The Northwest Forum of People of people with Disabilities is totally opposed without qualification or reservation to the proposed cuts in healthcare provision of 12.5million in the Western Trust area and the regional cuts of 70 million pounds overall. We believe that such measures are without moral justification and that the potential cumulative effect of these proposed measures demonstrates a total disregard for human life, and quality of life of ordinary people.

Furthermore it is our contention that the proposed measures set out in the consultation paper are counterproductive will lead to longer term cost, both financial and in human terms on the local health care services which we suggest will outweigh any short term savings each measure is designed to achieve.

We are deeply concerned that the totality of these measures are directed primarily at frontline services, will disproportionately have an adverse and devastating impact on older and disabled people, who have already born to a disproportionately high level the excessive inexcusable cuts to social security and cuts to public services for the better part of the last decade. The Trust will only be to well aware of the high correlation between disability and age, and that barriers facing both disabled people and older people are not mutually exclusive.

These proposed “temporary cuts” if that is indeed the case, come at a time when our health care services in other areas have also been under sustained attack, such as acute services or the subject of well chronicled historical under investment. The Trust will only to well aware for example of the compelling historical evidence which shows that mental health services in Northern Ireland have been funded more poorly than elsewhere in the UK for some time, with respect to Northern Ireland’s share of the overall health budget on a per capita basis. Research carried out in 2011 found that actual spending per capita on mental health services in Northern Ireland was 10-30 per cent lower than in England, even though it necessitated almost 44 per cent higher per capita funding. (UK Independent Mechanism (UKIM) Report to UNCRPD Committee July 2017) Indeed between 2010/11 and 2014/15, the average number of available beds within the mental health programme of care (one of nine categories into which health and social care in NI is divided) in Northern Ireland decreased by 28.7% (235.3), from 821.4 to 586.0. (Mental Heath Fundamental Factsheet 2016: Mental Health Foundation)

As a human rights organisation dedicated to promoting and protecting the rights of persons with disabilities and the promotion of our voices in all matters affecting our lives regardless of political opinion, religious beliefs, gender, age, ethnicity or sexual orientation, we are of the view that the proposed cuts, as indeed consultation methodology and associated timeline are contrary to international human rights standards, and domestic equality laws, including:

\*the Human Rights Act 1998;

\*the International Covenant on Economic, Social and Cultural Rights; (IESCR) and the \*United Nations Convention on the Rights of Persons with Disabilities; (UNCRPD)

\*the public sector equality duties related to Section 75 and the ‘disability duties’

**Human Rights Act 1998**

The Forum would argue that the suspension of many of these health services at the one time without any assessment of individual need and circumstances is very likely to have serious implications in terms of the Human Rights Act 1998 (which incorporates most of the European Convention on Human Rights (ECHR) hitherto explicitly referenced in the consultation document) in particular Articles 8 and 14.

**Article 8: The right to a private and family life**

Respect for one’s private life includes, not only the right to personal autonomy, physical and psychological integrity but also the right to not have one’s home life interfered with, including removing people from their home, or withdrawal of support to services to live at home without reasonable justification. The proposed cuts to domiciliary care, and possible closure of a residential home, through the consolidation of services provided to two residential homes onto fewer sights, though as with other proposals the intent is ambiguous and unclear. As indeed is much of the jargon, and terminology used in the document.

**Article 14 Non-discrimination**

In determining whether there is an objective or reasonable justification for these proposals the Trust needs to demonstrate that the measures were advanced to pursue a legitimate aim and there is a reasonable relationship of proportionality between that aim and the measures applied. We would maintain that most of the proposals will have a disproportionate impact on disabled and older people, because of the greater demand placed on those services by both the aforementioned constituencies which are the primary focus of the proposed healthcare cuts, and therefore discriminatory in practice which undermines the regard given to the principle of proportionality. The Forum would also seriously challenge any notion that the economic well-being of the region was in truth, an objective or reasonable justification for these cuts when considering the Trusts legal responsibilities in relation to the Human Rights Act. Political stalemate, disagreement, gamesmanship, rather than economic imperatives to save health care services in the longer term, is without doubt the impetus for the current cuts. To suggest otherwise through omission of the aforementioned causel factors in the consultation document is in unequivocal terms both disingenuous and misleading.

Furthermore half the cuts proposed are extremely likely to have an adverse disproportionate impact on disabled and older people:

* the withdrawal of effective and medical treatment for persons with disabilities Northern Ireland wide measure;
* cheaper medical alternatives for those who will require continued treatment Northern Ireland wide measure;
* cuts to domiciliary care in terms of availability of beds and support;
* potential closure of residential home/s;
* suspension of investment in health services;
* 50% reduction in routine treatments, preventative measures to maintain good health of service users;
* removing agency paid nurses and social care staff.

**International Covenant on Economic, Social and Cultural Rights (ICESCR)**

The State is obligated under ICESCR to take steps to the maximum of its available resources to achieve progressively the full realisation of the right to health. This means, the Trust in this case has an obligation to move expeditiously and effectively towards the full realisation of the right to health. The Trust should be fully aware that there is a strong presumption that retrogressive measures taken in relation to the right to health are not permissible. The Committee on International Covenant on Economic, Social and Cultural Rights have made clear retrogressive measures are only introduced after the most careful consideration of all the alternatives and that they are duly justified by reference to the totality of the rights provided for in the Covenant, in the context of the full use of the State party’s maximum available resources.

We acknowledge that the Committee on Economic, Social and Cultural Rights recognises that in times of economic crisis, adjustments may be necessary. However, any proposed policy change would had to have fulfilled a number of requirements:

1. the proposals must be a temporary measure covering only the period of perceived crisis;
2. the proposals must be necessary and proportionate, in the sense that the adoption of any other policy, or a failure to act, would be more detrimental to economic, social and cultural rights;
3. the proposals must not be discriminatory and must comprise all possible measures, including tax measures, to support social transfers to mitigate inequalities that can grow in times of crisis and to ensure that the rights of the disadvantaged and marginalized individuals and groups are not disproportionately affected;
4. the proposals must identify the minimum core content of rights or a social protection floor.

There is in our view insufficient evidence that the minimum threshold for this change in policy has been met for following reasons:

* the cuts are politically motivated due to the political stalemate associated with the restoration of the Northern Ireland Assembly;
* related to that the failure of political leadership by the U.K. Government to consider alternative measures to address the cut to the block grant to the region, such as reducing or removing salaries from MLA’s in the absence of a working Assembly and political agreement or other less draconian measures to ensure the health and wellbeing of disabled and older people, who have a greater dependency on health and social care in proportion to the general population;
* the inability of Trust staff to provide clarity and assurance that all of the proposed “temporary measures” are absolutely temporary in nature, for example “the consolidation of services in the Derry/Londonderry area provided by William Street and Rectory Field Residential Home’s onto one site, appears to indicate this will lead to the permanent closure of at least one of the residence;
* that some or all of the measures could continue beyond the stated period following further consultation;
* finally acceptance of ‘implied’argument put forth in the consultation paper, that these proposals are in response to a financial crises, does not negate the reality that proceeding with the proposed cuts will likely lead too much greater demand on health services in the longer term resulting in greater costs, which is counterproductive to the rational underlying the proposals.

While the Northwest Forum appreciates that the political and social discourse surrounding the development of these proposed cuts is beyond the formal sphere of influence of the Trust, we consider the rationale for these cuts set out in the consultation paper to be somewhat misleading and disingenuous, with respect to the overall context surrounding the development of these current proposals. In the sense that no explanation is provided by the Trust as to the current political environment, as indicated by both the urgency and ridiculous time scale of the flawed consultation process, and lack of certainty about the temporary nature of the proposals. Not to mention the lack of detailed information in the consultation document about the proposals or any consideration of long term impacts on people and demand on other healthcare services as result of hasty decision making that has more than likely informed their development.

As briefly mentioned earlier we note with a high degree of alarm within consultation document a declaration that there will be further consultation if it were considered necessary to extend any of the proposals beyond 2017/18, suggesting quite clearly that some, if not all, of the proposed cuts may not be temporary at all. The human rights considerations around adjustments in times of economic crisis (if one exists) noted earlier with respect to both the Human Rights Act and ICESCR would still have to be met before extending any proposed continued reduction in services.

**United Nations Convention on the Rights of Persons with Disabilities** **(UNCRPD)**

We also draw attention of the Trust to a number obligations it has under the UN Convention on the Rights of Persons with Disabilities, most notably article 25 provides that persons with disabilities have the right to the enjoyment of the **highest attainable standard of health** without discrimination on the basis of disability. The Convention requires States Parties to “organise, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services...”

UNCRPD Committee and Concluding Observations

We note with great distress and alarm the the decision taken by the Department and the Trusts Northern Ireland wide to proceed with these cuts in healthcare services prior the publication of the UNCRPD Committee’s “concluding observations and recommendations”. We would strongly urge the Trust, the Department and indeed the UK Government before adding to what the Committee have all already described as a “human tragedy” with respect to treatment of people with disabilities across the UK to take effective and proper account of the concluding observations before proceeding with any of the proposed cuts.

Following the formal examination of the UK state party by the Committee on the United Nations Convention on the Rights of Persons with Disabilities last month in Geneva, which included consideration of written (Shadow Report prepared by Disability Action) and oral evidence from disabled persons led organisations from Northern Ireland (including the Northwest Forum) as well representation from Northern Ireland government department representatives.

With respect to the state party’s progress on article 25 the Committee concluding observations drew attention to the:

“systemic, physical, attitudinal and/or communicative barriers preventing persons with disabilities from accessing mainstream health services including: inaccessible furnishing, training and treatment equipment, medicine and supplies, means of information and communication, limited access to clinics and healthcare professionals, hospitals, dentists, gynaecologists and obstetricians.”

To address these serious concerns the UNCRPD Committee recommended that the state party, the UK Government and the devolved administrations take a number of actions to address them including:

“Develop a targeted measurable and financed plan of action aiming at eliminating barriers in access to health care and services, monitor and measure its progress, especially in relation to persons with intellectual and/or psychosocial disabilities, and neurological and cognitive conditions.”

We are of the view that many of the proposals conflict with the Committee’s recommendation in this area and take no account of the Committee’s concluding observations. For example, Northern Ireland wide proposals to defer initiation of a number of high cost drug treatments for new patients until 2018/19, covering high cost drug treatments for patients with multiple sclerosis, inflammatory bowel disease and dermatology conditions. We would suggest that this type of proposal alongside the main body of the proposals was not further regression in this area, but rather the total antithesis of that.

It is also unacceptable that this measure was not referenced in the local consultation paper, even though local people will be directly impacted by the Northern Ireland wide nature of this proposal. We are advised by the Department that this will lead to tripling the length of waiting time for people to access appropriate medication to help mitigate the effects of their impairment.

The above recommendation was one of a number of recommendations following its concluding observations on the Initial Report of the United Kingdom of Great Britain and Northern Ireland published 29th August 2017, five days into the public consultation period

on these proposals.

The Trust will no doubt appreciate our frustrations and anger, that the current cuts are likely to compound the systemic, physical, attitudinal and/or communicative barriers preventing persons with disabilities from accessing mainstream health services locally and Northern Ireland wide, including the with withdrawal “however temporary”, of appropriate treatment and medicines from people with neurological and cognitive conditions, alongside cuts to domiciliary care, support staff for older people and the withholding of investment projects in our healthcare services, and the likely closure of people’s residences.

Indeed with respect to the latter point we draw attention of the Trust to the Commissioner for Older People analysis that: ‘There is no cohesive approach at regional level to the delivery of key support services for those …people who are assessed as needing non-critical levels of domiciliary care but who would greatly be assisted by social care services’. The Commissioner also stated that good quality domiciliary care was a ‘postcode lottery’ and noted increasing concern that domiciliary care visits are being reduced from thirty to fifteen minutes in some areas. (UKIM Report July 2017) The proposed cuts are inevitably going to exacerbate further already significant health inequalities in this area.

Furthermore with regard to the proposals concerning the future of William Street and Rectory Fields residential homes, and consolidation of services onto fewer sights the Trust should take into account article 19 of the Convention “the right to live independently” and both the Committee’s concluding observations and recommendations in that regard Including recognition of the rights of persons with disabilities (with due consideration of our multiple identities including age) to live independently:

(a) ... as a subjective right and the enforceability of all its elements and adopt rights-based policies, regulations and guidelines for ensuring implementation;

(b) Conduct periodic assessments in **close consultation with organisations of persons with disabilities** to address and prevent the negative effects of the policy reforms through sufficiently funded and appropriate strategies in the area of social support and living independently;

(c) Provide adequate and sufficient and earmarked funding to local authorities and administrations, the devolved governments to be able to provide resources allowing **persons with disabilities to live independently and be included in the community and to exercise their right to choose their place of residence and where, and with whom to live..”**

**Consultation methodology**

Overall the consultation exercise undertaken by the Trust was extremely poor, and in terms genuine involvement of those directly affected groups likely to be impacted by the proposals virtually non-existent. We have identified a number serious failings associated with the consultation exercise, summarized briefly below:

1. The timeline for the consultation exercise of six weeks, half the ideal time for a proper and effective engagement exercise, to ensure affected groups were targeted and meaningfully engaged on the proposals, including face to face consultation with the wider disability sector including disabled persons led organisations.
2. The venues for consultation meetings at least in two instances where we had representatives was too small, and many potential consultees had to leave the venue before the formal consultation sessions began. It was evident that the Trust had at least, on those occasions underestimated the level of interest and outrage felt by the general public about the subject of the consultation exercise.
3. The consultation document was full of unnecessary jargon using terms such as ‘consolidation’ and ‘elective’. At this time we remain unclear about the full intent and scope of some of the proposals, the “consolidation of services onto fewer sites.” Trust staff at the consultation event were not able indicate wether or not this would result in the permanent closure of services or the closure of one of the residential homes to which the specific proposal referred. Please see articles 9 and 21 of the UNCRPD with respect to the accessibility of communication and information, and the aforementioned concluding observations of the UNCRPD Committee in this regard.

6. Much of the consultation paper lacked specific details about what the proposals actually meant in real terms. What for example are the investment programmes to be delayed?

7.

The Convention contains provisions for the close consultation and active involvement of disabled people, and their representative organisations, in decision making, and policy formulation (Article 4(3)) and for promotion of effective and full participation in the conduct of public affairs (Article 29). The effective implementation of public sector disability duties, under the Disability Discrimination Act 1995 (as amended), together with the public sector duties under Section 75 of the Northern Ireland Act 1998, would have enabled the Trust to meet the provisions as outlined within the aforementioned and other articles.

**Background Information Summary:**

**Northwest Forum of People with Disabilities**

The Northwest Forum of People with Disabilities is a cross-community voluntary and community organisation dedicated to promoting the voice of people with disabilities and upholding their collective and individual human rights in all aspects of life.

The Northwest Forum of People with Disabilities is a pan disability human rights organisation. Our membership includes people with:

• mental health issues;

•physical disabilities;

• learning disabilities;

• sensory disabilities;

• hidden disabilities.

Our services include:

• policy engagement consultations;

• training in international human rights and domestic equality anti-discrimination laws;

• peer advocacy/ mediation service programme;

• awareness raising and networking on social and human rights issues.

**The Advocate**

Tony O' Reilly is member of the Northwest Forum Management Committee and a volunteer peer advocate and policy consultant. He has 30 years experience working for people with disabilities in both a paid and voluntary capacity. He has a Post-graduate Diploma in Mediation, Conflict Resolution Management. He has previously worked as a Policy Officer with the Equality Commission for Northern Ireland (2003-2015) with primary responsibility for disability matters. Among his duties was the responsibility to provide secretariat support to the Independent Mechanism for Northern Ireland joint responsibility of both the Equality and Northern Ireland Human Rights Commission's for monitoring the implementation of the UN Convention on the Rights of Persons with Disabilities by Government in Northern Ireland.