

Relevant Extracts from NIHRC Compatibility Drive on Poverty

[Red] Anti-poverty strategy 2018

In June 2015 the NI High Court ruled that the NI Executive had failed to adopt an identifiable strategy setting out how it proposes to tackle poverty, social exclusion and patterns of deprivation based on objective need in furtherance of its obligation to do so under the NI Act 1998 section 28E.

The Commission informed the UN ICESCR Committee in April 2016 that an Anti Poverty Strategy based on objective need remains outstanding, despite the NI High Court ruling in 2015.¹ This remains the case to date. The UN ICESCR Committee in its 2016 Concluding Observations expressed its concern about the disproportionate, adverse impact that austerity measures introduced in 2010 are having on the enjoyment of economic, social and cultural rights by disadvantaged and marginalized individuals and groups. The Committee recommended that the State party takes steps to introduce measures to guarantee targeted support to all those living in poverty or at risk of poverty, in particular persons with disabilities, persons belonging to ethnic, religious or other minorities, single parent families and families with children and adopt an anti-poverty strategy in NI.²

The Households Below Average Income Report published in 2018 outlined a number key findings with regard to poverty in NI:

- In 2016/17 the average (median) income before housing costs in NI increased by three percent from £440 in 2015/16 to £452 in 2016/17.
- The proportion of individuals in relative poverty (before housing costs) was 18 percent. This compares to 17 percent in 2015/16.
- The proportion of working age adults in relative poverty (before housing costs) remained the same at 16 percent the previous year. The proportion of working age adults in absolute poverty (before housing costs) remained the same as the previous year at 14 percent.

¹ NIHRC, Submission to the UN Committee on Economic, Social and Cultural Rights on the 6th Periodic Report of the UK's compliance with ICESCR, April 2016, paras 26.1-26.5.

² UN Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland E/C.12/GBR/CO/6, UN Economic and Social Council, 14 July 2016, para 48.

- The proportion of pensioners living in relative poverty (before housing costs) increased by 2 percentage points to 19 percent in 2016/17 from 17 percent the previous year.³

There has been a statistically significant change for relative poverty (after housing costs) measure for all individuals in 2016/17. During this year 20 percent (approximately 360,000 individuals) were in poverty, compared to 18 percent in 2015/16. This can be attributed to a number of factors: an increase in housing costs, the fall in NI earnings, the fall in NI's economic activity rate, and the impact of social security reforms. It is possible that the 'lag in the implementation' of social security reforms in NI compared to the rest of the UK and 'the introduction of mitigation schemes could possibly counter any negative effects of these other economic factors on the relative poverty rate in NI'.⁴

With the exception of pensioners, the percentages of absolute poverty (before housing costs) remained at their lowest levels.⁵

In 2016, Minister for Communities indicated that poverty would be tackled within a wider social strategy.⁶ To date, this strategy has not been published for consultation.

³ NI Statistics Research Agency, Households Below Average Income: Northern Ireland 2016/17, Department for Communities, 23 August 2018.

⁴ NI Statistics Research Agency, Households Below Average Income: Northern Ireland 2016/17, Department for Communities, 23 August 2018, p.5.

⁵ NI Statistics and Research Agency, Poverty Bulletin: Northern Ireland 2016/17, Department for Communities, 22 May 2018, p.2.

⁶ AQO 431/16-21, Mr Declan McAleer, MLA

[Amber] Child poverty strategy 2018

In 2016, the Commission recommended that the eradication of child poverty in NI was analysed against the (now former) targets set by the UK Government to eliminate Child Poverty by 2020.⁷ The UN ICESCR Committee subsequently expressed concern that the UK:

does not have a specific definition of poverty and that the new Life Chances Strategy, as contained in the Welfare Reform and Work Act 2016, has repealed the duty to meet time-bound targets on child poverty, which remains high and is projected to increase in the future, especially in NI (art. 11).⁸

The UN ICESCR Committee urged the UK to develop a comprehensive child poverty strategy and to reinstate the targets and reporting duties on child poverty.⁹ The UN CRC Committee also reviewed UK's performance in 2016. The UN CRC Committee noted that 'the rate of child poverty remains high...and affects children in Wales and NI the most'.¹⁰ The UK was urged by the UN CRC Committee to:

- (a) Set up clear accountability mechanisms for the eradication of child poverty, including by re-establishing concrete targets with a set time frame and measurable indicators, and continue regular monitoring and reporting on child poverty reduction in all parts of the State party;
- (b) Ensure clear focus on the child in the State party's poverty reduction strategies and action plans, including in the new 'Life Chances Strategy', and support the production and implementation of child poverty reduction strategies in the devolved administrations;
- (c) Conduct a comprehensive assessment of the cumulative impact of the full range of social security and tax credit reforms introduced between 2010

⁷ NIHRC, Submission to the UN Committee on Economic, Social and Cultural Rights 58th Session on the Sixth Periodic Report of the United Kingdom's Compliance with ICESCR, April 2016, p. 44.

⁸ UN Committee on the Rights of the Child, Concluding Observations on the Sixth Periodic Report of the United Kingdom of Great Britain and NI, E/C.12/GBR/CO/6, UN CRC, 24 June 2016, para 48.

⁹ UN Committee on the Rights of the Child, Concluding Observations on the Sixth Periodic Report of the United Kingdom of Great Britain and NI, E/C.12/GBR/CO/6, UN CRC, 24 June 2016, para 48.

¹⁰ UN Committee on the Rights of the Child, Concluding Observations on the Sixth Periodic Report of the United Kingdom of Great Britain and NI, E/C.12/GBR/CO/6, UN CRC, 24 June 2016, para 70(a).

and 2016 on children, including children with disabilities and children belonging to ethnic minority groups;

(d) Where necessary, revise the mentioned reforms in order to fully respect the right of the child to have his or her best interests taken as a primary consideration, taking into account the different impacts of the reform on different groups of children, particularly those in vulnerable situations.¹¹

The Households Below Average Income report published in 2018 set out that the proportion of children living in relative poverty (before housing costs) rose by one percentage points to 22 percent, up from 21 percent the previous year. The proportion of children living in absolute poverty (before housing costs) remained the same at 18 percent. This report also noted that 'the long term trend shows that children are at a higher risk of living in poverty than the overall NI population in both relative and absolute measures'.¹²

The Institute for Fiscal Studies noted that in the UK between 2017/18 and 2021/2022:

'relative child poverty is projected to increase substantially over the period, rising from 29.7% to 36.6%. There are two main reasons for this projected rise. First, poorer families with children get a relatively small share of their income from earnings – Belfield et al. (2016) show that households in the bottom quintile of the child income distribution received 42% of their income from earnings in 2014–15. This means that when earnings rise, median income tends to increase faster than the incomes of poor households with children. Second, the incomes of these households are particularly sensitive to planned benefit cuts: both because benefits make up a large share of their income and because the limiting of the child element of tax credits and universal credit to two children (henceforth described as 'the two-child limit') will lead to significant income losses for poor households with three or more children'.¹³

The Welfare Reform and Work Act 2016 repealed the duty to meet time-bound targets on child poverty as originally set out in the Child Poverty Act 2010 (now Life Chances Act 2010). These targets have been replaced by a

¹¹ UN Committee on the Rights of the Child, Concluding Observations on the Sixth Periodic Report of the United Kingdom of Great Britain and NI, E/C.12/GBR/CO/6, UN CRC, 24 June 2016, paras 71(a)-71(d).

¹² NI Statistics Research Agency, Households Below Average Income: Northern Ireland 2016/17, Department for Communities, 23 August 2018, p.6.

¹³ Andrew Hood and Tom Waters, Living Standards, Poverty and Inequality in the UK: 2017-18 to 2021-22, Institute for Fiscal Studies, November 2017.

statutory duty to publish an annual report on the extent and educational attainment of children in poverty. These changes extend to NI.

The revised 'NI Child Poverty Strategy'¹⁴ and its initial action plan were published in March 2016. The strategy adopts an outcomes based approach. It sets out the indicators that will be used to measure its achievements, including two headline indicators, which are two of the measures set out in the Child Poverty Act 2010, absolute child poverty and relative child poverty. In line with the Life Chances Act, the 2017/2018 annual report on the strategy was published in March 2018.¹⁵ The report recorded that in 2015/2016, 93,000 children (21 per cent) were living in relative poverty and 78,000 children (18 per cent) were living in absolute poverty before housing costs in NI. This was a reduction from 25 per cent and 23 per cent respectively in 2014/15.¹⁶ There is to be cross-over between the 'Child Poverty Strategy' and the proposed new 'Social Strategy', which aims to tackle poverty, social exclusions and patterns of deprivation.¹⁷ The publication of the 'Social Strategy' has yet to occur.

¹⁴ NI Executive, The Executive's Child Poverty Strategy, March 2016.

¹⁵ Department for Communities, A Report on the Northern Ireland Executive's Child Poverty Strategy 2017/18, Department for Communities, March 2018.

¹⁶ Department for Communities NI, Poverty Bulletin: NI 2015/16, Department for Communities NI, 2017

¹⁷ Department for Communities, Annual Report on Child Poverty 2015-2016, Department for Communities, November 2016, p.59

[Amber] Crisis fund 2018

In 2016 the UN ICESCR Committee called on the UK to introduce measures to guarantee targeted support to all those living in poverty or at risk of poverty, including persons belonging to ethnic, religious or other minorities.¹⁸

In January 2016 NI Community of Refugees & Asylum Seekers published a series of case studies outlining the impact of destitution on refugees and their families.¹⁹ The report found that Home Office, Jobs and Benefits Office and Her Majesty's Revenue and Customs practices make refugees extremely vulnerable in the transition from asylum support 'as they have to negotiate a confusing range of government agencies that do not always consult with each other'.²⁰

From September 2016 to March 2017 the NI Executive once again opened a Crisis Fund 'to help minority ethnic individuals with no other means of support through emergency situations, such as vulnerable migrants, refugees and asylum seekers and other vulnerable groups'.²¹ In this period the Crisis Fund made 2125 interventions, supporting people from over 55 countries. There 2032 dependents in total, of which 2020 were children under 18. The main reasons for accessing support were no recourse to public funds (29 percent) and benefits issues (22 percent). The Crisis Fund was reopened in September 2017 and ran until March 2018.

¹⁸ UN Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland E/C.12/GBR/CO/6, UN Economic and Social Council, 14 July 2016, para 48.

¹⁹ NICRAS, 'The Effects of Destitution on Refugees in Northern Ireland', January 2016

²⁰ NICRAS 'The Effects of destitution in refugees in Northern Ireland' January 2016, pg 6.

²¹ NI Executive, 'Junior Ministers Jennifer McCann and Jonathan Bell today outlined the benefits of the new Crisis Fund for vulnerable minority ethnic people,' 4 February 2015.

[Amber] Homelessness 2018

Statistics

The UN ICESCR Committee in its 2016 Concluding Observations urged the UK:

to take immediate measures, including by allocating appropriate funds to local authorities, to reduce the exceptionally high levels of homelessness, particularly in England and NI, and to ensure adequate provision of reception facilities, including emergency shelters, hostels and reception, as well as social rehabilitation centres.²²

The UN ICESCR Committee also urged the UK to:

take specific measures to deal with the inability of renters in the private rental sector to pay rents on account of the limits imposed on housing allowance and to effectively regulate the private rental sector, including through security of tenure protection and accountability mechanisms.²³

The Commission raised these issues with the UN ICESCR Committee in June 2016²⁴ and the Special Rapporteur on Adequate Housing in July 2016.²⁵

In 2016/17, 18,573 households presented as homeless to the NI Housing Executive with 11,889 being accepted as full duty applicants. The number presenting as homeless fell by 0.3 per cent and the number of accepted full duty applicants increased by 6.1 per cent from 2015/16.²⁶ A report by the NI Audit Office found that between 2012 and 2017 the number of households designated as statutory homeless increased by 32 per cent and that the NI Housing Executive's strategic approach had limited success in reducing statutory homeless acceptances.²⁷ The cost to the public purse for this same

²² UN Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland E/C.12/GBR/CO/6, UN Economic and Social Council, 14 July 2016, para 52.

²³ UN Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland E/C.12/GBR/CO/6, UN Economic and Social Council, 14 July 2016, para 50(b).

²⁴ NIHRC, Submission to the UN Committee on Economic, Social and Cultural Rights 58th Session on the Sixth Periodic Report of the United Kingdom's Compliance with ICESCR, April 2016, pp. 49-50.

²⁵ NIHRC, Submission to the Special Rapporteur on Adequate Housing Regarding the Link Between the Right to Life and the Right to Adequate Housing, 2016.

²⁶ http://www.nihe.gov.uk/homelessness_information

²⁷ NI Audit Office, Homelessness in NI: Report by the Comptroller and Auditor General, NI Audit Office, 21 November 2017, p. 14 and 28.

period was approximately £226 million.²⁸ Civil society organisations have also raised concerns for the 'hidden homeless' – those whose applications were rejected (6,684 in 2016/17) and the unknown number of homeless who do not apply in the first place.

Research has shown that the rates for statutory homeless acceptances are higher in NI than anywhere elsewhere in the UK. In 2015/16, statutory acceptances per 1,000 households in NI ran at 14.8 per cent compared to 11.7 per cent in Scotland, 3.6 per cent in Wales and 2.3 per cent in England.²⁹ The NI Audit Office's 2017 research raised concerns that the NI Housing Executive were unable to fully demonstrate the impact of its work in reducing homelessness. This was due weaknesses in its analysis, interpretation and presentation of data. The data sets and statistics published by the Department for Communities were also found to be less comprehensive than those published in other jurisdictions.³⁰

Homelessness arises due to a combination of factors. The primary reasons cited by the NI Housing Executive are 'sharing breakdown/family dispute, accommodation not reasonable and loss of rented accommodation'.³¹ Economic pressures, mental health and addiction can also have an impact.³²

The NI Audit Office concluded in 2017 that the NI Housing Executive had been slow to adopt a Housing Options preventative approach for homelessness and that the previous 'Homelessness Strategy 2012-17' had no overall outcome based targets.³³ The new strategy, 'Ending Homelessness Together - the Homelessness Strategy for NI 2017-2022' was published by the NI Housing Executive in April 2017.³⁴ It aims to prevent homelessness, to ensure that households experiencing homelessness are supported to find suitable accommodation and support solutions as quickly as possible, and to ensure a cross-departmental and inter-agency approach to ending

²⁸ NI Audit Office, Homelessness in NI: Report by the Comptroller and Auditor General, NI Audit Office, 21 November 2017, p. 13.

²⁹ Suzanne Fitzpatrick et al, The Homelessness Monitor: Northern Ireland 2016, Crisis, 2016, p.52.

³⁰ NI Audit Office, Homelessness in NI: Report by the Comptroller and Auditor General, NI Audit Office, 21 November 2017, p. 26-30.

³¹ http://www.nihe.gov.uk/homelessness_information

³² Patient and Client Council, Issues faced by People who are Homeless in Accessing Health and Social Care Services – Report of an Initial Scoping Exercise, HSCNI, 2015, p. 5; Suzanne Fitzpatrick et al, The Homelessness Monitor: Northern Ireland 2013, Crisis, 2013, p. ix.

³³ NI Audit Office, Homelessness in NI: Report by the Comptroller and Auditor General, NI Audit Office, 21 November 2017, p. 24-25.

³⁴ Northern Ireland Housing Executive, Ending Homelessness Together: Homelessness Strategy for Northern Ireland 2017-22, Northern Ireland Housing Executive, 2016

homelessness. It acknowledges "how failing to prevent homelessness costs the public purse thousands of pounds more per individual than would be the case were timely interventions to take place".³⁵ The strategy includes a NI Housing Executive led action plan with a number of short term (year one), medium term (year two/three) and long term (year four/five) actions.³⁶

Preventing rough sleeping

The UN ICESCR Committee in its 2016 Concluding Observations on the UK urged the UK:

to adopt all necessary measures to avoid the criminalisation of 'rough sleeping' in the State Party and to develop appropriate policies and programmes to facilitate the social reintegration of homeless persons. In this respect, the Committee draws the attention of the State Party to its General Comment No 4 (1991) on the right to adequate housing.³⁷

A Belfast Street Needs Audit conducted by the NI Housing Executive in 2015, identified an average of six people per night were rough sleeping in Belfast.³⁸ A small, unidentified number are also rough sleeping in Londonderry/Derry.³⁹ It is believed that if services were not available that this figure would rise to 100 individuals.⁴⁰

Homelessness and health

The average age of life-expectancy for homeless people sleeping rough or residing in shelters and homeless hostels is 43 years of age for women and 48 for men.⁴¹ The average life expectancy for the wider population in NI is

³⁵ Northern Ireland Housing Executive, Ending Homelessness Together: Homelessness Strategy for Northern Ireland 2017-22, Northern Ireland Housing Executive, 2016, p.17

³⁶ Northern Ireland Housing Executive, Ending Homelessness Together: Homelessness Strategy for Northern Ireland 2017-22, Northern Ireland Housing Executive, 2016, para 5.0-5.5

³⁷ UN Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland E/C.12/GBR/CO/6, UN Economic and Social Council, 14 July 2016, para. 52.

³⁸ Northern Ireland Housing Executive, Ending Homelessness Together: Homelessness Strategy for Northern Ireland 2017-22, Northern Ireland Housing Executive, 2016, para 4.3.1

³⁹ Northern Ireland Housing Executive, Ending Homelessness Together: Homelessness Strategy for Northern Ireland 2017-22, Northern Ireland Housing Executive, 2016, para 4.3.1

⁴⁰ NIHE, Homelessness Strategy for NI 2012-2017, 2012, p. 22.

⁴¹ Patient and Client Council, Issues faced by People who are Homeless in Accessing Health and Social Care Services – Report of an Initial Scoping Exercise, HSCNI, 2015, p. 5.

82.3 years for women and 78.3 years for men.⁴² A number of homeless persons died on the street in Belfast in early 2016,⁴³ some of these individuals were to varying degrees users of homelessness services.⁴⁴ There is a lack of data available, but the indications are that the deaths of homeless people are significantly increasing across the UK, including NI.⁴⁵

The NI Housing Executive's 'Housing and Health Strategy' recognises the need for partnership working with the health sector and also statutory, voluntary and community sectors.⁴⁶ It also recognises a link between inadequate housing and health. Similarly, the 'Ending Homelessness Together - the Homelessness Strategy for NI 2017-2022' acknowledges the "catastrophic effect... with far reaching and long term implications for health and well being" that homelessness can have on a household.⁴⁷

Repossession and Mortgages

In September 2017, research from the Joseph Rowntree Foundation reported that "twice as many of NI's mortgaged households are behind with their mortgage payments (14 per cent) compared to the whole of the UK (7 per cent)".⁴⁸ NI's households with mortgages also "had more than three times the incidence of negative equity (11 per cent) than those across the UK (3 per cent)".⁴⁹

⁴² Information Analysis Directorate, Health Inequalities: Life Expectancy Decomposition 2017, Department of Health, September 2017, p.5.

⁴³ BBC News NI, 'Belfast city centre: Homeless man found dead 'loveable rogue'', 8 February 2016. Available at: <http://www.bbc.co.uk/news/uk-northern-ireland-35522393>; Allan Preston, 'City homelessness summit after three deaths in fortnight', Belfast Telegraph, 19 February 2016. Available at: <http://www.belfasttelegraph.co.uk/news/northern-ireland/city-homelessness-summit-after-three-deaths-in-forenight-34466980.html>; Angela Rainey, 'Homeless action call as fourth man dies in Belfast', Belfast Telegraph, 26 February 2016. Available at: <http://www.belfasttelegraph.co.uk/news/northern-ireland/homeless-action-call-as-fourth-man-dies-in-belfast-34487459.html>; BBC News NI, 'Belfast: Homeless woman dies in shop doorway', 19 March 2016. Available at: <http://www.bbc.co.uk/news/uk-northern-ireland-35853752>.

⁴⁴ Committee for Social Development Meeting, 3 March 2016. Available at <https://niassembly.tv/video/committee-social-development-meeting-03-march-2016/>.

⁴⁵ Patrick Greenfield and Sarah Marsh, 'Deaths of UK homeless people more than double in five years', The Guardian, 11 April 2018.

⁴⁶ NIHE, Homelessness Strategy for NI 2012-2017, 2012, p. 7.

⁴⁷ Northern Ireland Housing Executive, Ending Homelessness Together: Homelessness Strategy for Northern Ireland 2017-22, Northern Ireland Housing Executive, 2016, para 4.1

⁴⁸ Alison Wallace, David Rhodes and Firona Roth, Home-owners and Poverty in NI, Joseph Rowntree Foundation, September 2017

⁴⁹ Alison Wallace, David Rhodes and Firona Roth, Home-owners and Poverty in NI, Joseph Rowntree Foundation, September 2017

The Mortgage Repossession Taskforce's final report investigating the impact of negative equity, repayment arrears and possessions in NI was published in May 2015.⁵⁰ A number of recommendations made by the Taskforce have been implemented. The Housing Rights also hosts an online mortgage interest rate calculator that enables clients to stress-test themselves for higher interest rates⁵¹. The NI Housing Executive's Housing Solutions model assists households affected by repossession to access homelessness assessments. Furthermore, the Behavioural Insights Team has published a report on how to encourage borrowers facing mortgage arrears to take action earlier⁵².

The waiting time for the financial support for new claimants on certain means tested benefits, the Support for Mortgage Interest, was reinstated as 39 weeks in April 2016.⁵³ In April 2018, the Support for Mortgage Interest was ended and replaced by a system of loans. These loans are to be repaid when a claimant transfers ownership or sells the home⁵⁴. The take up of the new loan arrangements have been low to date in NI - a trend across the UK.

⁵⁰ DSD, Housing Repossession Taskforce: Final Report, February 2015.

⁵¹ <https://www.housingadviceni.org/diy/rate-rise-calculator>

⁵² The Behavioural Insights Team, Applying Behavioural Insights to Encourage Earlier Engagement from Borrowers in Mortgage Arrears, Behavioural Insights Team, 20 May 2015

⁵³ <https://www.nidirect.gov.uk/articles/getting-help-make-your-mortgage-interest-payments>

⁵⁴ <https://www.gov.uk/support-for-mortgage-interest>

[Amber] Reduction in asylum financial support 2018

The Immigration and Asylum Act 1999, section 95 (section 95 support) provides for support for asylum seekers and their dependents who appear to the Home Secretary to be destitute or who are likely to become destitute. In July 2015, the UK Government introduced a flat rate in asylum support. The standard rate is £37.75 per week provided to each person supported of all ages.⁵⁵ Extra money to buy healthy food is provided to asylum seekers that are pregnant or a mother of a child under 3. The amount (between £3 and £5 per week) depends on the individual's situation. A one-off maternity payment of £300 can be applied for if an individual's baby is due in eight weeks or less, or if the individual's baby is under six weeks old.⁵⁶

The Immigration Act 2016 amended the Asylum and Immigration Act 1999 by creating a new power to support failed asylum seekers who can demonstrate that they are destitute and face a genuine obstacle to leaving the UK at the point their appeal rights have been exhausted.⁵⁷ The 2016 Act made amendment to the 1999 Act so that persons who have children in their household at the time their asylum claim and any appeal is finally rejected will no longer be treated as though they were still asylum seekers and so will no longer be eligible for support under section 95. Those refused asylum will be given somewhere to live and £35.39 per person on a payment card for food, clothing and toiletries. They will not be given any money and will not be given the payment card if they do not take the offer of somewhere to live. Those refused asylum can apply for a one-off £250 maternity payment if the baby is due in eight weeks or less, or if the baby is under six weeks old.⁵⁸

The British Red Cross reported in February 2017 that 'asylum destitution was on the rise' in Britain. The British Red Cross came to the aid of 14,909 people, including dependants, without adequate access to food, housing or healthcare last year, an increase of nearly 10% on the 13,660 seen in 2015⁵⁹. A report by the Refugee Council in September 2017 found that a number of newly recognised refugees were forced to rely on charities, friends and family and foodbanks once their asylum support was terminated as Home Office support had dropped away and employment had not been secured. The Refugee Council recommended that when an application for welfare payments has been made within the 28 day 'move on period', the

⁵⁵ Regulation 2 of The Asylum Support (Amendment No.3) Regulations 2015.

⁵⁶ <https://www.gov.uk/asylum-support/what-youll-get>

⁵⁷ Immigration Act 2016, schedule 11.

⁵⁸ <https://www.gov.uk/asylum-support/what-youll-get>

⁵⁹ British Red Cross 'Asylum Destitution on the Rise' 3 February 2017.

Home Office should not cease asylum support until the first payment has been made.⁶⁰

⁶⁰ Refugee Council 'Refugees without Refuge: findings from a survey of newly recognised refugees' September 2017, pg 4.

[Amber] Social housing 2018

Housing Supply

The UN ICESCR Committee in its 2016 Concluding Observations urged the UK to:

adopt all necessary measures to address the housing deficit by ensuring a sufficient supply of housing, in particular social housing units, especially for the most disadvantaged and marginalised individuals and groups, including middle-and-low-income individuals and households, young people and persons with disabilities.⁶¹

At 31 March 2017, the total number of applicants on the social housing waiting list was 37,611 this has increased by 25 since March 2016. Of these applicants, 23,964 were in housing stress, where they had 30 or more points under the Common Selection Scheme. This has increased by 1,319 (6 per cent) since March 2016. Additionally, 11,889 households were deemed to be statutorily homeless.⁶² There is an overall requirement of 190,000 new dwellings needed in NI between 2008 and 2025, an annual figure of 11,200.⁶³ Current targets fall significantly short of this. During 2015/2016, 1,209 new dwellings were completed under the Social Housing Development Programme.

The 'Facing the Future: Housing Strategy for NI 2012-2017' commits to ensuring access to decent affordable sustainable homes across all tenures and meet housing need and support the most vulnerable.⁶⁴ This Strategy expired at the end of 2017 and we continue to await its final evaluation.⁶⁵ In August 2015, 21 actions set out in the Strategy had been achieved or were on track for achievement, nine actions were broadly on track for achievement, two actions had some risk of delay and one action was not expected to be achieved within the timescale.⁶⁶ The new housing strategy is set out in the draft 'Programme for Government'. This adopts an outcomes

⁶¹ UN Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland E/C.12/GBR/CO/6, UN Economic and Social Council, 14 July 2016, para 50(a).

⁶² http://www.nihe.gov.uk/waiting_lists

⁶³ NIHE, NI Housing Market Review and Perspectives 2015-2018, 2015, p. 23.

⁶⁴ DSD, Facing the Future: The Housing Strategy for NI 2012-17, 2012; DSD, Facing the Future: The Housing Strategy for Northern Ireland Action Plan Update: September 2015, 2015.

⁶⁵ Department for Communities, Email on Social Housing from Department for Communities to NIHRC, Department for Communities, 28 September 2017

⁶⁶ Department for Social Development, Facing the Future: The Housing Strategy for NI Action Plan Update, Department for Social Development, September 2015, p.10.

based approach, which includes a Housing Delivery Plan. The Draft Programme aims:

to address (i) the number of households in housing stress and (ii) the gap between the number of houses we need, and the number of houses we have. The draft proposes a number of measures, including providing an additional 9,600 social homes and supporting 3,750 first time buyers into home ownership. It also includes a proposal to release more public sector land for housing development.⁶⁷

However, without a NI Executive the new strategy cannot be implemented.

The Housing Supply Forum was established as a result of the 2012-2017 strategy. It published its report in January 2016, concluding that there were not enough homes being constructed in NI to meet demand.⁶⁸ The Forum made a number of recommendations, including issues such as: the completion of a mapping exercise, assessing demand and availability; and increased support and encouragement from Government for joint ventures between Housing Associations and private developers. It also recommended that powers be made available to the new local councils to enable sites to be developed for the benefit of the whole community and to ensure appropriate delivery of housing need.⁶⁹

In 2016, following reviews by the Office of National Statistics of the statistical classification of registered social landlords and housing associations across the UK, social housing providers were reclassified as Public Financial Corporations. In effect this made such housing providers public sector bodies.⁷⁰ The Department for Communities ran a consultation between December 2016 and February 2017, which considered a reversal of the reclassification in NI. The former Minister for Communities, Paul Givan, was concerned that the reclassification had:

the potential to significantly reduce the amount of money available to Registered Social Housing Providers and therefore the number of social homes that are built each year.⁷¹

⁶⁷ <http://aims.niassembly.gov.uk/questions/printquestionssummary.aspx?docid=282146>

⁶⁸ Housing Supply Forum, Report and Recommendations: January 2016, p. 10.

⁶⁹ Housing Supply Forum, Report and Recommendations: January 2016, pp. 13-19.

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<https://www.ons.gov.uk/economy/nationalaccounts/uksectoraccounts/articles/statisticalclassificationofregisteredprovidersofsocialhousinginScotlandWalesandNorthernIreland/September2016>

⁷¹ Department for Communities, Proposals to Seek Reversal of the Reclassification of Registered Social Housing Providers in Northern Ireland, Department for Communities, 2016, p. 3.

Officials continue to develop policy options and legislative proposals for consideration by an incoming Minister to facilitate a reversal of the reclassification.⁷² This includes a report on the consultation.

Segregation

The UN ICESCR Committee in its 2016 Concluding Observations urged the UK to 'intensify its efforts to address the challenges to overcome persistent inequalities in housing for Catholic families in North Belfast, including through meaningful participation of all actors in decision-making processes related to housing'.⁷³

The Equality Commission NI in its 'Statement on Key Inequalities on Housing and Communities in NI' found that the Catholic household reference person applicants continue to experience longest waiting times for social housing in NI as a whole. It further found "while median waiting times had increased for all groups, more substantive increases were noted for households with a 'Catholic' or 'Other' religion household reference person"⁷⁴.

One of the key priorities under the 'Together Building a United Community Strategy' is the creation of new shared communities, as the NI Life and Times Survey indicates that 77 per cent of respondents would prefer to live in a mixed neighbourhood⁷⁵. One of the commitments under the strategy was the creation of ten new 'Shared Neighbourhood Developments'. Five of the new shared neighbourhood developments have been completed, with the development of the remaining five underway⁷⁶. All new residents of the shared neighbourhoods "are required to sign up to a voluntary 'Good Neighbour' charter, which promotes good relations and the right to diversity within the development"⁷⁷.

The 'Community Cohesion Strategy 2015-20' is delivered across five themes including segregation/integration. In this regard, the strategy contains a number of actions including: supporting research into segregated and shared housing including updating the Mapping Segregation report; facilitating and

⁷² Department for Communities, Email on Social Housing from Department for Communities to NIHRC, Department for Communities, 28 September 2017

⁷³ UN Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland E/C.12/GBR/CO/6, UN Economic and Social Council, 14 July 2016, para. 50(e).

⁷⁴ Equality Commission NI, Statement on Key Inequalities in Housing and Communities in NI: Full Statement, Equality Commission NI, April 2017, para 1.9

⁷⁵ http://www.ark.ac.uk/nilt/2016/Community_Relations_MXRLGNGH.html

⁷⁶ NI Executive , Together: Building a United Community Update Report , June 2017, p.3

⁷⁷ NI Executive , Together: Building a United Community Update Report , June 2017, p.14

encouraging mixed housing schemes in the social and affordable sector; and work with the NI Executive Office, the Department for Communities, Housing Associations and others to bring proposals forward for ten Shared Future capital build projects of mixed housing schemes in the medium term. The strategy also commits to developing programmes of action to address issues of residential segregation and integration across three years, as well as developing legacy programmes targeting young champions in neighbourhoods.⁷⁸ Despite these actions, in October 2017, two families were intimidated out of a mixed housing scheme in Belfast following a threat from a paramilitary group. The public authorities have been criticised for not addressing the root of the problem and not having a strategy in place that offers mitigation measures.⁷⁹

Data Collection

The Equality Commission NI's assessment of the 'Facing the Future: Housing Strategy for NI 2012-2017' and 'Building Successful Communities' found that, despite monitoring guidance for public authorities, there is a lack of robust housing and communities data relating to a number equality grounds including: gender, gender identity, religion, race, political opinion, and sexual orientation.⁸⁰

⁷⁸ NIHE, Community Cohesion Strategy 2015-2020, 2015, p. 34.

⁷⁹ Brett Campbell, Belfast families living in fear on mixed estate where Catholics forced to flee, Belfast Telegraph, 29 September 2017. Available at: <https://www.belfasttelegraph.co.uk/news/northern-ireland/belfast-families-living-in-fear-on-mixed-estate-where-catholics-forced-to-flee-36179555.html>

⁸⁰ ECNI, Investigation Report under Schedule 9 of the NI Act 1998: Department for Social Development - Housing Policy Proposals, November 2015.

[Amber] Social security 2018

In its previous annual statements the Commission reported on the advice provided to the NI Assembly in relation to the Welfare Reform Bill, which identified a number of potential consequential impacts on the protection of human rights.⁸¹

In 2016 the UN ICESCR Committee made a number of recommendations relating to social security reform in the UK. These included: review the entitlement conditions and reverse the cuts in social security benefits introduced by the Welfare Reform Act 2012 and the Welfare Reform and Work Act 2016; restore the link between the rates of State benefits and the costs of living and guarantee that all social security benefits provide a level of benefit sufficient to ensure an adequate standard of living, including access to health care, adequate housing and food; review the use of sanctions in relation to social security benefits and ensure they are used proportionately and are subject to prompt and independent dispute resolution mechanisms; and provide in its next report disaggregated data on the impact of social security reforms on women, children, persons with disabilities, low income families and families with two or more children.⁸²

Following on from the findings of its Inquiry, in August 2017 the UNCRPD Committee recommended that the UK Government:

carry out a cumulative impact assessment, with disaggregated data, about the recent and coming reforms on the social protection for persons with disabilities, and in close collaboration with organisations of persons with disabilities define, implement and monitor measures to tackle retrogression in their standard of living and use it as a basis for policy development across the State party.

With respect to NI the Committee specifically recommended that relevant authorities extend support packages to mitigate negative impacts of the social security reform in NI.

In November 2018, the UN Special Rapporteur on extreme poverty and human rights, Professor Philip Alston, undertook an official visit to the UK. During his visit the Special Rapporteur met with stakeholders, including the Commission, to discuss austerity, Universal Credit, child poverty and the use

⁸¹ NIHRC, The 2012 Annual Statement: Human Rights in NI, December 2012.

⁸² UN Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland E/C.12/GBR/CO/6, UN Economic and Social Council, 14 July 2016.

of new technologies in the welfare system.⁸³ The Special Rapporteur's report on the visit will be available in 2019.

Westminster legislated for welfare reform in NI, broadly equivalent to the reforms in the Welfare Reform Act 2012. The NI Executive agreed to allocate a total of £585 million from NI Executive funds over four years to top up the UK welfare arrangements in NI, with a review in 2018-19. A NI Executive-established working group which published its recommendations in January 2016. The First Minister of NI agreed to fully implement the recommendations made by the working group to mitigate the impact of social security reform.⁸⁴

In May 2018, the Commission met with the Minister for Disabilities, Sarah Newton MP, to highlight the need to address the recommendations of the UN CRPD Committee.

The High Court in London ruled in June 2017 that the further reduced benefit cap introduced by the UK Government unlawfully discriminated against lone parents with children under two years of age. The claimants argued that the imposition of the cap on lone parents with children under two amounted to unlawful discrimination contrary to Articles 8, 14 and Article 1 Protocol 1 of the ECHR.⁸⁵ Mr Justice Collins said:

whether or not the defendant accepts my judgment, the evidence shows that the cap is capable of real damage to individuals such as the claimants. They are not workshy but find it, because of the care difficulties, impossible to comply with the work requirement. Most lone parents with children under two are not the sort of households the cap was intended to cover and, since they will depend on DHP, they will remain benefit households. Real misery is being caused to no good purpose.⁸⁶

The UK Government appealed this decision. The Court of Appeal in London found in the Government's favour by a majority of two to one. The court reasoned that the circumstances of lone parents with children under two are not sufficiently different from other lone parents as to require an exception to be made to the benefit cap. The Court of Appeal recognised that parents

⁸³ UNOHCHR, Call for Written Submission - Visit by the UN Special Rapporteur on extreme poverty and human rights to the UK of Great Britain and NI from 5 to 16 November 2018. Available at: <https://www.ohchr.org/EN/Issues/Poverty/Pages/CallforinputUK.aspx>

⁸⁴ BBC News NI, NI Welfare Reform: Arlene Foster "will fully implement" welfare mitigation proposals, 22 January 2016.

⁸⁵ Child Poverty Action Group 'Two Child Limit Challenge' 23 May 2017.

⁸⁶ DA and Others v Secretary of State for Work and Pensions [2017] EWHC 1446 (Admin) at para 43.

and children's rights under Article 8 of the ECHR are impacted by the cap and that the cap caused extreme hardship to many families. The Court of Appeal also gave permission to appeal to the UK Supreme Court.⁸⁷

The continuing implications of social security reform are not yet clear, with a number of the reform measures yet to be fully implemented in NI. The Social Size Criteria for housing benefit, commonly known as bedroom tax came into effect in 2017.⁸⁸ From April 2017, new claimants will generally not be able to claim Child Tax Credit for third or subsequent children or qualifying young persons born on or after 6 April 2017⁸⁹, save in limited circumstances. This also applies to Universal Credit, as it is introduced. The Institute for Fiscal Studies has noted that from 2017-18 to 2021-22:

'absolute child poverty is projected to rise by around 4ppts, primarily due to the impact of planned reforms... [The] 'two-child limit' is projected to increase overall absolute poverty by a little under 1ppt and absolute child poverty by over 2ppts. Some regions are affected much more heavily than others: NI and the West Midlands, with twice as many large poor families as Scotland and the South West, are projected to see a larger increase in poverty as a result of the policy.'⁹⁰

Concerns have been raised with one of the exemptions namely, a child being born as a result of rape or coercive conception.⁹¹ Regulations which require women to prove that they conceived their third child through rape to access child tax credit for that child. Women's Aid Federation NI said:

this ill-thought out law will be devastating and re-traumatising for victims of rape who need to access child tax credits. The policy is discriminatory towards women, and towards poor women in particular.⁹²

In April 2018, the Attorney General laid human rights guidance before the NI Assembly for the Public Prosecution Service in respect of the two child rule with respect to the obligation to disclose information relating to rape offences.⁹³

⁸⁷ <http://blog.shelter.org.uk/2018/03/benefit-cap-challenge-beaten-in-court-of-appeal/>

⁸⁸ NI Housing Executive 'Social Size Criteria'

⁸⁹ HM Revenue and Customs 'Child Tax Credits: Exceptions to the 2 Child Limit'

⁹⁰ Andrew Hood and Tom Waters, Living Standards, Poverty and Inequality in the UK: 2017-18 to 2021-22, Institute for Fiscal Studies, November 2017, p.6.

⁹¹ HM Revenue and Customs 'Child Tax Credits: exceptions to the 2 child limit' 6 April 2017.

⁹² Women's Aid Federation NI 'Women's Aid NI statement on 2-child tax credit rule and 'rape clause' 30 March 2017

⁹³ Attorney General for NI, Guidance by the Attorney General for NI pursuant to Section 8 of the Justice (NI) Act 2004: No 14 Human Rights Guidance for the Public Prosecution Service the Application of Section 5 of the Criminal Law Act (NI) 1967 to Rape Victims and those to

The Child Poverty Action Group lodged a judicial review claim in Britain challenging the lawfulness of the two child limit on human rights grounds, covering both the ECHR and UNCRC. In April 2018, England and Wales High Court Judge Mr Justice Ouseley found that only exempting the third or subsequent kinship care children was 'not rationally connected with the purposes of the legislation and indeed it is in conflict with them'. The judge identified:

the purpose of the exception is to encourage, or at least avoid discouraging, a family from looking after a child who would otherwise be in local authority care, with the disadvantages to the child over family care which that can entail and the public expenditure it can require.⁹⁴

Following the ruling, the Secretary of State for Work and Pensions announced that all children who are adopted will not be taken into account for the purposes of the two-child limit in tax credits and universal credit. The Child Poverty Action Group welcomed this exception, but 'urged the Secretary of State to go further and ensure that all children born as a result of non-consensual sex are also not taken into account for the purposes of the two-child limit'.⁹⁵ The Child Poverty Action Group are appealing the rest of the judgment.

Universal Credit has been introduced on a phased geographical basis from September 2017 for new claims, and between July 2019 and March 2022 for existing claimants.⁹⁶ Universal Credit will replace: income based Jobseekers Allowance; income related Employment and Support Allowance; Income Support; Child Tax Credit; Working Tax Credit; and Housing Benefit (rental).

It has been reported that delays and waiting times in the processing of Universal Credit applications in other parts of the UK has resulted in claimants reporting they were in rent arrears. One in four new universal credit claimants waited more than 42 days for a first payment, while nearly half of families said moving on to the benefit had led them to fall behind with rent for the first time.⁹⁷

Whom they make Disclosures in Connection with a Claim for Social Security, Child Tax Credit or Anonymous Registration on the Electoral Roll, Attorney General for NI, 20 April 2018

⁹⁴ CO/3806/2017, SC, CB, CC and CD and 11 Children v Secretary of State for Work and Pensions and Others, [2018] EWHC 864, 20 April 2018.

⁹⁵ <http://cpag.org.uk/content/child-poverty-action-group-wins-more-exemptions-two-child-rule>

⁹⁶ Department for Communities 'Universal Credit'

⁹⁷ The Guardian 'Universal credit is in 'total disarray', says Labour', 15 September 2017.

The House of Commons Public Accounts Committee published a report on benefit sanctions in 2017 recommending that the Department for Work and Pensions should undertake a trial of warnings rather than sanctions for first sanctionable offences. Furthermore, the Committee recommended that the Department should monitor variations in sanctions referrals and assess reasons for differences across jobcentres.⁹⁸

In November 2017, the Equality and Human Rights Commission published a report on the impact that changes to all tax, social security and public spending reforms since 2010 will have on people by 2020. The report found the poorest were set to lose ten per cent of their incomes. While the richest lose barely one per cent. Moreover specific groups will do particularly badly including lone parents, families with a disabled adult and/or disabled child.⁹⁹

⁹⁸ House of Commons 'Benefit Sanctions' 17 February 2017

⁹⁹ Equality and Human Rights Commission, Distributional results for the impact of tax and welfare reforms between 2010-17, November 2017

[Amber] Travellers accommodation 2018

On 1 September 2016 the Commission launched an investigation into Travellers' accommodation in NI¹⁰⁰. The investigation exercises the Commission's powers under Section 69 of the NI Act 1998. The Investigation focuses on providing a human rights analysis of good practices and issues that arise in relation to the right to adequate housing, in the context of Travellers' accommodation. It involves gathering and analysing evidence from the relevant public authorities, civil society organisations and members of the Traveller communities in NI. The findings of the investigation were published in March 2018.¹⁰¹ Thirteen systemic issues were identified, which are outlined below.

Domestic Legal Framework

The Commission's investigation found "domestic laws and policies regarding Travellers' accommodation in NI largely satisfy human rights requirements. However, the existence of the Unauthorised Encampments (NI) Order 2005 has a disproportionate impact on the Traveller communities and threatens their nomadic culture. There are particular issues identified with respect to clarifying the legislative requirements regarding the licencing of Travellers' sites and the provision of portable accommodation (such as caravans, trailers and chalets). Additionally, public authorities are relying on a 1997 version of the 'Design Guide for Travellers' Sites in NI', as the subsequent reviews have not been published. The 1997 version lacks sufficient details and is not sufficiently prescriptive".¹⁰²

Domestic Practice

The Commission's investigation confirmed "there are persistent issues with implementing the legal framework in practice. How policy and legislation is implemented determines the outcomes for those people the policies and practice are aimed at. Across the board for all Travellers' accommodation types, the domestic laws and policies are not necessarily translating into practice, which impacts adversely on the ability of Travellers to enjoy the rights set out therein".¹⁰³

¹⁰⁰ NIHRC, Travellers' Accommodation Investigation Terms of Reference, NIHRC, September 2016

¹⁰¹ NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018.

¹⁰² NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018, p.288.

¹⁰³ NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018, p.287.

Racial Discrimination

The Commission's investigation found that "in the context of Travellers' accommodation, there is evidence that Travellers have been subject to discriminatory behaviours and attitudes from public authorities and the settled community. This emerges through actions, but also through inaction and general inertia regarding Travellers' issues. Negative public opinions and bias towards Travellers also impacts negatively on Travellers, in particular concerning planning applications".¹⁰⁴

Race Legislation

The Commission's investigation confirmed that "the Race Relations (NI) Order 1997 places a duty on local Councils to have due regard to the need to promote good relations. Although this broadly corresponds to human rights standards, the duty is not extended to all public authorities. Furthermore, the lack of structured race relations programmes to improve relations between the settled and Traveller communities contributes to discrimination against Travellers that has persisted for decades. This will continue to do so without proactive and systematic changes in attitude at all levels - grass roots, civil society and public authorities".¹⁰⁵

Resource Availability

The Commission's investigation identified that "while the NI Housing Executive maintains it is satisfied with the resources available to it for developing and maintaining Traveller-specific accommodation, the existing accommodation is insufficient to the need. In addition, a spend per pitch has been reducing on an annual basis".¹⁰⁶

Resource and Policy Accountability

The Department for Communities "allocates funding to the NI Housing Executive, but there is no robust mechanism in place for the Department to monitor how funding is allocated to Travellers' accommodation and what outcomes are being achieved".¹⁰⁷

¹⁰⁴ NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018, p.288.

¹⁰⁵ NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018, p.288.

¹⁰⁶ NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018, p.289.

¹⁰⁷ NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018, p.289.

Provision of Traveller-specific Accommodation

The UN CEDAW Committee recommended in its 2013 Concluding Observations that the UK "provide adequate sites designated for use by Traveller women and members of their families¹⁰⁸". The UN ICESCR Committee in its 2016 Concluding Observations found within the UK, including NI, there is a 'shortage of adequate stopping sites for Roma/Gypsies and Irish Travellers'.¹⁰⁹ The UN ICESCR Committee urged the UK to "ensure adequate access to culturally appropriate accommodation and stopping sites for the Roma, Gypsy and Traveller communities, as appropriate, take steps to avoid all discrimination in the provision of accommodation¹¹⁰". The UN ICERD Committee in its 2016 Concluding Observations recommended the UK "develop a comprehensive strategy, in consultation with members of Gypsy, Traveller and Roma communities, to ensure a systematic and coherent approach in addressing the challenges that members of these communities continue to face in the fields of... housing¹¹¹". The UN ICERD Committee continued the UK should "ensure the provision of adequate and culturally appropriate accommodation and stopping sites as a matter of priority¹¹²".

The CoE Advisory Committee on the Framework Convention for the Protection of National Minorities in its 2016 report on the UK found "access to campsites by Gypsies and Travellers continues to be problematic, particularly in... NI¹¹³". Furthermore, "local authorities appear to struggle with the task of providing adequate permanent and temporary sites for

¹⁰⁸ UN Committee on the Elimination of Discrimination Against Women, Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland, CEDAW/C/GBR/CO/7, UN CEDAW, July 2013, para 61(b).

¹⁰⁹ UN Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland E/C.12/GBR/CO/6, UN Economic and Social Council, 14 July 2016, para 30.

¹¹⁰ UN Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland E/C.12/GBR/CO/6, UN Economic and Social Council, 14 July 2016, para 50(d).

¹¹¹ UN Committee on the Elimination of Racial Discrimination, Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom, CERD/C/GBR/CO/21-23, UN CERD, 26 August 2016, para 25(a).

¹¹² UN Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland E/C.12/GBR/CO/6, UN Economic and Social Council, 14 July 2016, para 25(b).

¹¹³ CoE Advisory Committee on the Framework Convention for the Protection of National Minorities, Fourth Opinion on the UK adopted on 25 May 2016, Advisory Committee on the FCNM, 27 February 2017, p.2.

these groups¹¹⁴". The Advisory Committee acknowledged that there is a "link between poor health conditions and inadequate and insecure campsite availability¹¹⁵". The Advisory Committee recommended for immediate action that "a multi-agency taskforce on Traveller sites in NI" is setup "to cater to the needs of Irish Travellers¹¹⁶".

The Commission, in its 2016 parallel report, advised the UN ICESCR Committee to recommend that the UK ensure planning rules take into account the needs of Travellers in NI.¹¹⁷

The Commission's investigation found "there is insufficient culturally adequate Travellers' accommodation available. In particular, the NI Housing Executive is failing to provide sufficient adequate Travellers' sites. Its actions and inaction suggest a preference for developing and maintaining bricks and mortar accommodation, over Travellers' sites. Third party objections and delays in planning often obstruct the development of required new Travellers' sites. Furthermore, the legislative framework does not enable the NI Housing Executive to provide nomadic housing structures, such as caravans, trailers or chalets. These factors are contributing to the number of Travellers moving into bricks and mortar accommodation and restricting Travellers' ability to practice their cultural traditions".¹¹⁸

Monitoring Needs for Travellers' Accommodation

The UN ICERD Committee in its 2016 Concluding Observations recommended the UK "ensure its effective implementation by adopting specific action plans, putting in place effective oversight and monitoring mechanisms to track progress, and providing adequate human and financial resources¹¹⁹".

¹¹⁴ CoE Advisory Committee on the Framework Convention for the Protection of National Minorities, Fourth Opinion on the UK adopted on 25 May 2016, Advisory Committee on the FCNM, 27 February 2017, p.2.

¹¹⁵ CoE Advisory Committee on the Framework Convention for the Protection of National Minorities, Fourth Opinion on the UK adopted on 25 May 2016, Advisory Committee on the FCNM, 27 February 2017, para 139.

¹¹⁶ CoE Advisory Committee on the Framework Convention for the Protection of National Minorities, Fourth Opinion on the UK adopted on 25 May 2016, Advisory Committee on the FCNM, 27 February 2017, p.2.

¹¹⁷ NIHRC, Submission to the UN Committee on Economic, Social and Cultural Rights 58th Session on the Sixth Periodic Report of the United Kingdom's Compliance with ICESCR, April 2016, pp. 59-60.

¹¹⁸ NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018, p.289.

¹¹⁹ UN Committee on the Elimination of Racial Discrimination, Concluding observations on the twenty-first to twenty-third periodic reports of United Kingdom, CERD/C/GBR/CO/21-23, UN CERD, 26 August 2016, para 25(a).

The Commission's investigation also found "there is evidence that the monitoring process for Travellers' accommodation needs in NI is inaccurate. The NI Housing Executive's 'Traveller Needs Assessment' surveys are criticised for insufficiently engaging with all Travellers in NI and not reflecting the views expressed by the Travellers that were surveyed".¹²⁰

Inadequacy of Travellers' Sites

The UN ICESCR Committee in its 2016 Concluding Observations on the UK expressed concern that 'Travellers continue to face barriers in accessing adequate and culturally appropriate accommodation across [the UK], with adequate access to basic services, such as water and sanitation'.¹²¹

A quarter of Traveller respondents residing in NI considered their place of residence to be unhealthy or very unhealthy, with 29 per cent describing their residence as unsafe.¹²² A lack of footpaths, public lighting, fire hydrants, safe play areas, plumbing, washing facilities, electricity and refuse management has been reported.¹²³ Research suggests that the standard of Travellers' sites, in particular, is inadequate. The Commission, in its 2016 parallel report, advised the UN ICESCR Committee to recommend that the UK complies with the Housing (NI) Order 2003 to improve basic living conditions on serviced and halting sites in NI.¹²⁴

The Commission's investigation found that "some Travellers' sites are inadequate in the provision of standard services and facilities (electricity, water, heating, drainage, sanitation, waste disposal). This is particularly true of Travellers' sites intended as transient in nature, but that are operating as

¹²⁰ NIHRC, *Out of Sight, Out of Mind: Travellers' Accommodation in NI*, NIHRC, March 2018, p.289.

¹²¹ UN Committee on Economic, Social and Cultural Rights, *Concluding Observations of the CESCR: United Kingdom of Great Britain and NI, the Crown Dependencies and the Overseas Dependent Territories*, E/C.12/GBR/CO/5, UN Economic and Social Council, 22 May 2009, para 30; UN Committee on Economic, Social and Cultural Rights, *Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland* E/C.12/GBR/CO/6, UN Economic and Social Council, 14 July 2016, para 49.

¹²² ECNI, *Outlining Minimum Standards for Traveller Accommodation*, 2009, pp. 9-10.

¹²³ Safa Abdella et al, *Our Geels: All Ireland Traveller Health Study*, UCD, 2010, p. 46; NICEM, *The Annual Human Rights and Racial Equality Benchmarking Report 2013/14*, OFMDFM, 2014, p. 96.

¹²⁴ NIHRC, *Submission to the UN Committee on Economic, Social and Cultural Rights 58th Session on the Sixth Periodic Report of the United Kingdom's Compliance with ICESCR*, April 2016, pp. 59-62.

permanent sites in practice. The lack of effective management of Travellers' sites exacerbates these problems.¹²⁵

Participation

The Commission's investigation found that "efforts to ensure the participation of Travellers in decision-making processes regarding accommodation by public authorities are ineffective and inadequate. There is a lack of emphasis on supporting Traveller advocates. There is also a heavy burden placed on Traveller support groups by public authorities, in terms of the roles they are expected to fulfil. These groups are also under-resourced for both their contracted role and remuneration for the additional uncontracted assistance sought by public authorities. Each of these factors is hindering Travellers' ability to represent their own views. Travellers feel ignored and feel they are not offered sufficient opportunities to raise concerns about their accommodation".¹²⁶

Information on Travellers' Accommodation

Additionally, "there is a general lack of information on Travellers' accommodation, such as how to access such accommodation or how to make a complaint, for instance regarding maintenance. Such information is required to enable Travellers' effective participation. Public authorities do attempt to adapt such information to Travellers' needs; however, such adaptations are largely ineffective".¹²⁷

Data Collection

The Commission's investigation into Travellers' accommodation found that "there is a general lack of data and disaggregation of data regarding the Traveller population in NI. This makes it impossible to assess whether Travellers' accommodation is sufficient and to strategically plan for the future".¹²⁸ The official figures for the Traveller population in NI do not appear to reflect reality making it difficult to create and evaluate appropriate policies and strategies. The NI Housing Executive has recorded that between 2002 and 2014, the Traveller community population in NI fluctuated between

¹²⁵ NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018, p.289.

¹²⁶ NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018, p.290.

¹²⁷ NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018, p.290.

¹²⁸ NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018, p.290.

1,220 and 1,480.¹²⁹ The NI Government Partnership on Travellers' issues estimated that a more accurate approximation would be a Traveller population of between 3,500 and 4,000 persons.¹³⁰

Complaints Mechanisms

In terms of complaints, the Commission's investigation confirmed that "Travellers are not engaging with or availing of the formal mechanisms available to them. The relevant public authorities are not taking steps to investigate and address why this is. This means Travellers are not receiving effective redress, when required. The resulting lack of investigation into concerning acts and omissions of public authorities is also hindering the feedback processes for improving services".¹³¹

Next Steps

The Commission has made 45 recommendations aimed at addressing the investigation's findings.¹³² Five recommendations are identified as requiring immediate action that is to be delivered by September 2018. The remaining 40 recommendations are to be implemented by March 2019. The Commission has established a 12 month implementation plan, involving continuous participation of key stakeholders (relevant public authorities, relevant civil society organisations and Travellers) and aimed at guiding effective and timely implementation of all 45 recommendations.

¹²⁹ NIHE, Traveller Accommodation Needs Assessment 2002, p. 10; NIHE, Traveller Accommodation Needs Assessment 2008, p. 10; NIHE, Traveller Accommodation Needs Assessment 2014, p. 9.

¹³⁰ Minutes of the 429th Meeting of the NI Housing Council, Armagh City Hotel, 14 April 2016, p. 3.

¹³¹ NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018, p.290.

¹³² NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018, Chapter 15.

[Amber] Unauthorised encampments (NI) Order 2005 **2018**

The UN ICESCR Committee has consistently expressed concern at how the Unauthorised Encampments (NI) Order 2005 'makes Roma/Gypsies and Irish Travellers liable to be evicted from their homes, to have their homes destroyed and then to be imprisoned and/or fined'.¹³³ The UN ICESCR Committee has called for this legislation to be repealed¹³⁴, in line with the Commission's advice¹³⁵.

The Police Service NI attended 102 incidents regarding unauthorised encampments between 2006/2007 and 2015/2016. The powers under the 2005 Order are used sparingly. Over the period 2015/2016, there were nine reported incidents engaging the 2005 Order, six involving Irish Travellers and one involving a member of another Traveller community. Some representatives of the Police Service NI and civil society organisations believe the 2005 Order bears more heavily on Traveller communities.¹³⁶

The NI Housing Executive operates a co-operation policy. This policy permits Travellers to set up an unauthorised encampment on public land for which there is no current or immediate use and permits them to occupy the land provided it does not create a public health or traffic hazard and the land is maintained in a reasonable and orderly manner.¹³⁷ The NI Housing Executive emphasises that the policy is not a substitute for permanent or transit sites but is intended to act as a way of dealing with a humane requirement.¹³⁸ In its 2016 Parallel Reports to the CoE Advisory Committee on the FCNM¹³⁹ and

¹³³ UN Committee on Economic, Social and Cultural Rights, Concluding Observations of the CESCR: United Kingdom of Great Britain and NI, the Crown Dependencies and the Overseas Dependent Territories, E/C.12/GBR/CO/5, UN Economic and Social Council, 22 May 2009, para 30; UN Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland E/C.12/GBR/CO/6, UN Economic and Social Council, 14 July 2016, para 49.

¹³⁴ UN Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland E/C.12/GBR/CO/6, UN Economic and Social Council, 14 July 2016, para 50(d).

¹³⁵ NIHRC, Submission to the UN Committee on Economic, Social and Cultural Rights 58th Session on the Sixth Periodic Report of the United Kingdom's Compliance with ICESCR, NIHRC, April 2016, p. 13.

¹³⁶ NIHRC, Travellers' Accommodation Investigation, NIHRC, Forthcoming, Chapter 6.

¹³⁷ DSD, Guide to the Unauthorised Encampments (NI) Order 2005, 2006.

¹³⁸ NIHE, 'Our Cooperation Policy for Travellers'. Available at:

http://www.nihe.gov.uk/index/advice/advice_for_travellers/co-operation_policy.htm

¹³⁹ NIHRC, Submission to the Advisory Committee on the Framework Convention for the Protection of National Minorities: Parallel Report to the Advisory Committee on the Fourth Monitoring Report of the UK, 2016, p. 104.

the UN ICESCR Committee,¹⁴⁰ the Commission welcomed the co-operation policy, but advised that the measures in the 2005 Order potentially have a chilling impact; these measures enable a national minority to become liable to criminal prosecution for following their traditional lifestyle in a context of inadequate site provision.

The Commission's investigation into Travellers' accommodation in NI confirmed that the Unauthorised Encampments (NI) Order 2005 "has a disproportionate impact on the Traveller communities and threatens their nomadic culture".¹⁴¹ The Department for Communities accepts that the powers under the 2005 Order has a particular impact on Travellers in NI, but has no plans to repeal it.¹⁴²

¹⁴⁰ NIHRC, Submission to the UN Committee on Economic, Social and Cultural Rights 58th Session on the Sixth Periodic Report of the United Kingdom's Compliance with ICESCR, April 2016, pp. 59-62.

¹⁴¹ NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018, p.288.

¹⁴² NIHRC, Out of Sight, Out of Mind: Travellers' Accommodation in NI, NIHRC, March 2018, p.301.

