

EQUALITY COMMISSION FOR NORTHERN IRELAND

Response to the consultation by the Department of Health on the Future of Muckamore Abbey Hospital

January 2023

Introduction

- 1.1 The Equality Commission for Northern Ireland (the Commission) welcomes the opportunity to respond to the consultation on the future of Muckamore Abbey Hospital.¹
- 1.2 This response draws on our work and role as ‘independent mechanism’ in Northern Ireland under the United Nations Convention on the Rights of Persons with Disabilities.²
- 1.3 We note that The Department of Health is proposing the closure of Muckamore Abbey Hospital (MAH), as a regional specialist Learning Disability hospital.
- 1.4 We welcome this decision and would urge The Department of Health to adopt clear and targeted strategies for the deinstitutionalization of residents, with specific time frames and adequate budgets, in order to eliminate all forms of isolation, segregation and institutionalization of persons with disabilities; and to promote independent living. Special attention should be paid to persons with psychosocial and/or intellectual disabilities and children with disabilities currently in institutions.

2 *Background & Context*

¹ [Department of Health \(2022\): Public consultation on future of Muckamore Abbey Hospital](#)

² [ECNI - What is UNCRPD? \(equalityni.org\)](#)

- 2.1 MAH currently provides inpatient, assessment and treatment facilities for people with severe learning disabilities and mental health needs, forensic needs or challenging behaviours.
- 2.2 The Hospital is located just outside Antrim town and is managed by the Belfast Health and Social Care Trust (BHSC) to provide regional in-patient services for the learning-disabled population of three Health and Social Care (HSC) Trusts, the Belfast, South-Eastern and Northern Trusts.
- 2.3 Generally Southern and Western Trust patients are now admitted to Dorsy Ward at Bluestone Unit, Craigavon Area Hospital, and Lakeview Ward at Gransha Hospital respectively.
- 2.4 This very clear policy imperative to move accommodation provision away from long stay institutions has been reinforced by a number of high-profile and well documented service failures in institutional residential settings over recent years.
- 2.5 These have included Winterbourne View Hospital near Bristol in 2011, which uncovered criminal abuse by staff of patients and resulted in the closure of Winterbourne and a police investigation which led to 11 criminal convictions.
- 2.6 Here in Northern Ireland as well, there have been allegations of abuse at residential facilities for people with learning disabilities. In addition to the recent allegations of abuse at MAH which are the subject of a criminal investigation and are also being considered by the MAH Public Inquiry, allegations of abuse also emerged in 2012 at Ralph's Close, a purpose-built residential care home for 16 adults with severe learning and/or challenging behaviour. A police investigation into these allegations concluded there was no evidence of willful neglect.
- 2.7 Through this consultation the Department of Health are signaling a clear intention to close MAH and move to support and accelerate the direction of travel to deliver on the long-standing policy aim towards the resettlement of long stay patients into appropriate community facilities and support.
- 2.8 The Department indicates that any decision to close the hospital will involve a defined timescale for closure, and will be

accompanied by a plan, co-produced with current hospital patients and their families, which will clearly set out how the services currently provided on the MAH site will be delivered in agreed alternative settings. Any closure will not take full effect until all the current patients have been successfully resettled to agreed alternative accommodation placements.

- 2.9 However, the Commission notes that the Department's proposals lack any reference to the rights of persons with disabilities set out in the United Nations Convention on the Rights of Persons with Disabilities and the associated guidance on the realisation of these rights issued by the UN Committee on the Rights of Persons with Disabilities in the form of its General Comments.
- 2.10 The Committee has committed to undertaking a review of progress by the UK Government, including in Northern Ireland, since its 2016 Inquiry³ into the implementation of Articles 19, Independent Living; Article 27, Work and Employment⁴; and Article 28, Adequate Standard of Living and Social Protection, which found 'grave or serious violations'⁵ of these rights.

3 *Convention on the Rights of People with a Disability*

- 3.1 The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) is an international human rights treaty that identifies the rights of disabled people as well as the obligations on Parliament and the Northern Ireland Assembly to promote, protect and ensure those rights. It aims to ensure that disabled people enjoy the same human rights as everyone else and that they can participate fully in society by receiving the same opportunities as others.
- 3.2 By ratifying the UN Convention in 2009, the UK Government and its devolved assemblies are committed to promoting and

³ United Nations Committee on the Rights of Persons with Disabilities (2016): [Inquiry concerning the United Kingdom of Great Britain and Northern Ireland carried out by the Committee under article 6 of the Optional Protocol to the Convention - Report of the Committee.](#)

⁴ See [Article 27](#) for further details.

⁵ United Nations Committee on the Rights of Persons with Disabilities (2016): Op Cit, paragraph 113, p. 20.

protecting the full enjoyment of human rights by disabled people and ensuring they have full equality under the law. The Convention covers a wide range of areas including: health; access to justice; personal security; independent living; freedom from torture or cruel, inhuman or degrading treatment or punishment; and freedom from exploitation, violence and abuse

- 3.3 **Article 3(a), General Principles**, of the CPRD requires consideration of the need for respect for inherent dignity, individual autonomy, including the freedom to make one's own choices and the independence to enable that choice to be made. Further, Article 3(c) calls for the full and effective participation and inclusion in society of disabled people⁶.
- 3.4 **Article 19 of the CPRD, the right of disabled people to independent living**⁷, set alongside other Articles such as the right to individual autonomy set out in Article 3(a), General Principles, encourages the practice of self-directed support and the personalisation ethos upon which the Department's vision is based.
- 3.5 Article 19 sets out the right of persons with disabilities to equal access to mainstream services that are tailored to the individual service user requirements. Any new social care model must ensure that disabled people are free to choose the type of assistance they require to support a good quality of life and prevent isolation and economic hardship.
- 3.6 Article 19 is one of the widest ranging and most intersectional articles of the Convention and has to be considered as integral to the full implementation of the Convention.
- 3.7 With respect to realisation of **Articles 25⁸, Health and 28⁹, Adequate standard of living and social protection**, the Department are required to ensure that disabled people are protected from any measure that would have the effect of diminishing the state's obligation to maintain these rights.
- 3.8 In 2017, the UN Committee on the Rights of Persons with Disabilities issued a general comment on living independently

⁶ See [Article 3](#) for further details.

⁷ See [Article 19](#) for further details.

⁸ See [Article 25](#) for further details.

⁹ See [Article 28](#) for further details.

and being included in the community.¹⁰ This aims to assist States parties in their implementation of Article 19 and fulfilling their obligations under the Convention. It notes the following:

‘Persons with disabilities have historically been denied their personal and individual choice and control across all areas of their lives. Many have been presumed to be unable to live independently in their self-chosen communities. Support is either unavailable or tied to particular living arrangements, and community infrastructure is not universally designed.

Resources are invested in institutions instead of in developing possibilities for persons with disabilities to live independently in the community. This has led to abandonment, dependence on family, institutionalization, isolation and segregation.’¹¹

‘Article 19 of the Convention on the Rights of Persons with Disabilities recognizes the equal right of all persons with disabilities to live independently and be included in the community, with the freedom to choose and control their lives. The foundation of the article is the core human rights principle that all human beings are born equal in dignity and rights and all life is of equal worth.’¹²

3.9 The Committee noted a gap between the goals and spirit of Article 19 and the scope of its implementation, including:

‘Lack of deinstitutionalization strategies and plans and continued investments in institutional care settings.’¹³

3.10 The Committee also advised that in relation to independent living arrangements:

¹⁰ UN Committee on the Rights of Persons with Disabilities (2017): [General comment No. 5 \(2017\) on living independently and being included in the community](#)

¹¹ Ibid, paragraph 1, page 1.

¹² UN Committee on the Rights of Persons with Disabilities (2017): Op Cit, paragraph 2, p. 1.

¹³ UN Committee on the Rights of Persons with Disabilities (2017): Op Cit, paragraph 15 (e), p. 3.

‘Both independent living and being included in the community refer to life settings outside residential institutions of all kinds. It is not “just” about living in a particular building or setting; it is, first and foremost, about not losing personal choice and autonomy as a result of the imposition of certain life and living arrangements. Neither large-scale institutions with more than a hundred residents nor smaller group homes with five to eight individuals, nor even individual homes can be called independent living arrangements if they have other defining elements of institutions or institutionalization.’¹⁴

3.11 Additionally:

The right to be included in the community...includes living a full social life and having access to all services offered to the public and to support services offered to persons with disabilities to enable them to be fully included and participate in all spheres of social life. These services can relate, among others, to housing, transport, shopping, education, employment, recreational activities and all other facilities and services offered to the public, including social media. The right also includes having access to all measures and events of political and cultural life in the community, among others, public meetings, sports events, cultural and religious festivals and any other activity in which the person with disability wishes to participate’.¹⁵

3.12 And that:

‘When persons with disabilities are assessed as requiring a high level of personal service, States parties often consider institutions as the only solution, especially when personal services are considered to be “too costly” or the person with disabilities is considered to be “unable” to live outside an institutional setting.

Persons with intellectual disabilities, especially those with complex communication requirements, among others, are often assessed as being unable to live outside institutional

¹⁴ UN Committee on the Rights of Persons with Disabilities (2017): Op Cit, paragraph 16 (c), p. 4.

¹⁵ UN Committee on the Rights of Persons with Disabilities (2017): Op Cit, paragraph 16 (b), p. 4.

*settings. Such reasoning is contrary to article 19, which extends the right to live independently and be included in the community to all persons with disabilities, regardless of their level of intellectual capacity, self-functioning or support requirements.*¹⁶

3.13 Furthermore:

‘Various deinstitutionalization programmes have shown that the closure of institutions, regardless of their size and the relocation of inhabitants in the community, is not enough. Such reforms must be accompanied by comprehensive service and community development programmes, including awareness programmes. Structural reforms designed to improve overall accessibility within the community may reduce the demand for disability-specific services.’¹⁷

3.14 The Committee notes that States parties may face challenges at the national level when implementing the right to living independently and being included in the community. However, in line with UNCRPD obligations, States parties should take the following steps to ensure the full implementation of article 19:

‘Adopt clear and targeted strategies for deinstitutionalization, with specific time frames and adequate budgets, in order to eliminate all forms of isolation, segregation and institutionalization of persons with disabilities; special attention should be paid to persons with psychosocial and/or intellectual disabilities and children with disabilities.’¹⁸

3.15 With respect to the interim period pending closure of MAH and completion of patient resettlement, the Commission wishes to highlight the continuing relevance of UNCRPD Article 15¹⁹, Freedom from torture or cruel, inhuman or degrading treatment or punishment; and Article 16, Freedom from exploitation, violence and abuse²⁰.

4 Resettlement and Supported Independent Living

¹⁶ UN Committee on the Rights of Persons with Disabilities (2017): Op Cit, paragraph 21, p. 6.

¹⁷ UN Committee on the Rights of Persons with Disabilities (2017): Op Cit, paragraph 33, p. 8.

¹⁸ UN Committee on the Rights of Persons with Disabilities (2017): Op Cit, paragraph 97 (g), p. 18.

¹⁹ See [Article 15](#) for further details.

²⁰ See [Article 16](#) for further details.

- 4.1 The demand for social care is increasing and access to funding is decreasing²¹. Disability Action recently conducted a small research study on Adult Social Care. 74% of respondents felt that disabled people have little or no choice and control in relation to social care in NI.²²
- 4.2 Prior to the 1970's, people with learning disabilities who could not be cared for at home were placed in institutionalised settings. In 1995, a decision was taken by the Department of Health, Social Services and Public Safety (the Department) to resettle all long-stay patients from the three learning disability hospitals in Northern Ireland to accommodation offering a better life for the patient²³.
- 4.3 Despite the resettlement target, many disabled people within NI remain in institutional and residential settings. Austerity measures, including welfare reform, have been cited as a factor which could lead to increases in the number of disabled people in institutional and residential settings²⁴. Disabled people within institutional and residential settings are isolated and have limited control over life decisions.
- 4.4 Allegations of abuse at Muckamore Abbey in 2017 stimulated public outcry and have resulted in criminal investigations²⁵ and a public inquiry²⁶.
- 4.5 People with a learning disability continue to remain in hospital, even though they no longer need treatment and could be resettled into the community²⁷. Funding has not matched the levels identified as being required in the Bamford Review of Mental Health and Learning Disability to support resettlement²⁸.
- 4.6 Concern has also been expressed about disabled people staying long term (2 years+) in assessment and treatment

²¹ British Medical Association (2020): [Social care in Northern Ireland](#) .

²² McDonald, A. (2017): Is Adult Social Care Legislation and Policy Compliant with Article 19 of UNCRPD? Belfast: Disability Action.

²³ NIAO (2009): [Resettlement of Long-Stay Patients from Learning Disability Hospitals](#), para 3, p. 2.

²⁴ Centre for Welfare Reform (2017): [Back to Bedlam What Kind of Future Faces People with A Learning Disability?](#) (accessed 5 November 2021)

²⁵ Seanín Graham, (2018): [Police probing more than 70 allegations of 'ill treatment' at Muckamore hospital](#). Irish News, 15 August 2018 (accessed 20 October 2020).

²⁶ Department of Health (2020): [Swann announces Public Inquiry into Muckamore Abbey Hospital](#).

²⁷ NIHE (2014): [The Hospital Resettlement Programme in NI after the Bamford Review](#).

²⁸ Disability Action (2017): [Alternative Report on the Implementation of the Convention on the Rights of Persons with Disabilities in Northern Ireland](#), paragraph 2.13.3, p. 25.

units. These units are for short term placements, however there have been delays in discharging people into the community²⁹.

4.7 The Disability Strategy Expert Advisory Panel report³⁰ made the following recommendations to be actioned by the forthcoming Disability Strategy specific to Article 19:

- adopt any final recommendations from the Department of Health’s Independent Living Fund (ILF) Working Group including agreed options and terms for reopening the Fund to new applicants;
- recommendations for the improvement of the operation of ILF taking account of experience of ILF recipients;
- consider the recommendations of “Power to People Report” – specifically the human rights approach proposed in reform of adult social care;
- new build of Lifetime Homes incorporating updates in inclusive design in the Social Housing Sector and incentivisation of accessibility adaptation in existing private housing stock;
- review of the legislative framework for housing and the definition of “homelessness” (including the Interdepartmental Homelessness Action Plan) to be revised to consider the accessibility of properties as the criteria for securing maximum points on the waiting list for priority housing;
- recognise personal assistants as distinct from carers in adult social care, and ensure they are available to all disabled people especially marginalised groups;
- promote and facilitate the use of self-directed support and direct payments including accessible information to ensure all disabled people can access and use these options³¹.

5. Conclusion

²⁹ Ibid.

³⁰ DfC (2020): [Disability Strategy Expert Advisory Panel: Report and Recommendations](#), p. 37.

³¹ DfC (2020): [Disability Strategy Expert Advisory Panel: Report and Recommendations](#), pp. 37-38.

- 5.1 The Equality Commission for Northern Ireland welcomes the decision by the Department of Health to close Muckamore Abbey Hospital and the issue of an accompanying public consultation.
- 5.2 However, the Commission is concerned that the Department's proposals regarding the resettlement of long stay patients into appropriate community facilities and support, including the establishment of a Regional Resettlement Oversight Board to bring the learning disability resettlement programme to a successful conclusion for individuals and their families, does not properly take account of UNCRPD rights.
- 5.3 In particular, the proposals do not contain a commitment to ensure that such resettlement is aligned to the rights set out in UNCRPD Article 19 and elaborated on in the UN Committee on the Rights of Persons with Disabilities' General Comment No.5.
- 5.4 The Commission **recommends** that the Department ensure that such a commitment is included in the final strategy and that the necessary checks and balances to ensure that de-institutionalisation is implemented in alignment with the framework of Convention rights and with General Comment No.5 on Independent Living are put in place.

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