis of relevant information and data, both qualitative and quantitative. In taking this evidence into account, the Trust is committed to considering the different needs, experiences and priorities of each of the Section 75 equality categories. Screening decisions are therefore informed by evidence. The initial assessment screening document does not include relevant data on any of the policy proposals.
- 1.7 **Assessing Impact on Service Users:** initial screening outcomes are included for each proposal, in terms of 'major', 'minor', 'little or no impact'. It is determined that there are major impacts for six of the policy proposals, albeit not determined on the basis of the equality of opportunity and/or good relations categories. Due to the absence of information it is difficult, in some cases to understand on what basis these assessments were reached.
- 1.8 **Screening Decision:** Paragraph 4.5.9 of the Trust's approved Equality Scheme states: *'If our 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, we will normally subject the policy to an Equality Impact Assessment. This screening decision will be 'signed off' by the appropriate policy lead within the Trust'*.
- 1.9 The initial screening does not include a screening decision. Section 6 of the Plan states that, 'it is not possible at the present time to predict the precise nature of the equality, good relations and human rights impact of the 2017/2018 Savings Proposals but the Trust is committed to an- ongoing assessment'. It is also stated that, 'where proposals are considered to have significant impact in terms of equality of opportunity and good relations the Trust will consider the need for a full equality Impact assessment and further consultation, as required'. Given that Section 1 of the Plan states that, the proposals will potentially be implemented from October 2017 it is very unclear as to when a more comprehensive, evidence based and proportionate equality assessment (screening/EQIA)

could be undertaken by the Trust. In addition, the Trust's initial assessment form is not signed and does not provide approval information.

1.10 **Mitigation:** the initial assessment does not include potential mitigation measures. Section 4 of the Plan includes consideration of 'Managing Risk'. Again, references are not made to the section 75 equality groups in the determined actions.

1.11 **Timescale:** The Trust's Equality Scheme states:

'4.2 In making any decision with respect to a policy adopted or proposed to be adopted, we take into account any assessment and consultation carried out in relation to the policy, as required by Schedule 9 9. (2) of the Northern Ireland Act 1998.'

'4.6.2 Once a policy is screened and screening has identified that an Equality Impact Assessment is necessary, we will carry out the EQIA in accordance with Equality Commission guidance. The Equality Impact Assessment will be carried out as part of the policy development process, before the policy is implemented.'

1.12 As noted above, section 1 of the screening template states that the proposals may be implemented from October 2017. It is therefore unclear how the Trust would be in a position to conduct an equality impact assessment and 'take into account' the equality implications of the policy decisions, before the policy is implemented.

1.13 **Monitoring Arrangements:** The Trust's screening contains no information on how the Trust intends to monitor the policy impacts into the future.

1.14 **Consultation:** the consultation period on the savings plan is 6 weeks. We would ask that consideration is given to the equality implications of this in line with scheme commitments and also the apparent difficulties of fulfilling the commitments provided in the initial assessment given the potential implementation date (October 2017). As noted above, the Trust has determined that where proposals are considered to have significant impact, the

Trust will consider the need for a full equality impact assessment and further consultation, as required.

- 1.15 If you have any queries regarding the Trusts Section 75 responsibilities, please contact Patrice Hardy (PHardy@equalityni.org).

2 Commission's policy response to the Trusts' draft plans

- 2.1 The Commission welcomes the opportunity to respond to the consultation by the Health and Social Care Trusts' 2017/18 Financial Planning Savings Plans.
- 2.2 In making its policy response, the Commission draws upon:
- our consideration of equality and human rights obligations;
 - our work¹ across a range of equality grounds as well as work progressed in our role as the 'independent mechanism' in Northern Ireland under the UNCRPD;
 - our recommendations on health and social care for the Programme of Government².

3 Cross-cutting policy messages

- 3.1 The Commission's policy response sets out the following high level concerns in response to the Trusts' proposed savings plans:

Impact of the proposed savings on S75 groups and those experiencing socio-economic disadvantage

- 3.2 A number of proposals outlined by the Trusts are likely to create or compound health inequalities and may have a disproportionate negative impact on health outcomes for a range of S75 Groups, in particular for older people and people with disabilities.

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

² See: www.equalityni.org/pfg

- 3.3 There is a significant risk that, because of some proposed savings, people with healthcare needs will no longer receive access to appropriate care, or will wait longer for the care they need, because of a lack of resource. This will not only cause considerable distress to the individuals concerned and their families, but may result in significant additional costs to the healthcare budget over the longer term.
- 3.4 We are concerned that the cumulative impact of cuts to social welfare (as a result of welfare reform) and plans to reduce access to health and social care support are likely to be particularly harmful for disabled people.
- 3.5 The Commission also notes that, while a number of the plans include similar themes, the scale of proposed savings varies between Trusts resulting in potential inequalities in the geographical distribution of services.
- 3.6 Finally, as previously highlighted by the Commission, social inequalities exist across a wide range of domains including age, gender, race, ethnicity, religion, disability and sexual orientation. These inequalities interact in complex ways with socioeconomic position in shaping people's health status³. In that context, we are concerned that poorer communities, with higher levels of need, will be most affected by the proposals⁴, which will in turn, widen health inequalities.

No retrogression in rights

- 3.7 In the Commission's view, the delivery of acute services must be set against a wide range of equality and human rights obligations⁵.
- 3.8 In its response to the Donaldson report, the Commission sought assurances that any current disadvantages experienced by equality constituencies in the delivery of health and social care are not compounded, and new disadvantages are not created, as a consequence of the re-configuration of services

³ Marmot et al (2010): [Fairer Society, Healthy Lives](#), page 39.

⁴ Research has shown that poorer households are most reliant on public services and therefore feel the cumulative impact of multiple cuts. See Hastings et al (2016): [The cost of the cuts: the impact on local government and poorer communities](#), Joseph Rowntree Foundation.

⁵ ECNI (2013): [Consultation response to Summary Response to "Transforming Your Care: From Vision to Action"](#), page 10.

and delivery arrangements, resulting in the undermining of the right to adequate health and social care⁶.

3.9 We draw attention to the obligation to prevent retrogression of rights articulated by the United Nations Committee on Economic Social and Cultural Rights:

*'Any deliberate retrogressive measures ... would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources'*⁷.

3.10 We also ask the Trust to ensure the proposals in question are both necessary and proportionate, in line with Articles 2(2) and 9 of the Covenant on International Covenant on Economic, Social and Cultural Rights (ICESCR)⁸, in particular whether part of the deficit might be reduced by further cost saving or revenue raising measures⁹.

3.11 As part of the independent mechanism, with responsibility to promote, protect and monitor the UN Convention on the Rights of Persons with Disabilities (UNCRPD)¹⁰, we remind the Trusts of their obligations under Article 25 of UNCRPD, in particular that people with disabilities have enjoyment of the highest attainable standards of health *without discrimination* as close as possible to people's own communities, including in rural areas. We also remind the Trust of the duty under Article 19 of the Convention, in particular, that people with disabilities are given the opportunity to determine where and with whom they live and are provided with the support necessary to do this.

3.12 We again reiterate our very real concerns that disabled people are being increasingly marginalised and excluded from society

⁶ ECNI (2015): [Response to the consultation by the Department for Health, Social Services and Public Safety on The Right Time, The Right Place – An expert examination of the application of health and social care governance arrangements for ensuring the quality of care provision in Northern Ireland](#)

⁷ United Nations Committee on Economic, Social and Cultural Rights (1990): General Comment No.3: The nature of States parties obligations, paragraph 9.

Available at: <https://www.escr-net.org/resources/general-comment>

⁸ In accordance with CESCR General Comment No. 20, indirect discrimination, namely laws, policies and practices which appear neutral at face value, but have a discriminatory impact on the exercise of Covenant rights, are prohibited under Articles 2(2) and 9 of the Covenant

⁹ It is noted that a range of in-year savings have been identified in Section 3 of the consultation document

¹⁰ See Annex A below.

as they bear the brunt of the accumulated impact of cuts in public spending, adversely impacting on their rights to live independently and to an adequate standard of living¹¹.

Wider healthcare reform

- 3.13 In 2016, the Public Accounts Committee (PAC) noted that ‘ongoing service redesign on a major scale will be needed if the HSC Trusts are not only to provide efficient health and social care, but that they can do so by living within their means’¹².
- 3.14 In the Commission’s view, the costs savings proposed by the Trusts add powerful urgency to the already pressing need to reform health and social care services in Northern Ireland and should not be viewed in isolation from wider pressures on the health and social care system.
- 3.15 We are concerned that the transformation agenda to reform health and social care is undermined by the demands on health services to deliver large scale in year efficiencies¹³, which will ultimately affect patient care.
- 3.16 In our view, the savings proposed by the Trusts are not sustainable ways of securing long-term efficiencies: there is a pressing need for political leadership to refocus the agenda on strategic longer-term reform with an emphasis on prevention, which has the capacity to generate future savings.
- 3.17 It is also of concern that, in reducing the availability of domiciliary care, the Trusts appear to be moving further away from the goal of strengthening community-based services, rather than making progress towards it, as was envisaged by TYC.
- 3.18 We also note the recommendation made by Public Accounts Committee in 2016 regarding the need for Trusts to move from annual to medium term financial planning to avoid the annual

¹¹ UKIM (2017): [Disability Rights in the UK – Submission to inform the CRPD List of Issues on the UK](#).

¹² Public Accounts Committee (2016): [Report on General Report on the Health and Social Care Sector 2012-13 and 2013-14](#), para 2, page 6

¹³ E.g. the containment in growth of community care homes placements and domiciliary care packages and reduced number of community based rehabilitation beds in the NHSCT.

budgetary constraints and monitoring round bail-out arrangements which currently afflict Trusts¹⁴.

- 3.19 Additionally, in our view, the growing gap between demand for services and available resources may also mean that existing staff feel pressure to work longer hours and more intensely to protect patient care¹⁵.
- 3.20 While the Commission acknowledges the need for Trusts to reduce reliance on expensive temporary staff, we draw attention to the potential impact of the savings proposals on the public sector workforce, in particular:
- the reductions in agency and locum staff on staff workloads and patient care;
 - the impact of the closure of facilities and services on staffing levels in certain geographical areas; and
 - the impact on staff of the relocation of services.
- 3.21 These additional pressures on the public sector workforce have the potential to have a significant negative impact on both patient safety and experience.
- 3.22 Furthermore, the Commission understands that there has been a lack of consultation with public sector unions prior to the reforms being announced¹⁶.

Recommendations

- 3.23 The Commission recommends that the Trust takes further account of equality and human rights issues prior to implementation of the savings proposals including further consideration of alternative policies and/or actions needed to mitigate the adverse impact of the proposals.
- 3.24 We reiterate that all possible steps must be taken 'to protect the most vulnerable in our society and to ensure that the impact on them is a key consideration when cuts in services are being considered'¹⁷.

¹⁴ Public Accounts Committee (2016): [Report on General Report on the Health and Social Care Sector 2012-13 and 2013-14](#), page 12.

¹⁵ Robertson, R, Wenzel, L., Thompson, J. and Charles, A. (2017): [Understanding NHS financial pressures – how are they affecting patient care](#), Kings Fund, page 4.

¹⁶ Raised by JP Clayton (Unison) via telephone call (20th September 2017).

¹⁷ ECNI (2015): [Budgets and Section 75: a short guide](#), page 1.

- 3.25 We also recommend strategic reform of the healthcare system, guided by strong political leadership, to allow for investment in healthcare aimed at addressing the specific barriers experienced by particular Section 75 groups¹⁸.
- 3.26 We again highlight the recommendations set out in our Programme for Government response on the need to improve health outcomes across the Section 75 grounds; remove barriers to health and social care experienced by particular Section 75 equality groups,¹⁹ including action to meet the needs of older people, disabled people and carers²⁰.
- 3.27 We emphasise the need for the Trusts to gather data across the Section 75 grounds and to better monitor their policies for impact and potential impact not only in relation to access to healthcare and health outcomes, but also in respect of quality of care.

4 Key themes and issues

- 4.1 While draft plans have been independently developed by each Trust, a number of the proposals include similar themes. The Commission highlights a number of issues relating to the potential impact of the following draft proposals:

Management of the Trusts' agency workforce and a downturn in elective services.

- 4.2 A number of the draft saving plans²¹ include proposals to manage the Trusts agency workforce, with a particular emphasis on maximising the internal nurse bank and regional HSC locums system and engaging with contract agencies only²².

¹⁸ ECNI (2013): [Consultation response to Summary Response to "Transforming Your Care: From Vision to Action"](#)

ECNI (2015): [Response to the consultation by the Department for Health, Social Services and Public Safety on The Right Time, The Right Place – An expert examination of the application of health and social care governance arrangements for ensuring the quality of care provision in Northern Ireland](#)

ECNI (2016): [PfG consultation response](#)

¹⁹ Including older people; lesbian, gay and bisexual people; trans people; Irish Travellers and other minority ethnic communities; and people with disabilities. See ECNI (2016): [PfG consultation response](#), paragraph 4.27, page 8.

²⁰ ECNI (2016): [PfG consultation response](#), paragraph 4.28, page 9.

²¹ E.g. BHSCT, WHSCT, NHSCT.

²² For e.g. BHSCT (2017): Equality Screening – initial assessment, pages 34 & 35.

- 4.3 While the Commission acknowledges the need for Trusts to reduce reliance on expensive temporary staff, we anticipate that the proposal may potentially have a negative impact on particular S75 groups depending on their representation in the Trusts' workforce.
- 4.4 For example, given their proportionally high representation in the BHSCT workforce, the proposal has the potential to have a disproportionate negative impact on women²³ and minority ethnic staff²⁴, (particularly on those nationalities who may overrepresented in the workforce²⁵ or may be more likely to be employed through agencies.
- 4.5 There are also plans to reduce non-urgent elective day surgery, in-patient surgery and day care services in a number of Trusts. As a result there will be an increase in waiting times for elective services.
- 4.6 For example, BHSCT has indicated that where it is unable to use its permanent workforce supply, it will downturn services. In these circumstances the Trust will reduce its bed complement (by 65 beds), in routine elective services (resulting in a reduction in the number of patients who will be able to access in-patient services, a reduction in day cases, and increased waiting times for elective services)²⁶.
- 4.7 It is recognised by the BHSCT that delays in routine treatments may potentially lead to some patients ultimately requiring access to urgent care²⁷.
- 4.8 The Trust also plan to reduce routine elective services in high volume surgical speciality areas, (impacting on 2150 day cases). Again, it is recognised that delays will 'significantly impact' on waiting times for elective services and may lead to some patients requiring access to urgent care²⁸.
- 4.9 In the Northern Trust, the impact of reduction in agency nurses and other flexible staff will result in the temporary closure of the

²³ Representing 78% of the BHSCT workforce.

²⁴ Representing 4% of the BHSCT workforce.

²⁵ BHSCT (2017): [2017/18 Financial Savings Plan, consultation document](#), pages 13

²⁶ BHSCT (2017): [2017/18 Financial Savings Plan, consultation document](#), pages 13

²⁷ BHSCT - [2017/18 Financial Savings Plan, consultation document](#), page 13.

²⁸ BHSCT - [2017/18 Financial Savings Plan, consultation document](#), page 14.

two rehabilitation wards at Whiteabbey and the associated day rehabilitation service.

- 4.10 The Commission has concerns that the proposals will have a potentially damaging impact on people's health and wellbeing and cost Trusts more in the long-run.
- 4.11 The rationing of services by simply deferring all routine elective, rather than basing the decision on need, may have a significant negative impact on patients' health outcomes and quality of life and will force patients to endure pain, injury or disability.
- 4.12 The Commission concurs with the conclusions of the Age Review regarding 'fairness in ensuring that services are provided on the basis of people's needs, personalised to them as individuals, is at the core of the NHS and social care'²⁹.
- 4.13 In its consultation response to TYC, the Commission advised 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 age³⁰³¹.

Temporary reduction of domiciliary care packages and direct payments; reduced access to nursing and residential home placements and non-emergency ambulance transport

- 4.14 The Commission is concerned about the effect of reduced access to health and social care as a result of the cuts to funding and the impact on health outcomes for older people.
- 4.15 In its response to the Department of Health's consultation on Transforming Your Care, the Commission welcomed 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 in some regional programmes for specific Trust areas³².

²⁹ Carruthers, I. and Ormondroyd, J. (2009) [Achieving age equality in health and social care](#) ('Age Review'), Secretary of State for Health, page 3.

³⁰ ECNI (2013): [Consultation response to Summary Response to "Transforming Your Care: From Vision to Action"](#), page 4.

³¹ ECNI website – [Reasons to reform the law all ages](#)

³² Equality Commission for Northern Ireland (2013): [Summary Response to "Transforming Your Care: From Vision to Action" Consultation](#), page 15.

- 4.16 In our response to the Programme for Government, we welcomed the acknowledgement of the right to independent living and the right to self-determination. We also noted our strong support for the development of advocacy services and the concept of ‘self-directed support’ and have welcomed action to address barriers and to increase take up of self-directed support and direct payments³³.
- 4.17 We have also highlighted that safeguards need to be in place to ensure people both have the capacity and the support, as appropriate, to live at home³⁴. In addition, we have sought assurances that a transition to community-based health and social care will not result in a diminution of services.
- 4.18 In our most recent parallel report on the United Nations Conventions on the rights of persons with disabilities we also highlighted the reduction in the length of domiciliary care visits³⁵. We also raised serious concerns regarding the closure of the Independent Living Fund to new users and restrictions on the activities currently funded by Self-directed Support and Direct Payments provisions³⁶.
- 4.19 Through our law reform work we have highlighted a range of examples of older people being treated unfairly in respect of access to health and social care and have called for the introduction of age discrimination in good, facilities and services³⁷.
- 4.20 We have also highlighted that ‘gender equality must be central to all public policy development and implementation, no less at a time of reductions in public spending’³⁸. In particular, we have highlighted the impact of the triple jeopardy on women (i.e. reduced services of which women are the primary users, the impact of further reductions in public and third sector services

³³ Equality Commission letter to Lead Responsible Officer Chris Matthews (DOH) in respect of the draft Delivery Plans for PfG Indicators 6 and 9.

³⁴ ECNI (2015): [Response to the consultation by the Department for Health, Social Services and Public Safety on *The Right Time, The Right Place – An expert examination of the application of health and social care governance arrangements for ensuring the quality of care provision in Northern Ireland*](#)

³⁵ ECNI (2017): [Jurisdictional ‘Parallel’ Report on Implementation in Northern Ireland](#), page 43.

³⁶ Ibid, page 42.

³⁷ ECNI (2014): [Strengthening Protection for all ages from age discrimination outside the workplace](#), ICR.

³⁸ ECNI (2016): [Gender Equality – Policy Priorities and Recommendations](#), page 19.

of women's jobs and employment) and the potentially subsequent requirements to provide care³⁹.

- 4.21 In this context, the Commission is concerned by the temporary reduction of domiciliary care packages for new clients, which the Trust acknowledges will have a major impact on older people. We also note with apprehension that this proposal is likely to have implications across the Trust's hospitals, preventing hospital discharges, increasing complex discharges and impacting negatively on new admissions through A&E⁴⁰.
- 4.22 Research by the Kings Fund on the impact of health and social care cuts on older people in GB⁴¹ has highlighted the human and financial costs of cuts to health and social care on older people and their families including the cost to the health budget in terms of delayed discharges from hospital.
- 4.23 The Commission is aware that that reductions in domiciliary care packages could see more disabled people move to residential care if they cannot be cared for at home. In this context, the Commission is also concerned by the cumulative impact of the proposals, including plans to reduce access to nursing and residential home placements on older people.
- 4.24 As previously highlighted⁴², the Commissioner for Older People for Northern Ireland has warned of increasing evidence of times when domiciliary care is insufficient to meet the care needs of older people or is inadequate in quality. COPNI further highlighted that the level of need that an older person must have before domiciliary care is provided is increasing, reducing the opportunity for early intervention and that time slots allocated for the provision of care were being reduced.
- 4.25 As part of the transition from institutional to community based health services, we reiterate our call that Government must ensure that care in the community arrangements guarantee the quality of care within the home. Safeguards need to be in place to ensure that people have the support to live at home, where it is their wish and it is appropriate for them to do so⁴³.

³⁹ ECNI (2016): [Gender Equality – Policy Priorities and Recommendations](#), page 20.

⁴⁰ BHSC - [2017/18 Financial Savings Plan, consultation document](#), pages 16.

⁴¹ Humphries et al (2016): [Social Care for Older People](#), The Kings Fund.

⁴² ECNI (2016): [Age Equality – Policy Priorities and Recommendations](#), page 13

⁴³ ECNI (2016): [Age Equality – Policy Priorities and Recommendations](#), page 12

- 4.26 The Commission notes that patients in the BHSCT, awaiting nursing and residential home placements, will be maintained through a combination of support from family and carers and Trust Social Care staff⁴⁴. While it is acknowledged that the Trust will use a prioritisation process to ensure the reduced access to care packages is targeted at lower risk clients, the Commission is concerned that a significant number of elderly and disabled people may not have access to the care and support they need. In our view, there will be unmet need, with more being expected of unpaid carers, which will disproportionately impact on women.
- 4.27 We also note that the proposals may impact on the sustainability of some establishments, having a ‘knock-on’ effect on access to health and social care for those patients already residing in those facilities.
- 4.28 The Commission also notes plans in the Western Trust to consolidate provision by the William Street and Rectory Field residential homes⁴⁵ and the concerns previously raised by residents in respect of this proposal.
- 4.29 As previously set out in our UNCRPD parallel report, we highlight the importance of ensuring that persons with disabilities in Northern Ireland, including elderly persons with acquired disabilities, have access to a range of in-home, residential and other community support services⁴⁶.
- 4.30 We also concur with the views of the NIHRC regarding the need for a regional approach to such closures and the importance of meaningful consultation with residents and their carers.
- 4.31 We continue to recommend that Trusts should ensure there is sufficient capacity to care for permanent care home residents (where they wish it), and provide for all older residents requiring care and support⁴⁷. We again reiterate the need for mandatory inclusion of an assessment of the quality and services available in alternative care options, where there are proposals to close a care home.

⁴⁴ BHSCT - [2017/18 Financial Savings Plan, consultation document](#), pages 15

⁴⁵ WHSCT - [2017/18 Financial Savings Plan, consultation document](#), (not paginated).

⁴⁶ IMNI (2014): [Jurisdictional parallel report on Northern Ireland](#) (working paper), page 30.

⁴⁷ ECNI (2016): [Age Equality – Policy Priorities and Recommendations](#), page 28

- 4.32 We also note that the waiting list for domiciliary care will also be extended⁴⁸, meaning that older people are temporarily denied access to appropriate support and will spend longer in hospital care.
- 4.33 Given the Trust has also acknowledged that delayed discharge may result in clients being maintained in a 'more expensive' setting. The Trust should outline the expected savings to be made in respect of domiciliary care and direct payments vis a vis the additional costs of maintaining clients in 'more expensive' settings such as hospitals, intermediate care facilities and/or community rehabilitation and reablement schemes i.e. a detailed cost-benefit analysis.
- 4.34 With respect to the potential impact of NHSCT plans to reduce use of private non-emergency ambulance transport on older people and people with disabilities, the Trust has acknowledged that some patients need 'specialist transport' or the 'support of a driver or escort with specialist skills in supporting people with chronic illness or disability'. However, it does not appear to have firm plans on how to manage this reduction in capacity, other than to 'liaise further with NIAS'⁴⁹.
- 4.35 The Commission also notes proposals made by BHSCT to move toward more telephone outpatient reviews rather than face-to-face reviews for low-risk patients. We emphasise that safeguards should be put in place to ensure that the use of these technologies does not lead to social isolation.
- 4.36 With respect to the NHSCT plans to cease domiciliary meals provision⁵⁰, whilst the Commission notes that there are only 103 users of this service at present, these clients are likely to be highly vulnerable. While the Trust has indicated that existing service users will be 'supported to make an alternative arrangement that meets their needs', the specifics of the proposed alternative and how it will be monitored are, as yet, unclear.

⁴⁸ Ibid.

⁴⁹ NHSCT - [2017/18 Financial Savings Plan, consultation document](#), pages 20.

⁵⁰ NHSCT - [2017/18 Financial Savings Plan, consultation document](#), pages 19.

- 4.37 As with a number of the Trusts' proposals, there appears to be only a cursory identification of measure/s to mitigate against potential adverse impact⁵¹.
- 4.38 It is also of concern that, in reducing the availability of domiciliary care, the Trusts appear to be moving further away from the goal of strengthening community-based services, rather than making progress towards it, as was envisaged by TYC.
- 4.39 The Commission again highlights the importance of age appropriate delivery of services, including equality and non-discrimination, in the provision of health and social care. We recommend that the Trust identify measures in mitigation so that health inequalities will not be exacerbated or created as a consequence of the proposals to reduce access to domiciliary care and direct payments for new patients.
- 4.40 We recommend that the Trusts assess the S75 impacts (including the additional costs) on healthcare as a result of delayed transfers of care, and the wider costs to the budget associated with pressures arising in relation to social care more generally.

Deferred access to new clients to the regional fertility centre and reform of neonatal provision

- 4.41 The Commission has previously recommended action to address barriers experienced by women in accessing reproductive health care services⁵².
- 4.42 With regard to the proposal to defer access to the regional fertility centre, there is a significant risk that this will further exacerbate the difficulties already experienced by some women in accessing appropriate services.
- 4.43 Additionally, given that individuals belong to multiple equalities groups, there are concerns that some particular groups may be impacted by the cumulative impact of proposals. For example, the Commission has highlighted that disabled women have particular difficulty in accessing key services such as reproductive health care and screening⁵⁶.

⁵¹ FOR EXAMPLE

⁵² Equality Commission (2015): [Gender Equality Policy Priorities and Recommendations](#)

- 4.44 While the Trust has indicated that it will ensure that patients at the upper age limit for treatment will be prioritised when the service resume in 2018/19⁵³, it is unclear whether patients already at this limit when the service is suspended, will no longer be able to access treatment.
- 4.45 The Commission asks the Department to note the concerns recently raised by the Committee on the Rights of Persons with Disabilities regarding the lack of access to sexual and reproductive health-care services and lack of information and family planning education in accessible formats for persons with disabilities, in particular women and girls with disabilities⁵⁴. We reiterate the Committee's recent recommendation to ensure equal access to sexual and reproductive health-care services⁵⁵ for women with disabilities.
- 4.46 The Commission notes that with respect to the reform of neonatal service provision at South Western Acute hospital, it is unclear from the consultation document whether there has been a detailed assessment of the impact on the quality and access to care provided to mothers and babies.
- Deferred access to high cost drug treatments and substituting expensive drug treatments for clinically suitable alternatives
- 4.47 The proposal by BHSCT to defer access to high cost drugs has the potential to adversely impact on quality of care and health outcomes for people with disabilities and may result in some patients enduring pain, injury or disability.
- 4.48 The Commission notes that the Trust has indicated that people with Multiple Sclerosis, Inflammatory Bowel Disease and dermatology conditions will be effected by the decision. The Trust recognises that patients' lives will be 'adversely impacted by having to live with these conditions without treatment'⁵⁶.
- 4.49 The Commission further notes that Crohn's and Colitis UK have expressed concerns in relation to the savings plans 'that patients being denied the recommended treatments when they are needed most could lead to very poor outcomes including

⁵³ BHSCT - [2017/18 Financial Savings Plan, consultation document](#), pages 17.

⁵⁴ [Concluding Observations of the Committee on the Rights of Persons with Disabilities](#) (August 2017), page 12.

⁵⁵ Ibid.

⁵⁶ BHSCT - [2017/18 Financial Savings Plan, consultation document](#), pages 17.

uncontrolled symptoms, unplanned admissions to hospital, emergency surgery and further complications'⁵⁷.

- 4.50 While the Trust also plan to substitute expensive drug treatments with clinically suitable alternative licensed treatments, it is also unclear what impact this will have on quality of care or health outcomes for those concerned. For example, the Commission notes that one of the drugs the Trust is proposing to use, 'has not yet received NICE approval'⁵⁸.
- 4.51 Research by the Kings Fund has found that changes to the quality of care a patient received can be much less visible than explicit restrictions on access to care, but are just as important, if not more so⁵⁹.
- 4.52 We ask the Trust to note the recommendations recently made by the UNCRPD Committee regarding systemic, physical, attitudinal and/or communicative barriers preventing persons with disabilities from accessing mainstream health services including medicine and supplies⁶⁰.
- 4.53 If you have any queries regarding the Commission's policy advice, please contact Paul Noonan (PNoonan@equalityni.org).

ECNI
4th October 2017

⁵⁷ See: <https://www.crohnsandcolitis.org.uk/news/patients-northern-ireland>

⁵⁸ BHSC - [2017/18 Financial Savings Plan, consultation document](#), pages 17.

⁵⁹ Robertson et al (2017): [Understanding NHS financial pressures – how are they affecting patient care](#), Kings Fund, page 4.

⁶⁰ [Concluding Observations of the Committee on the Rights of Persons with Disabilities](#) (August 2017), page 12.

Annex A

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 the Department 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 duties;
 - 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.

Annex B

Trusts' Savings Plan

1. The Trusts have indicated that the draft savings plans will help address the significant financial pressures facing health and social care in 2017/18 and meet the statutory requirement to break even⁶¹.
2. Section 4 of draft savings plans sets out the in-year savings proposals which the Trusts consider to be 'major and/or controversial'⁶² in line with the Departments guidance circular '[Change or withdrawal of Services – guidance on roles and Responsibilities](#)'.
3. The guidance circular states that, 'since it would not be practicable to develop definitive criteria for the terms 'major and/or controversial', the Department should be notified before consultation begins on proposals for closure or change that are *likely to be regarded by the local community* as major and/or controversial [my emphasis]. In cases where this only becomes apparent during the consultation process, the Department should be notified at that point.
4. The circular also states that, while HSC bodies aim to provide a minimum consultation period of twelve weeks to allow adequate time for consultation, there are the 'exceptional situations', where 'it may not be feasible' for the Trusts to consult for the minimum 12 week consultation period⁶³:
 - Changes (either permanent or temporary) which must be implemented immediately to protect public health and/or safety;
 - Changes (either permanent or temporary) which must be implemented urgently to comply with a court judgement, or legislative obligations.
5. In such instances, the circular provides that 'a decision may need to be taken to shorten timescales for consultation to eight weeks or less'⁶⁴.

⁶¹ See for example: Press Release - [Belfast Trust launches public consultation on savings plan](#)

⁶² BHSCT - [2017/18 Financial Savings Plan, consultation document](#), page 4

⁶³ The guidance sets out that 'in such instances, a decision may need to be taken to shorten timescales for consultation to eight weeks or less' (para 10)

⁶⁴ DOH (2014): [Change or withdrawal of services – Guidance on Roles and Responsibilities](#), para 10

6. Section 6 of the draft plans ('equality duties') states that the Trusts have 'considered the screening criteria in relation to the 2017/18 Savings Plan proposal⁶⁵ and have completed 'an indicative equality analysis' on the proposals, the outcome of which is set out in the 'Equality screening – initial assessment (Appendix 1 of the consultation documents)⁶⁶.
7. The Trusts conclude that while 'it is not possible at the present time to predict the precise nature of the equality and, good relations and human rights impact of the 2017/18 savings, they are committed to an ongoing assessment of the proposals⁶⁷.
8. Each trust can act independently and have published their own set of proposals.
9. Following consultation, final plans will be submitted to the Health and Social Care Board and DOH (with a further consultation planned if the proposals are to be amended, extended beyond 2017/18 or made permanent)⁶⁸. Consultations will be concluded for Ministerial consideration and potential implementation from October 2017.

Summary of cost savings by Trust area⁶⁹

Belfast Trust

- Cuts to agency and locum staff. This would lead to the loss of 65 hospital beds and an extra six months on waiting lists
- Fewer treatments for non-urgent elective care. Cancer would be protected. Could affect 2,000 day cases
- Temporary reduction of domiciliary care packages for new clients from October. An estimated 365 clients would be affected. It would also lead to patients staying in hospital beds for longer, leading to more bed blocking for those in need of hospital care
- Temporary halt to admissions to nursing and residential homes. Could potentially affect 230 people

⁶⁵ E.g. BHSCT - [2017/18 Financial Savings Plan, consultation document](#), page 23

⁶⁶ E.g. BHSCT - [2017/18 Financial Savings Plan, consultation document](#), page 32

⁶⁷ E.g. BHSCT - [2017/18 Financial Savings Plan, consultation document](#), pages 24&25²⁵

⁶⁸ E.g. BHSCT - [2017/18 Financial Savings Plan, consultation document](#), pages 3&4

⁶⁹ Source – BBC News: [Key Points of the Trusts £70million cost saving proposals](#)

- Defer access for new clients to the regional fertility centre
- Use less high-cost drug treatments in favour of more generic drug treatments

See the full **consultation document here**.

Northern Trust

- Cuts to agency and locum staff. This would lead to a reduction in beds in Antrim Hospital and Causeway Hospital.
- Temporary closure of three rehabilitation wards in Whiteabbey hospital, including the day ward
- Reduction in non-urgent elective day surgery. This would mean an increase in patient waiting times with 2,400 fewer operations. Cancer patients and urgent referrals would be protected
- Manage growth of community placements and domiciliary care packages. This would not impact trust employed staff but rather affect domiciliary care provision from independent sector providers
- An end to domiciliary care meals provision. The trust said alternative arrangements would be made for those still receiving meals
- Car park price increases for visitors. It would see costs rise by 20p per hour for those parking less than an hour, and 30p for over an hour. This would be the first increase in two years

You can see the full **consultation document here**.

Western Trust

- Cuts to agency and locum staff. This would result in the closure of approximately 30 beds across medical and care of the elderly wards
- A reduction in non-urgent elective day surgery. This would mean a reduction of almost 40 inpatient beds across South West Acute Hospital (SWAH) and Altnagelvin
- Cap on locum pay

- Reduction in domiciliary care and nursing home packages. Around £1.6m will be cut meaning approximately 275 care packages would not be put in place
- Delays to service investment aimed at reforming and modernising trust services. This would not apply to learning disability and physical disability care programmes
- Consolidation of services provided by William Street and Rectory Field Residential Homes. Based on prior consultation it will also consolidate services in and around Gortin, Dromore and Rosslea

See the full **consultation document here**.

South Eastern Trust

- A reduction in agency and locum staff. These cuts would see a decrease of agency staff by about 25%
- The replacement of agency and locum staff with in-house staff
- Deferral of money to develop services or produce new initiatives. This would include the new inpatient ward block at the Ulster Hospital. Although it has already opened, services are being transferred under a phased plan and may be slowed to save further money
- An introduction of car parking charges at Ards Hospital
- Natural delays in recruitment

See the full **consultation document here**.

Southern Trust

- Delays in recruitment. This would impact business support roles within the Trust in department such as technology, human resource, and finance
- Reduction in spending on non-medical equipment including furniture, printing and publications
- Bulk buying of water filters to reduce overall cost

- Home delivery of single use aids. This would replace the provision of such aids from local pharmacies through a voucher scheme. As a result pharmacies could lose out on revenue

See the full **consultation document** [here](#)

Annex C

Joint statement from Medical Royal Colleges in Northern Ireland

“As healthcare professionals, patients’ health and wellbeing is our utmost priority. Healthcare reform has been delayed for too long and, as a result, our health and social care system is deteriorating and patient care is suffering.

“In the absence of strategic decision making and planned reform, reactive cuts will be made for the purpose of balancing the books rather than to ensure that the best possible services are being delivered to patients within our given resources.

“The medical Royal Colleges have a pivotal role in patient advocacy throughout the UK; as senior representatives of these Colleges, we are united in our call for urgent action to address the challenges facing the health service in Northern Ireland.

“The issues we are facing are numerous: sustained challenges in general practice; daily pressures in Emergency Departments; challenges in the management and provision of appropriate and dignified care for frail older people; some of the poorest child health outcomes in Western Europe; delays in patient flow in secondary care; some of the longest waiting times in the UK for a range of scheduled procedures and imaging tests; gaps in the physical health care of those with mental illness and intellectual disability; the workforce crises in medicine and resultant reliance on locum staff; nursing shortages, and many other challenges.

“The current situation is unsustainable. In order to improve services and deliver the necessary transformation which is in the best interest of patients, the health budget needs to be spent strategically. We urge politicians to reflect carefully on the current situation and to work together to save our health service”.

“On behalf of medical professionals across Northern Ireland, we call on political leaders to hear our concerns and take urgent action to address them.”

Signed by:

- Dr Bob Darling on behalf of the Royal College of Anaesthetists

- Dr Karl McKeever on behalf of the Royal College of Paediatrics and Child Health NI
- Dr Grainne Doran on behalf of the Royal College of General Practitioners NI
- Professor Ken Mills on behalf of the Royal College of Pathologists NI
- Dr Albert McNeill on behalf of the Royal College of Physicians of Edinburgh
- Dr Michael Trimble on behalf of the Royal College of Physicians of London
- Dr Gerry Lynch on behalf of the Royal College of Psychiatrists NI
- Dr Cate Scally on behalf of the Royal College of Surgeons of Edinburgh

24 August 2017

Annex D

Equality Commission high-level recommendations on health and social care to the consultation on the Programme for Government

Barriers

The Commission has highlighted barriers to accessing health and social care, experienced by particular Section 75 equality groups, such as older people; lesbian, gay and bisexual people; trans people; Irish Travellers and other minority ethnic communities. These include barriers relating to prejudice, information, language, culture and, particularly for rural people, lack or affordability of transport.

The Commission recommends actions to:

- identify and remove barriers to health and social care and well being experienced by particular Section 75 equality groups, including older people; lesbian, gay and bisexual people; trans people; Irish Travellers and other minority ethnic communities; and people with disabilities;

Investment

We have also highlighted the need to ensure investment in health care to address the specific needs of equality groups; for example, people with disabilities, including the sexual health and maternity needs of women with disabilities; as well as young people's mental health needs and to address the high suicide rates among men, Irish Travellers, and young people.

The Commission recommends actions to:

- ensure investment in health care to address the specific needs of equality groups, including the health care needs of people with disabilities, and young people's mental health needs.

Data

The Commission recommends:

- the collection of system wide data across the Section 75 grounds; and that appropriate account is taken of people's multiple identities.