Report: Equality and Human Rights for Rural Patients in Fermanagh

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Report by SOAS

Human Rights and its links to the temporary closure of general surgery services at South West Acute Hospital.

The purpose of this report is to provide the Northern Ireland Commissioner for Older People with an updated and comprehensive analysis of the impact that the temporary closure of the general surgery service at the South West Acute Hospital (SWAH) has had on the residents of Fermanagh. This analysis focuses on the significant detrimental effects—both intended and unintended—that this decision has imposed on the local population. The findings, prepared within this report, are intended to inform a wide range of stakeholders including policy-makers, political leaders, and other influential figures who are in a position to advocate for or influence the decisions made by the management of the Western Health and Social Care Trust (WHSCT).

Impact of Losing General Surgery Services at SWAH Based on Section 75 and Human Rights Protections

The Western Health and Social Care Trust's (WHSCT) decision to close surgical services at South West Acute Hospital (SWAH) in Fermanagh violates Section 75 of the Northern Ireland Act [1998][1], and the Human Rights Act [1998][2] considering the importance of the "Golden Hour," human rights laws, and the knock-on effects on other healthcare services.

Section 75 of the Northern Ireland Act [1998]:

- Requires public authorities to have due regard to the need to promote equality of opportunity across various categories, including religious belief, political opinion,

[1] Section 75 of the Northern Ireland Act 1998.
[2] Human Rights Act 1998.

racial group, age, marital status, sexual orientation, gender, disability, and dependants. This includes ensuring equitable access to services and considering the impacts on different groups.

Human Rights Act [1998]:

- Incorporates the European Convention on Human Rights (ECHR) into UK law, ensuring rights such as the right to life (Article 2) and prohibition of inhuman or degrading treatment (Article 3).

The decision by the WHSCT to remove emergency surgery from the SWAH was meant to be temporary while staff were recruited. Despite job advertisements, they couldn't find the necessary staff. On 17 November 2022, the Trust held a meeting to address these challenges, following another resignation. Geraldine McKay announced that emergency surgery services would be suspended from 18 December 2022, while elective surgeries and the Emergency Department would continue. Alternative clinical pathways were being developed in collaboration with the Northern Ireland Ambulance Service and the Southern Health and Social Care Trust. (Western Trust, 2022).

A thorough risk assessment is essential when removing surgical services, evaluating the increased burden on nearby hospitals like Altnagelvin and Craigavon, logistical challenges for the Ambulance Service, and the impact on staff recruitment. Communication and alternative pathways are crucial to mitigate these risks and ensure patient safety.

A Freedom of Information request revealed the Western Trust was aware of the risks, including pressure on other hospitals, longer travel distances for patients, and recruitment challenges. Despite assurances from officials that concerns were unfounded, the Trust cited chronic staff shortages as the reason for the service removal, (Fermanagh Herald, 2023).

Although staff shortages were cited, a check of the WHSCT website on 27 June 2024 showed no job listings for these positions (Western trust, 2024).

Western Trust Medical Director Dr. Brendan Lavery informed that the 'Golden Hour' concept is outdated, as modern trauma care has evolved significantly, showing no survival advantage for shorter pre-hospital times.

1. Golden Hour Principle:

    - Military Context: In military contexts, the "Golden Hour" principle has been validated, demonstrating that prompt medical intervention within the first hour significantly increases survival rates. For instance, military protocols emphasise rapid evacuation and immediate care for injured soldiers, which has shown to drastically improve survival outcomes. This principle is crucial in ensuring that life-threatening injuries are addressed promptly to prevent deaths from haemorrhage and other complications (BMJ Military Health, 2021).

    - Civilian Healthcare: Similarly, in civilian healthcare, rapid treatment within one hour, particularly for conditions like sepsis, has been proven to improve mortality rates. Studies have shown that initiating sepsis treatment within the first hour of diagnosis significantly reduces the risk of death. This is because early intervention helps to manage the infection before it causes severe systemic damage (BMJ Open Quality, 2020).

    The relevance of the "Golden Hour" to resuming general surgery at SWAH is evident. The closure of surgical services extends the time required to receive critical care, thereby increasing the risk of adverse outcomes for trauma and emergency patients in Fermanagh. By restoring these services, the hospital can ensure timely and effective treatment, aligning with the "Golden Hour" principle to improve patient survival rates.

2. Impact on Healthcare Services:

While the removal of emergency surgery services from SWAH was intended to be temporary, it is evident that other services are also being affected due to funding or staffing issues. This raises concerns about the long-term viability of SWAH. The ongoing challenges in recruiting necessary staff and securing adequate funding suggest a broader trend of service reductions, leaving the future of SWAH uncertain and the local community worried about maintaining comprehensive healthcare access.

Osteoporosis Support

The challenges presented by the temporary closure of the Osteoporosis Clinic at South West Acute Hospital (SWAH) due to staffing shortages underscore a critical vulnerability in our healthcare infrastructure. Patients, such as Martina McDermott from Newtownbutler, who rely on specialised treatments like biannual osteoporosis injections, are left in a precarious situation when these essential services are withdrawn without notice. Staffing issues not only disrupt the delivery of scheduled treatments but also obscure the pathway for necessary care, leaving patients without clear alternatives. This situation highlights the importance of robust staffing solutions to ensure continuity and reliability in specialised medical services, ensuring that vulnerable patients do not face the added risks associated with interrupted treatment protocols, (Fermanagh Herald, 2024). The closure of the Osteoporosis Clinic leaves patients without necessary treatments, risking their health and increasing the burden on other health services.

Community Midwife Care/ Gynaecology

There's growing concern in Fermanagh due to a health review suggesting the removal of maternity services from the SWAH. An independent report to the Department of Health recommends making SWAH a centre for gynaecological outpatient and day services, while also suggesting centralising maternity services elsewhere. It is being warned that removing maternity services would prevent any births in Fermanagh or Tyrone, greatly reducing local healthcare access. This is highlighted as a major loss, especially since it would affect the availability of midwives and maternity care in the area, (Fermanagh Herald, 2024). Centralising maternity services away from SWAH will severely limit access for Fermanagh and Tyrone residents, potentially violating their right to healthcare.

Palliative Care

Palliative care staff at SWAH are worried about the future of their service following a letter indicating that Foyle Hospice is taking over. Councillor Adam Gannon raised these concerns at a council meeting after SWAH staff reached out to him. Despite the takeover, staff are apprehensive that the service might not be maintained due to potential retirements, as highlighted by Cllr Gannon, (Fermanagh Herald, 2023). The takeover of palliative care by Foyle Hospice raises concerns about continuity and quality of care, especially with potential staff retirements.

OPALS/ FALLs

The OPALS program and the 'Our Hearts Our Minds' preventative cardiology service, both previously offered at the SWAH in Enniskillen, are no longer available. A Freedom of Information request revealed that the 'Our Hearts Our Minds' service, established in 2010 by Dr. Susan Connolly, was discontinued after funding ceased. This program was designed to prevent serious health conditions like heart attacks and strokes by supporting lifestyle changes, aiming to benefit the local community as equally as those in Derry or Omagh. Despite the cessation of this particular service, the Trust continues to offer cardiac rehabilitation services aimed at helping patients manage their recovery and reduce the risk of future cardiovascular events. However, the focus of these services is more on rehabilitation after cardiac events rather than the preventative approach pioneered by 'Our Hearts Our Minds.' (Fermanagh Herald, 2023).

Cardiac and Pulmonary Rehabilitation

The Western Trust has assured that there has been "no change or impact" to the cardiac and respiratory services at SWAH, despite not directly addressing specific questions from the Herald about potential staff relocations to Altnagelvin to address staff shortages. The Trust explained that while agency staff might occasionally be moved across the Trust's three hospital sites as part of workforce planning, these adjustments are meant to support the continued delivery of essential services without affecting local services and waiting times at SWAH, (Fermanagh Herald, 2024). Despite assurances, staff relocations to other sites could disrupt local services, leading to longer wait times and reduced care quality.

Loss of Ringfenced Beds in Altnagelvin

Despite assurances of two ring-fenced beds for patients transferred SWAH to Altnagelvin Hospital for emergency general surgery, the Western Health and Social Care Trust admitted it was "difficult to maintain" these beds and they were reallocated. However, the beds were reinstated since. At a recent Fermanagh and Omagh District Council meeting, Independent Councillor Josephine Deehan highlighted that there are currently no ring-fenced beds for transfers between SWAH and Altnagelvin. She stated that patients are prioritised based on clinical need rather than having designated beds. Councillor Deehan and others, including Sinn Féin Councillor Barry McElduff and SDLP Councillor Adam Gannon, expressed

concerns that the Western Trust had previously provided false assurances about these beds during consultations on the removal of emergency general surgery services at SWAH, (Fermanagh Herald, 2024). The reallocation of ring-fenced beds for emergency surgery transfers adds uncertainty and could delay critical care, impacting patient outcomes.

Loss of Urgent Treatment in Fermanagh

Since the withdrawal of emergency general surgery from SWAH, local patients needing urgent surgery are being transferred from SWAH's emergency department to Altnagelvin, (Fermanagh Herald, 2023). The requirement for double emergency department admissions delays critical care. Patients need to be stabilised at one hospital before being transferred to another for surgery, leading to delays in receiving urgent treatment. This can result in worsened conditions and increased mortality rates.

Increased ambulance call outs

Concerns have arisen about the pressure on the local ambulance service since the removal of emergency general surgery (EGS) from SWAH, with 718 patients transferred from Enniskillen to Altnagelvin last year, Additionally, the Air Ambulance, limited by weather and hours of operation, cannot provide reliable cover, (Fermanagh Herald, 2024). The strain on ambulance services and limited availability of air ambulances due to the service changes further complicates timely access to emergency care.

3. Section 75 Compliance:

    - The suspension of services at SWAH significantly impacts compliance with Section 75 of the Northern Ireland Act [1998], which mandates public authorities to promote equality of opportunity and good relations. The removal of emergency surgical services, osteoporosis support, maternity care, and palliative care disproportionately affects vulnerable groups, including the elderly and rural residents in Fermanagh and Tyrone. This exacerbates health inequalities, limits access to essential care, and compromises patient safety and well-being, failing to uphold the principles of equality and non-discrimination mandated by Section 75.

- Transport and Accessibility: Residents from Enniskillen face significant challenges accessing Altnagelvin Hospital, with a drive time of over 1.5 hours. For those relying on public transport, the journey from Enniskillen bus station to Altnagelvin takes approximately 3.5 hours, involving two to three different buses due to the lack of a direct route. This extended travel time is particularly burdensome for non-drivers, low-income individuals, single parents, and the elderly. The travel times are confirmed by the Western Trust within the Rural Needs Impact Assessment, travel times from areas like Derrylin and Belleek to Altnagelvin Hospital increase to nearly two hours, significantly impacting the timeliness of emergency care (Western Health and Social Care Trust, 2023). Under Section 75 of the Northern Ireland Act [1998], public authorities are mandated to promote equality of opportunity and eliminate any disproportionate impacts on vulnerable groups.

- Cost of Transport: For low-income families, the cost of multiple bus tickets can be prohibitive, further limiting their access to necessary medical care. This financial strain exacerbates health inequalities, as those unable to afford the journey may delay or forgo treatment. The Rural assessment notes that 14% of households in the region do not have access to a car, which exacerbates the difficulty of accessing emergency services following the suspension (Western Health and Social Care Trust, 2023). This again proportionately impacts disadvantaged groups.

- Volunteer Ambulance Services: Patients transferred from SWAH to Altnagelvin via Coastal Core volunteer services face additional risks. These volunteers are trained in first aid only and not equipped to handle complications, potentially compromising patient safety during transfer. This raises serious concerns under both Section 75 of the Northern Ireland Act [1998] and the Human Rights Act [1998]. By Failing to ensure that these transfers are handled by adequately trained professionals, the WSHCT may be neglecting its legal obligation to protect the right to life (Article 2 of the ECHR), given the increased risks of delayed and inadequate medical care.

This decision violates the equality of opportunity mandate under Section 75, which requires public authorities to ensure that their actions do not disproportionately impact specific groups. By failing to consider the unique challenges faced by rural residents, including transport issues, costs, and the safety of volunteer ambulance services, the WHSCT's decision does not comply with Section 75's requirements to promote equality.

4. Human Rights Violations:

    - Right to Life (Article 2 of the ECHR): The right to life is fundamental and imposes a duty on the state to take appropriate steps to safeguard the lives of those within its jurisdiction. Reduced access to essential healthcare services, such as emergency surgery, compromises this right. Delayed medical intervention due to the extended travel times and limited local surgical facilities can lead to preventable deaths, thereby violating Article 2.
    - Prohibition of Inhuman or Degrading Treatment (Article 3 of the ECHR): This article protects individuals from suffering inhuman or degrading treatment. When patients face prolonged suffering due to delayed or inadequate medical care, it may constitute inhuman or degrading treatment. The closure of surgical services at SWAH leads to extended waiting times and potential deterioration of patients' conditions, subjecting them to unnecessary pain and suffering.

    The decision to close surgical services at SWAH not only jeopardises the right to life but also risks violating the prohibition against inhuman or degrading treatment by failing to provide timely and adequate medical care to the rural population of Fermanagh.

5. Legal and Policy Precedents:
    - In *Omagh District Council v The Minister with Responsibility for Health Social Services and Public Safety* [2004] NICA 10[3], the court acknowledged the critical importance of location in ensuring access to healthcare services,

[3] Omagh District Council v The Minister with Responsibility for Health Social Services and Public Safety [2004] NICA 10.

especially in rural areas. The court highlighted that almost 10,000 people in County Fermanagh would have been more than 60 minutes traveling time away from a hospital, underscoring the importance of maintaining local services. The judgment emphasised that adequate healthcare provision must consider the geographical challenges and ensure equitable access to emergency services for all residents, particularly those in remote and rural areas. The WHSCT's decision to suspend services at SWAH without adequately considering these geographical impacts could be seen as failing to meet their legal obligations under both the Rural Needs Act [2016] and Section 75 of the Northern Ireland Act [1998], further exacerbating the inequalities faced by rural residents.

- Judge's Remarks: In this case, the judge pointed out the significant negative impact on the rural community if healthcare services were not adequately provided locally. The decision to place the hospital north of Enniskillen was partly based on ensuring that the majority of residents would be within a 60-minute travel time to access emergency care. Ignoring these geographical considerations, as in the case of SWAH, disregards the healthcare needs of rural populations and exacerbates health disparities.

- The Rural Needs Act (Northern Ireland) [2016][4] mandates that public authorities must take into account the unique needs of rural communities when designing and delivering services. This legislation underscores the requirement for WHSCT to consider the specific challenges faced by rural residents, including access to healthcare. Failure to do so not only contravene Section 75 but also the Rural Needs Act, which aims to ensure that rural populations are not disadvantaged in accessing essential services.

[4] Rural Needs Act (Northern Ireland) 2016.

6. The Hayes Report: as mentioned in Omagh District Council v The Minister with Responsibility for Health Social Services and Public Safety [2004] case.

    - Purpose of the Report: The Hayes Report was commissioned to assess the healthcare needs of the population in the western region of Northern Ireland, with a specific focus on ensuring that emergency services are accessible to all residents, particularly those in rural areas. The report aimed to provide recommendations on the optimal location and services needed to meet these healthcare demands.

    - Findings: The Hayes Report highlighted the critical need for an acute hospital in Enniskillen due to its geographical location. It emphasised that Enniskillen's strategic position was crucial for ensuring timely access to emergency services for the rural population of Fermanagh. The report identified the unique challenges faced by rural residents, such as longer travel times to distant hospitals and the associated risks of delayed medical intervention.

    - Recommendations: Dr Hayes recommended a hospital was built in the Fermanagh area- this is now the SWAH. This decision was based on geographic accessibility and the need to consolidate services to ensure high-quality care.

    - Ignored Findings: Despite these clear recommendations, the WHSCT's decision to close surgical services at SWAH has ignored the findings of the Hayes Report. By not considering the unique needs of the rural community in Fermanagh, the WHSCT has undermined the equitable provision of healthcare. The extended travel times to distant hospitals increase the risks associated with emergency medical conditions, leading to potentially preventable adverse outcomes.

- Section 75 issues: Failure to promote opportunity- Section 75 mandates that public authorities must have due regard to the need to promote equality of opportunity. By closing surgical services at SWAH, the WHSCT may not be adequately considering the healthcare needs of the rural community in Fermanagh. This could potentially result in unequal access to essential healthcare services for this community compared to urban areas, where similar services might be more readily available.

- Potential Increase in Adverse Outcomes- The decision potentially exacerbates health inequalities, as the rural population may face increased travel times to access surgical care. This not only makes it difficult for them to receive timely treatment but also increases the risk of complications in emergency situations. Such disparities in health outcomes can be seen as a failure to uphold the principles of promoting equality of opportunity and safeguarding against discrimination based on geographical location.

- Lack of Consideration for Good Relations- The closure could also be viewed as neglecting the aspect of promoting good relations, as it may foster resentment and a feeling of neglect among the rural population. The perception that their needs are considered less important than those of urban populations can undermine trust and confidence in public health authorities.

- Mitigation and Alternatives- Under Section 75, there's also an expectation that public authorities will consider mitigating measures if their policies disproportionately affect one or more groups. In this case, it would involve exploring alternative ways to maintain surgical services within the region or ensuring that effective, rapid transportation and emergency response solutions are available to those affected by the closures.

Questions to the Trust:

In light of the recent suspension of emergency surgical services at SWAH, it is imperative to scrutinise the Western Health and Social Care Trust's (WHSCT) decision-making process. It

must be established whether a comprehensive assessment of all viable alternatives was conducted before concluding that the suspension of services was the only option. Specifically, the following queries demand answers:

1. Exploration of Alternatives: What specific alternative measures were considered to address the staffing shortages at SWAH? Was a rota system for existing staff implemented, and if so, why did it fail? Were temporary external hires, such as locum doctors, or the utilisation of telemedicine for certain consultations, thoroughly evaluated as potential solutions? If these options were considered but ultimately rejected, the Trust must provide detailed justification for these decisions.

2. Decision-Making Process: What criteria did the WHSCT use to determine that suspending services was the most appropriate course of action? The Trust must demonstrate that this decision was both proportionate and reasonable in relation to the staffing challenges encountered. Documentation, including risk assessments, meeting minutes, and timelines, should be provided to verify that this decision was subject to rigorous analysis and debate. Moreover, was there any independent oversight or review conducted to ensure the objectivity and fairness of the decision?

3. Impact on Vulnerable Populations: How did the Trust evaluate the impact of service suspension on rural and vulnerable populations, particularly in relation to increased travel times and the potential delays in emergency care? Given the known critical importance of the "Golden Hour" in trauma cases, the Trust must justify how this decision aligns with its duty of care obligations, especially towards those in remote areas who are disproportionately affected.

4. Restoration of Services and Future Mitigations: What immediate and long-term strategies does the WHSCT have in place to restore essential services at SWAH or implement alternative solutions that ensure continuity of care? Additionally, what procedural improvements will be instituted to avoid similar disruptions in the future? The Trust should

also clarify whether there will be a subsequent review of this decision in light of the adverse community impact and potential legal implications.

In failing to adequately address these questions, the WHSCT risks a perception of acting arbitrarily or unreasonably, potentially disregarding its statutory obligations under relevant health, equality, and human rights legislation. Such oversight could have profound implications not only for the affected communities but also for the Trust's legal standing and public trust. The suspension of emergency surgical services at SWAH poses serious concerns under Section 75 of the Northern Ireland Act [1998] and the Human Rights Act [1998]. This decision disproportionately impacts vulnerable groups, particularly the elderly and rural residents, worsening health inequalities and restricting access to critical care. Extended travel times and inadequate transport options further compromise patient safety and well-being. Addressing these issues requires effective staffing solutions, clear communication, and consideration of rural needs to ensure fair and timely healthcare access for all.

Conclusion

In conclusion, the suspension of emergency general surgery services at South West Acute Hospital (SWAH) has had a profound and disproportionate impact on the rural population of Fermanagh, exacerbating existing health inequalities and putting vulnerable groups at further risk. Despite the acknowledged staffing challenges faced by the Western Health and Social Care Trust (WHSCT), the decision to remove these critical services appears to have been made without fully exploring or implementing viable alternatives such as reallocating staff, engaging temporary hires, or utilizing telemedicine.

Legal precedents, including those established in the Omagh District Council v The Minister with Responsibility for Health Social Services and Public Safety case, emphasise the critical importance of maintaining local healthcare services in rural areas. The failure of the WHSCT to consider the unique geographical and socio-economic challenges faced by the residents of Fermanagh, particularly in relation to the “Golden Hour” principle in trauma care, raises

significant concerns about the proportionality and reasonableness of the Trust's decision-making process.

Furthermore, the lack of a transparent and rigorous assessment of the impact on Section 75 groups and the potential violation of human rights legislation underscores the need for an immediate review of this decision. The Trust must address these deficiencies and consider reinstating the suspended services or implementing effective alternatives to ensure equitable access to emergency care for all residents.

In light of these findings, it is imperative that policy-makers, legal authorities, and community stakeholders hold the WHSCT accountable for its obligations under the Northern Ireland Act [1998], the Human Rights Act [1998], and the Rural Needs Act [2016]. Only through such accountability can we ensure that the healthcare needs of rural populations are met with fairness, compassion, and legal compliance.

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