

EQUALITY COMMISSION FOR NORTHERN IRELAND

Investigation of a complaint

alleging that the Western Health and Social Care Trust may have failed to comply with its Equality Scheme

Investigation Report

JUNE 2024

Summary

1. The Equality Commission for Northern Ireland (Commission) conducted an investigation of a complaint alleging that the Western Health and Social Care Trust (Trust) failed to comply with its approved Equality Scheme.
2. The Complainant alleged, in two complaints, that the Trust failed to comply with its Equality Scheme in relation to (a) its communications policy and (b) its procedures for handling Paragraph 10 complaints.
3. The Commission finds that the Trust failed to comply with its Equality Scheme, as alleged by the Complainant, at Chapter 8. It neither recognised nor responded to the Complainant's complaints in a way that complied with its commitments in Chapter 8 of its Equality Scheme.
4. The Commission recommends that the Trust improves the complaints handling process as a result of this investigation and specifically recognises and responds to complaints when alleging a failure to comply with its Equality Scheme.

Introduction

Purpose of the Report

5. The purpose of this report is to set out the investigation of the complaint made. The Complainant alleged that the Trust failed to comply with its approved Equality Scheme. The statutory framework for the Commission's investigatory powers are set out in full in Appendix 1.
6. This report provides transparency in the Commission's investigation processes and accountability in the Commission's decision making, for its findings. The report addresses whether the allegations made in the complaint are substantiated or not, in accordance with the Commission's Procedures for Complaints and Investigations at paragraph 7.2.

7. This Investigation Report will be published, so that any learning from the investigation can be shared. It should inform potential improvements to policies, practices and procedures by another designated public authority and the implementation of its Equality Scheme.

Disclaimer

8. This report is written for the specific purpose(s) stated at paragraphs 5 and 6 above and further set out in the “Issues – the complaint” section below. It is not intended to be relied upon for other purposes.

Technical terms

9. This investigation is into whether the Trust failed to comply with its Equality Scheme. The later sections of this report refer to terms used in an Equality Scheme, and a public authority’s “arrangements”. These arrangements are what is set out in statute for an Equality Scheme and can be found in Schedule 9 of the Northern Ireland Act 1998.
10. This report also refers to Equality Scheme commitments, which are the paragraphs setting out the processes in the Equality Scheme that the Trust commits to carrying out.
11. The Trust’s Equality Scheme is published and can be found on its website.

Process of the investigation

12. The Commission followed its Procedures for Complaints and Investigations in conducting the investigation.
13. Commission staff collated the documentary evidence on the matter and assessed it against the commitments the Trust has made in its equality scheme, the requirements of Schedule 9 of the Northern Ireland Act 1998, the Commission’s advice and guidance, and any relevant caselaw.

Issues – the complaint

14. The Complainant alleged that the Trust failed to comply with its Equality Scheme in relation to (a) its communications policy and (b) its procedures for handling Paragraph 10 complaints.
15. The Commission decided to investigate the complaints, which would focus on the second complaint (b), where the Complainant alleged that the Trust failed to comply with the specific paragraphs (8.1-8.6 and 8.9) in Chapter 8 of its Equality Scheme, in relation to the earlier Paragraph 10 complaint (a).
16. The key questions, in order for the Commission to establish whether the allegations can be substantiated, or not, are:

- Whether the Trust carried out the commitments it makes in Chapter 8 of its Equality Scheme; and
- Whether the Trust identified the first complaint as one alleging it had not complied with its Equality Scheme for what the complainant termed its communication policy.

The facts

17. The Commission's assessment of the first complaint made to the Trust on 8 November 2022 established that it did contain an allegation that the Trust had failed to comply with its Equality Scheme.
18. The Trust did not respond at all when the Complainant made the first complaint on 8 November 2022.
19. The Complainant wrote again to the Trust on 6 February 2023. This letter asked for a response to the first complaint, but also made the second allegation that the Trust had failed to comply with its Equality Scheme. This second complaint (b) alleged it had failed to comply with the commitments in Chapter 8, which set out the Trust's complaints process for its Equality Scheme.
20. The Trust's Equality Scheme, in Chapter 8, make the following commitments:

Paragraph 8.1: The Trust is responsive to the views of members of the public. We will endeavour to resolve all complaints made to us.

Paragraph 8.2: A person can make a complaint to a public authority if the complainant believes he or she may have been directly affected by an alleged failure of the authority to comply with its approved Equality Scheme. If the complaint has not been resolved within a reasonable timescale, the complaint can be brought to the Equality Commission.

Paragraph 8.3: A person wishing to make a complaint that the Trust has failed to comply with its approved Equality Scheme should contact:

[The Western Health and Social Care Trust's] *Complaints Manager...*

Paragraph 8.4: We will, in the first instance, acknowledge receipt of each complaint within 2 working days of receipt.

Paragraph 8.5: The Complaints Manager will ensure that an investigation is carried out internally and that a substantive Trust response is sent to the complainant within 20 working days of the date of receiving the letter of complaint...

Paragraph 8.6: During this process the complainant will be kept fully informed of the progress of the investigation into the complaint and of any outcomes.

Paragraph 8.9: Our Complaints Manager can provide more information on how to make a complaint. Alternatively, the Patient and Client Council can provide free and confidential advice, information and help to make a complaint. This might include help with writing letters, making telephone calls and support at any meetings you might need to attend.

21. The Equality Scheme paragraphs 8.4 to 8.6 set out the Trust's commitments in relation to timings and processing Paragraph 10 complaints received. The Trust has a separate customer service complaints process.
22. The Trust acknowledged receipt of both complaints on 17 February 2023 and thereafter dealt with both at the same time. This letter to the Complainant makes no reference to the complaints being recognised as allegations that the Trust failed to comply with its Equality Scheme.
23. The Trust wrote to the Complainant on 24 August 2023. This letter was copied to the Commission. It provided the Trust's apology for its delay in dealing with the complaint dated 8 November 2022.
24. As a result of the Complainant making her complaints and submitting them to the Commission, the Trust acknowledged, in its letter to the Complainant of 24 August 2023, that it had identified issues in recognising and responding to complaints. It is clear that this letter refers to complaints made under Paragraph 10 of Schedule 9 of the Northern Ireland Act 1998 and which are covered by Chapter 8 of the Trust's Equality Scheme.
25. In the same letter, the Trust says it is learning from the experience.

Finding of the investigation and recommendation

26. Based on the evidence, the Commission finds that the Trust failed to comply with its Equality Scheme, as alleged by the Complainant at Chapter 8. The Trust neither recognised nor responded to the Complainant's complaints in a way that complied with its commitments in Chapter 8 of its Equality Scheme.
27. The Commission recommends that the Trust improves the complaints handling process as a result of this investigation and specifically recognises and responds to complaints when alleging a failure to comply with its Equality Scheme.
28. The Commission requires that the Trust reports its action on the recommendation, to the Commission, within six months of the issuing of this Investigation Report.

Appendix 1

Statutory framework and Procedures for the Commission's investigations into allegations that a public authority may have failed to comply with its Equality Scheme

1. Section 75 of the Northern Ireland Act 1998 (the Act) places a statutory duty on public authorities to have due regard to the need to promote equality of opportunity between various groups of people, and to have regard to the desirability of promoting good relations, when carrying out their functions in Northern Ireland. The Western Health and Social Care Trust (Trust) is a public authority for the purposes of the Section 75 duties.
2. Designated public authorities are required by Schedule 9(2) of the above Act to submit an Equality Scheme to the Equality Commission for approval. Equality Schemes are both a statement of the public authority's commitment to fulfilling the Section 75 duties and a plan for their performance. The Commission approved the Trust's Equality Scheme in August 2011.
3. The investigation was undertaken in accordance with the Commission's powers, as set out in Schedule 9 of the Act. Paragraph 10 of Schedule 9 of the Act requires the Commission to investigate complaints made to it by a person who alleges that a public authority has failed to comply with its approved Equality Scheme, or to give reasons if the decision is not to investigate.

Appendix 2

Chronology and dates for key documents

| Action on the complaint | date |
|---|------------------|
| | |
| First complaint to Trust | 8 November 2022 |
| Second complaint to Trust | 6 February 2023 |
| Trust response to the Complainant | 17 February 2023 |
| Written complaint submitted to the Equality Commission (first email) | 1 May 2023 |
| Information from the Trust received by the Commission for its assessment of the complaint | 30 June 2023 |
| Trust meeting with the Complainant | 30 June 2023 |
| Trust letter to the Complainant | 24 July 2023 |
| Trust letter to the Complainant | 24 August 2023 |