

EQUALITY COMMISSION FOR NORTHERN IRELAND

Response to the consultation on the Draft Equality Impact Assessment of the Belfast HSC Trust Implementation Plan to close Muckamore Abbey Hospital¹

April 2024

[closing date 30/4/24]

1. Executive Summary

1.1 This response is set out in two parts, as follows:

- Part 1 - Policy advice and information (Pages 3-9); and
- Part 2 - Section 75 advice (Pages 9-11).²

1.2 **Policy recommendation:** The Commission **recommends** that the Trust ensure that an explicit commitment is included in the final strategy that resettlement of patients from Muckamore Abbey Hospital into the community 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; and that the necessary checks and balances to ensure that de-institutionalisation is implemented in alignment with the framework of Convention rights are put in place.

¹ [Final EQIA on Belfast Trust implementation of closure of MAH.pdf \(nidirect.gov.uk\)](#)

² If you would like to discuss any aspect of this advice further, please contact the following Officers:

- **Part 1 - Policy advice:** Paul Noonan, pnoonan@equalityni.org or Tel: 02890 500600.
- **Part 2 - Section 75 advice:** Patrice Hardy, phardy@equalityni.org or Tel: 02890 500616

- 1.3 **Section 75 advice:** The Equality Impact Assessment (EQIA) demonstrates a good understanding of the EQIA purpose and processes and broadly follows Commission Guidance. Qualitative and quantitative Section 75 data is utilised, assessments of impacts and proposed mitigations are included and the pre-consultation, consultation and ongoing engagement with stakeholders is positive.
- 1.4 Commission advice regarding the EQIA informing the policy decisions further, is that the **final Stage 6 EQIA report should** incorporate any additional data/information, consider any further impacts and relevant mitigation and should set out clear and specific Section 75 monitoring arrangements for monitoring the actual impacts of the policy when implemented. To assist greater clarity, the title of the EQIA should include reference to the proposed new service delivery model for people with a learning disability, given that the decision to close Muckamore Hospital was made by the Department of Health in July 2023.

2 Introduction

- 2.1 The Equality Commission for Northern Ireland (the Commission) is an independent non-departmental public body established under the Northern Ireland Act 1998. We have a statutory remit to:
- promote equality of opportunity and affirmative action;
 - work towards the elimination of unlawful discrimination and harassment;
 - keep relevant legislation under review;
 - promote good relations between persons of different racial groups and good disability practice;
 - oversee the effectiveness of statutory equality and good relations duties on public authorities.³

³ Further information about The Commission's Role and Remit can be found via [the following link](#).

- 2.2 The Commission welcomes the opportunity to respond to Belfast Health Trust’s consultation on the draft equality impact assessment on its Implementation Plan for the closure of Muckamore Abbey Hospital.⁴
- 2.3 This response draws on our work across a range of policy areas including that derived from our role as part of the ‘Independent Mechanism’ in Northern Ireland under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)⁵ as well as our work to ensure the effectiveness of the Section 75 duties.
- 2.4 The Commission previously responded to the Department of Health’s consultation on their decision to close Muckamore Abbey Hospital in January 2023 and broadly welcomed the proposal, subject to the arrangements for re-settlement taking account Article 19 of the United Nations Convention on the Rights of Persons with Disabilities and the associated General Comment No.5 on Independent Living issued by the UN Committee on the Rights of Persons with Disabilities.⁶

3 Part One: Policy Advice & Information

Background

- 3.1 The Trust’s Equality Impact Assessment (EQIA) sets out that following a formal consultation and equality screening by the Department of Health on a proposal to close Muckamore Abbey Hospital (MAH), the Permanent Secretary announced in July 2023 that the hospital is to be closed.
- 3.2 Belfast HSC Trust is responsible for leading on implementation of this decision and for facilitating the planned closure date of June

⁴ [Department of Health \(2023\): Public consultation on EQIA – Closure of Muckamore Abbey Hospital](#)

⁵ The Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission jointly perform the role, under Article 33 (2) of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), of ‘Independent Mechanism’ in Northern Ireland (IMNI) to promote, protect and monitor the implementation of the Convention. Together with the Equality and Human Rights Commission (EHRC) and the Scottish Human Rights Commission (SHRC), we are designated as the United Kingdom Independent Mechanism (UKIM).

⁶ Equality Commission NI (2022): [Consultation Response to DOH on the Future of Muckamore Abbey Hospital](#)

2024 by ensuring all remaining Muckamore patients having been appropriately resettled in community settings.

- 3.3 The draft EQIA sets out the Trust's proposed series of actions to ensure closure of MAH and to resettle 26 patients currently residing there, in order that they can 'remain in the community and live a life more comparable to everyone else in society'.
- 3.4 We note that the scope of the impact of this EQIA is related to potential impact on the following three groups as follows: 1) Patients and their families and carers; 2) Potential future patients and their families and carers; and 3) Trust staff.
- 3.5 As noted above, in our January 2023 consultation response to the Department of Health, we recommended that the strategy for resettlement of long stay patients should be implemented in alignment with the framework of UNCRPD Convention rights⁷ and with General Comment No.5 on Independent Living.⁸
- 3.6 We welcome the fact that the draft Equality Impact Assessment (EQIA) of the Belfast Trust's proposed actions to ensure closure of MAH has taken this framework into account when seeking to lessen any potential impact of the closure.
- 3.7 We note that the Trust propose that there is a legitimate policy aim in implementing the Department of Health's decision to close the hospital and that the resettlement of patients and closure of the long stay institution is proportionate and justifiable in the context of UNCRPD and Human Rights.
- 3.8 We note and welcome that the Trust have taken into account some of the relevant aspects of the United Nations Convention on the Rights of Persons with a Disability when undertaking this assessment.
- 3.9 Section 2 of the EQIA identify a number of specific UNCRPD articles as relevant to the implementation of the decision. These are: **Article 19: The Right to Independent Living**⁹; **Article 25**¹⁰,

⁷ [UN Convention on the Rights of Persons with Disabilities](#)

⁸ UN Committee on the Rights of Persons with Disabilities (2017): [General comment No. 5 on living independently and being included in the community](#)

⁹ See [Article 19](#) for further details.

¹⁰ See [Article 25](#) for further details.

Health and 28¹¹, Adequate standard of living and social protection. The Trust 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.

- 3.10 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 15¹², Freedom from torture or cruel, inhuman or degrading treatment or punishment; and Article 16, Freedom from exploitation, violence and abuse¹³.
- 3.11 We also highlight the relevance of the UN Committee on the Rights of Persons with Disabilities' General Comment No.5 on the right to Independent Living and being included in the community¹⁴, which elaborates on the rights set out in Article 19 of the UNCRPD, and urge the Trust to ensure that this is fully taken into account in agreeing arrangements for resettlement of patients.
- 3.12 This General Comment aims to assist States parties in their implementation of Article 19 and fulfilling their obligations under the Convention. It notes 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.'*¹⁵

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

'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

¹¹ See [Article 28](#) for further details.

¹² See [Article 15](#) for further details.

¹³ See [Article 16](#) for further details.

¹⁴ United Nations Committee on the Rights of Persons with Disabilities (2017): [General comment No. 5 on living independently and being included in the community](#)

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

*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’.*¹⁶

3.14 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

4 Resettlement and Supported Independent Living

- 4.1 The demand for social care is increasing and access to funding is decreasing¹⁸. 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.¹⁹
- 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 patient²⁰.

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

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

¹⁸ British Medical Association (2020): [Social care in Northern Ireland](#) .

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

²⁰ NI Audit Office (2009): [Resettlement of Long-Stay Patients from Learning Disability Hospitals](#), para 3, p. 2.

- 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 settings²¹. 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 investigations²² and a public inquiry²³.
- 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 community²⁴. Funding has not matched the levels identified as being required in the Bamford Review of Mental Health and Learning Disability to support resettlement²⁵.
- 4.6 Concern has also been expressed about disabled people staying long term (2 years+) in assessment and treatment units. Although these units are for short term placements, there have been delays in discharging disabled people into the community²⁶.
- 4.7 The Commission notes that individual meetings between representatives of the Trust and patients, families and carers have been undertaken since August 2023 to discuss individual plans and that the MAH Forum, a carers group, continues to meet six-weekly with resettlement a standing agenda item. The Permanent Secretary for Health has advised a detailed closure plan will be developed and co-produced by patients and families.
- 4.8 However, the Commission is aware that some of the families of the patients to be resettled have expressed concerns with regard to

²¹ Centre for Welfare Reform (2017): [Back to Bedlam What Kind of Future Faces People with A Learning Disability?](#) (accessed 5 November 2021)

²² Irish News (15 August 2018): [Police probing more than 70 allegations of 'ill treatment' at Muckamore hospital.](#)

²³ Department of Health (2020): [Swann announces Public Inquiry into Muckamore Abbey Hospital.](#)

²⁴ NI Housing Executive (2014): [The Hospital Resettlement Programme in NI after the Bamford Review.](#)

²⁵ 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.

²⁶ Ibid.

the adequacy of the funding available to enable this and the training provided for the Trust staff involved.²⁷

- 4.9 The Commission notes that the EQIA does not set out any oversight mechanism that involve disabled people or their parents or other concerned relatives, by way of checks or balances, to ensure that resettlement is implemented in accordance with UNCRPD rights.
- 4.10 The UN Committee on the Rights of Persons with Disabilities General Comment No.5 on Living independently and being included in the community²⁸ makes a number of references to the issue of resourcing of independent living.
- 4.11 The General Comment sets out that progressive realization of Article 19 of the UNCRPD entails the immediate obligation to design and adopt concrete strategies, plans of action and resources to develop support services to enable independent living.²⁹
- 4.12 Furthermore, to achieve the progressive realization of economic, social and cultural rights, States parties must take steps to the maximum of their available resources.³⁰
- 4.13 In addition, states parties must ‘closely consult and actively involve a diverse range of persons with disabilities through their representative organizations in all aspects concerning living independently in the community, in particular, when developing support services and investing resources in support services within the community’.³¹
- 4.14 States parties must also ‘allocate financial resources for the construction of affordable and accessible housing units... with an adequate time frame for their implementation’.³²

²⁷ BBC NI News (22 February 2024): [Muckamore Abbey Hospital: Families concerned about post-closure plans](#)

²⁸ UN Committee on the Rights of Persons with Disabilities (2017): [General comment No. 5 on living independently and being included in the community](#)

²⁹ Ibid, paragraph 39.

³⁰ Op cit, paragraph 41.

³¹ Op cit., paragraph 56.

³² Op cit., paragraph 97 (j)

- 4.15 State parties must also allocate resources to the development of appropriate and sufficient person directed/“user”-led and self-managed support services for all persons with disabilities, such as personal assistance, guides, readers and professionally trained sign language or other interpreters’.³³
- 4.16 With regard to training for Trust and other staff involved in the resettlement of patients from Muckamore Abbey Hospital to community settings, Article 8 of the UNCRPD, Awareness-raising, requires that state parties ‘promote awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.’³⁴
- 4.17 In the context of resettlement, such training should include on UNCRPD Article 19, Independent living and being included in the community, and the associated General Comment No 5 issued by the Committee on the Rights of Persons with Disabilities to elaborate on the rights set out in this Article.

5. Conclusion

- 5.1 The Equality Commission for Northern Ireland welcomes the decision by the Belfast Health and Social Care Trust to close Muckamore Abbey Hospital and the issue of an accompanying public consultation.
- 5.2 However, the Commission is concerned that the Trust’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 an explicit commitment to ensure that such resettlement is aligned to the rights set out in

³³ Op cit., paragraph 97 (k).

³⁴ [UNCRPD Article 8 Awareness-raising](#), paragraph 2 (d).

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 Trust 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.

6 Part Two: Section 75 Advice

- 6.1 The Equality Commission welcomes that Belfast Health & Social Care Trust (BHSCT) has carried out an Equality Impact Assessment (EQIA) on the **Implementation Plan to close Muckamore Abbey Hospital**. We also welcome that the Trust's EQIA broadly structure follows the Commission's recommended 7 step approach.

Policy Proposals

- 6.2 We note that the decision to close the Hospital was taken previously by the Department of Health and that this EQIA consultation by the Trust relates to the implementation plan/proposed actions. The EQIA aims to assess the potential equality impacts of the closure of the hospital on patients (current and future), families, carers and staff. Given that the decision to close Muckamore Hospital was made by the Department of Health in July 2023, the EQIA would appear to be on a '**new service delivery model**' i.e. the implications of the Department of Health's previous decision to close the hospital. To assist greater clarity for consultees, the title of the EQIA should refer to the proposed new service delivery model for people with a learning disability.

Consultation

- 6.3 We welcome the level of consultee engagement which appears to have been carried out by the Trust on this draft EQIA, and the extended consultation period which aimed to have facilitated more consultees to input to the consultation. We also welcome that the

Trust have tried to make the consultation as accessible as possible, including range of face-to-face meetings, publishing an Easyread version of the draft EQIA and offering to provide the consultation documents in any further alternative formats, if required.

Consideration of mitigation measures/alternative policies

- 6.4 The Commission notes that the Trust has highlighted proposed mitigating measures aimed at reducing the potential impacts of the proposals, most importantly on people who have been living in Muckamore. Proposed mitigations are noted throughout the draft EQIA document and summarised at Section 6. BHSCT also highlights in the draft EQIA potential impacts relating to staff e.g. females and carers are more likely to be differentially and potentially adversely affected the proposals. It would be useful if the Trust provided more detail in the Stage 6 report of the EQIA, re: the mitigating measures it proposes to take to address these staff impacts.

Decision and Publication of Stage 6 report

- 6.5 We note the Trust's commitment in the draft EQIA to committing time to pay due consideration to consultation responses and amending or adding to its plans/proposals as appropriate, and to publishing a report on the EQIA. We look forward to seeing this Stage 6 EQIA report, outlining how the BHSCT has taken into account the EQIA consultation responses. The Trust should be open-minded to giving consideration to further changes (i.e. consideration of further mitigation/alternative policies) to the proposals, based on the feedback received during the consultation process.

Section 75 Monitoring

- 6.6 The Commission notes BHSCT's commitment in the draft EQIA to putting in place a Section 75 monitoring strategy to monitor the impact of the implementation of the closure of Muckamore Abbey Hospital on the relevant equality categories, to publishing the results of this monitoring annually, and its commitment to ensuring that measures will be taken to achieve better outcomes for the equality groups if opportunities arise. However, the final Stage 6

EQIA report must set out specific and clear Section 75 monitoring arrangements that the Trust will establish, as noted below.

Stage 6 EQIA report

- 6.7 In its Stage 6 updated EQIA report, which should be published approximately 2 months after final decisions, the Trust should reassess the potential equality and/or good relations impacts of the proposals, consider any additional data and information collected as part of the consultation (including the Commission's policy response as evidence), and consider further mitigations/alternative policies. In addition, this report should, as noted above, outline what systems will be put in place to monitor the impacts of the proposed new service delivery model on the Section 75 groups impacted, in line with your Equality Scheme commitments.

Equality Commission for Northern Ireland

April 2024