

Out of Sight, Out of Mind:

Travellers' Accommodation in Northern Ireland

FULL REPORT

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NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

Foreword



“Out of sight, out of mind”, the comment of a Councillor in Derry City and Strabane District Council neatly encapsulates the inertia and decline in developing Travellers’ accommodation and services. Our human rights investigation is the first major examination of the issue for almost a decade and the findings remain depressingly familiar. As a representative of South Tyrone Empowerment Programme noted “we have read reports from 1999 that are as relevant today, as they were in 1999. It has not moved on”. This Groundhog Day does not have to continue.

First, there are a number of important quick wins – the ‘Design Guide for Traveller Sites in Northern Ireland’ is now over 20 years old and needs updated and modernised, site licencing arrangements need to be put into effect and groundwork needs to be undertaken to ensure that the ‘Traveller Accommodation Needs Assessment’ due next year effectively involves Travellers and becomes part of a comprehensive gathering of data towards an evidence based policy approach to meeting Travellers’ accommodation needs.

In the longer term, there needs to be sufficient emergency halting, transit and serviced sites, properly supported, to meet Travellers’ needs and a pro-active and participative approach to making this happen. In line with the approach taken in the Northern Ireland Executive’s ‘Programme for Government’, this investigation charts the impact of the actions taken and omissions made by government departments and public authorities.

The inexorable impact of public policy has been to leave many Travellers with an unpalatable choice of retaining their culture while living in poor housing conditions or move into social housing. While for some Travellers, social housing is their choice of accommodation, for others it is not. Traveller culture is rich and vibrant and should be nurtured, rather than eroded through housing and other policies.

The aim of the investigation has been to use a human rights based lens to view the current circumstances applying to Travellers’ accommodation.

The investigation seeks practical immediate and longer-term answers to meet the needs for sufficient Travellers’ accommodation. The Commission will engage with all the key public bodies with a role to play and encourage effective communication with Travellers and Traveller support organisations to ensure an effective, participative and joined up approach to resolving the problems identified in the report. We will monitor the progress of our recommendations in the first instance over the next 12 months – and for those of greatest urgency over six months. We have provided an Appendix setting out the list of recommendations that apply to each public authority, so that the way forward and where responsibility lies is clear and unequivocal.

Finally, I would like to thank my colleagues Dr Hannah Russell and Fiona O’Connell who undertook the investigation and to all the public authorities, civil society organisations, Travellers and others who willingly provided their experience and knowledge. I trust their insights will bear fruit as a result of this investigation.

Les Allamby,
Chief Commissioner

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Acronyms

CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Convention on the Elimination of All Forms of Racial Discrimination
CFREU	Charter of Fundamental Rights of the Europe Union
CoE	Council of Europe
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ECRI	European Commission against Racism and Intolerance
EU	European Union
FCNM	Framework Convention on the Protection of National Minorities
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
NI	Northern Ireland
NIHRC	Northern Ireland Human Rights Commission
UK	United Kingdom
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organisation

Overview



Investigation Powers of the Northern Ireland Human Rights Commission

The Northern Ireland Human Rights Commission (NIHRC) was established following the Belfast (Good Friday) Agreement under the Northern Ireland Act 1998. Section 69 of the Act empowers the NIHRC to conduct investigations and to compel evidence.¹

The NIHRC promotes and protects those human rights, which the United Kingdom (UK) is legally committed to at the national, regional and international levels and does so in full conformity with the United Nations (UN) Principles relating to the Status of National Institutions (the Paris Principles).²

The findings and recommendations in this report are presented in line with the NIHRC's statutory duty to review the adequacy and effectiveness of law and practice relating to the protection of human rights in Northern Ireland (NI).³

The Case for an Investigation

The NIHRC initiated this investigation following a scoping exercise in June 2016 that identified issues, which required further examination.

First, within the UK (including NI) there was a recognised “shortage of adequate stopping sites for Roma/Gypsies and Irish Travellers”.⁴ Second, the ICESCR Committee was concerned that “the lack of social housing has forced households to move into the private rental sector, which is not adequate in terms of affordability, habitability, accessibility and security of tenure”.⁵ The Committee had repeatedly called for “the provision of sufficient, adequate and secure” culturally appropriate accommodation to be ensured.⁶ Third, the NIHRC had previously raised concerns that the legislative requirement on the NI Housing Executive to obtain site licences from local Councils could “create practical difficulties in ensuring adequate site provision”.⁷

Fourth, there appears to be a disparity between official figures on the number of Travellers residing in NI and the figures used by other sources. This potentially makes it difficult to create and evaluate appropriate policies and strategies, particularly regarding housing.

Fifth, the ICESCR Committee 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”.⁸ The Committee has called for this legislation to be repealed.⁹

¹ Sections 69(8) and 69A NI Act 1998, as amended by the Justice and Security (NI) Act 2007. During this investigation, the NIHRC did not however use its formal investigatory powers due to the high levels of cooperation from the public authorities involved.

² A/RES/48/134, ‘UN General Assembly Resolution: National Institutions for the Promotion and Protection of Human Rights’, 4 March 1994.

³ Sections 69(1) and 69(8A), NI Act 1998.

⁴ E/C.12/GBR/CO/5, ‘ICESCR Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI’, 22 May 2009, at para 30.

⁵ Ibid, E/C.12/GBR/CO/6, ‘ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 14 July 2016, at para 49.

⁶ Ibid, E/C.12/GBR/CO/6, ‘ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 14 July 2016, at para 50.

⁷ NIHRC, ‘Written Evidence to the Committee for Social Development, NI Assembly on the Caravans Bill’ (NIHRC, June 2010), at paras and 21; NIHRC, ‘NIHRC Submission to the UN Committee on Economic, Social and Cultural Rights 58th Session on the Sixth Periodic Report of the UK’s Compliance with ICESCR’ (NIHRC, April 2016), at 59.

⁸ E/C.12/GBR/CO/5, ‘ICESCR Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI’, 22 May 2009, at para 30; E/C.12/GBR/CO/6, ‘ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 14 July 2016, at para 49.

⁹ E/C.12/GBR/CO/6, ‘ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 14 July 2016, at para 50.

Sixth, the standard of Travellers' accommodation in general was reportedly inadequate. An Equality Commission NI report found in 2008 that a quarter of Traveller respondents residing in NI considered their place of residence to be unhealthy or very unhealthy, with 29 percent describing their residence as unsafe.¹⁰ A NI Council for Ethnic Minorities report in 2014 and an earlier University College Dublin study reported inadequate facilities including lack of footpaths, public lighting, fire hydrants, safe play areas, plumbing, washing facilities, electricity and refuse management.¹¹ The ICESCR Committee 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".¹²

Seventh, taking into account completed research on Travellers' accommodation in NI,¹³ it was apparent that no authoritative human rights analysis had been conducted.

Who are Travellers?

The term 'Roma and Travellers'¹⁴ is often used to encompass a wide range of communities, including Roma, Gypsies, Travellers, Manouches, Ashkali, Sinti and Boyash.¹⁵ Only Irish Travellers are defined within domestic legislation. The Race Relations (NI) Order 1997 defines Irish Travellers as a "community of people commonly so called who are identified (both by themselves and by others) as people with a shared history, culture and traditions including, historically, a nomadic way of life on the island of Ireland".¹⁶ Irish Travellers are a minority native to the island of Ireland and according to the 2011 census represent 0.07 percent (ie 1,267 individuals) of the population in NI.¹⁷ This may be an under-representation in that there are members of other Gypsy and Traveller communities (such as Romany Gypsy and Gypsies or Travellers from England, Scotland or Wales) that live in or travel through NI, but official statistics are lacking. The NI Housing Executive recorded that between 2002 and 2014, the wider Traveller population in NI fluctuated between 1,228 and 1,486.¹⁸ The All-Ireland Traveller Health Survey in 2010 concluded, based on its own statistical research that at least 3,905 Travellers resided in NI.¹⁹ For the purposes of this investigation, 'Traveller' is used as an umbrella term for any member of a traditional Gypsy or Traveller community living in or travelling through NI with a long-shared history, culture and traditions that includes identifying with or continuing to practice a nomadic way of life.

What is Travellers' Accommodation?

There is no legal definition of Travellers' accommodation. For the purposes of this investigation, however, the phrase refers to any form of housing inhabited by members of the Traveller communities. In particular, there is

¹⁰ Equality Commission NI, 'Outlining Minimum Standards for Traveller Accommodation' (ECNI, 2009), at 9-10.

¹¹ Safa Abdella *et al*, 'Our Geels: All Ireland Traveller Health Study' (UCD, 2010), at 46; NICE, 'The Annual Human Rights and Racial Equality Benchmarking Report 2013/14' (OFMDFM, 2014), at 96.

¹² E/C.12/GBR/CO/5, 'ICESCR Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 22 May 2009, at para 30; E/C.12/GBR/CO/6, 'ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 14 July 2016, at para 49.

¹³ OFMDFM, 'A Shared Future – Policy and Strategic Framework for Good Relations in NI' (OFMDFM, 2005); OFMDFM, 'A Racial Equality Strategy for NI 2005-2010' (OFMDFM, 2005); ECNI, 'Statement on Key Inequalities in NI' (ECNI, 2007); Chris Johnson and Marc Willers (eds), *Gypsy and Traveller Law* (Legal Action Group, 2007) ECNI, 'Outlining Minimum Standards in Traveller Accommodation' (ECNI, 2009); Safa Abdella *et al*, 'Our Geels: All Ireland Traveller Health Study' (UCD, 2010); Department of the Environment, 'Planning Policy Statement 12: Housing in Settlements' (DoE, 2013); Geraldine Scullion and Sheila Rodgers, 'Traveller Voices for Change: Mapping the view of Irish Travellers on Integration and their Sense of Belonging in NI' (2014); NI Housing Executive, 'Traveller Accommodation Needs Assessment' (NIHE, 2014); NICE, 'The Annual Human Rights and Racial Equality Benchmarking Report 2013/14' (OFMDFM, 2014); Alison Wallace, 'Housing and Communities' Inequalities in NI' (ECNI, 2015); ECNI, 'Key Inequalities in Housing and Communities' (ECNI, 2016).

¹⁴ CRI(2011)37, 'ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma', 24 June 2011.

¹⁵ C 378/1, 'EU Council Recommendation on Effective Roma Integration Measures in the Member States', 9 December 2013, at para 6.

¹⁶ Article 5(2)(a), Race Relations (NI) Order 1997.

¹⁷ NI Statistics and Research Agency, 'Census 2011: NI' (NISRA, 2012), at Table KS201NI.

¹⁸ NI Housing Executive, 'Traveller Accommodation Needs Assessment 2002' (NIHE, 2002), at 10; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2008' (NIHE, 2008), at 10; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2015), at 9.

¹⁹ Safa Abdella *et al*, 'Our Geels: All Ireland Traveller Health Study' (UCD, 2010), at 85.

a focus on accommodation where public subsidy (eg Housing Benefit or capital grants) is used, in whole or in part, to pay for tenancies, fund development, or provide for other related services (eg property maintenance). This working definition includes grouped housing²⁰ and Travellers' sites (serviced,²¹ serviced/transit,²² transit,²³ emergency halting,²⁴ co-operated²⁵ and unauthorised²⁶); standard social housing;²⁷ and private rented properties.²⁸

Human Rights Laws and Standards

The main sources of human rights laws and standards are international and regional human rights treaties. These are agreements between States.²⁹ It is the free choice of each State to indicate a willingness to adhere to the provisions of a treaty through a ratification process.

Most human rights treaties are not directly enforceable in the domestic courts. Once ratified by the UK they do, however, impose international legal obligations with which the State is bound to comply in good faith.³⁰

The provision and regulation of social housing and the regulation of private housing is a devolved matter in NI. Implementing human rights laws and standards relevant to Travellers' accommodation is a responsibility of the following public authorities:

- NI Executive Office;
- Department for Communities;
- Department for Infrastructure;
- NI Housing Executive;
- Housing associations; and,
- Local Councils.

Housing associations have been included because under the Human Rights Act 1998, Section 6(3)(b), a public authority is defined as "any person certain of whose functions are functions of a public nature". The case *Weaver v London and Quadrant Housing Trust* (2009) confirmed that a private authority that exercises both public and private functions is a public authority of the purposes of the 1998 Act, with respect to its public functions. Consequently, regarding its public functions, such an authority must at all times act in accordance with ECHR rights. The scope of this requirement is determined by whether the function under question is of a private or public nature.³¹

In Weaver, the England and Wales Court of Appeal held that the circumstances of the case determined whether a housing association was performing a public function for the purposes of the 1998 Act.³² Lord Justice Elias found circumstances that could lead to determining a housing association's function was

²⁰ Grouped housing schemes are residential housing developments with additional facilities and amenities specifically designed to accommodate extended Traveller families on a permanent basis.

²¹ Serviced sites facilitate the permanent location of chalets, trailers or caravans.

²² Serviced/transit sites are split into two with a section of permanent pitches and a section of temporary pitches.

²³ Transit sites facilitate a temporary or short-term location of caravans. They are for a maximum stay of three months.

²⁴ Emergency halting sites are for the temporary or short-term location of caravans. They are for a maximum stay of 28 days.

²⁵ Co-operated sites enable Travellers to camp on public land on a temporary basis, subject to a number of health and safety requirements. It is not a substitute for permanent or transit sites, but is a way of dealing with a humane requirement.

²⁶ Sites that have not been authorised by the NI Housing Executive or relevant local Council.

²⁷ Bricks and mortar social housing.

²⁸ Bricks and mortar private rented housing and private rented caravans, trailers or chalets.

²⁹ Article 2(1)(a), Vienna Convention on the Law on Treaties 1969.

³⁰ Article 26, Vienna Convention on the Law on Treaties 1969.

³¹ *Weaver v London and Quadrant Housing Trust* [2009] EWCA Civ 587, at paras 27-29 and 94.

³² *Ibid.*

public, is that the housing association provided social housing and received some form of public subsidy.³³ Furthermore, in September 2016, the Office for National Statistics reclassified housing associations as a public authority for the purposes of the national accounts. This reclassification applied with effect from 15 July 1992, the date of the enforcement of the Housing (NI) Order 1992.³⁴ The Department for Communities consulted between December 2016 and February 2017 on reversing the reclassification.³⁵ In November 2017, the reclassification remained unchanged.³⁶

Therefore, for the purposes of this investigation, any housing association in NI that provides social housing to Travellers and has received public subsidy in some capacity (though this does not have to be used to fulfil the function under question) is defined as a public authority, in the context of fulfilling that public function (ie providing social housing to Travellers). To confirm, this definition applies to the three housing associations who provided evidence for this investigation.

United Nations

The main UN human rights treaty that relates to Travellers' accommodation is the International Covenant on Economic, Social and Cultural Rights (ICESCR), particularly Article 11, the right to an adequate standard of living.³⁷ A number of other treaties are relevant to the right to adequate housing including the International Covenant on Civil and Political Rights (ICCPR);³⁸ the Convention on the Elimination of All Forms of Racial Discrimination (CERD);³⁹ the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);⁴⁰ the Convention on the Rights of the Child (CRC);⁴¹ and the Convention on the Rights of Persons with Disabilities (CRPD).⁴²

Each treaty has a committee of experts that monitor implementation and offer authoritative guidance on interpretation of the substantive provisions. The main method used by UN Committees to determine compliance with treaty obligations is the State reporting procedure.⁴³ This involves the State submitting a periodic report detailing actions undertaken to implement the treaty. The Committee subsequently reviews the report and, after a dialogue with the State, issues concluding observations. The Committee welcomes positive developments, details areas of concern, and makes recommendations designed to assist the State in moving toward the full implementation of the treaty.

³³ Ibid.

³⁴ Department for Communities, 'Proposals to Seek Reversal of the Reclassification of Registered Social Housing Providers in NI' (Department for Communities, 2016), at Annex B.

³⁵ Ibid.

³⁶ Letter from Clanmil Housing Association to NIHR, 7 November 2017.

³⁷ Ratified by the UK on 20 May 1976.

³⁸ Articles 2, 17 and 26, International Covenant on Civil and Political Rights 1966.

³⁹ Article 5(e)(iii), Convention on the Elimination of Racial Discrimination 1965.

⁴⁰ Article 14(2)(h), Convention on the Elimination of Discrimination against Women 1979.

⁴¹ Article 27(3), Convention on the Rights of the Child 1989.

⁴² Articles 9, 28(1) and 28(2)(d), Convention on the Rights of Persons with Disabilities 2006.

⁴³ A number of treaty bodies can also initiate country inquiries and accept individual petitions. Country inquiries could be initiated in relation to Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), ICESCR, CEDAW, CRC, Convention on Enforced Disappearances (CED), and CRPD. The use of country inquiries depends on whether the State under investigation recognised the competence of the treaty body to conduct an inquiry. It also depends upon whether the State under investigation cooperated. Some treaties (such as the CAT and CED) include a provision providing for country inquiries. Other treaties (such as ICESCR, CEDAW, CRC and CRPD) do not contain such a provision and an Optional Protocol was required. This amends or provides supplementary rights to a treaty, in this case adding the option of a country inquiry. In such cases a State is required to ratify the Optional Protocol for country inquiries to apply to its jurisdiction. The UK does not allow for country inquiries in relation to ICESCR, CRC and CED. It does allow for country inquiries in relation to CAT, CEDAW and CRPD. Whether an individual can submit a petition to a Committee depended on whether the State involved had separately recognised the competence of the treaty body to receive and consider complaints. Some treaties (such as CAT and CERD) include a provision providing for an individual complaints mechanism. In this instance a State makes a declaration against the relevant provision stating that it recognised the individual complaints mechanism. Other treaties (such as CCPR, ICESCR, CEDAW, CRC, CED and CRPD) do not contain such a provision and an Optional Protocol was required. In such cases a State is required to ratify the Optional Protocol for the complaints mechanism to apply to its jurisdiction. The UK does not allow for individual complaints in relation to CERD, CCPR, ICESCR, CRC or CED. It does allow for individual complaints in relation to CAT, CEDAW and CRPD.

A number of concluding observations have been issued addressing Travellers' accommodation in the UK.⁴⁴ These are referred to throughout this report. In addition to concluding observations, UN Committees periodically publish general comments, which are authoritative interpretations of the treaties. For example, the ICESCR Committee in General Comment No 4 has set out its interpretation of the right to adequate housing including:

- Legal security of tenure;
- Availability of services, materials, facilities and infrastructure;
- Affordability;
- Habitability;
- Accessibility;
- Location; and
- Cultural adequacy.⁴⁵

The ICESCR Committee has also published its General Comment No 7 relating to forced evictions. The Committee noted that indigenous, ethnic and other minorities are particularly vulnerable to forced eviction, along with women, children, youth and older people.⁴⁶ Other relevant general comments in the context of this report include:

UN ICESCR Committee

General Comment 20: Non Discrimination in Economic Social and Cultural Rights⁴⁷

UN CERD Committee

General Recommendation XXVII: On Discrimination against Roma⁴⁸

Broadly defined, the right to adequate housing is "the right to live somewhere in security, peace and dignity".⁴⁹ It is more than supplying and making housing available, the housing itself must be adequate. Full realisation of the right to adequate housing places an obligation on the State to respect, protect and fulfil this right. The obligation 'to respect' requires a State to refrain from interfering with the enjoyment of the right. For example, arbitrary evictions by a State would amount to a violation of the obligation to respect.⁵⁰ Similarly, the obligation 'to protect' requires a State to prevent violations and abuses of the right by third parties and to regulate the actions of individuals. For example, if a State failed to stop landlords rejecting tenancy applications on the basis of ethnicity, this could constitute a violation of the obligation to protect.⁵¹ Finally, the obligation 'to fulfil' requires a State to take appropriate legislative, administrative, budgetary, judicial and other measures. This may include taking actions to facilitate access to goods and services when people might otherwise be unable to obtain them.⁵²

⁴⁴ E/C.12/GBR/CO/6, 'ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 14 July 2016, at paras 49 and 50(d); E/C.12/GBR/CO/5, 'ICESCR Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 22 May 2009, at para 30; CERD/C/GBR/CO/21-23, 'Concluding Observations of the CERD Committee on the Twenty-first to Twenty-third Periodic Reports to the UK of Great Britain and NI', 3 October 2016, at para 25;

⁴⁵ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 8.

⁴⁶ E/1998/22, 'ICESCR Committee General Comment No 7: Forced Evictions', 20 May 1997, at para 10.

⁴⁷ E/C.12/GC/20, 'ICESCR Committee General Comment No 20: Non-discrimination in Economic, Social and Cultural Rights', 2 July 2009.

⁴⁸ CERD Committee, 'General Recommendation XXVII: Discrimination against Roma', 16 August 2000.

⁴⁹ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 8.

⁵⁰ Asia Pacific Forum and Centre for Economic and Social Rights, 'Defending Dignity: A Manual for National Human Rights Institutions on Monitoring Economic, Social and Cultural Rights' (APF and CESR, 2015), at 19

⁵¹ Ibid.

⁵² Asia Pacific Forum and Centre for Economic and Social Rights, 'Defending Dignity: A Manual for National Human Rights Institutions on Monitoring Economic, Social and Cultural Rights' (APF and CESR, 2015), at 20.

Some human rights contained within UN treaties place minimum core obligations on States that require immediate effect. Others are to be progressively realised over time. The ICESCR Committee has declared that it is a minimum core obligation:

to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights. . . . Thus, for example, a State. . . in which any significant number of individuals is deprived of. . . basic shelter and housing. . . is, *prima facie*, failing to discharge its obligations under the Covenant.⁵³

According to the ICESCR Committee, the right to adequate housing is much more than basic shelter. There are three minimum core obligations related to the right to adequate housing. First, a State “should take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups”.⁵⁴ Second, there must be “effective monitoring of the situation with respect to housing”.⁵⁵ Third, protection must be afforded against forced evictions on the basis that these “are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances and in accordance with the relevant principles of international law”.⁵⁶

On progressive realisation, the ICESCR, Article 2, requires a State to “take steps. . . to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights”. Retrogression is to be avoided and a move should be made as expeditiously and effectively as is possible toward the goal of full realisation.⁵⁷ The ICESCR Committee in General Comment No 4 highlights that even during times of economic crisis, a general decline in housing and living conditions attributed to policy and legislative decisions would be inconsistent with the Covenant’s obligations.⁵⁸ The ICESCR Committee has also stated that eliminating systemic discrimination “will frequently require devoting resources to traditionally neglected groups.”⁵⁹

Other non-binding UN soft law instruments relevant to the issue of Travellers’ accommodation in NI, and referred to in this report, include:

UN ICESCR Committee
Concluding Observations on the Sixth Periodic Report of the UK and NI ⁶⁰
UN CERD Committee
Concluding Observations on the Twenty-first to Twenty-third Periodic Reports of the UK and NI ⁶¹

⁵³ E/1991/23, ‘ICESCR Committee General Comment No 3: The Nature of States Parties’ Obligations’, 14 December 1999, at para 10.
⁵⁴ E/1992/23, ‘ICESCR Committee General Comment No 4: The Right to Adequate Housing’, 13 December 1991, at para 8(a). Emphasis added.
⁵⁵ *Ibid.*, at para 13. Emphasis added.
⁵⁶ *Ibid.*, at para 18.
⁵⁷ E/1991/23, ‘ICESCR Committee General Comment No 3: The Nature of States Parties’ Obligations’, 14 December 1999, at para 11.
⁵⁸ E/1992/23, ‘ICESCR Committee General Comment No 4: The Right to Adequate Housing’, 13 December 1991, at para 11.
⁵⁹ E/C.12/GC/20, ‘ICESCR Committee General Comment No 20: Non Discrimination in Economic, Social and Cultural Rights’, 2 July 2009, at para 39.
⁶⁰ E/C.12/GBR/CO/6, ‘ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 14 July 2016.
⁶¹ CERD/C/GBR/CO/21-23, ‘CERD Committee Concluding Observations on the Twenty-first to Twenty-Third Periodic Reports of UK of Great Britain and NI’, 26 August 2016.

UN General Assembly

Report of the United Nations Conference on Human Settlements (Habitat II)⁶²

Report of the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context⁶³

Report of the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context: Mission to the UK of Great Britain and NI⁶⁴

Council of Europe

The main human rights treaty of the Council of Europe (CoE) is the European Convention of Human Rights (ECHR). There are a number of other treaties relevant to the subject of Travellers' accommodation, including the European Social Charter and the Framework Convention on the Protection of National Minorities (FCNM).

The ECHR is the only human rights treaty directly incorporated into the UK domestic legal framework, via the Human Rights Act (HRA) 1998. When interpreting the scope and application of ECHR rights, the UK Courts must, by virtue of section 2 of the HRA, take into account judgments and decisions of the European Court of Human Rights (ECtHR). The obligations placed on the State extend to legislative acts of the NI Assembly, and the functions of public authorities.⁶⁵ This means that unless primary legislation prevents it from acting otherwise, it is unlawful for a public authority to act in a way that is incompatible with a person's convention rights.

The ECtHR was established to consider inter-state complaints and complaints made by individuals of alleged ECHR violations.⁶⁶ It only deals with matters after all domestic remedies have been exhausted and applications must be made within a period of six months from the date that a final decision is taken.⁶⁷ Cases relevant to the issue of Travellers' accommodation brought before the ECtHR have included alleged violations of Article 3 (prohibition of torture, inhuman and degrading treatment),⁶⁸ Article 8 (right to respect for private and family life),⁶⁹ Article 1, Protocol 1 (right to peaceful enjoyment of property),⁷⁰ and Article 14 (right to non-discrimination, when exercising other ECHR rights).⁷¹

The FCNM is a CoE treaty designed to protect national minorities from discrimination. Article 4(2) requires States "to adopt where necessary, adequate measures in order to promote in all areas of economic, social, political and cultural life, full and effective participation between persons of a national minority and those belonging to a majority." The FCNM, Article 6, states:

⁶² A/Conf.165/14, 'UN Conference on Human Settlements (Habitat II)', 14 June 1996.

⁶³ A/HRC/16/42/Add.1, 'Report of the UN Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living and on the Right to Non-discrimination in this Context: Mission to the UK of Great Britain and NI', 14 February 2011.

⁶⁴ A/HRC/25/54/Add.2, 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this Context, Raquel Rolnik: Mission to the UK of Great Britain and NI', 30 December 2013.

⁶⁵ Section 6, Human Rights Act 1998; Section 6(2), NI Act 1998.

⁶⁶ Articles 19, 33 and 34, European Convention on Human Rights 1950.

⁶⁷ Article 35, European Convention on Human Rights 1950.

⁶⁸ *Moldovan (No 2) and Others v Romania* (2005) ECHR 473. There is a pending application awaiting consideration by the ECtHR, *Hirtu and Others v France* (Application no 24720/13), which has alleged violations of the ECHR, Articles 3, 8 and Article 13 (the right to an effective remedy).

⁶⁹ *Chapman v United Kingdom* (2001) ECHR 43; *Connors v United Kingdom* (2004) ECHR 223; *Buckley v United Kingdom* (2012) ECHR 1710; *Yordanova and Others v Bulgaria* (2012) ECHR 758; *Winterstein and Others v France* (2013) ECHR 984.

⁷⁰ *Önerildiz v Turkey* (2004) ECHR 657.

⁷¹ For example in *Moldovan v Romania (No.2)* (2005) ECHR 473, the Court held a violation of Article 14 in conjunction with the ECHR, Articles 6 and 8. See pending applications, *Cazacliu and Others v Romania* (Application no 63945/09) and *Dimitrova and Others v Bulgaria* (Application no 39084/10).

the Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.

The Advisory Committee that monitors the implementation of the FCNM has stated:

effective participation in socio-economic life requires the existence of comprehensive legislation prohibiting discrimination on ethnic grounds, by public and private actors. This legislation should extend to employment, housing, health care and social protection.⁷²

The European Social Charter 1961 contains similar provisions related to housing⁷³ and the body that monitors its implementation – the European Committee of Social Rights – has considered the issue of Travellers' accommodation, including UK compliance. For example, the European Committee of Social Rights concluded that the UK was not in conformity with the European Social Charter 1961, Article 16, in England in respect of Roma/Traveller families, as their right to housing was not effectively guaranteed.⁷⁴ The European Committee of Social Rights has further examined the issue through its collective complaints system, but the UK has not ratified this procedure.⁷⁵

In addition to its treaties, the CoE has established the European Commission Against Racism and Intolerance (ECRI). This is a body of independent experts tasked with monitoring problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as race, national/ethnic origin, colour, citizenship, religion and language (racial discrimination). The ECRI has formulated a number of general policy recommendations to Member States, for example:

ECRI
Recommendation No 3: Combating Racism and Intolerance against Roma/Gypsies ⁷⁶
Recommendation No 13: Combating Anti-gypsyism and Discrimination against Roma ⁷⁷

In addition, the ECRI undertakes country monitoring by analysing the situation of each CoE Member State and producing recommendations for dealing with any issues identified. This work has included highlighting concerns that effective provision for halting sites for Gypsies and Travellers remains a challenge in the UK.⁷⁸

Other non-binding CoE soft law instruments relevant to the issue of Travellers' accommodation and referred to in this report, include:

⁷² ACF/31DOC(2008)001, 'CoE Advisory Committee on the FCNM's Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs', 27 February 2008, at 4.

⁷³ Article 16 of the European Social Charter 1961 provides that contracting parties must promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married, and other appropriate means. Article 31 of the European Social Charter (Revised) 1996 provides that everyone has the right to housing. The UK has ratified the 1961 Treaty. It has signed, but not ratified, the 1996 treaty.

⁷⁴ See European Committee of Social Rights, 'Conclusions XX-4 (2015): Articles 7, 8, 16, 17 and 19 of the 1961 Charter', January 2016.

⁷⁵ The 'Collective Complaints System' was introduced by the Additional Protocol providing for a system of Collective Complaints and was adopted in 1995. The Committee considered the issue of Travellers' accommodation in a case brought by the European Roma Rights Centre against Ireland alleging violation of Article 16 of the European Social Charter 1961 and Article E on non-discrimination in respect of the failure to provide sufficient accommodation to Traveller families and failure to adopt an adequate legislative framework. See *ERRC v Ireland*, Complaint no 100/2013, 1 December 2015.

⁷⁶ CRI(98)29 rev, 'ECRI General Policy Recommendation No 3: Combating Racism and Intolerance Against Roma/Gypsies', 6 March 1998.

⁷⁷ CRI(2011)37, 'ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma', 24 June 2011.

⁷⁸ CRI(2016)38, 'ECRI Report on the UK: Fifth Monitoring Cycle', 29 June 2016, at 30.

CoE Advisory Committee on the Framework Convention on the Protection of National Minorities (FCNM)
Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs ⁷⁹
Third Opinion on the United Kingdom ⁸⁰
Explanatory Report of the FCNM ⁸¹
CoE Committee of Ministers
Recommendation on the education of Roma/Gypsy children in Europe ⁸²
Recommendation on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe ⁸³
Recommendation on the movement and encampment of Travellers in Europe ⁸⁴
Recommendation on improving the housing conditions of Roma and Travellers in Europe ⁸⁵
Recommendation on Better Access to Health Care for Roma and Travellers in Europe ⁸⁶
Recommendation on policies for Roma and Travellers in Europe ⁸⁷
Recommendation on Mediation as an Effective Tool for Promoting Respect for Human Rights and Social Inclusion of Roma ⁸⁸
CoE Commissioner for Human Rights, Alvaro Gil-Robles
Final Report on the Human Rights Situation of the Roma, Sinti and Travellers in Europe ⁸⁹
CoE Commissioner for Human Rights, Thomas Hammarberg
Positions on the Human Rights of Roma ⁹⁰

European Union

The Charter of Fundamental Rights of the European Union (CFREU), Article 34(3), states that:

in order to combat social exclusion and poverty, the [European] Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Community law and national laws and practices.

⁷⁹ ACFC/31DOC(2008)001, 'CoE Advisory Committee on the FCNM: Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs', 27 February 2008.

⁸⁰ ACFC/DP/III(2011)006, 'CoE Advisory Committee on the FCNM: Third Opinion on the UK', 30 June, 2011.

⁸¹ CoE, 'Explanatory Report of the FCNM' (CoE, 1995).

⁸² CoE, 'Committee of Ministers Recommendation No R(2000)4 on the Education of Roma/Gypsy Children in Europe', 3 February 2000.

⁸³ CoE, 'Committee of Ministers Recommendation Rec(2001)17 on Improving the Economic and Employment Situation of Roma/Gypsies and Travellers in Europe', 27 November 2001.

⁸⁴ CoE, 'Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe', 1 December 2004.

⁸⁵ CoE, 'Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe', 25 February 2005.

⁸⁶ CoE, 'Recommendation Rec(2006)10 of the Committee of Ministers to Member States on Better Access to Health Care for Roma and Travellers in Europe', 12 July 2006.

⁸⁷ CoE, 'Recommendation Rec(2008)5 of the Committee of Ministers to Member States on Policies for Roma and/or Travellers in Europe', 20 February 2008.

⁸⁸ CoE, 'Recommendation Rec(2012)9 of the Committee of Ministers to Member States on Mediation as an Effective Tool for Promoting Respect for Human Rights and Social Inclusion of Roma', 12 September 2012.

⁸⁹ CommDH(2006)1, 'Final Report by Mr Alvaro Gil-Robles, CoE Commissioner for Human Rights, on the Human Rights Situation of the Roma, Sinti and Travellers in Europe', 15 February 2006.

⁹⁰ CommDH/PositionPaper(2010)3, 'CoE Commissioner for Human Rights Positions on the Human Rights of Roma', 30 May 2010.

Further to the CFREU are Directives, which are legislative acts of the EU that form part of the domestic legal framework once transposed by a Member State. Directly relevant to Travellers' accommodation is Directive 2000/43/EC on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.⁹¹ Article 3(1)(h) provides that the "Directive shall apply to all persons, as regards both the public and private sectors, including public authorities in relation to... access to and supply of goods and services which are available to the public, including housing". All EU Member States have transposed the Directive into national law, including the UK.

Other EU instruments relevant to the issue of Travellers' accommodation in NI include:

Council of the EU
Council Conclusions on the Inclusion of Roma, including the Common Basic Principles on Roma Inclusion ⁹²
Conclusions on an EU Framework for National Roma Integration Strategies up to 2020 ⁹³
Council Recommendation on effective Roma Integration in the Member States ⁹⁴
Council Conclusions on Accelerating the Process of Roma Integration ⁹⁵
European Parliament
Resolution on the Situation of Roma in the European Union ⁹⁶
European Commission Directorate-General for Employment and Social Affairs
Situation of Roma in an Enlarged European Union ⁹⁷

The Methodology

In September 2016, the NIHRC issued terms of reference for the investigation. This identified the relevant public authorities to be:

- Department for Communities;⁹⁸
- Department for Infrastructure;
- Equality Commission NI;
- Housing associations;
- Local Councils in NI;

⁹¹ Directive 2000/42/EC, 'Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin', 29 June 2000.

⁹² EU Council, 'Conclusions on the Inclusion of the Roma', 2947th Employment, Social Policy, Health and Consumer Affairs Council Meeting, 8 June 2009.

⁹³ EU Council, 'Conclusions on an EU Framework for National Roma Integration Strategies up to 2020', 3089th Employment, Social Policy, Health and Consumer Affairs Council Meeting, 19 May 2011.

⁹⁴ EU Council, 'Council Recommendation on effective Roma Integration in the Member States', Employment, Social Policy, Health and Consumer Affairs Council Meeting, 9 and 10 December 2013.

⁹⁵ EU Council, 'Council Conclusions on Accelerating the Process of Roma Integration', Employment, Social Policy, Health and Consumer Affairs Council Meeting, 8 December 2016.

⁹⁶ P6_TA(2005)0151, 'European Parliament Resolution on the Situation of the Roma in the EU', 28 April 2005.

⁹⁷ European Commission Directorate-General for Employment and Social Affairs, 'The Situation of Roma in an Enlarged EU' (European Communities, 2004).

⁹⁸ In considering the domestic legal and policy framework, the NIHRC recognised the appropriate role for, and interest of, the NI legislative Assembly. The NIHRC determined that a narrow remit should however be retained when conducting the investigation focusing upon the relevant NI Executive departments as the primary generators of law and policy within the jurisdiction.

- NI Housing Executive;
- Police Service NI;
- NI Fire and Rescue Service; and
- Planning Appeals Commission.

The NIHRC then issued notification to these public authorities and sought their assistance in gathering information regarding the:

- relevant international human rights standards;
- domestic legal and policy framework;
- relevant statistical, qualitative, resource and budgetary material;
- practices of the public authorities;
- training procedures;
- planning applications and decisions;
- site licence applications and decisions;
- monitoring, participatory and remedial mechanisms;
- consultation process with the Traveller communities in NI and the representatives of Traveller-specific civil society organisations;
- discussions related to Travellers' accommodation in NI; and
- real life situations on the issue of Travellers' accommodation, including issues raised by members of the Traveller communities, settled community and/or local Councillors.

The NIHRC reviewed and analysed the written evidence. This included the relevant legislation; policies and guidance documents; data; reports; consultations; and minutes of meetings. The NIHRC also liaised with the NI Local Government Partnership on Travellers Issues and the NI Public Service Ombudsman in relation to any complaints received.

Case Studies

The investigation considered Travellers' accommodation across NI and also adopted a case study approach in four local Council areas. These were selected on the estimated size of the local Traveller population,⁹⁹ the mix of accommodation type and the geography. The areas selected were:

- Belfast – within the Belfast City Council area and located in the east of NI. The Travellers' accommodation offered in this area, using the investigation's categorisation,¹⁰⁰ included a serviced site,¹⁰¹ a de facto serviced site, a long-term unauthorised encampment, two grouped housing schemes and standard social housing.¹⁰²

⁹⁹ The size of the Traveller population in NI can fluctuate due to the change of season and the Traveller communities' traditionally nomadic lifestyle, which can result in Travellers moving between NI and Ireland or beyond. It was also an issue that official statistics only recorded the Irish Traveller population. Due to the fluidity and limited available statistics the population sizes quoted are only calculated estimates.

¹⁰⁰ The investigation categorises Travellers' sites on the basis of actual use. On occasion this does not match with the NI Housing Executive's categorisation of Travellers' sites.

¹⁰¹ In March 2017, the transit site at Glen Road Heights was closed and a refurbished serviced site was opened.

¹⁰² Available at: http://www.nihe.gov.uk/index/advice/advice_for_travellers/accommodation.htm.

- Craigavon and Armagh – within the Armagh City, Banbridge and Craigavon Borough Council area and located in the south of NI. Using the investigation's categorisation, the Travellers' accommodation offered in these areas included a serviced site, a transit site and standard social housing.¹⁰³
- Derry/Londonderry and Strabane – within the Derry City and Strabane District Council area and located in the west and north of NI. Using the investigation's categorisation, the Travellers' accommodation offered in this area included two serviced/transit sites, a grouped housing scheme and standard social housing.¹⁰⁴
- Dungannon and Coalisland – within the Mid Ulster District Council area and located in the middle of NI. Using the investigation's categorisation, the Travellers' accommodation offered in this area included a serviced/transit site, one grouped housing scheme and standard social housing.¹⁰⁵

Fieldwork

The fieldwork was completed between October 2016 and April 2017. A total of 23 interviews were conducted with 35 representatives from the relevant public authorities. These were:

- Department for Communities;
- Department for Infrastructure;
- NI Housing Executive;
- Apex Housing Association;
- Clanmil Housing Association;
- Radius Housing Association (formerly Fold Housing Association);
- Belfast City Council;
- Armagh City, Banbridge and Craigavon Borough Council;
- Derry City and Strabane District Council;
- Mid Ulster District Council;
- Equality Commission NI; and
- Police Service NI.

NI Councillors were also invited to share their experiences relevant to the investigation with the NIHRC. Three responses were received leading to an individual interview with a Councillor from the Belfast City Council and a group interview with two Councillors from the Derry City and Strabane District Council.

One roundtable discussion was conducted with ten representatives from eight civil society organisations that worked with members of the Travellers communities in NI. These organisations were:

- An Munia Tober;
- Craigavon Travellers Support Committee;
- Housing Rights;
- Pavee Point;
- Participation and Practice of Rights;

¹⁰³ Ibid; AQW 1608/16-21, 'Question posed by Patsy McGlone MLA on the measures taken to resolve the issues associated with an encampment at Creagh Business Park, Toome', 22 June 2016.

¹⁰⁴ AQW 1608/16-21, 'Question posed by Patsy McGlone MLA on the measures taken to resolve the issues associated with an encampment at Creagh Business Park, Toome', 22 June 2016.

¹⁰⁵ Available at: http://www.nihe.gov.uk/index/advice/advice_for_travellers/accommodation.htm.

- South Tyrone Empowerment Programme;
- Armagh Travellers Support Group; and
- Toybox.

Two individual interviews were also conducted with a representative from South Tyrone Empowerment Programme and a representative from the Armagh Travellers Support Group. These were organised due to particular developments within their geographical areas during the course of the investigation.¹⁰⁶

Members of the Traveller communities that resided in a range of accommodational types (Travellers' sites, grouped housing, standard social housing) or were experiencing homelessness from across NI were also interviewed. This involved speaking to a total of 38 members of Traveller communities in NI, across 15 individual interviews and nine group interviews. Interviews were facilitated through:

Belfast City Council Area
An Munia Tober
Belfast City Council
Armagh City, Banbridge and Craigavon Borough Council Area
Armagh Travellers Support Group
Craigavon Travellers Support Committee ¹⁰⁷
Derry City and Strabane District Council Area
Early Years Derry, Limavady and Strabane (Western Health and Social Care Trust)
Councillor Paul Gallagher (Independent)
Councillor Darren O'Reilly (Independent)
Traveller Health and Wellbeing Programme (Western Health and Social Care Trust)
Mid Ulster District Council Area
An Tearmann
South Tyrone Empowerment Programme

Between October 2016 and April 2017, the NIHRC conducted observational visits to all of the Traveller-specific accommodation locations (all types of Travellers' sites and grouped housing) within the four Council areas adopted as case studies.¹⁰⁸ It also conducted an observational visit in April 2017 to two Travellers' sites in Dublin, for the purposes of exploring good practice.

¹⁰⁶ Interviews and roundtable discussions with public authorities, civil society organisations and members of the Traveller communities in NI followed a semi-structured format based on the standards set out under the right to adequate housing and points emerging from other evidence that required clarification. All information handled and interviews conducted for the purpose of this investigation accord to the appropriate ethical standards, the requirements of the Data Protection Act 1998 and the provisions of the NI Act 1998. All interviewees were informed of the nature of the report and made aware that the interviews were being recorded. They were also informed that the recordings and transcriptions would be held in line with data protection and that direct quotes or views may be used in the final report or any additional activities related to the investigation. Interviewees who were not employed by public authorities under notification provided consent acknowledging their understanding of the purposes of the interview and its recording. Within the report, identifying characteristics of individuals are removed or neutralised.

¹⁰⁷ The NIHRC interviewed Travellers living in social housing. It also conducted observation visits to the serviced site and emergency halting site within the Armagh City, Banbridge and Craigavon Borough Council area. However, the NIHRC had difficulty gaining access for the purposes of interviewing Travellers living on those sites. As a result, those planned interviews did not take place.

¹⁰⁸ A breakdown by Council area of Traveller-specific accommodation in NI is provided in Appendix II. Available at: www.nihrc.org.

The Report

The report is structured around the key human rights laws and standards identified as crucial in fulfilling, respecting and protecting the right to adequate housing, in the context of Travellers' accommodation. It follows:

- Chapter 1 considers the requirement for Travellers' accommodation to be culturally adequate;
- Chapter 2 considers the requirement for Travellers' accommodation to be accessible;
- Chapter 3 considers the requirement for Travellers' accommodation to be habitable;
- Chapter 4 considers the requirement for Travellers' accommodation to have adequate services, facilities and infrastructure;
- Chapter 5 considers the requirement for Travellers' accommodation to be subject to adequate security of tenure;
- Chapter 6 considers the requirement for Travellers' accommodation to be adequately safeguarded from forced eviction;
- Chapter 7 considers the requirement for Travellers' accommodation to be affordable;
- Chapter 8 considers the requirement for Travellers' accommodation to be adequately located;
- Chapter 9 considers the requirement for Travellers' accommodation to be subject to adequate participation of Travellers;
- Chapter 10 considers the requirement for Travellers' accommodation to be subject to Travellers' effective monitoring;
- Chapter 11 considers the requirement for Travellers' accommodation to be adequately resourced;
- Chapter 12 considers the requirement for Travellers to not be subject to discrimination regarding their accommodation;
- Chapter 13 considers the requirement to promote tolerance and mutual understanding regarding Travellers' accommodation; and
- Chapter 14 considers the requirement for Travellers' accommodation to be subject to an effective remedy.

Each chapter considers the relevant human rights laws and standards engaged, followed by an examination of the existing domestic laws and policies considered most relevant. Each chapter then examines the practices of the relevant public authorities and the experiences of the Traveller communities and civil society organisations, drawing on the evidence gathered. To conclude, a summation of key findings is provided.

The conclusions and recommendations are set out in Chapter 15. The recommendations are set out according to the correlating public authority in Appendix I.

Five recommendations are identified as requiring immediate action, these are highlighted in red. The Commission will review within six months (September 2018) whether these have been implemented. The Commission will review the implementation of the remaining recommendations, highlighted in purple, within 12 months (March 2019).

1 Culturally Adequate

The duty to provide adequate housing requires that accommodation, including Travellers' accommodation, is culturally adequate. This duty engages:

Treaty	Article
ICESCR	11
ECHR	8
European Social Charter	16

The following soft law standards clarify what is required:

UN ICESCR Committee
General Comment No 4: The Right to Adequate Housing ¹⁰⁹
Concluding Observations on the Fifth Periodic Report of the UK and NI ¹¹⁰
Concluding Observations on the Sixth Periodic Report of the UK and NI ¹¹¹
UN CERD Committee
Concluding Observations on the Eighteenth to Twentieth Periodic Report of the UK of Great Britain and NI ¹¹²
Concluding Observations on the Twenty-first to Twenty-third Periodic Reports of the UK and NI ¹¹³
UN CEDAW Committee
Concluding Observations on the Seventh Periodic Report of the UK of Great Britain and NI ¹¹⁴
UN General Assembly
Report of the United Nations Conference on Human Settlements (Habitat II) ¹¹⁵
Report of the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context: Mission to the UK and NI ¹¹⁶
CoE Advisory Committee on the FCNM
Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural Social and Economic Life in Public Affairs ¹¹⁷
Fourth Opinion on the UK ¹¹⁸

¹⁰⁹ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991.

¹¹⁰ E/C.12/GBR/CO/5, 'ICESCR Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 22 May 2009.

¹¹¹ E/C.12/GBR/CO/6, 'ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 14 July 2016.

¹¹² CERD/C/GBR/CO/18-20, 'CERD Committee Concluding Observations concerning the UK of Great Britain and NI', 14 September 2011.

¹¹³ CERD/C/GBR/CO/21-23, 'CERD Committee Concluding Observations on the Twenty-first to Twenty-Third Periodic Reports of UK of Great Britain and NI', 26 August 2016.

¹¹⁴ CEDAW/C/GBR/CO/7, 'CEDAW Committee Concluding Observations on the Seventh Periodic Report of the UK of Great Britain and NI', 30 July 2013.

¹¹⁵ A/Conf.165/14, 'United Nations Conference on Human Settlements (Habitat II): Istanbul Declaration on Human Settlements', 14 June 1996.

¹¹⁶ A/HRC/25/54/Add.2, 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this Context, Raquel Rolnik: Mission to the UK of Great Britain and NI', 30 December 2013.

¹¹⁷ ACFC/31DOC(2008)001, 'CoE Advisory Committee on the Framework Convention for the Protection of National Minorities: Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs', 27 February 2008.

¹¹⁸ ACFC/OP/IV(2016)005, 'CoE Advisory Committee on the FCNM: Fourth Opinion on the UK', 27 February 2017.

CoE Committee of Ministers
Recommendation on the movement and encampment of Travellers in Europe ¹¹⁹
Recommendation on improving the housing conditions of Roma and Travellers in Europe ¹²⁰
CoE Commissioner for Human Rights, Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing, Miloon Kothari
Joint Statement ¹²¹
CoE Commissioner for Human Rights Thomas Hammarberg
Positions on the Human Rights of Roma ¹²²
ECRI
Recommendation No 13: Combating Anti-gypsyism and Discrimination against Roma ¹²³

Human Rights Laws and Standards

United Nations

The ICESCR Committee discusses housing in the context of “shelter”.¹²⁴ It states “the right to housing should not be interpreted in a narrow or restrictive sense”¹²⁵ and refers to the need for “diversity of housing” to reflect “cultural adequacy”.¹²⁶ It recommends:

the way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. Activities geared towards development or modernisation in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed, and that, inter alia, modern technological facilities, as appropriate are also ensured.¹²⁷

The ICESCR Committee has continuously called for “the provision of sufficient, adequate and secure” culturally appropriate accommodation.¹²⁸ This includes ensuring “adequate access to culturally appropriate accommodation and stopping sites”.¹²⁹ The UN Habitat Agenda is supportive and states that “adequacy... depends on specific cultural, social, environmental and economic factors”.¹³⁰

¹¹⁹ CoE, ‘Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe’, 1 December 2004.

¹²⁰ CoE, ‘Recommendation Rec(2005)4 on improving the housing conditions of Roma and Travellers in Europe’, 25 February 2005.

¹²¹ CommDH/Speech(2007)16, ‘Joint Statement by CoE Commissioner for Human Rights Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari: Governments Should Take Positive Steps to Protect the Housing Rights of Roma in Europe’, 24 October 2007.

¹²² CommDH/PositionPaper (2010)3, ‘Commissioner for Human Rights Positions on the Human Rights of Roma’, 30 May 2010.

¹²³ CRI(2011)37, ‘ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma’, 24 June 2011.

¹²⁴ E/1992/23, ‘ICESCR Committee General Comment No 4: The Right to Adequate Housing’, 13 December 1991, at para 7.

¹²⁵ Ibid.

¹²⁶ Ibid, at para 8(g).

¹²⁷ Ibid.

¹²⁸ E/C.12/GBR/CO/5, ‘ICESCR Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI’, 22 May 2009, at para 30; E/C.12/GBR/CO/6, ‘ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 14 July 2016, at para 50.

¹²⁹ E/C.12/GBR/CO/6, ‘ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 14 July 2016, at para 50(d).

¹³⁰ A/Conf.165/14, ‘United Nations Conference on Human Settlements (Habitat II): Istanbul Declaration on Human Settlements’, 14 June 1996, at para 60.

The CERD Committee has consistently recommended that the UK government ensures “the provision of adequate and culturally appropriate accommodation and stopping sites as a matter of priority”.¹³¹ The CEDAW Committee that has recommended the UK “provide adequate sites designed for use by Traveller women and members of their families” also supports this.¹³²

The UN Habitat Agenda states “adequate shelter means more than a roof over one’s head”.¹³³ This implies the obligations contained within the right to adequate housing extends to standard and nomadic types of housing.

The former UN Special Rapporteur on Adequate Housing, Raquel Rolnik, found:

the lack of appropriate and culturally adequate residential and transit accommodation is often at the root of the stigma and discrimination faced by Gypsies and Travellers in the UK, underpinning a range of other problems, from access to education or work to appropriate health care or inclusion in community life.¹³⁴

She also noted that:

many Gypsies and Travellers are caught between an insufficient supply of suitable accommodation on the one hand, and the insecurity of unauthorised encampments and developments on the other... In order to avoid evictions or to gain access to services, many households reluctantly accept housing in buildings, which is culturally inadequate.¹³⁵

Travellers, the former UN Special Rapporteur concluded, are “often housed in the most deprived estates and exposed to more direct and immediate hostility focused on their ethnicity or lifestyle”.¹³⁶ Consequently, it is noted that “cultural adequacy in housing is a pillar for inclusion, and that legislation and policy are not enough to overcome local obstacles”.¹³⁷

Council of Europe

The ECHR, Article 3, provides for freedom from torture, inhuman or degrading treatment or punishment. This is an absolute, non-derogable right. Article 3 is guaranteed “irrespective of the victim’s conduct”.¹³⁸ It is only engaged in circumstances, concerning the most severe and degrading situations, which cause those affected to feel humiliated and debased.¹³⁹

The ECHR, Article 8, protects the right to respect for private and family life. In the context of Travellers’ accommodation, it is engaged where the poor conditions affect the tenant’s physical and psychological integrity as a direct consequence of the public authorities’ unjustified action or inaction. The family unit,

¹³¹ CERD/C/GBR/CO/21-23, ‘CERD Committee Concluding Observations on the Twenty-first to Twenty-Third Periodic Reports of UK of Great Britain and NI’, 26 August 2016, at para 25(b); CERD/C/GBR/CO/18-20, ‘CERD Committee Concluding Observations concerning the UK of Great Britain and NI’, 14 September 2011, at para 27.

¹³² CEDAW/C/GBR/CO/7, ‘CEDAW Committee Concluding Observations on the Seventh Periodic Report of the UK of Great Britain and NI’, 30 July 2013, at para 61(b).

¹³³ A/Conf.165/14, ‘United Nations Conference on Human Settlements (Habitat II): Istanbul Declaration on Human Settlements’, 14 June 1996, at para 60.

¹³⁴ A/HRC/25/54/Add.2, ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this Context, Raquel Rolnik: Mission to the UK of Great Britain and NI’, 30 December 2013, at para 69.

¹³⁵ *Ibid.*

¹³⁶ *Ibid.*

¹³⁷ *Ibid.*, at para 78(h).

¹³⁸ *Chahal v UK* (1996) 23 EHRR 413, at para 79; Articles 3 and 15(2), European Convention on Human Rights 1950.

¹³⁹ *Moldovan v Romania* (No 2) (2007) 44 EHRR 16, at paras 101 and 111.

including children, is awarded special protection.¹⁴⁰ Article 8 also confirms a caravan can be classified as a “home”.¹⁴¹

The ECHR, Article 2, protects the right to life. This requires that States¹⁴² take all reasonable steps to prevent intentional and unintentional deprivation of life within their jurisdictions.¹⁴³ They also must take reasonable steps to counteract a known real and imminent risk to life.¹⁴⁴

The European Committee of Social Rights found the European Social Charter, Article 16, requires the provision of sufficient temporary stopping facilities, such as halting sites.¹⁴⁵ The CoE Committee of Ministers has clarified that Traveller communities have the “right to preserve and develop specific cultural identities”.¹⁴⁶ The Committee also calls for Member States to “affirm the right of people to pursue sedentary or nomadic lifestyles, according to their own free choice”.¹⁴⁷ This includes allowing “Travellers to exercise their right to move and set up camp”, through a “coordinated, coherent system of legal safeguards for their freedom of movement”.¹⁴⁸ The Committee also requires that minimum construction standards are satisfied and that housing is such that it can be adapted and enhanced to accommodate “cultural needs”.¹⁴⁹ It recommends “the same substantial rights as those attached to a fixed abode, particularly in legal and social matters” should be given to “Travellers’ mobile homes or, where relevant, the place of residence to which the Traveller is linked”.¹⁵⁰

The Advisory Committee on the FCNM recommends States “develop comprehensive sectoral policies to address problems of substandard housing... which affect persons belonging to certain minorities”.¹⁵¹ This includes promoting “equal access to adequate housing, in particular by improved access to subsidised housing”.¹⁵² Specific to the UK, the Advisory Committee on the FCNM found “access to campsites by Gypsies and Travellers continues to be problematic, particularly in... NI”.¹⁵³ Furthermore, “local authorities appear to struggle with the task of providing adequate permanent and temporary sites for these groups”.¹⁵⁴

The former CoE Commissioner for Human Rights, Alvaro Gil-Robles recommends “it is important to ensure that there is a sufficient number of camping sites with adequate facilities”.¹⁵⁵ This includes creating a statutory obligation to “provide short and long-term caravan sites that meet basic standards of decency”.¹⁵⁶ Such

¹⁴⁰ *Storck v Germany* (2006) 43 EHRR 6, at para 149; *Connors v UK* (2004) ECHR 223, at para 82; *Botta v Italy* (1998) 26 EHRR 241, at para 34; *R (Bernard) v Enfield London Borough* [2002] EWHC 2282, at paras 33-34; *Anufrijeva v Southwark* [2003] EWCA Civ 1406, at para 28; Article 8(2), European Convention on Human Rights 1950.

¹⁴¹ *Chapman v United Kingdom* (2001) ECHR 43, at para 73.

¹⁴² Section 6(1), European Convention on Human Rights 1950.

¹⁴³ *Öneriyildiz v Turkey* (2004) ECHR 657; *LCB v UK* (1999) 27 EHRR 212, at para 36.

¹⁴⁴ *Burke v UK*, Application No 19807/06, 11 July 2006, at para 1.

¹⁴⁵ *European Roma Rights Centre v Greece*, Complaint No 15/2003, 8 December 2004, at paras 46 and 47.

¹⁴⁶ CoE, ‘Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe’, 1 December 2004, at Preamble.

¹⁴⁷ *Ibid.*, at II(3).

¹⁴⁸ *Ibid.*, at Preamble.

¹⁴⁹ CoE, ‘Recommendation Rec(2005)4 of the Committee of Ministers to Member States on Improving the Housing Conditions of Roma and Travellers in Europe’, 23 February 2005, at para 51 and 52.

¹⁵⁰ CoE, ‘Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe’, 1 December 2004, at para 12.

¹⁵¹ ACFC/31/DOC(2008)001, ‘CoE Advisory Committee on the Framework Convention for the Protection of National Minorities: Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs’, 27 February 2008, at para 59.

¹⁵² *Ibid.*

¹⁵³ ACFC/OP/IV(2016)005, ‘CoE Advisory Committee on the FCNM: Fourth Opinion on the UK’, 27 February 2017, at 2.

¹⁵⁴ *Ibid.*

¹⁵⁵ CommDH(2006)1, ‘Final Report by Mr Alvaro Gil-Robles, CoE Commissioner for Human Rights, on the Human Rights Situation of the Roma, Sinti and Travellers in Europe’, 15 February 2006, at 19.

¹⁵⁶ *Ibid.*

accommodation should be subject to “financial assistance” and incorporated within “urban planning” (including private lands).¹⁵⁷

The former CoE Commissioner for Human Rights, Thomas Hammarberg, identified, “an important guideline to evaluating cultural suitability is the... principle of inclusion”.¹⁵⁸ This means “people of different social, ethnic or cultural origin should not be segregated into different areas or different housing blocks”.¹⁵⁹ Instead, different sections of the population should be “encouraged to come into closer contact with one another”;¹⁶⁰ though “any social mix policies must be clearly transparent and non-discriminatory”.¹⁶¹ Thomas Hammarberg, and the former UN Special Rapporteur on Adequate Housing, Miloon Kothari, also stated “the use of criminal law measures to thwart nomadism should be ended, and adequate site provision should be provided for Travellers in countries, regions or areas where there are such communities”.¹⁶²

The ECRI recommends governments “take effective measures against refusal to enter [Travellers] in the register of inhabitants when they wish to settle permanently or temporarily”.¹⁶³

Type of Travellers' Accommodation in NI

Domestic Laws and Policies

Responsibility for Travellers' Accommodation

The Department for Communities is responsible for policy, legislation and delivery across a wide range of issues related to housing in NI. In social housing, it is responsible for managing the relationship with the NI Housing Executive, the delivery of the new build social housing programme, shared neighbourhoods, supporting vulnerable people to live independently through the Supporting People Programme and the Social Housing Reform. The Department’s role also includes addressing wider housing market issue – especially increasing overall housing supply, the regulation of the private rented sector and addressing homelessness and fuel poverty.¹⁶⁴ The Department for Infrastructure has policy responsibility for planning and the infrastructure of accommodation in NI.¹⁶⁵ The NI Housing Executive is the statutory housing body responsible for monitoring and meeting housing need in NI.¹⁶⁶ It has responsibility for the application and allocation process regarding all social housing. It is also responsible for developing, managing and maintaining bricks and mortar social housing, with housing associations. This includes grouped housing. The development of this type of housing emerged following a recommendation from the Working Party Report on Travellers’ Accommodation Needs.¹⁶⁷ Responsibility for any grouped housing rests with the NI Housing Executive and the relevant housing associations.

¹⁵⁷ CommDH/PositionPaper (2010)3, ‘Commissioner for Human Rights Positions on the Human Rights of Roma’, 30 May 2010.

¹⁵⁸ CommDH(2009)5, ‘Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing’, 30 June 2009, at para 3.2.3.

¹⁵⁹ *Ibid.*

¹⁶⁰ *Ibid.*

¹⁶¹ *Ibid.*

¹⁶² CommDH/Speech(2007)16, ‘Joint Statement by Council of Europe Commissioner for Human Rights Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari: Governments Should Take Positive Steps to Protect the Housing Rights of Roma in Europe’, 24 October 2007.

¹⁶³ CRI(2011)37, ‘ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma’, 24 June 2011, at para 6(h).

¹⁶⁴ Evidence from Department for Communities, Response to Question 2, 27 September 2016; Letter from Department for Communities to NIHRC, 7 November 2017.

¹⁶⁵ Available at: <https://www.infrastructure-ni.gov.uk/topics/planning>.

¹⁶⁶ Housing Executive Act (NI) 1971; Housing (NI) Order 1981.

¹⁶⁷ Department of the Environment, ‘New Policy on Accommodation for Travellers’ (DoE, 1999).

Prior to 2003, local Councils owned and were responsible for Traveller-specific sites. This included the provision of Travellers' sites.¹⁶⁸ The Housing (NI) Order 2003 transferred these duties to the NI Housing Executive.¹⁶⁹ It is responsible for developing Travellers' sites, allocating pitches, managing and maintaining sites.¹⁷⁰ It is not responsible for providing caravans, trailers or chalets.¹⁷¹ There are mixed views on transferring responsibility for Travellers' sites from the Councils to the NI Housing Executive. The Working Party on Travellers' Accommodation was not in favour,¹⁷² but the Promoting Social Inclusion Working Group on Travellers' stated it should be determined by consultation, particularly with Travellers.¹⁷³ The Review of Public Administration in 2009 considered returning the responsibility for Travellers' sites to Councils. The Councils believed this created "an unnecessary fragmentation in the service to the Traveller community and that provision of all types of accommodation should remain with the strategic housing authority in NI viz, the NI Housing Executive".¹⁷⁴

The then Department for Social Development's (now Department for Communities) 'Housing Strategy' for 2012-2017¹⁷⁵ focuses on minimum standards of housing, regulation of social landlords and developing sustainable financing for essential maintenance of the NI Housing Executive's housing stock.¹⁷⁶ It addresses the provision of bricks and mortar housing. It does not address other forms of Travellers' accommodation. Additionally, the NI Housing Executive's objectives for 2015-2018 aimed at improving accommodation focus on bricks and mortar, including identification of housing requirements across NI, investing in homes and neighbourhoods, and improving people's homes.¹⁷⁷

Accommodating Traveller-specific Accommodation

The Housing (NI) Order 1981, Article 2(3), specifies:

references to a house include a reference to a hut, tent, caravan or other temporary or movable form of shelter which is used for human habitation and has been on substantially the same site or enclosed within the same area for a period of not less than one year.

This definition applies to clearance areas, clearance, demolition, closing orders, repairs and re-development areas.¹⁷⁸ A caravan is:

any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether by being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted.¹⁷⁹

The Department for Communities and the NI Housing Executive differentiate Travellers' needs from the wider population, in the context of housing.¹⁸⁰ This is reflective of the unique cultural needs of Travellers and

¹⁶⁸ Article 28A, Housing (NI) Order 1981; Article 125, Housing (NI) Order 2003.

¹⁶⁹ Article 125 and Schedule 2, Housing (NI) Order 2003.

¹⁷⁰ Ibid.

¹⁷¹ Article 125(6), Housing (NI) Order 2003.

¹⁷² Department of the Environment, 'New Policy on Accommodation for Travellers' (DoE, 1999), at Recommendation 4.

¹⁷³ OFMDFM, 'Promoting Social Inclusion Working Group on Travellers' (OFMDFM, 2000), at Recommendation 6.

¹⁷⁴ 'Local Government Partnership Review of NI Public Administration (RPA) Mapping Exercise/Action Plan' in Minutes of NI Local Government Partnership on Travellers Issues (Armagh City, Banbridge and Craigavon District Council, unknown), at 1.

¹⁷⁵ Department for Social Development, 'Facing the Future: The Housing Strategy for NI 2012-2017' (DSD, 2012), at 5.

¹⁷⁶ Ibid.

¹⁷⁷ NI Housing Executive, 'Corporate and Business Plans: Regional Services 2015/16-2017/18' (NIHE, 2016), at 8-13.

¹⁷⁸ Chapters II and III of Part III, Housing (NI) Order 1981.

¹⁷⁹ Section 15(1), Caravans Act (NI) 2011.

¹⁸⁰ NI Housing Executive, 'Strategic Guidelines: Annual Review 2012' (NIHE, 2012), at paras 28-29; Department of the Environment, 'Mid Ulster: Position Paper One – Population and Growth' (DoE, September 2014), at para 2.25; Department of the Environment, 'New Policy on Accommodation for Travellers' (DoE, 1999). The Department for Communities now has departmental responsibility for Travellers' accommodation. Available at: <https://www.communities-ni.gov.uk/publications/policy-accommodation-travellers>.

enables an effective response to those specific needs.¹⁸¹ The NI Act 1998, Section 75(1), requires public authorities to have “due regard to the need to promote equality of opportunity”. The Race Relations (NI) Order 1997 prohibits racial discrimination in the provision of goods, facilities or services,¹⁸² and in the disposal or management of premises.¹⁸³ These provisions extend to housing, including Travellers' accommodation. The NI Housing Executive also has a statutory duty to provide Travellers' sites.¹⁸⁴

Domestic Practice

Standard Social Housing

Statistics indicate that the demand for standard social housing within the Traveller communities in NI is increasing. In 2002, of the 316 interviewed Traveller households (by comparing previous and current tenure) social housing increased by 19 percent. Of the 384 Traveller households interviewed in 2014, social housing increased by 10 percent. It is unclear why this is. It could be a reduction in site availability; an increase in inadequacy of sites versus adequacy of bricks and mortar; the NI Housing Executive's not clearly offering Traveller-specific accommodation as an option in the early stages of housing assessment; or simply changes in the personal choices and habits of Traveller households.¹⁸⁵

Some members of the Traveller communities in NI live in standard social housing provided by the NI Housing Executive and housing associations. There are no definitive statistics available for the number of Travellers in standard social housing. The Traveller Needs Assessment 2014 indicates that of the 384 families interviewed 188 (49 percent) live in standard social housing.¹⁸⁶ This does not provide a complete figure for the number of individuals represented. The use of social housing (42 to 49 percent), privately owned (two to ten percent) and privately rented (eight to 12 percent) gradually increased from 2002 to 2014.¹⁸⁷

Travellers' Sites

This investigation focuses on Travellers' sites owned or maintained by the NI Housing Executive. Seven such sites were operating in NI in November 2017 across four local Council areas.¹⁸⁸ These are:

¹⁸¹ Interview with representatives of Department for Communities, 1 February 2017.

¹⁸² Article 21, Race Relations (NI) Order 1997.

¹⁸³ Article 22, Race Relations (NI) Order 1997.

¹⁸⁴ Article 125 and Schedule 2, Housing (NI) Order 2003.

¹⁸⁵ Roundtable discussion with civil society organisations, 20 September 2016; NI Local Government Partnership on Travellers Issues meeting with NIHRC, 4 October 2016.

¹⁸⁶ NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at 10.

¹⁸⁷ NI Housing Executive, 'Travellers Accommodation Needs Assessment in NI 2002' (NIHE, 2002), at Appendix 1, Table 12; NI Housing Executive, 'Traveller Accommodation Needs Assessment in NI 2008' (NIHE, 2008), at Appendix 2, Table 29; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at Appendix 2, Table 26.

¹⁸⁸ Letter from NI Housing Executive to NIHRC, 30 September 2016; AQW 16131/11-15, 'Response to Question Posed by Dolores Kelly MLA to Nelson McCausland MLA (then Minister for Social Development)', 8 November 2012; Letter from NI Housing Executive to NIHRC, 20 March 2017.

Council Area	Name	NI Housing Executive's Categorisation	Investigation's Categorisation ¹⁸⁹	Landowner
Armagh City, Banbridge and Craigavon Borough Council	Acorn Grove	Serviced	Serviced	NI Housing Executive
	Legahory Close	Emergency halting	Transit	NI Housing Executive
Belfast City Council	Glen Road Heights	Serviced	Serviced ¹⁹⁰	NI Housing Executive
	Glen Road	Private	De facto serviced site ¹⁹¹ /unauthorised encampment ¹⁹²	Clanmil Housing Association
Derry City and Strabane District Council	Ballyarnett	Transit	Serviced/transit	NI Housing Executive
	Daisyfield	Serviced/transit	Serviced/transit	NI Housing Executive
Mid Ulster District Council	The Glen	Serviced/transit	Serviced/transit	NI Housing Executive

The NI Housing Executive closed an eighth site, the Greenbrae (Derry City and Strabane District Council) site in May 2015 for health and safety reasons. However, its occupants did not vacate the site until August 2016.¹⁹³ This site was categorised by the NI Housing Executive as a transit site, yet it was operating as a serviced/transit site in practice. The necessary improvement works to reopen the site were to be completed in 2016/2017,¹⁹⁴ but are now expected in 2017/2018.¹⁹⁵ Despite the NI Housing Executive's declared intentions,¹⁹⁶ some believe this site will not reopen due to other developments planned for the area.¹⁹⁷

¹⁸⁹ This is based on the actual use of the site during the course of the investigation determined through written evidence, oral evidence and observational visits to Travellers' accommodation. It also takes account of the historical actual use of the site to determine if the difference between the NI Housing Executive's categorisation and the actual use of the site was due to special circumstances and of a temporary nature. The amenities provided on the site by the NI Housing Executive do not necessarily reflect the actual use of the site. This is particularly the case if the NI Housing Executive has given the site a categorisation that requires less amenities.

¹⁹⁰ This was categorised by the NI Housing Executive as a serviced/transit site until March 2017. Prior to March 2017 the serviced site was closed and in a state of disrepair. Travellers had been living on the transit site on a permanent basis for a number of years. Those that were inhabiting the transit site on a permanent basis were moved to the newly refurbished serviced in March 2017. The transit site has closed and is no longer available for habitation. See Letter from NI Housing Executive to NIHRC, 20 March 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Letter from NI Housing Executive to NIHRC, 3 November 2017.

¹⁹¹ The NI Housing Executive categorises the front part of this Travellers' site as a private site. However, it is categorised as a de facto serviced site for the purposes of this investigation because this Travellers' site exists due to an arrangement between the NI Housing Executive and Clanmil Housing Association – Clanmil owns the land, but the NI Housing Executive maintain the services on the site. The back part of the site that is not serviced by the NI Housing Executive is categorised as an unauthorised encampment for the purposes of this investigation. See Interview with representatives of Clanmil Housing Association, 8 March 2017; Letter from NI Housing Executive to NIHRC, 20 March 2017; Letter from NI Housing Executive to NIHRC, 3 November 2017.

¹⁹² One part of this site is a long-term unauthorised encampment that is not serviced by the NI Housing Executive. Interview with representatives of Clanmil Housing Association, 8 March 2017; Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

¹⁹³ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017; Letter from NI Housing Executive to NIHRC, 20 March 2017.

¹⁹⁴ Conor Sharkey, "We have nowhere else to go" says Traveller family', *Strabane Chronicle*, 30 September 2016; Letter from NI Housing Executive to NIHRC, 30 September 2016.

¹⁹⁵ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁹⁶ Letter from NI Housing Executive to NIHRC, 20 March 2017.

¹⁹⁷ 'Chief Environmental Health Officer's Confidential Report', CARS Committee, 10 December 2014; Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016; Interview with a representative of the PSNI: Interview F, 15 February 2017.

Of the sites operating in November 2017, the Glen Road Heights serviced site was previously closed by the NI Housing Executive from 2011 until March 2017.¹⁹⁸ In the interim, a transit site was operating on land adjacent to the closed serviced site. Following the reinstatement of the serviced site, the NI Housing Executive closed the transit site.¹⁹⁹ Additionally, the Daisyfield site was open as a serviced site, but remained vacant from 2006 until 2012. It was vandalised during this period and then closed on health and safety grounds. The site then remained closed until refurbishment works were completed in December 2016, when it reopened as a serviced/transit site.

Six of the sites are on NI Housing Executive owned land and one is on land owned by the Clanmil Housing Association. The NI Housing Executive maintains all seven sites. In March 2017, of the 72 available pitches across the seven sites, 40 pitches (56 percent) were occupied.²⁰⁰ There is no definitive figure for the number of individuals this represents. These figures also do not account for overcrowding that can occur on individual pitches²⁰¹ or for compatibility issues²⁰² that may be preventing occupancy.²⁰³

The 2014 'Travellers' Accommodations Needs Assessment' records 61 (16 percent) of 384 Traveller households interviewed live on sites supplied by public authorities. There is no definitive figure for the number of individuals this represents. The statistics from the 2002 'Travellers' Accommodation Needs Assessment' to 2014 indicate the demand for sites is reducing.²⁰⁴ In 2002, 41 percent of 316 interviewed Traveller households lived on sites supplied by public authorities.²⁰⁵ This was a decrease of 10 percent compared to the previous and current tenure of those previously interviewed. Of the 384 Traveller households interviewed in 2014, site accommodation decreased by 17 percent.²⁰⁶ It is unclear whether this is by choice in both instances.

Type of Travellers' Sites

Two types of Travellers' sites – transit and serviced – are recognised within NI policies.²⁰⁷ For the purposes of this investigation, five categories of Travellers' sites operate in NI – transit, serviced, serviced/transit, emergency halting and co-operated.²⁰⁸

Transit sites facilitate a temporary or short-term location of caravans. Communal facilities should be provided.²⁰⁹ In NI, these sites have no minimum stay, but are for a maximum stay of three months.²¹⁰ In England, transit sites are for a minimum stay of 28 days and maximum of three months.²¹¹ The NI Housing

¹⁹⁸ Letter from NI Housing Executive to NIHRC, 20 March 2017; NI Housing Executive, 'HRC-Q6-2: Report on Travellers Site Glen Road Heights Belfast – Ref: B3024' (FCM, 2014), at Section 2.

¹⁹⁹ Letter from NI Housing Executive to NIHRC, 20 March 2017.

²⁰⁰ The NI Housing Executive identified 81 Travellers' pitches across NI, plus three additional pitches that could be made available if required. However, nine of the pitches identified by the NI Housing Executive were not available for occupancy in March 2017. The six pitches at Greenbrae were closed for renovations in August 2016 and the three transit pitches at Glen Road Heights were closed in March 2017. See Letter from NI Housing Executive to NIHRC, 20 March 2017; a breakdown by Council area of Travellers' pitches in NI is provided in Appendix II. Available at: <http://www.nihrc.org/>.

²⁰¹ Roundtable discussion with civil society organisations, 20 September 2016.

²⁰² This is where Travellers are unable to or do not wish to live together due to tensions, feuds or lack of family ties. Some Travellers have also refused to avail of the pitches, even when there is no one else on the site. This is due to the cultural belief that a family that previously lived on the site has a territorial claim to that site, even if they have no intention of returning.

²⁰³ Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

²⁰⁴ NI Housing Executive, 'Travellers Accommodation Needs Assessment in NI 2002' (NIHE, 2002), at Appendix 1, Table 12; NI Housing Executive, 'Traveller Accommodation Needs Assessment in NI 2008' (NIHE, 2008), at Appendix 2, Table 29; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at Appendix 2, Table 26.

²⁰⁵ *Ibid.*

²⁰⁶ NI Housing Executive, 'Travellers Accommodation Needs Assessment in NI 2002' (NIHE, 2002), at Appendix 1, Table 26; NI Housing Executive, 'Traveller Accommodation Needs Assessment in NI 2008' (NIHE, 2008), at Appendix 2, Table 44; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at Appendix 2, Table 42.

²⁰⁷ Department for Regional Development, 'Planning Policy Statement 12 (PPS 12): Housing Settlements' (DRD, 2005), at para 61.

²⁰⁸ The breakdown by Council area of type of Travellers' sites in NI is provided in Appendix II available at: <http://www.nihrc.org/>.

²⁰⁹ Department for Regional Development, 'Planning Policy Statement 12 (PPS 12): Housing Settlements' (DRD, 2005), at 65.

²¹⁰ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²¹¹ Department for Communities and Local Government, 'Designing Gypsy and Traveller Sites: Good Practice Guide' (DCLG, 2008), at para 1.14.

Executive states there are two transit sites in NI (Ballyarnett and Greenbrae). However, in November 2017, Greenbrae was unavailable. It was closed for repairs, with a planned reopening for 2017/2018.²¹² Furthermore, when it was available it operated as a serviced/transit site in practice. Ballyarnett was available in November 2017, but was operating as a serviced/transit site in practice. Based on actual use in November 2017, there was one transit site in NI (Legahory Close). The NI Housing Executive categorised this as an emergency halting site.

Serviced sites are managed sites for caravans/trailers/chalets. These sites should provide electricity and other services together with communal or individual amenity units containing toilets, washing facilities and kitchen.²¹³ The NI Housing Executive states there are four serviced sites in NI (Acorn Grove, Daisyfield, Glen Road Heights and The Glen).²¹⁴ However, based on actual use in November 2017, two of the sites identified by the NI Housing Executive are serviced/transit sites (Daisyfield and The Glen). The other two sites identified by the NI Housing Executive (Acorn Grove and Glen Road Heights) are available and used as serviced sites in practice. An additional de facto serviced site also exists (Glen Road).²¹⁵ Thus, based on actual use in November 2017, there were three serviced sites in NI. This is a decrease from the ten serviced sites provided in 1999.²¹⁶ The NI Housing Executive explains that not all ten serviced sites were transferred to it from the Councils in 2003. It maintains "we haven't reduced any sites... if anything we have provided more accommodation. We have never closed [any of the Travellers' sites handed over to us in 2003]... we have added sites".²¹⁷

Serviced/transit sites are split into two with a section of serviced pitches and a section of transit pitches. The NI Housing Executive identified two serviced/transit sites in NI (Daisyfield and The Glen), but maintain they should be categorised as serviced sites.²¹⁸ However, the layout and activity on serviced/transit sites is different from serviced sites and this investigation categorises them accordingly. Based on actual use in November 2017, there were three serviced/transit sites in NI (Ballyarnett, Daisyfield and The Glen). The 'Design Guide for Travellers' Sites in NI' states:

from past experience, the location of a transit site adjacent to a permanent site is to be avoided. However, Councils [now the NI Housing Executive] may wish to provide up to 4 pitches for use by visitors to the permanent site, to avoid overcrowding on licenced pitches.²¹⁹

Travellers and civil society organisations warn that combined serviced/transit Travellers' sites are not appropriate.²²⁰ Mixing permanent and temporary residents can lead to raised tensions and overcrowding.²²¹ The "compatibility of different families on sites needs to be taken into consideration".²²² A Traveller explained:

nobody else is going to come up [on this site] where this family is. Or I'm not going to go [to another site], I don't know nobody [at that other site]. It is their own proper homes [on the site], you're not going to move in on top of people. It's not like years ago that they used to travel and go together from site to site. Now people are making

²¹² Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017; Letter from the NI Housing Executive to the NIHR, 3 November 2017.

²¹³ Department for Regional Development, 'Planning Policy Statement 12 (PPS 12): Housing Settlements' (DRD, 2005), at 65.

²¹⁴ Letter from NI Housing Executive to NIHR, 3 November 2017.

²¹⁵ This site is owned by the Clannmil Housing Association and the NI Housing Executive categorises this as a private site. While the NI Housing Executive does not own this site, it does facilitate the site's services. This is not typical of other private Travellers' sites, which are owned, managed and maintained by private individuals.

²¹⁶ Department of the Environment, 'New Policy on Accommodation for Travellers' (DoE, 1999), at para 3.

²¹⁷ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²¹⁸ Letter from NI Housing Executive to NIHR, 3 November 2017.

²¹⁹ Department of the Environment, 'Design Guide for Travellers' Sites in NI' (DoE, 1997), at para 2.9.

²²⁰ Observational visits to Travellers' accommodation across NI between November 2016 and April 2017; Email from NI Local Government Partnership on Travellers' Issues to Belfast City Council, 2 November 2016.

²²¹ Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

²²² Craigavon Inter-Agency Forum, 'Inter-Agency Meeting re Travellers, Craigavon Area', Civic Centre Craigavon, 17 January 2008, at para 4.

[the sites] their permanent homes. I wouldn't want to see somebody coming up here with a caravan and putting it in there. This is my place. You won't know who they are.²²³

Temporary stopping sites or emergency halting sites are mentioned in a NI context.²²⁴ However, this type of site is not expressly identified within NI policies as Traveller-specific accommodation.²²⁵ In England, temporary stopping sites are:

pieces of land in temporary use as authorised short-term (less than 28 days) stopping places for all travelling communities. They may not require planning permission if they are in use for fewer than 28 days. The requirements for emergency stopping places reflect the fact that the site will only be used for a proportion of the year and that individual households will normally only stay on the site for a few days.²²⁶

One emergency halting site is identified on the NI Housing Executive's list of available sites (Legahory Close).²²⁷ Yet, this Travellers' site is used as a transit site in practice.²²⁸ Therefore, in November 2017, there were no emergency halting sites in NI.

A co-operated site is a Travellers' site established under the NI Housing Executive's cooperation policy. This allows Travellers to camp on public land on a temporary basis. It is not a substitute for permanent or transit sites, but is a way of dealing with a humane requirement. Such a site can be accommodated as long as it does not create a public health hazard, is not a traffic hazard and there is no current or immediate use for the land. It is subject to the occupants behaving in a reasonable and orderly manner. The use of the cooperation policy should be reviewed at regular intervals, not exceeding three months.²²⁹ In November 2017, there were no co-operated sites in NI.²³⁰

Grouped Housing

The NI Housing Executive recognises the key features of Traveller culture are:

- extended families live together;
- Traveller families tend to be larger in number;
- living space and work space tend to be one and the same;
- Travellers practice varying degrees of nomadism – from occasional to regular travelling.²³¹

In terms of bricks and mortar accommodation, grouped housing schemes facilitate these key features. Grouped housing schemes are residential housing developments with additional facilities and amenities specifically designed to accommodate extended families on a permanent basis.²³²

²²³ Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

²²⁴ Letter from Department for Social Development to An Múna Tober, 23 June 2006.

²²⁵ Department for Regional Development, 'Planning Policy Statement 12 (PPS 12): Housing Settlements' (DRD, 2005), at 65.

²²⁶ Department for Communities and Local Government, 'Designing Gypsy and Traveller Sites: Good Practice Guide' (DCLG, 2008), at para 1.14.

²²⁷ Available at: http://www.nihe.gov.uk/index/advice/advice_for_travellers/accommodation.htm

²²⁸ Craigavon Borough Council, 'Assessment of Caravan Site Licence Conditions' (Craigavon Borough Council, 2007), at para 54; Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

²²⁹ Available at: http://www.nihe.gov.uk/index/advice/advice_for_travellers/co-operation_policy.htm

²³⁰ Letter from NI Housing Executive to NIHRC, 3 November 2017.

²³¹ NI Housing Executive, 'HRC-Q3-4: Equality Bulletin Number 11 – Cultural Diversity Handbook' (NIHE, December 2005), at 31.

²³² Department for Regional Development, 'Planning Policy Statement 12 (PPS 12): Housing Settlements' (DRD, 2005), at 65.

The NI Housing Executive has overall responsibility for establishing need and coordinating the application and allocation process for grouped housing schemes.²³³ It manages an older scheme that was inherited from Councils in 2003.²³⁴ Apex, Clanmil and Radius housing associations develop and manage the newer schemes.²³⁵ Apex highlights grouped housing schemes are “built very much with Travellers in mind... There’s been a commitment from our organisation in terms of trying to provide what meets the needs of the Travellers”.²³⁶ The NI Housing Executive elaborated grouped housing schemes are developed with specific families in mind.²³⁷ Apex²³⁸ and Clanmil have consulted with Traveller families on the design of their grouped housing schemes, “to find out what it was that they wanted and to make it as sustainable for everybody as possible”.²³⁹

There are seven grouped housing schemes in NI across five Council areas.²⁴⁰ These are:

Council Area	Name	Landowner
Belfast City Council	Briar View	Clanmil Housing Association
	Mill Race	Apex Housing Association
Derry City and Strabane District Council	Ballyarnett Labre Park	Apex Housing Association
Fermanagh and Omagh District Council	Ballinamullin	NI Housing Executive
	Tattykeel	Radius Housing Association
Mid Ulster District Council	Hillhead Cottages	Radius Housing Association
Newry, Mourne and Down District Council	Dobson’s Way	Clanmil Housing Association

In March 2017, 64 of the 65 (98 percent) grouped housing units across the seven existing grouped housing schemes were occupied.²⁴¹ There is no definitive figure for the number of individuals represented. The 2014 ‘Travellers’ Accommodations Needs Assessment’ records 38 (10 percent) of 384 interviewed Traveller households lived in grouped housing. This does not provide a definitive figure for the number of individuals represented. The statistics from the 2002 ‘Travellers’ Accommodation Needs Assessment’ indicates the demand for grouped housing is increasing. In 2002, 4 percent of 316 interviewed Traveller households lived in

²³³ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017; Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Radius Housing Association, 2 February 2017.

²³⁴ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²³⁵ Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Radius Housing Association, 2 February 2017.

²³⁶ Interview with representatives of Apex Housing Association, 7 February 2017.

²³⁷ Interview with a representative of the NI Housing Executive: Interview C, 30 January 2017.

²³⁸ Response received from Apex Housing Association to Additional Questions, 3 March 2017.

²³⁹ Interview with representatives of Clanmil Housing Association, 8 March 2017.

²⁴⁰ Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Radius Housing Association, 2 February 2017; Letter from NI Housing Executive to NIHRC, 20 March 2017.

²⁴¹ The breakdown by Council area of grouped housing units in NI is provided in Appendix II available at: <http://www.nihrc.org/>. See Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Radius Housing Association, 2 February 2017; Letter from NI Housing Executive to NIHRC, 20 March 2017.

grouped housing. This increased to 10 percent in 2014.²⁴² This is reflective of the increase in availability post-2005.

Findings

The NIHRC's findings on the type of Travellers' accommodation in NI are:

i	The NI Housing Executive has a statutory responsibility for all Travellers' accommodation categorised as social housing, with housing associations. This includes the development, management and maintenance of such accommodation.
ii	Domestic definitions of housing do not limit the concept of 'housing' to bricks and mortar.
iii	Housing providers are permitted to develop Traveller-specific accommodation, including different types of Travellers' sites, where there is a need.
iv	There is a consistent increase of Travellers in NI living in standard social housing between 2002 and 2014. There is a consistent decrease of Travellers in NI living on Travellers' sites.
v	There are seven available Travellers' sites in NI – one transit, three serviced, and three transit/serviced.
vi	The NI Housing Executive states there is one emergency halting site in NI, but in practice, there is none.
vii	There are seven grouped housing schemes in NI. These are allocated to specific families.

Homelessness

Domestic Laws and Policies

Under the Housing (NI) Order 1988, a person is homeless if he or she has accommodation but "he [or she] cannot secure entry to it",²⁴³ or "it consists of a movable structure, vehicle or vessel designed or adapted for human habitation and there is no place where he is entitled or permitted to place it and to reside in it".²⁴⁴ The relevant public authorities have a duty to secure suitable accommodation for those who are full duty applicants. This involves an application process managed by the NI Housing Executive. A successful applicant must submit a completed application form and be 1) eligible for assistance, 2) homeless through no fault of their own, and 3) fall within a priority need group.²⁴⁵ Those in priority need are pregnant women; a person with dependent children; a person who is vulnerable due to old age, mental illness or a disability; homeless due

²⁴² NI Housing Executive, 'Travellers Accommodation Needs Assessment in NI 2002' (NIHE, 2002), at Appendix 1, Table 26; NI Housing Executive, 'Traveller Accommodation Needs Assessment in NI 2008' (NIHE, 2008), at Appendix 2, Table 44; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at Appendix 2, Table 42.

²⁴³ Article 3(5)(a), Housing (NI) Order 1988.

²⁴⁴ Article 3(5)(c), Housing (NI) Order 1988.

²⁴⁵ Articles 7, 8, 10(2) and 11(2), Housing (NI) Order 1988.

to an emergency; homeless due to violence; or a young person at risk of sexual or financial exploitation.²⁴⁶ A full duty applicant can request accommodation in two preferred areas.²⁴⁷ The same rules apply for reasonable offers to full duty applicants, as other non-homeless applicants. However, if full duty applicants are not allocated permanent accommodation after six months, they should be considered for accommodation in a wider area.²⁴⁸

The 'Homelessness Strategy for NI: 2012-2017' adopts a general approach towards tackling homelessness. It does not acknowledge that certain groups, such as Travellers, may have specific needs that require consideration.²⁴⁹

Domestic Practice

Some Travellers interviewed had experienced homelessness.²⁵⁰ Those interviewed Travellers felt there were a number of contributing factors. For example, they felt there is a lack of support and guidance from the NI Housing Executive in accessing standard social housing.²⁵¹ Furthermore, they felt the offered alternative accommodation is often unsuitable for their cultural needs regarding size or location.²⁵² The limited provision of Traveller-specific accommodation and the existence of the Unauthorised Encampments (NI) Order 2005 also leave Travellers vulnerable to homelessness.

Interviews showed some Travellers experiencing homelessness couch-surf between family members. This negatively affects the individual's physical and mental health.²⁵³ Others enter hostel accommodation.²⁵⁴ The lengthy period individuals live in hostel accommodation, while waiting for alternative accommodation can lead to individuals being exposed to substance abuse.²⁵⁵ These scenarios can have a particularly negative impact on Travellers, as their housing situation is an integral part of their culture.

Findings

The NIHRC's findings on homelessness within the Traveller communities in NI are:

i	There is no bespoke approach to addressing homelessness in the Traveller communities.
ii	The existence of seizure powers under the Unauthorised Encampments (NI) Order 2005 has the potential to contribute to homelessness within the Traveller communities in NI.
iii	The failure to address homelessness in a culturally sensitive manner reportedly has had a negative effect on the physical and mental health of some Travellers.

²⁴⁶ Article 5(1), Housing (NI) Order 1988.

²⁴⁷ NI Housing Executive, 'Housing Selection Scheme Rules' (NIHE, 2014), at Rule 52.

²⁴⁸ *Ibid.*, at Rule 55.

²⁴⁹ NI Housing Executive, 'Homelessness Strategy for NI: 2012-2017' (NIHE, 2012).

²⁵⁰ Individual interview with a member of the Traveller communities in NI: Interview 11, 10 November 2016; Individual interview with member of the Traveller communities in NI: Interview 20, 25 January 2017.

²⁵¹ *Ibid.*

²⁵² Roundtable discussion with civil society organisations, 20 September 2016.

²⁵³ Individual interview with member of the Traveller communities in NI: Interview 20, 25 January 2017.

²⁵⁴ Individual interview with member of the Traveller communities in NI: Interview 20, 25 January 2017; Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

²⁵⁵ Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017; Interview with representatives of the Equality Commission NI, 8 February 2017.

Cultural Adequacy of Travellers' Accommodation

Domestic Laws and Policies

The NI Act 1998, Section 75(1), requires public authorities to have due regard of the need to promote equality of opportunity. The Race Relations (NI) Order 1997 prohibits racial discrimination in the provision of goods, facilities or services,²⁵⁶ and in the disposal or management of premises.²⁵⁷ These provisions extend to housing, including Travellers' accommodation. The NI Housing Executive also has a statutory duty to provide Travellers' sites.²⁵⁸ Yet, no legislation or policy expressly requires Travellers' accommodation to be culturally adequate.

The Unauthorised Encampments (NI) Order 2005 provides for the removal by the police of trespassers on land in certain circumstances.

Travellers paying rent through Housing Benefit can only travel and continue to receive housing benefit for up to four weeks at a time.²⁵⁹ This can be extended to 26 weeks (for example, where being abroad for such time as required for approved medical treatment or training courses) or 52 weeks (in specific defined circumstances).²⁶⁰ This is the case for all tenants on Housing Benefit.

Landlords can serve an abandonment notice where they wish "to take possession of" their property and have "reasonable grounds for believing" the property is unoccupied and the tenant does not intend to reoccupy.²⁶¹ Once served, an abandonment notice requires the affected tenant to make contact within four weeks, or the tenancy is terminated.²⁶²

Domestic Practice

Standard Social Housing

South Tyrone Empowerment Programme reported that the public authorities "look at the physical structure of [standard social] housing and whether someone may need adaptations because of disability... They don't take into consideration someone's cultural need at all".²⁶³ Some Travellers agree that standard social housing is not culturally adequate.²⁶⁴ For example, such accommodation does not offer the additional workspace and space for non-domestic animals that is required to accommodate traditional Travellers' customs.

Standard Social Housing: Only Option

The lack of Travellers' site provision leaves some "feeling forced to accept 'bricks and mortar' accommodation, and a perception that their right to a nomadic way of life was not understood or supported by [public] authorities".²⁶⁵ Some Travellers believe the public authorities force Travellers into standard social housing.

²⁵⁶ Article 21, Race Relations (NI) Order 1997.

²⁵⁷ Article 22, Race Relations (NI) Order 1997.

²⁵⁸ Article 125 and Schedule 2, Housing (NI) Order 2003.

²⁵⁹ Available at: <https://www.nidirect.gov.uk/going-abroad>

²⁶⁰ *Ibid.*

²⁶¹ Articles 41(1) and 41(3), Housing (NI) Order 1983.

²⁶² Article 41(3)(b)(ii) and 41(3)(b)(iii), Housing (NI) Order 1983.

²⁶³ Roundtable discussion with civil society organisations, 20 September 2016.

²⁶⁴ Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

²⁶⁵ Chartered Institute of Housing and the University of Ulster, 'Outlining Minimum Standards for Traveller Accommodation' (ECNI, 2009), at 69.

An interviewed Traveller reported their extended family agreed to move from a Travellers' site into standard social housing, while the site they occupied was renovated. The Traveller reported they were told this would only be temporary and that immediate closure of the site was required to accommodate the renovations. However, three months after the site was closed the renovations had not commenced.²⁶⁶ The members of the Traveller's family that wish to continue to live on a Travellers' site feel they have been lied to and they are now stuck in standard social housing, which is not culturally adequate.²⁶⁷

The Craigavon Travellers Support Group reports "a lot of our younger families, in particular, will say that they feel directed to pick bricks and mortar" by the lack of Traveller-specific options specified on the NI Housing Executive's application form.²⁶⁸ The NI Housing Executive is reviewing this form.²⁶⁹

One Traveller felt "all Travellers are square pegs and [the public authorities] are trying to place them into round holes".²⁷⁰ It was stressed, "[the NI Housing Executive can] give you a house, but they can't take the culture away from you".²⁷¹ The impact is that some Travellers remain in standard social housing, "but they are extremely unhappy and then the other issues [such as depression and substance abuse] start hitting hard".²⁷² These issues are reportedly exacerbated by removing Travellers in standard social housing from their extended family, which provide vital support.²⁷³

Family Support Networks

Travellers identified a preference for living in a group with their extended family.²⁷⁴ Standard social housing is allocated based on eligibility and availability of housing, in accordance with a points-based waiting list. Each family unit has to make an individual application and is considered separately. Not every family unit is awarded the same number of points. Consequently, the extended family may not be offered housing at the same time or in the same location. Applicants are offered the opportunity to identify their chosen location. Demand outweighs supply for standard social housing across the wider NI population.²⁷⁵ It can be a dilemma therefore between being allocated housing in an undesired location, or facing an indeterminate wait. These scenarios can have a particularly negative impact on Travellers, as their family support networks are an integral part of their culture.

One Traveller reported being removed from the waiting list after they rejected offers of housing in locations they believed to be too far from their family members. The Traveller felt such offers could not be categorised as "reasonable" due to their cultural need to live close to family members.²⁷⁶ Travellers separated from their wider family members often experienced mental health deterioration and substance abuse. An interviewed Traveller highlighted "there's nothing to do... You walk out the door of a caravan everybody's there, but you walk out the door of a house and there's nobody there".²⁷⁷

²⁶⁶ In November 2017, the renovations were still pending. The NI Housing Executive explained the planned renovations were due to be in 2016/2017, but have been moved to 2017/2018. The NI Housing Executive has not provided an exact date for the renovation period in 2017/2018. See Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017; Letter from NI Housing Executive to NIHRC, 3 November 2017.

²⁶⁷ Group interview with members of the Traveller communities in NI: Interview 6, 29, November 2016.

²⁶⁸ Roundtable discussion with civil society organisations, 20 September 2016.

²⁶⁹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²⁷⁰ Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016.

²⁷¹ Group interview with members of the Traveller communities in NI: Interview 6, 29, November 2016.

²⁷² Roundtable discussion with civil society organisations, 20 September 2016.

²⁷³ Ibid.

²⁷⁴ Ibid; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

²⁷⁵ Housing Supply Forum, 'Report and Recommendations', January 2016, at Chapter 4.

²⁷⁶ Individual interview with member of the Traveller communities in NI: Interview 20, 25 January 2017.

²⁷⁷ Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

Practical Support

Transitioning from Travellers' sites to bricks and mortar accommodation can be difficult. The public authorities believe they offer sufficient practical support to affected Travellers. They ensure that all tenants are aware of the terms set out in their tenancy agreements. This includes taking account of any literacy issues or other needs. They also provide contact details if tenants have any further questions.²⁷⁸ However, some Travellers believed more could be done:

it's all different... When we first moved into a house it was laughable because we didn't know what to do... When [the NI Housing Executive] gave me the keys to the house, they didn't tell me that I had to go [buy gas and electricity]... of course I know that I have to buy stuff, but... they gave me all these cards [with no verbal guidance]... For a person that couldn't read or write.²⁷⁹

Travellers' Sites

The Belfast Travellers Forum feels there is a particular undersupply of suitable transit and serviced Travellers' sites.²⁸⁰ This is in terms of type, location and compatibility. The NI Local Government Partnership on Travellers' Issues expressed concern at the lack of Travellers' site provision.²⁸¹ A Belfast City Council representative stated "there's definitely a lack of serviced sites".²⁸² In 2012, the Equality Commission NI had concerns there was "a shortage of temporary and serviced sites for Traveller families who wished to maintain a nomadic lifestyle".²⁸³ In 2017, the Equality Commission NI stated it is "still the case that access to appropriate accommodation for Irish Travellers is limited".²⁸⁴ The Armagh Travellers Group states in parts of NI "there are no sites at all. There is no choice. You go into bricks and mortar and that's that".²⁸⁵ The Department for Communities accepts "there are issues... around... the quantum of serviced, halting and emergency accommodation sites".²⁸⁶

South Tyrone Empowerment Programme explained that the NI Housing Executive will:

assess through the [Common Selection] process and people will get their points, [but the NI Housing Executive's response will be] 'we have no list on which to put you on which will meet your preferred need [of a Travellers' site]'. People will get [standard social] housing allocation fairly, but it's not really what they want. What they want just does not exist.²⁸⁷

The Traveller Action Group Housing/Accommodation Sub-group has stated that clarity is required around how Travellers register their need for Travellers' sites.²⁸⁸ If no pitches are available, An Munia Tober reported the only option for the affected Travellers is to notify the NI Housing Executive in writing "that they would prefer site accommodation... That would take the process of the NI [Housing Executive] going looking for sites. That

²⁷⁸ Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Radius Housing Association, 2 February 2017; Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²⁷⁹ Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

²⁸⁰ Written evidence from Belfast Travellers Forum, 3 October 2016.

²⁸¹ 'Chairman's Comments' in the Local Government Partnership on Travellers Issues, 'Minutes of the Meeting Held on Friday 6 July 2007 at The Smiley Building, Victoria Road, Larne (Cllr Jim Brown in the Chair)', 6 July 2007; 'Traveller Consultative Forum – Update by Chairman' in Local Government Partnership on Traveller Issues, 'Minutes of the Meeting Held on Friday 18 January 2008 at Bagenal's Castle, Newry, Newry and Mourne District Council', 18 January 2008; 'Traveller Consultative Forum' in NI Local Government Partnership on Travellers Issues, 'Minutes of the meeting held on 28 March 2008 at Craigavon Civic Centre Lakeview Road, Craigavon', 28 March 2008.

²⁸² Interview with Council Officials at Belfast City Council, 6 February 2017.

²⁸³ Equality Commission NI, 'Facing the Future: NI Housing Strategy 2012-2017 (DSD): Consultation Response' (ECNI, 2012), at para 3.1.

²⁸⁴ Equality Commission NI, 'Statement on Key Inequalities in Housing and Communities in NI: Full Statement' (ECNI, 2017), at para 1.9.

²⁸⁵ Roundtable discussion with civil society organisations, 20 September 2016.

²⁸⁶ Interview with representatives of Department for Communities, 1 February 2017.

²⁸⁷ Roundtable discussion with civil society organisations, 20 September 2016.

²⁸⁸ NI Housing Executive, 'HRC-Q3-1: Minutes of the TAG Housing/Accommodation Sub-group', Omagh Enterprise Centre, 23 August 2016.

can go into years... it is bricks and mortar or pull your caravan up".²⁸⁹ The lack of suitable site provision leads to overcrowding on existing sites or Travellers feeling forced out of NI.²⁹⁰ Belfast City Council agrees:

the scarcity of non-brick and mortar housing is having an impact on [the] Traveller population. Travellers in Belfast, especially young families are moving out as there is not space for them to live. Furthermore, the lack of transit and emergency sites combined with the lack of labour opportunities for Travellers is making [the] Traveller population smaller.²⁹¹

The NI Housing Executive noted there is under-occupancy on some Travellers' sites in NI. However, such options may not be suitable due to the type or location of the unoccupied pitches. Incompatibility of residents can also be an issue. Furthermore, the NI Housing Executive felt the needs of the wider community had to be considered:

you can't willy nilly go and start building [Travellers' sites]... We can't be seen with public money to go around to build on a whim and build a site for individual families [particularly when there are pitches available on other sites]... Our simple argument would be 'there is seven or eight free pitches [on the next site], if you want to live the nomadic lifestyle'.²⁹²

Grouped Housing

Grouped housing offers benefits for some Travellers:

I thought to myself it would have been a base. We could have went away and done our travelling and come back to [the house within the grouped housing scheme]. I wasn't completely stuck... We thought it was a nice gesture to get a nice new house and it was only our own family in it... There's loads of space out there. There's enough space for three caravans and three cars.²⁹³

The difficulties in transitioning from Travellers' sites to grouped housing needs to be considered:

it was kinda hard at the beginning... I'm only getting used to it now [after thirteen years]... When I was in it the first year I would have complained about a lot of things in [the house]. I didn't like [the house], I was too closed in... It wasn't the house. It was what I was feeling. I was used to just getting in a caravan and away. I'm settled rightly now, [but] it's a big change.²⁹⁴

Different families inhabit some grouped housing schemes in NI; some feel this is "not ideal".²⁹⁵ Incompatibility can be a reason for turning down grouped housing. As one Traveller explained:

we didn't want to move into that [grouped housing scheme] with [another family] because we'd be stranded with them for the rest of our life and there'd be nothing we could do.²⁹⁶

²⁸⁹ Roundtable discussion with civil society organisations, 20 September 2016.

²⁹⁰ Written evidence from Belfast Travellers Forum, 3 October 2016.

²⁹¹ Letter from Belfast City Council to NIHRC, 3 October 2016.

²⁹² Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²⁹³ Individual interview with members of the Traveller communities in NI: Interview 23, 13 February 2017.

²⁹⁴ Ibid.

²⁹⁵ Individual interview with member of the Traveller communities in NI: Interview 17, 14 December 2016.

²⁹⁶ Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

Compatibility is an issue for the public authorities too. The NI Housing Executive illustrated:

if you have six houses, two become vacant and the family themselves may well be determining who actually moves in... You might have a waiting list, but say a private housing association has to go to its Board and say 'I have two vacant properties there, I have loss of revenue'... The Board is not going to understand... I can understand that [Travellers] want to live in grouped housing and immediate family and different stuff, but it falls down at certain junctures... We house per need, but it doesn't really seem to happen with the Traveller community because of the compatibility. Because 'I only want my daughter who is getting married to move into that house'. That's the... problem... [We] accept the customs of Travellers. They are different from me or you and they have their own thing, but you have a house lying idle for four years that could accommodate somebody.²⁹⁷

Hostel Accommodation

Nomadism and living as an extended family are culturally important to Travellers.²⁹⁸ Consequently, members of the Traveller communities in NI (particularly women and girls) have a cultural aversion to hostel accommodation.²⁹⁹ This is due to the limited freedom of movement when living in such accommodation and the type of hostel available.³⁰⁰ Family hostel accommodation is lacking in NI.³⁰¹

Choice of Accommodation

Between 2002 and 2014, there was a consistent increase in the number of interviewed Traveller households that were satisfied with their current tenure. This rose from 52 percent of the 316 Travellers' households interviewed in 2002, to 68 percent of the 384 Travellers' households interviewed in 2014. There was also a consistent decrease in those that were dissatisfied. This fell from 47 percent in 2002, to 23 percent in 2014.³⁰² One reason for discontent reported in 2002 was dissatisfaction with the dwelling. It is unclear why this is, for example, if it was due to the type of dwelling. In 2014, however, preference for alternative accommodation was one of the main reasons for dissatisfaction.³⁰³

Some public authorities recognise the increase in Travellers living in bricks and mortar accommodation is not necessarily by choice. A representative of Apex Housing Association reported Travellers' self-select in terms of the areas for standard social housing, but "it takes you back to the question – have they chosen [bricks and mortar] because they have no other option"?³⁰⁴ A Belfast City Council representative reported "[Travellers] tend to move to [standard] social housing because there is not suitable accommodation... That's... grouped housing, Travellers' sites or even areas where they feel safe because of [their] ethnicity".³⁰⁵ A Department for Communities representative believed:

²⁹⁷ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²⁹⁸ Roundtable discussion with civil society organisations, 20 September 2016.

²⁹⁹ Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017; Roundtable discussion with civil society organisations, 20 September 2016.

³⁰⁰ Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

³⁰¹ Roundtable discussion with civil society organisations, 20 September 2016.

³⁰² NI Housing Executive, 'Travellers Accommodation Needs Assessment in NI 2002' (NIHE, 2002), at Appendix 1, Tables 16 and 19; NI Housing Executive, 'Traveller Accommodation Needs Assessment in NI 2008' (NIHE, 2008), at Appendix 2, Tables 39 and 40; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at Appendix 2, Tables 37 and 38.

³⁰³ *Ibid.*

³⁰⁴ Interview with representatives of Apex Housing Association, 7 February 2017.

³⁰⁵ Interview with Council Officials at Belfast City Council, 6 February 2017.

people seem to be choosing [grouped housing and standard social housing because]... that has been less problematic to get through the system and get planning... It's not without its challenges, but it is less problematic than trying to get a serviced site or a transit site or an emergency halting site.³⁰⁶

Travellers have mixed views over whether the accommodation type in which they live is by choice and satisfies their cultural needs. For example, one Traveller reported that the NI Housing Executive said "we will house you [in standard social housing]... just leave the site".³⁰⁷ Another reported when they first moved on to a site the NI Housing Executive said "we are not doing nothing [on the site]... we can get you houses".³⁰⁸ A Traveller explained they wished to remain on sites "because it is my culture... Traveller and Gypsies have been living in a caravan since no age and I actually enjoy living in a caravan".³⁰⁹

Feeling forced into culturally inadequate accommodation can have a negative impact on mental health:

I didn't choose [standard social housing]. I was put into it... because [the NI Housing Executive] don't want us in the camps anymore... They say in the Traveller community that people go wrong. People don't go wrong, it's people's life... Travellers are just within the houses and they're miles away from their family... The houses they have in many ways destroyed Travellers... For example, my father got very badly depressed. We were brought up in a caravan. My father was working all his life. Not in an office, I mean working at scrap, at cars, at everything. When we moved into houses he had... nothing to do... He couldn't put cars outside the front door of a house the neighbours complain... He got depressed... he took his own life.³¹⁰

Travellers indicated that ring fencing accommodation for Travellers' use does not make it culturally adequate. For Traveller-specific accommodation to be culturally adequate, it should be on or beside land that Travellers have a historical connection with; enable members of the same family to live together; have adequate services; and have extra space to accommodate Travellers' customs.³¹¹

Nomadism

Tenants in standard social housing and grouped housing are allowed to travel for prolonged periods, as long as rent is paid, the property is left secure, and the landlord is able to gain access for required maintenance.³¹² Clanmil Housing Association also requires that the relevant housing officer is informed when tenants are travelling for prolonged periods. This is to ensure their absence is accommodated with planned maintenance.³¹³ Travelling can be accommodated on all Travellers' sites, including serviced sites. In such instances, the NI Housing Executive secures the pitch until it is required again.³¹⁴

Of the 316 Traveller households interviewed for the 2002 assessment, 20 percent stated they travelled. This rose in 2008 with 29 percent of the 449 interviewed. The figure in 2014 dropped to 18 percent of the 384

³⁰⁶ Interview with representatives of Department for Communities, 1 February 2017.

³⁰⁷ Group interview with members of the Traveller communities in NI: Interview 6, 29, November 2016.

³⁰⁸ Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

³⁰⁹ Ibid.

³¹⁰ Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

³¹¹ Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017.

³¹² Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Radius Housing Association, 2 February 2017.

³¹³ Interview with representatives of Clanmil Housing Association, 8 March 2017.

³¹⁴ Interview with a representative of the NI Housing Executive: Interview C, 30 January 2017.

Traveller households interviewed.³¹⁵ Those most inclined to travel were based on sites, followed by standard social housing and grouped housing, private rentals or private ownership were of joint inclination.³¹⁶ The most common time to travel is in the summer months between 21 June and 22 September.³¹⁷ The 2008 and 2014 Travellers' Accommodation Needs Assessments indicate a decline in nomadism. Of the households interviewed in 2008, 15 percent expected to stay at their current accommodation for less than one year, 78 percent expected to stay for more than one year and seven percent did not specify. Of the Traveller households interviewed in 2014, those expected to stay at their current accommodation for less than one year marginally dropped to 14 percent and those expected to stay for more than a year rose to 86 percent.³¹⁸ Only one percent of the interviewed households listed 'we are travelling' in 2008 as a reason for moving to their current accommodation.³¹⁹ This rose to three percent for the households interviewed in 2014.³²⁰

There "is a lot of Travellers that doesn't want to settle and there's a lot of Travellers that does want to settle. We can't forget about the ones that doesn't want to settle".³²¹ The most popular reason recorded for travelling in 2002 and 2014 was family reasons. Other reasons, in order of preference, were culture, festivals, work and health.³²² The top reason for not travelling listed in the 2014 assessment was no wish to be nomadic.³²³ The other listed reasons were – respectively – health, children's education, lack of transit sites, family ties and financial reasons.³²⁴ A representative of the NI Housing Executive believed:

the propensity to travel of Irish Travellers has changed big time. You now have Skype, social networks, Instagram... Also... the younger generation coming up... tend to want bricks and mortar, conventional housing. They want their comforts like everybody else, as opposed to living in a caravan. Also the propensity to travel in NI has diminished somewhat in that the benefits system [in the Republic of Ireland] is paying two or three times more than [in NI].³²⁵

³¹⁵ NI Housing Executive, 'Travellers Accommodation Needs Assessment in NI 2002' (NIHE, 2002), at Appendix 1, Table 34; NI Housing Executive, 'Traveller Accommodation Needs Assessment in NI 2008' (NIHE, 2008), at Appendix 2, Table 14; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at Appendix 2, Table 14.

³¹⁶ NI Housing Executive, 'Travellers Accommodation Needs Assessment in NI 2002' (NIHE, 2002), at Appendix 1, Table 37; NI Housing Executive, 'Traveller Accommodation Needs Assessment in NI 2008' (NIHE, 2008), at Appendix 2, Table 18; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at Appendix 2, Table 20.

³¹⁷ NI Housing Executive, 'Travellers Accommodation Needs Assessment in NI 2002' (NIHE, 2002), at Appendix 1, Table 36; NI Housing Executive, 'Traveller Accommodation Needs Assessment in NI 2008' (NIHE, 2008), at Appendix 2, Table 15; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at Appendix 2, Table 16.

³¹⁸ NI Housing Executive, 'Travellers Accommodation Needs Assessment in NI 2002' (NIHE, 2002), at Appendix 1, Tables 13 and 22; NI Housing Executive, 'Traveller Accommodation Needs Assessment in NI 2008' (NIHE, 2008), at Appendix 2, Tables 36 and 38; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at Appendix 2, Tables 34 and 36.

³¹⁹ NI Housing Executive, 'Travellers Accommodation Needs Assessment in NI 2002' (NIHE, 2002), at Appendix 1, Table 26; NI Housing Executive, 'Traveller Accommodation Needs Assessment in NI 2008' (NIHE, 2008), at Appendix 2, Table 44; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at Appendix 2, Table 42.

³²⁰ *Ibid.*

³²¹ Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016.

³²² NI Housing Executive, 'Travellers Accommodation Needs Assessment in NI 2002' (NIHE, 2002), at Appendix 1, Table 39; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at Appendix 2, Tables 15 and 18.

³²³ *Ibid.*

³²⁴ *Ibid.*

³²⁵ Interview with a representative of the NI Housing Executive: Interview C, 30 January 2017.

Some of those who are settled in a house or on a Travellers' site no longer travel³²⁶ because they want to maintain their children's education.³²⁷ Some Travellers believe living in houses is better for your health than living in a caravan.³²⁸ One Traveller stated "it's hardship" living in a caravan.³²⁹ The lack of Travellers' sites³³⁰ means "there is nowhere to travel to".³³¹ There:

is no place to pull in if you travel nowadays... There is a lot of Travellers trying to hold on to tradition, but [the public authorities] are wiping it out slowly, but surely. They won't allow you to pull in and stop where you want. Years ago, people could pull in and stop where they wanted. There is nothing like that anymore. You are in a house and that's it. Your doors are closed and you are forgot about... They should give the Travellers a little bit of a leeway to what their tradition is and let them... sort out what they want to do for themselves.³³²

Another who maintained the nomadic way of life stated that:

it's very hard to travel in NI. There's not enough sites... Transit sites is handy. At least you can pull into a transit site, stay for a couple of days, a week, whatever, and then just leave then and go on to the next one. It would be more easy than pulling on the side of the road where you're getting all the police and everybody down, or accidents can happen with children.³³³

The only other substantive piece of research on Travellers' accommodation in NI, conducted on behalf of the Equality Commission NI in 2009, raised concerns that public authorities "misinterpret a reduction in the amount of travel by some households with a desire to live in 'settled' accommodation".³³⁴ A lack of choice regarding transit or emergency halting sites offered to Travellers in NI combined with restrictions on unauthorised encampments potentially hinder Travellers' ability to remain nomadic. Some find family members travel outside of NI "because there's not enough room [on Travellers' sites]".³³⁵

³²⁶ Individual interview with a member of the Traveller communities in NI: Interview 1, 7 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 2, 11 November 2016; Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 12, 10 December 2016; Group interview with members of the Traveller communities in NI: Interview 13, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 23, 13 February 2017; Individual interview with member of the Traveller communities in NI: Interview 24, 9 March 2017.

³²⁷ Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Individual interview with member of the Traveller communities in NI: Interview 18, 25 January 2017; Individual interview with member of the Traveller communities in NI: Interview 24, 9 March 2017.

³²⁸ Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Individual interview with member of the Traveller communities in NI: Interview 18, 25 January 2017.

³²⁹ Individual interview with a member of the Traveller communities in NI: Interview 12, 10 December 2016.

³³⁰ Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 17, 14 December 2016; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

³³¹ Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016.

³³² Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016.

³³³ Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016.

³³⁴ Chartered Institute of Housing and the University of Ulster, 'Outlining Minimum Standards for Traveller Accommodation' (ECNI, 2009), at 72.

³³⁵ Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

Findings

The NIHRC's findings on cultural adequacy of Travellers' accommodation in NI are:

i	The Unauthorised Encampments Order 2005 detrimentally affects the nomadic lifestyle of Travellers.
ii	Across all Travellers' accommodation tenants are permitted to travel for a prolonged period subject to Housing Benefit rules, rent being paid, the property being left secure and the landlord being able to gain access for required maintenance.
iii	Standard social housing is not adequate in terms of Travellers' cultural needs.
iv	The NI Housing Executive and relevant housing associations provide practical support to Travellers transitioning from Travellers' sites to bricks and mortar accommodation, including grouped housing. Some Travellers report this is inadequate.
v	Some Travellers report that they are moving into culturally inadequate accommodation because Travellers' sites are not adequately serviced.
vi	Some Travellers view some grouped housing schemes as culturally adequate, others do not.
vii	Hostel accommodation for homeless Travellers is not culturally adequate.
viii	According to the Travellers' Accommodation Needs Assessments there is a consistent increase in Travellers satisfied with their current accommodation. However, it is unclear if the questions asked considered the cultural adequacy of such accommodation.
ix	Some Travellers feel the NI Housing Executive is unwilling to provide sufficient Travellers' sites and the poor conditions of Travellers' sites are forcing them into standard social housing. This reportedly has had a negative effect on mental health.
x	The Travellers' Accommodation Needs Assessments indicate a decline in nomadism within the Traveller communities in NI. Reasons include: children's education; inadequacy of existing Travellers' sites; lack of Travellers' sites to accommodate travel (particularly emergency halting and transit sites); perception that private holiday sites are only for members of the settled communities; restrictions on unauthorised encampments; an individual's lack of desire to travel; and an unfavourable attitude from public authorities towards nomadism.

2 Accessibility

The duty to provide adequate housing requires that accommodation, including Travellers' accommodation, is accessible. This duty engages:

Treaty	Article
ICESCR	11
CERD	5(e)
ECHR	8

The following soft law standards clarify what this requires:

UN ICESCR Committee
General Comment No 4: The Right to Adequate Housing ³³⁶
Concluding Observations on the Sixth Periodic Report of the UK and NI ³³⁷
UN CERD Committee
Concluding observations on the combined twenty-first to twenty-third periodic reports of the UK and NI ³³⁸
UN General Assembly
United Nations Conference on Human Settlements (Habitat II): Istanbul Declaration ³³⁹
UN Special Rapporteur on the Right to Housing and Non Discrimination
Report on the mission to the UK ³⁴⁰
CoE Advisory Committee on the FCNM
Third Opinion on the UK ³⁴¹
Fourth Opinion on the UK ³⁴²

³³⁶ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991.

³³⁷ E/C.12/GBR/CO/6, 'ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 14 July 2016.

³³⁸ CERD/C/GBR/CO/21-23, 'CERD Committee Concluding Observations on the Twenty-first to Twenty-third Periodic Reports of the UK of Great Britain and NI', 26 August 2016.

³³⁹ A/Conf.165/14, 'UN Conference on Human Settlements (Habitat II)', 14 June 1996.

³⁴⁰ A/HRC/25/54/Add.2, 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this Context, Raquel Rolnik: Mission to the UK of Great Britain and NI', 30 December 2013.

³⁴¹ ACFC/OP/III(2011)006, 'CoE Advisory Committee on the FCNM: Third Opinion on the UK', 30 June, 2011.

³⁴² ACFC/OP/IV(2016)005, 'CoE Advisory Committee on the FCNM: Fourth Opinion on the UK', 25 May 2016.

CoE Committee of Ministers
Recommendation on improving the housing conditions of Roma and Travellers in Europe ³⁴³
Recommendation on Policies for Roma and Travellers in Europe ³⁴⁴
Recommendation on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe ³⁴⁵
CoE European Commission against Racism and Intolerance
Recommendation on Combating Racism, Xenophobia, Anti-Semitism and Intolerance ³⁴⁶
Recommendation on Combating Anti-Gypsyism and Discrimination against Roma ³⁴⁷
Explanatory Memorandum on Recommendation No 7: National Legislation to Combat Racism and Racial Discrimination ³⁴⁸
Report on the UK: Fifth Monitoring Cycle ³⁴⁹
CoE Commissioner for Human Rights, Thomas Hammarberg
Recommendation on the Implementation of the Right to Adequate Housing ³⁵⁰
Issue Paper on Housing Rights: The Duty to Ensure Housing for All ³⁵¹
Position paper on the Human Rights of Roma ³⁵²

Human Rights Laws and Standards

United Nations

The ICESCR, Article 11(1), provides for the “right of everyone to an adequate standard of living for himself and his family, including ...housing”. The ICESCR Committee recommends adequate housing is “accessible to those entitled to it”.³⁵³ Disadvantaged groups “should be ensured some degree of priority consideration in the housing sphere”.³⁵⁴ The identified disadvantaged groups are “elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of nature disasters, people living in disaster-prone zones and other groups”.³⁵⁵ Travellers fit within the ‘other groups’ category.³⁵⁶ The ICESCR Committee elaborates “housing law and policy should take fully into account the special housing needs of” disadvantaged groups.³⁵⁷

³⁴³ CoE, ‘Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe’, 25 February 2005.

³⁴⁴ CoE, ‘Recommendation CM/Rec(2008)5 of the Committee of Ministers to Members States on Policies for Roma and/or Travellers in Europe’, 20 February 2008.

³⁴⁵ CoE, ‘Recommendation Rec(2001)17 of the Committee of Ministers on Improving the Economic and Employment Situation of Roma/Gypsies and Travellers in Europe’, 27 November 2001.

³⁴⁶ CRI(96)43 rev, ‘ECRI General Policy Recommendation No 1: Combating Racism, Xenophobia, Antisemitism and Intolerance’, 4 October 1996.

³⁴⁷ CRI(2011)37, ‘ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma’, 24 June 2011.

³⁴⁸ CRI(2003)8, ‘ECRI General Policy Recommendation No 7: National Legislation to Combat Racism and Racial Discrimination’, 13 December 2002.

³⁴⁹ CRI(2016)38, ‘ECRI Report on the UK: Fifth Monitoring Cycle’, 29 June 2016.

³⁵⁰ CommDH(2009)5, ‘Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing’, 30 June 2009.

³⁵¹ CommDH/IssuePaper(2008)1, ‘Housing Rights: The Duty to Ensure Housing For All’, April 2008.

³⁵² CommDH/PositionPaper (2010)3, ‘Commissioner for Human Rights Positions on the Human Rights of Roma’, 30 May 2010.

³⁵³ E/1992/23, ‘ICESCR Committee General Comment No 4: The Right to Adequate Housing’, 13 December 1991, at para 8(e).

³⁵⁴ *Ibid.*

³⁵⁵ *Ibid.*

³⁵⁶ E/C.12/GBR/CO/6, ‘ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 14 July 2016, at paras 49-50.

³⁵⁷ E/1992/23, ‘ICESCR Committee General Comment No 4: The Right to Adequate Housing’, 13 December 1991, at para 8(e).

The CERD, Article 5(e), requires State Parties undertake to prohibit and to eliminate racial discrimination in the sphere of socio-economic rights, including in housing. The CERD Committee in 2016 recommended that the UK develop a comprehensive strategy in the field of housing, in consultation with nomadic groups (including Travellers). It should be adequately resourced and include specific action plans and oversight.³⁵⁸

The former UN Special Rapporteur on the Right to Adequate Housing, Raquel Rolnik, notes “the lack of culturally adequate residential and transit accommodation is often at the root of stigma and discrimination”.³⁵⁹ She also noted an insufficient supply of suitable accommodation and the insecurity of unauthorised encampments hinder the access of nomadic communities to Travellers' accommodation in the UK, including in NI.³⁶⁰

The UN Habitat Agenda seeks the “active participation of our public, private and non-governmental partners at all levels to ensure legal security of tenure, protection from discrimination and equal access to affordable, adequate housing for all persons and their families.”³⁶¹

Council of Europe

The ECHR, Article 8, contains positive obligations regarding access to accommodation (including Travellers' accommodation) in certain circumstances. It “does not guarantee the right to have one's housing problem solved by the authorities”.³⁶² However, “refusal of the authorities to provide assistance... to an individual suffering from a severe disease” can engage Article 8 due to “the impact of such refusal on the private life of the individual”.³⁶³ There must be “a direct and immediate link” between the measures sought and an individual's private life.³⁶⁴

Lack of access to Traveller-specific accommodation may engage the ECHR, Article 8. For example, a Traveller's caravan can be “an integral part” of their “ethnic identity”.³⁶⁵ This is the case even where Travellers, by choice or circumstance, “no longer live a wholly nomadic existence and increasingly settle for long periods in one place in order to facilitate, for example, the education of their children”.³⁶⁶ Thus, measures affecting a Traveller's ability to station their caravan can affect their “ability to maintain” and to lead a “private and family life in accordance with that tradition”.³⁶⁷ Additionally, Travellers' “vulnerable position... means that some special consideration should be given to their needs and their different lifestyle in both the regulatory framework and in reaching decisions in particular cases”.³⁶⁸

³⁵⁸ CERD/C/GBR/CO/21-23, ‘CERD Committee Concluding Observations on the Twenty-first to Twenty-third Periodic Reports of the UK of Great Britain and NI’, 26 August 2016, at para 25(b).

³⁵⁹ A/HRC/25/54/Add.2, ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this Context, Raquel Rolnik: Mission to the UK of Great Britain and NI’, 30 December 2013, at para 69.

³⁶⁰ *Ibid.*

³⁶¹ A/Conf.165/14, ‘United Nations Conference on Human Settlements (Habitat II): Istanbul Declaration on Human Settlements’, 14 June 1996, at para 8.

³⁶² *Marzari v Italy* (1999) 28 EHRR CD 175, at para 2. *See also Botta v Italy* (1998) 26 EHRR 241, at paras 33-34.

³⁶³ *Ibid.*

³⁶⁴ *Ibid.*

³⁶⁵ *Chapman v UK* (2001) ECHR 43, at para 73.

³⁶⁶ *Ibid.*

³⁶⁷ *Ibid.*

³⁶⁸ *Connors v UK* (2004) ECHR 223, at para 84.

The ECRI recommends States combat anti-gypsyism regarding Travellers' accommodation.³⁶⁹ This includes, non-exhaustively:

- affording Travellers access to decent housing;
- combating de facto or forced segregation in respect of housing;
- ensuring that provision of social housing aids integration and avoids segregation;
- combating prejudice and stereotypes concerning Travellers in access to housing;
- combating any act of discrimination in respect of housing and ensure legislation is duly applied;
- ensuring that spatial planning regulations do not systematically impede the traditional life of Travellers;
- encouraging consultation between all local players and Travellers about the positioning of encampment areas destined for them; and
- ensuring that acts of discrimination against Roma in respect of housing are prosecuted and punished.³⁷⁰

The ECRI also recommends Travellers enjoy the same type and quality of services as the rest of the population, including public services related to accommodation.³⁷¹

The ECRI recommends States initiate research into the discriminatory and exclusionary mechanisms or practices in housing.³⁷² States should ensure public sector housing is allocated according to published criteria, which are justifiable and ensure equal access to all those eligible, irrespective of ethnic origin.³⁷³ The ECRI also recommends discrimination in respect of access to housing be prohibited.³⁷⁴ Specific to the UK, in 2016 the ECRI recommended sufficient pitches were provided according to Travellers' needs and alternatives to eviction are promoted.³⁷⁵

The CoE Committee of Ministers highlights that discrimination and social exclusion of Travellers causes poverty and unemployment, consequently, contributing to problems in accessing, inter alia, accommodation.³⁷⁶ The CoE Committee of Ministers recommends States develop a comprehensive legal and policy framework related to housing. This is necessary for sedentary and non-sedentary people to exercise their right to adequate housing.³⁷⁷ National housing policies should seek to address the problems of Roma (including Travellers) as a matter of emergency and in a non-discriminatory way.³⁷⁸

In 2011, the Advisory Committee of the FCNM urged the UK to ensure planning permission for caravan sites takes into account the specific needs of Travellers.³⁷⁹ Regarding NI, the Advisory Committee highlighted that cumbersome planning permissions contributed to considerable delays in accessing sites.³⁸⁰ It recommended a multi-agency task force on Travellers' accommodation to cater for the needs of Irish Travellers in NI.³⁸¹

³⁶⁹ The ECRI's definition of Roma includes Travellers.

³⁷⁰ CRI(2011)37, 'ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma', 24 June 2011, at para 6.

³⁷¹ *Ibid.*, at para 12.

³⁷² CRI(96)43 rev, 'ECRI General Policy Recommendation No 1: Combating Racism, Xenophobia, Antisemitism and Intolerance', 4 October 1996, at para B.

³⁷³ *Ibid.*

³⁷⁴ CRI(2003)8, 'ECRI General Policy Recommendation No 7: National Legislation to Combat Racism and Racial Discrimination', 13 December 2002, at para 21.

³⁷⁵ CRI(2016)38, 'ECRI Report on the UK: Fifth Monitoring Cycle', 29 June 2016.

³⁷⁶ CoE, 'Recommendation Rec(2001)17 of the Committee of Ministers on Improving the Economic and Employment Situation of Roma/Gypsies and Travellers in Europe', 27 November 2001, at Preamble.

³⁷⁷ CoE, 'Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe', 25 February 2005, at para 10.

³⁷⁸ *Ibid.*, at para 2.

³⁷⁹ ACFC/OP/III(2011)006, 'CoE Advisory Committee on the FCNM: Third Opinion on the UK', 30 June, 2011, at para 97.

³⁸⁰ ACFC/OP/IV(2016)005, 'CoE Advisory Committee on the FCNM: Fourth Opinion on the UK', 25 May 2016, at para 68.

³⁸¹ *Ibid.*, at para 70.

Thomas Hammarberg, then CoE Commissioner for Human Rights, noted that Travellers have persistent difficulties in securing adequate basic housing.³⁸² A national strategy for implementing housing rights should include the right to adequate, affordable and accessible housing. Housing rights should be justiciable before the courts and sufficient, accessible and affordable. Appropriate social housing should also be provided for those excluded from the housing market.³⁸³

The Commissioner highlighted that Travellers are often victims of discrimination regarding access to adequate housing.³⁸⁴ He recommended Travellers rights to live in adequate housing, including provision of public utilities, is guaranteed. Travellers' settlements lacking recognised tenure should be formalised. Sufficient short and long-term caravan sites reflecting basic standards of decency should be provided for Travellers. There should also be other housing possibilities to enable Travellers to live on private land.³⁸⁵

Scope of Statutory Duty

Domestic Laws and Policies

The Race Relations (NI) Order 1997 prohibits racial discrimination in the provision of goods, facilities or services. This includes refusal or deliberately omitting to provide a person with any goods, facilities or services, as well as refusing or deliberately omitting to provide goods, facilities or services of the same quality provided to other members of the public. This includes, inter alia, "the services of... any local or other public authority".³⁸⁶ It is also unlawful to discriminate against another in the disposal and management of premises.³⁸⁷

The NI Act 1998, Section 75(1), requires public authorities to "have due regard to the need to promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependants and persons without".

Travellers with long shared histories are distinct ethnic groups and are protected by the Race Relations (NI) Order 1997, Article 5(1); this does not include 'show people' or 'New Age Travellers'.³⁸⁸ This reflects the comparator legislation in England and Wales.³⁸⁹ Irish Travellers are identified as a distinct racial group under the Race Relations (NI) Order, Articles 5(2)(a) and 5(3)(a).³⁹⁰ The Racial Equality Strategy identified that "Irish Travellers are an indigenous minority ethnic group".³⁹¹

The Housing (NI) Order 1981, Article 28A, provides inter alia that "the Executive shall provide such caravan sites as appear to it to be appropriate for the accommodation of caravans of member of the Irish Traveller community". Irish Travellers are to be construed in line with the Race Relations (NI) Order 1997, Article 5(2)(a).³⁹²

³⁸² CommDH/IssuePaper(2008)1, 'Housing Rights: The Duty to Ensure Housing For All', April 2008, at 14-15.

³⁸³ Ibid.

³⁸⁴ CommDH(2009)5, 'Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing', 30 June 2009, at para 4.3.5.

³⁸⁵ CommDH/PositionPaper(2010)3, 'CoE Commissioner for Human Rights Positions on the Human Rights of Roma', 3 May 2010, at 9.

³⁸⁶ Article 21(2)(g), Race Relations (NI) Order 1997.

³⁸⁷ Article 22, Race Relations (NI) Order 1997.

³⁸⁸ *Commission for Racial Equality v Dutton* [1989] QB 783; *P O'Leary and Others v Allied Domecq and Others*, Unreported Case No CL 950275-79, 29 August 2000.

³⁸⁹ Section 24, Caravan Sites and Control of Development Act 1960.

³⁹⁰ Articles 5(2)(a) and 5(3)(a), Race Relations (NI) Order 1997.

³⁹¹ OFMDFM, 'Racial Equality Strategy 2015-2025', December 2015, at 12.

³⁹² Article 28A(7), Housing (NI) Order 1981.

Domestic Practice

Some public authorities are unaware of the relevant legislation. For example, a representative of Mid Ulster District Council is unsure:

whether [Travellers] fall under [the NI Act 1998], Section 75. This is something debateable to say the least. [Travellers] fall under every section the same as [a settled person]... but whether they are a particular group?... It would strike me there would be nothing to stop me choosing it as a lifestyle, to become a Traveller... We consider [that they are a racial group]... but as I said I don't know whether that's legally correct.³⁹³

Other public authorities indicate there is confusion over the extent of protection under the law. A representative of the NI Housing Executive explained "while there was a vacant pitch, we have no problem with [for example a] Welsh Traveller being on our pitch and signing the correct lease... but the specific duty is to Irish Travellers".³⁹⁴ Another representative of the NI Housing Executive stated:

our Traveller policies are dedicated solely to Irish Travellers. We clearly recognise the distinction in law protecting and upholding the rights of Irish Travellers as a distinct ethnic group. English Travellers, Welsh Travellers [etc] are not distinct ethnic groups in law.³⁹⁵

This is illustrated further by the ethnicity section of the NI Housing Executive's housing application form. It specifically identifies 'Irish Travellers' as an option. It does not offer a wider Traveller category that incorporates other Traveller communities.³⁹⁶ The NI Housing Executive explained this is to reflect the statute.³⁹⁷ The NI Housing Executive is reviewing this form.³⁹⁸

Findings

The NIHRC's finding on the scope of public authorities' statutory duty regarding Travellers' accommodation in NI are:

- | | |
|---|---|
| i | Some public authority representatives are not aware of the application of the Race Relations (NI) Order 1997 and the NI Act 1998, Section 75, to Traveller communities. Some representatives of public authorities are confused as to the extent of their obligations towards Travellers. |
|---|---|

Provision of Travellers' Accommodation

Domestic Laws and Policies

Responsibility for Travellers' Accommodation

The Housing (NI) Order 1988 places a statutory duty on the relevant public authorities to secure suitable accommodation for full duty homeless applicants.³⁹⁹

The former Department for Social Development (now Department for Communities) 'Facing the Future: The Housing Strategy for NI, 2012-2017' is a high level, five year vision for housing in NI and contains a significant

³⁹³ Interview with Council Officials at Mid Ulster District Council, 15 March 2017.

³⁹⁴ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

³⁹⁵ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017.

³⁹⁶ Roundtable discussion with civil society organisations, 20 September 2016;

³⁹⁷ Letter from NI Housing Executive to NIHRC, 3 November 2017.

³⁹⁸ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

³⁹⁹ Articles 3-6, Housing (NI) Order 1988.

number of policy proposals. The Department's vision, as articulated in the housing strategy, is to ensure that everyone has the opportunity to access good quality housing at a reasonable cost. This vision is intended for all of the population of NI, including Irish Travellers.⁴⁰⁰ However, the strategy and accompanying documents do not reference Travellers' accommodation. This is despite responses to the consultation suggesting specific measures for Travellers should be included to accommodate the cultural housing needs and vulnerability of this group.⁴⁰¹

Traveller-specific Accommodation

Development of a new Travellers' Accommodation programme is key under the NI Housing Executive's 'transforming people's lives' theme.⁴⁰² This aims to provide "people with the right housing options and support to enable and sustain independent living in the community".⁴⁰³ It recognises Travellers as "vulnerable residents" placing the identification and satisfaction of Travellers' accommodation needs within communities as a planned outcome in its ten-year outlook.⁴⁰⁴ The NI Housing Executive recognises an increase in Travellers' sites and bricks and mortar is required within certain areas to fulfil its planned outcomes regarding Travellers.⁴⁰⁵

One of the principles within Planning Policy Statement 12 is 'balanced communities'. This requires "where a need is identified for Travellers specific accommodation this should be facilitated at suitable sites".⁴⁰⁶ The Traveller-specific planning policy, HS 3 requires "where a local housing needs assessment identifies that there is a demonstrable need for Travellers specific accommodation, planning permission will be granted for a suitable facility which meets this need".⁴⁰⁷ Furthermore, the allocation of purpose built accommodation to meet the specific needs of Travellers (eg sites or grouped housing schemes) is permitted, with the prior permission of the Department for Communities.⁴⁰⁸

⁴⁰⁰ Letter from Department for Communities to NIHRC, 7 November 2017.

⁴⁰¹ Department for Social Development, 'Facing the Future: Housing Strategy for NI 2012-2017: Summary of Responses to Consultation' (DSD, 2012), at 17.

⁴⁰² NI Housing Executive, 'Armagh City, Banbridge and Craigavon: Housing Investment Plan' (NIHE, 2015), at 31; NI Housing Executive, 'Derry City and Strabane: Housing Investment Plan' (NIHE, 2015), at 33; NI Housing Executive, 'Fermanagh and Omagh: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Ards and North Down: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Antrim and Newtownabbey: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Belfast: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Causeway Coast and Glens: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Lisburn and Castlereagh: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Mid and East Antrim: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Mid-Ulster: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Newry, Mourne and Down: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31.

⁴⁰³ NI Housing Executive, 'Armagh City, Banbridge and Craigavon: Housing Investment Plan' (NIHE, 2015), at 31; NI Housing Executive, 'Derry City and Strabane: Housing Investment Plan' (NIHE, 2015), at 33; NI Housing Executive, 'Fermanagh and Omagh: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Ards and North Down: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Antrim and Newtownabbey: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Belfast: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Causeway Coast and Glens: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Lisburn and Castlereagh: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Mid and East Antrim: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Mid-Ulster: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31; NI Housing Executive, 'Newry, Mourne and Down: Housing Investment Plan 2015-2019' (NIHE, 2015), at 31.

⁴⁰⁴ NI Housing Executive, 'Armagh City, Banbridge and Craigavon: Housing Investment Plan' (NIHE, 2015), at 36; NI Housing Executive, 'Derry City and Strabane: Housing Investment Plan' (NIHE, 2015), at 33; NI Housing Executive, 'Fermanagh and Omagh: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Ards and North Down: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Antrim and Newtownabbey: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Belfast: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36.

⁴⁰⁵ NI Housing Executive, 'Armagh City, Banbridge and Craigavon: Housing Investment Plan' (NIHE, 2015), at 36; NI Housing Executive, 'Derry City and Strabane: Housing Investment Plan' (NIHE, 2015), at 38; NI Housing Executive, 'Fermanagh and Omagh: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Ards and North Down: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Antrim and Newtownabbey: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Belfast: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Causeway Coast and Glens: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Lisburn and Castlereagh: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Mid and East Antrim: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Mid-Ulster: Housing Investment Plan 2015-2019' (NIHE, 2015), at 33; NI Housing Executive, 'Newry, Mourne and Down: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36.

⁴⁰⁶ Department for Regional Development, 'Planning Policy Statement 12 (PPS 12): Housing Settlements' (DRD, 2005), at 33.

⁴⁰⁷ Department of the Environment, 'Planning Policy Statement 12: Housing in Settlements – Policy HS 3 (Amended) Travellers Accommodation' (DoE, 2013), at 4.

⁴⁰⁸ NI Housing Executive, 'Housing Selection Scheme Rules' (NIHE, 2014), at Rule 84.

Local Council's Area Plans set out plans for all development within their remit, including Travellers' accommodation. These plans are for a set period and are reviewed accordingly.⁴⁰⁹ Of these plans, only the Belfast Metropolitan Area Plan includes specific zonings designated for Traveller-specific accommodation.⁴¹⁰ Local Development Plans for each Council area will replace the existing Area Plans.⁴¹¹ The Local Development Plans will not be published until at least 2020.⁴¹² The Belfast City Council is the only NI Council that expressly commits to ensuring "the need for Traveller specific accommodation will be addressed through the Local Development Plan, by protecting existing Traveller facilities and providing a criteria-based policy for assessing future proposals of suitable facilities".⁴¹³

Domestic Practice

Standard Social Housing

The Traveller Accommodation Needs Assessment 2014 reported that almost 49 percent of respondents were residing in social housing.⁴¹⁴ Equality Commission NI research reported that there are distinct differences in the length of time different ethnic minority groups waited for social housing.⁴¹⁵ The research reported that in 2013/2014 white applicants overall waited 11 months, while 57 African applicants allocated a home waited 16.5 months, compared to 45 Irish Travellers who waited eight months.⁴¹⁶ The research also reported that Irish Travellers in housing stress within NI waited 11 months to be allocated housing, a similar time to the overall average wait of 12 months.⁴¹⁷ This suggests that Travellers are not disadvantaged in accessing social housing.

However, there has been a decline in the availability of standard social housing stock. The NI Housing Executive's housing supply fell by two percent between 2014 and 2016, with the loss of over 1,600 units.⁴¹⁸ The NI Housing Executive's waiting list indicates the negative impact of a reduced supply of standard social housing on the availability of such accommodation to Travellers. In December 2016, there were 209 Irish Travellers on the standard social housing waiting list.⁴¹⁹ This does not include those who chose not to declare their ethnicity or Travellers from other Traveller communities. It also does not include the number of dependants. Oxford Economics estimates NI's population will increase by 4 percent between 2016 and 2026, putting extra pressure on already limited resources.⁴²⁰

Travellers' Sites

Seven Travellers' sites were available in NI in November 2017 across four Council areas.⁴²¹ In March 2017, of the 72 available pitches across the seven sites, 40 pitches (56 percent) were occupied.⁴²² There

⁴⁰⁹ A breakdown by Council area of the Area Plans and Travellers' accommodation is provided in Appendix II. Available at: <http://www.nihrc.org/>.

⁴¹⁰ Department of the Environment, 'Belfast Metropolitan Area Plan: Plan Strategy and Framework Volume 1' (DoE, 2014), at 39.

⁴¹¹ Section 3, Planning Act (NI) 2011.

⁴¹² Response from Department for Infrastructure to NIHRC, 13 November 2017.

⁴¹³ Belfast City Council, 'Local Development Plan: Preferred Options Paper' (BCC, 2017), at 32.

⁴¹⁴ NI Housing Executive 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2015), at 10.

⁴¹⁵ Alison Wallace, 'Housing and Communities Inequalities in NI' (ECNI, 2015), at 114.

⁴¹⁶ *Ibid.*

⁴¹⁷ *Ibid.*

⁴¹⁸ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 11.

⁴¹⁹ Written correspondence from the NI Housing Executive to the NIHRC, 20 March 2017.

⁴²⁰ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 12.

⁴²¹ Letter from NI Housing Executive to NIHRC, 30 September 2016; AQW 16131/11-15, 'Response to Question Posed by Dolores Kelly MLA to Nelson McCausland MLA (then Minister for Social Development)', 8 November 2016; A breakdown by Council area of Travellers' sites in NI is provided in Appendix II. Available at: <http://www.nihrc.org/>.

⁴²² The NI Housing Executive identified 81 Travellers' pitches across NI, plus three additional pitches that could be made available if required. However, nine of the pitches identified by the NI Housing Executive were not available for occupancy in March 2017. The six pitches at Greenbrae were closed for renovations in August 2016 and the three transit pitches at Glen Road Heights were closed and replaced by nine serviced pitches in March 2017. See Letter from NI Housing Executive to NIHRC, 20 March 2017; a breakdown by Council area of Travellers' pitches in NI is provided in Appendix II. Available at: <http://www.nihrc.org/>.

is no definitive figure for the number of individuals this represents. These figures also do not account for overcrowding that can occur on individual pitches⁴²³ or for compatibility issues that may be preventing occupancy.⁴²⁴

Evidence suggests that existing Travellers' sites are insufficient. The 2014 Travellers' Accommodation Needs Assessment⁴²⁵ identified the need for three additional serviced sites in Antrim and Newtownabbey Borough, Armagh City, Banbridge and Craigavon Borough and Belfast City Council areas, and one additional transit site in Antrim and Newtownabbey Borough Council area.⁴²⁶ A serviced site in Belfast City Council area was provided. A serviced site for Armagh City, Banbridge and Craigavon Borough Council area is programmed into the Social Housing Development Programme.

A further source for the provision of Travellers' sites is the Local Council's Area plans.⁴²⁷ These identified an additional need of two transit sites in Armagh City, Banbridge and Craigavon Borough Council area (specifically Banbridge) and Belfast City Council area, and one serviced site in Armagh City, Banbridge and Craigavon Borough Council area. A serviced site within Armagh City, Banbridge and Craigavon area to meet this need has since been provided.⁴²⁸ The transit site identified for Belfast City Council area is additional to the transit site that existed in the area when the respective Area plan was published.

There are a number of site developments due for completion by April 2018.⁴²⁹ The outstanding developments for new sites include two serviced sites in the Antrim and Newtownabbey Borough and Newry, Mourne and Down District Council areas, and a transit site in the Derry City and Strabane District Council area.

The Traveller Action Group identified the need for a serviced site in the Fermanagh and Omagh District Council area.⁴³⁰ The NI Housing Executive's plans or Local Council Area Plans do not reflect this. The Transit Site Steering Group identified that transit facilities should be provided at five locations – Belfast, Londonderry/Derry, Strabane, Craigavon and Newry – in 2006.⁴³¹ The then Direct Rule Minister, David Hanson MP, endorsed this view.⁴³² According to the NI Housing Executive's categorisation, an emergency halting site was provided in Craigavon (Legahory Close), but this was a transit site according to actual use in November 2017.⁴³³ The NI Housing Executive also categorised a site in Londonderry/Derry (Ballyarnett) as transit, but in November 2017 this was a transit/serviced site in practice.⁴³⁴ In November 2017, there were also serviced/transit sites available in Craigavon (The Glen) and Londonderry/Derry (Daisyfield – though this site was unavailable from 2013 to 2016). The NI Housing Executive claim a transit site existed in Belfast (Glen Road Heights) until March 2017;⁴³⁵ however, this site was used as a serviced site in practice. The planned site

⁴²³ Roundtable discussion with civil society organisations, 20 September 2016; Interview with representatives of the Equality Commission NI, 8 February 2017.

⁴²⁴ Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

⁴²⁵ A breakdown by Council area of the need for additional Travellers' sites, as identified in the NI Housing Executive's 'Travellers Accommodation Needs Assessment 2014', is provided in Appendix II. Available at: <http://www.nihrc.org/>.

⁴²⁶ NI Housing Executive, 'Armagh City, Banbridge and Craigavon: Housing Investment Plan' (NIHE, 2015), at 36; NI Housing Executive, 'Derry City and Strabane: Housing Investment Plan' (NIHE, 2015), at 38; NI Housing Executive, 'Fermanagh and Omagh: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Ards and North Down: Housing Investment Plan 2015-2019', at 36; NI Housing Executive, 'Antrim and Newtownabbey: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Belfast: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Causeway Coast and Glens: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Lisburn and Castlereagh: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Mid and East Antrim: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Mid Ulster: Housing Investment Plan 2015-2019' (NIHE, 2015), at 33; NI Housing Executive, 'Newry, Mourne and Down: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36.

⁴²⁷ A breakdown by Council area of the need for Travellers' sites identified in the Area Plans is provided in Appendix II. Available at: <http://www.nihrc.org/>.

⁴²⁸ Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHRC, 2 November 2017.

⁴²⁹ Letter from NI Housing Executive to NIHRC, 30 September 2016; A breakdown by Council area of the Travellers' sites developments planned by the NI Housing Executive for 2015-2018 is provided in Appendix II. Available at: <http://www.nihrc.org/>.

⁴³⁰ NI Housing Executive, 'HRC-Q3-1: Traveller Action Group Meeting', Apex Housing Association, 8 December 2015.

⁴³¹ Letter from Department for Social Development to An Múna Tober, 23 June 2006.

⁴³² Ibid.

⁴³³ Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

⁴³⁴ Ibid.

⁴³⁵ For a number of years, a closed serviced site was located on the land adjacent to the transit site. In March 2017, the transit pitches were closed and the newly renovated serviced pitches were reopened.

developments show that a transit site is due to be developed in Strabane by 2017/2018; however the land is currently unidentified. There are no plans to provide a transit site in Newry.⁴³⁶

Grouped Housing

There are seven grouped housing schemes in NI across five Council areas.⁴³⁷ In March 2017, 64 of the 65 (98 percent) grouped housing units across the seven existing grouped housing schemes were occupied.⁴³⁸ There is no definitive figure for the number of individuals represented.

Evidence suggests that existing grouped housing schemes are insufficient. Two additional grouped housing requirements for Travellers were identified in 2014 for Antrim and Newtownabbey Borough Council and Belfast City Council areas.⁴³⁹ The expansion of a grouped housing development in the Belfast City Council and Derry City and Strabane District Council areas is planned for completion by April 2018.⁴⁴⁰

The Banbridge/Newry and Mourne Area Plan 2015 is the only Local Council Area Plan to reference grouped housing. It states one scheme is required. This scheme is now provided within the area.⁴⁴¹

Travellers interviewed in the Mid Ulster District Council area stated they were promised a grouped housing scheme. This has neither been delivered, nor is it included in the NI Housing Executive's development plans. The affected Travellers interviewed remain in favour of such a scheme.⁴⁴² From the NI Housing Executive's perspective, the tenants "wouldn't give up the pitches within the site to allow us to do the grouped housing".⁴⁴³ The NI Housing Executive stated that it is exploring different options for the families on that particular site and "grouped housing would still be on the table, like all options".⁴⁴⁴ The Armagh Travellers Group reported some Travellers in the Armagh City, Banbridge and Craigavon area had expressed a desire for a grouped housing scheme.⁴⁴⁵

The identified need for grouped housing in NI that remains is:

- one scheme in Antrim and Newtownabbey Borough Council area;
- one scheme in Mid Ulster District Council area; and
- an unknown number of schemes for the Armagh City, Banbridge and Craigavon Borough Council area.

⁴³⁶ Letter from NI Housing Executive to NIHRC, 30 September 2016.

⁴³⁷ A breakdown by Council area of the grouped housing schemes in NI is provided in Appendix II. Available at: <http://www.nihrc.org/>.

⁴³⁸ Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Radius Housing Association, 2 February 2017; Letter from NI Housing Executive to NIHRC, 20 March 2017.

⁴³⁹ NI Housing Executive, 'Armagh City, Banbridge and Craigavon: Housing Investment Plan' (NIHE, 2015), at 36; NI Housing Executive, 'Derry City and Strabane: Housing Investment Plan' (NIHE, 2015), at 38; NI Housing Executive, 'Fermagh and Omagh: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Ards and North Down: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Antrim and Newtownabbey: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Belfast: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; Planning Decision, 'Z/2007/2445/F', 6 March 2009; Response received from Planning Department Representatives at Belfast City Council to Additional Questions from the NIHRC, 17 March 2017; NI Housing Executive, 'Causeway Coast and Glens: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Lisburn and Castlereagh: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Mid and East Antrim: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Mid Ulster: Housing Investment Plan 2015-2019' (NIHE, 2015), at 33; NI Housing Executive, 'Newry, Mourne and Down: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; A breakdown by Council area of the need for additional grouped housing identified in the Area Plans is provided in Appendix II. Available at: <http://www.nihrc.org/>.

⁴⁴⁰ Letter from NI Housing Executive to NIHRC, 30 September 2016; A breakdown by Council area of the grouped housing developments planned by the NI Housing Executive for 2015-2018 are provided in Appendix II. Available at: <http://www.nihrc.org/>.

⁴⁴¹ Department of the Environment, 'Banbridge/Newry and Mourne Area Plan 2015: Plan Strategy and Framework' (DoE, 2013), at 29.

⁴⁴² Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

⁴⁴³ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

⁴⁴⁴ Ibid.

⁴⁴⁵ Roundtable discussion with civil society organisations, 20 September 2016.

Not delivering the developments planned for completion by 2018 would mean an even greater need left unaddressed. The indications are this will be the case. Radius Housing Association explained:

from our point of view we wouldn't be keen to have any more [new grouped housing schemes]. There's no point in saying that we would. We believe there would be far more Travellers accommodated within our settled accommodation. We believe that works much better. [Travellers] then avail of the exact same services as everybody else, which in my opinion is what every citizen in NI should have... We find that the [Travellers] living in settled accommodation, that normally works quite well. But again that's if they choose to do that. There is a real challenge given the limited public resources that we have, particularly for social housing is to go down the route of providing very, very expensive specifically designed accommodation. It's very expensive. I think it has to be placed with the needs of all citizens of NI, as [a grouped housing scheme] is a very expensive option.⁴⁴⁶

Apex Housing Association believes "family ties and the family connection" of the younger generation will determine if grouped housing schemes are developed in the future.⁴⁴⁷ Yet Radius Housing Association warns public authorities should not raise Travellers' expectations:

we're not going to build [any more grouped housing schemes], the NI Housing Executive can't put somebody on the [waiting] list and say now somebody go and build all of this for them. There's lengthy process in that. There is no market.... [The existing grouped housing schemes] are for particular extended families. You can't displace them to put another [family] in. [Grouped housing schemes] are very limited in supply. They are extremely expensive to provide.⁴⁴⁸

Findings

The NIHRC's findings on provision of Travellers' accommodation in NI are:

i	Irish Travellers in housing stress waited on average 11 months to be allocated social housing. The overall average waiting time was 12 months. This data suggests that Travellers are not disadvantaged in accessing social housing.
ii	The NI Housing Executive has development plans in place for 2015-2018 to increase Travellers' site provision in NI. The evidence suggests there is a requirement for more Travellers' sites, than those identified in the development plans. These are one serviced site (Fermanagh and Omagh District Council area) and five transit sites (one in Antrim and Newtownabbey Borough Council area; two in Belfast City Council area; one in Armagh City, Banbridge and Craigavon Borough Council area [Banbridge specifically]; one in Newry, Mourne and Down District Council [Newry specifically]).

⁴⁴⁶ Interview with representatives of Radius Housing Association, 2 February 2017.

⁴⁴⁷ Interview with representatives of Apex Housing Association, 7 February 2017.

⁴⁴⁸ Interview with representatives of Radius Housing Association, 2 February 2017.

iii	The need for additional grouped housing schemes has been identified. The evidence suggests that there is a requirement for at least three additional grouped housing schemes in Antrim and Newtownabbey Borough Council, Mid Ulster District Council, and Armagh City, Banbridge and Craigavon Borough Council areas. The NI Housing Executive's development plans for addressing this do not clearly set out how they will address the identified need. The relevant housing associations have no plans to develop or expand upon their existing grouped housing schemes. They are concerned about the feasibility of grouped housing schemes in the future due to compatibility issues and costs associated with vacancies.
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Assessment and Allocation Process

Domestic Laws and Policies

Social Housing

Homeless Travellers with full duty applicant status or Travellers over 18 with sufficient connection to NI can apply for social housing on a permanent basis (including serviced sites and grouped housing). The assessment for and allocation of social housing follows the Common Selection Scheme.⁴⁴⁹ This is managed by the NI Housing Executive.

Regarding assessment, a prospective tenant submits a completed housing application form to the NI Housing Executive. The application is then processed and a face-to-face housing assessment conducted. The applicant's eligibility, preferred accommodation type and location (an applicant can choose two areas) are determined during this assessment.⁴⁵⁰

The Scheme operates a points system.⁴⁵¹ If eligible, the applicant is added to the relevant waiting list. The level of points attributed to an applicant determines their position on the waiting list. Applicants receive points for experiences of intimidation, insecurity of tenure, adverse housing conditions, health/social well-being circumstances, complex needs and homelessness.⁴⁵² If the applicant deliberately worsened their circumstances, this is also considered.⁴⁵³

Applicants are entitled to a maximum of three reasonable accommodation offers.⁴⁵⁴ This does not include simultaneous offers – i.e. while the applicant is already under an offer of accommodation.⁴⁵⁵ A reasonable offer should take into account the size of accommodation, suitability of location, suitability of features and condition of the accommodation.⁴⁵⁶ The applicant's preference for a particular type of property is not "an essential need".⁴⁵⁷ The alternative accommodation should not pose a very real risk that the applicant would suffer psychiatric harm if he or she accepted the offer and moved into the premises.⁴⁵⁸ The suitability of the accommodation takes account of the "practicality".⁴⁵⁹ It is an "elastic concept" that requires an assessment

⁴⁴⁹ Article 22, Housing (NI) Order 1981; NI Housing Executive, 'Housing Selection Scheme Rules' (NIHE, 2014); Apex Housing Association, 'Allocation Policy – Group Housing Scheme for Travellers' (Apex, 2013).

⁴⁵⁰ NI Housing Executive, 'Housing Selection Scheme Rules' (NIHE, 2014), at Rules 9-14 and 52.

⁴⁵¹ *Ibid.*, at Rules 15-17.

⁴⁵² *Ibid.*, at Rules 19-45.

⁴⁵³ *Ibid.*, at Rule 18.

⁴⁵⁴ *Ibid.*, at Rule 56.

⁴⁵⁵ *Ibid.*, at Rule 56A.

⁴⁵⁶ *Ibid.*, at Rule 57.

⁴⁵⁷ *Ibid.*, at Rule 58.

⁴⁵⁸ *Sheridan v Basildon BC (formerly Basildon DC)* [2012] EWCA Civ 335, at para 7.

⁴⁵⁹ *Ibid.*, at para 35; *Kayes and Traylen v Waverley BC* [2003] EWCA Civ 433, at para 12.

of all the needs and circumstances.⁴⁶⁰ This includes whether the suggested accommodation is one that “no reasonable authority could consider to be suitable to the needs of the applicant”.⁴⁶¹

If an applicant refuses all three reasonable offers, further offers are suspended for one year after the date of the last refusal.⁴⁶² This includes offers not normally regarded as a reasonable offer, but were made at the applicant’s request.⁴⁶³ If intimidation is an issue, the area of choice can be restricted if it is believed the applicant’s household is at significant risk of attack.⁴⁶⁴

In late 2017, the Department for Communities launched a public consultation process with the aim of amending the Housing Selection Scheme to ensure it “meets housing need efficiently and effectively, while remaining fair and transparent”.⁴⁶⁵ One of the proposals includes removing intimidation points from the Common Selection Scheme.⁴⁶⁶

Domestic Practice

Standard Social Housing

The NI Housing Executive maintains when Travellers apply for standard social housing they are assessed and housing is allocated under the Common Selection Scheme, the same as other applicants.⁴⁶⁷ Yet, a number of interviewed Travellers believed they had not received sufficient points for their situations, which affected their ability to access standard social housing.

One Traveller reported a family member had requested standard social housing from the NI Housing Executive, but it refused to put the applicant on the waiting list. The applicant was living in poor conditions with a large family.⁴⁶⁸ Another Traveller who suffered from mental and physical health issues was couch surfing after losing their previous home due to circumstances beyond their control.⁴⁶⁹ They believed the NI Housing Executive was not giving them sufficient points for their situation.⁴⁷⁰ They also believed the NI Housing Executive was not providing “enough support”.⁴⁷¹ For example, they reported a representative of the NI Housing Executive had not taken them through the Common Selection Process.⁴⁷² The individual availed of support from a Traveller support group and Citizens Advice Bureau, but reported resistance from the NI Housing Executive. For example, in their experience the NI Housing Executive refused to acknowledge receipt of letters of support provided by civil society organisations and health professionals on the individual’s behalf. Consequently, their inadequate housing situation persisted.⁴⁷³

Other Travellers reported receiving no points for the overcrowded conditions or homelessness they were experiencing.⁴⁷⁴ Another Traveller maintained that they did not receive any points for intimidation. Subsequently, they had to live in hostel accommodation for two years.⁴⁷⁵ A Derry City and Strabane Councillor

⁴⁶⁰ *Sheridan v Basildon BC (formerly Basildon DC)* [2012] EWCA Civ 335, at para 39.

⁴⁶¹ *Ibid.*, at para 35; *Codona v Mid-Bedfordshire District Council* [2004] EWCA Civ 925, at para 37; *R v Newham LBC, ex parte Ojuri (No 3)* [1998] HLR 452, at para 461.

⁴⁶² NI Housing Executive, ‘Housing Selection Scheme Rules’ (NIHE, 2014), at Rule 59.

⁴⁶³ *Ibid.*, at Rule 60.

⁴⁶⁴ *Ibid.*, at Rule 61.

⁴⁶⁵ Department for Communities, ‘Public Consultation: Fundamental Review of Social Housing Allocations’ (Department for Communities, 2017), at 1.

⁴⁶⁶ *Ibid.*, at 54.

⁴⁶⁷ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

⁴⁶⁸ Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016.

⁴⁶⁹ Individual Interview with a member of the Traveller communities in NI: Interview 20, 25 January 2017.

⁴⁷⁰ *Ibid.*

⁴⁷¹ *Ibid.*

⁴⁷² *Ibid.*

⁴⁷³ *Ibid.*

⁴⁷⁴ Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 22, 10 February, 2017.

⁴⁷⁵ Group interview with a member of the Traveller communities in NI and an advocate: Interview 26, 5 April 2017.

found in areas where the demand for standard social housing was higher and the supply of such housing was insufficient, then more points were required to qualify for standard social housing in those areas. This tends to be concentrated within larger urban areas, which means many, including Travellers, have little choice but to move “out to the periphery”.⁴⁷⁶ Furthermore, South Tyrone Empowerment Programme finds Travellers are assessed and allocated standard social housing “fairly, but it’s not really what they want”.⁴⁷⁷ Some would prefer a Travellers’ site.⁴⁷⁸

A lack of suitable accommodation hinders access to standard social housing for Travellers.⁴⁷⁹ In 2011, the Equality Commission NI provided legal assistance to a large Traveller family who had been offered a house by the NI Housing Executive. The family turned down the house because it was defaced with racist graffiti before they moved in. The family were placed back on the NI Housing Executive’s waiting list for standard social housing, where they remained for over two years. The case did not proceed due to disengagement from the family, but the issue remained.⁴⁸⁰

The Department for Communities acknowledges that the Housing Selection Scheme needs amended. This includes introducing “an improved system for the most vulnerable applicants” and that “those in greatest housing need receive priority, with recognition of their time in need”.⁴⁸¹

Traveller-specific Accommodation

An application form for Traveller-specific accommodation does not exist in NI and the general application form is reportedly insufficient for ensuring access to all Travellers’ accommodation.⁴⁸² The general application form states:

the NI [Housing Executive] and Housing Associations have agreed that all housing associations should be assessed in the same way. The completion of this single application means that your application can be considered by many of the social landlords [the NI Housing Executive and housing associations] *in your preferred areas* [emphasis added].⁴⁸³

The application form’s guidance notes refer to ‘preferred areas’, but the form does not expressly offer the opportunity to identify a preferred type of accommodation. The implication is Traveller-specific preferences can be cited in the ‘reason for applying’ section and by identifying as an ‘Irish Traveller’ in the ethnicity section. There are concerns that the application form pre-disposes applicants to believe that Traveller-specific accommodation is not an option.⁴⁸⁴ The form is under review and the NI Housing Executive intends to clarify all available accommodation options in a new version.⁴⁸⁵

The Equality Commission NI stressed the “full range of [accommodation] options [needs to be] explicit” on all levels, not just the application form.⁴⁸⁶ According to the NI Housing Executive, the face-to-face assessment does this.⁴⁸⁷ The Equality Commission NI understands from its engagement with Traveller-specific civil society

⁴⁷⁶ Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

⁴⁷⁷ Roundtable discussion with civil society representatives, 20 September 2016.

⁴⁷⁸ Ibid.

⁴⁷⁹ Letter from the Equality Commission NI to the NIHRC, 31 March 2017.

⁴⁸⁰ Ibid.

⁴⁸¹ Department for Communities, ‘Public Consultation: Fundamental Review of Social Housing Allocations and Draft EQIA’ (Department for Communities, 2017), at 1.

⁴⁸² ‘Report of Out-going Executive Committee’ in NI Local Government Partnership on Travellers’ Issues, ‘Minutes of the Local Government Partnership on Traveller Issues’, Former Moyle District Council Offices, 29 July 2016.

⁴⁸³ NI Housing Executive, ‘Housing/Transfer Application Form’, at Note 3.

⁴⁸⁴ Roundtable discussion with civil society organisations, 20 September 2016.

⁴⁸⁵ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

⁴⁸⁶ Interview with representatives of the Equality Commission NI, 8 February 2017.

⁴⁸⁷ Interview with a representative of the Police Service NI: Interview C, 21 February 2017.

organisations that Traveller-specific accommodation is not typically identified as an option at the assessment stage and “if you have [Travellers] who aren’t particularly empowered... to say ‘look this is what I want’, you just have [Travellers] put down the route of bricks and mortar”.⁴⁸⁸ Only those that tick the ‘Irish Travellers’ box on the application form are reportedly offered alternative types of accommodation.⁴⁸⁹ Some applicants do not tick the box because they are from Traveller communities other than Irish Travellers. Other applicants do not tick the box for fear of discrimination.⁴⁹⁰ The Traveller Action Group Housing/Accommodation Sub-group and Belfast City Council also request clarity concerning the allocation of grouped housing.⁴⁹¹

The NI Housing Executive is rolling-out a new Housing Options system. This computerised programme details both the availability and turnover of accommodation stock. It enables NI Housing Executive to assess the prospects of prospective tenants’ regarding their preferred accommodation.⁴⁹² It also seeks to provide an up-to-date record of accommodation demand by type, including Traveller-specific accommodation.⁴⁹³ The Department for Communities is also considering how to amend the Housing Selection Scheme to a model that offers “a greater range of solutions to meet housing need” and has “a more accurate waiting list that reflects current housing circumstances”.⁴⁹⁴

Travellers’ Sites

Travellers’ applications for serviced sites should be processed through the Common Selection Scheme and placed on a points-based waiting list for the preferred serviced site(s); however, such lists do not exist. An Munia Tober understands Travellers have to send a letter to the NI Housing Executive expressing a preference for sites. Due to a lack of Travellers’ site provision, it “can go into years” waiting for the required sites to be developed.⁴⁹⁵ Travellers wishing to use transit sites and emergency halting sites are not required to apply through the Common Selection Scheme; this is to accommodate the transient nature of the sites.

The Equality Commission NI reports that its engagement with Travellers indicates that the current system lacks flexibility and the NI Housing Executive’s “housing policy has a certain view of what housing is, and that is bricks and mortar”.⁴⁹⁶ The Local Government Partnership on Traveller Issues supports this view. It finds the NI Housing Executive “assess that only nomadic Travellers may access or hope to access non-bricks and mortar accommodation”.⁴⁹⁷

Grouped Housing

Travellers seeking grouped housing are processed through the Common Selection Scheme and placed on a waiting list for the preferred grouped housing scheme(s).⁴⁹⁸ The process for allocating grouped housing vacancies differs according to the housing association that is managing the preferred scheme. Apex and Clanmil housing associations follow strict criteria for the Travellers placed on the individual waiting list of its grouped housing schemes. This includes having a previous connection to the land of the scheme within the

⁴⁸⁸ Interview with representatives of the Equality Commission NI, 8 February 2017.

⁴⁸⁹ Roundtable discussion with civil society organisations, 20 September 2016.

⁴⁹⁰ *Ibid.*

⁴⁹¹ NI Housing Executive, ‘HRC-Q3-1: Minutes of the TAG Housing/Accommodation Sub-group’, Omagh Enterprise Centre, 23 August 2016; Belfast City Council, ‘Traveller Needs Assessment 2015: A Report by Trademark’ (BCC, March 2015), at 29.

⁴⁹² Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

⁴⁹³ *Ibid.*

⁴⁹⁴ Department for Communities, ‘Public Consultation: Fundamental Review of Social Housing Allocations and Draft EQIA’ (Department for Communities, 2017), at 1.

⁴⁹⁵ Roundtable discussion with civil society representatives, 20 September 2016.

⁴⁹⁶ Interview with representatives of the Equality Commission NI, 8 February 2017.

⁴⁹⁷ Local Government Partnership on Traveller Issues, ‘Bullet points regarding NI Equality Commission’s Publication: Key Inequalities in Housing and Communities’, 2 March 2016.

⁴⁹⁸ Apex Housing Association, ‘Allocation Policy – Group Housing Scheme for Travellers’ (Apex, 2013).

last five years and being a member of the core family group within the scheme; this can be by marriage.⁴⁹⁹ There also must be agreement from the core family group.⁵⁰⁰ For Clanmil Housing Association, the final decision is a negotiation process:

allocations are based on need, as so much as they're based on compatibility with the original family... It's a decision that Clanmil don't make on our own. We make it with the NI Housing Executive, with the Traveller team, the Traveller social worker. It's a joint decision. The [head] of the grouped housing scheme as well.⁵⁰¹

Radius Housing Association's vacancies in grouped housing schemes "are not advertised, and to be honest with you why should they be? [The scheme has] been built specifically for that extended family... It's not available [to anyone not in that family grouping]".⁵⁰²

One vacancy⁵⁰³ within NI's grouped housing schemes is proving a persistent problem for the responsible housing association:

we've had a vacant property for [four or five] years... We've nobody on the list to move in because there's nobody in that extended family that wants or needs the accommodation. Nobody else is being put on the list... We're being told that because it is an extended family scheme, that you couldn't really put anybody else in... We allocate from a waiting list, but if there's nobody on the waiting list?... We're losing revenue on that, we're not getting any rent. Nor can be put any other tenant in because it is designed as a grouped Traveller scheme.⁵⁰⁴

At one stage, Apex Housing Association had "no one coming through from the family grouping in regard to a vacancy" and it lay vacant "for quite a considerable period".⁵⁰⁵ Through working with the head of the family, a distant relative appeared on the waiting list for grouped housing and filled the vacancy.⁵⁰⁶ This highlights the compatibility issues that can hinder access to grouped housing. As An Munia Tober explained "because there are families that already live in the grouped housing, then no other families will move in".⁵⁰⁷ Apex Housing Association found having different entrances for different families worked well to overcome compatibility issues in grouped housing schemes.⁵⁰⁸

Findings

The NIHRC's findings regarding assessment and allocation of Travellers' accommodation in NI are:

i	Travellers can request preferred type and areas of social accommodation. Travellers are entitled to three reasonable accommodation offers from social housing providers; this is in line with the standard approach.
ii	There is confusion regarding what constitutes a reasonable offer of accommodation for Travellers and the extent to which their cultural needs are considered.

⁴⁹⁹ Apex Housing Association, 'Allocation Policy – Group Housing Scheme for Travellers' (Apex, 2013); Clanmil Housing Association, 'Appendix C – Local Letting Strategy Dobsons Way', 16 May 2014; Clanmil Housing Association, 'Appendix B – Local Letting Strategy Briar View', Date Unknown.

⁵⁰⁰ Apex Housing Association, 'Allocation Policy – Group Housing Scheme for Travellers' (Apex, 2013).

⁵⁰¹ Interview with representatives of Clanmil Housing Association, 8 March 2017.

⁵⁰² Interview with representatives of Radius Housing Association, 2 February 2017.

⁵⁰³ Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Radius Housing Association, 2 February 2017; Letter from NI Housing Executive to NIHRC, 20 March 2017.

⁵⁰⁴ Interview with representatives of Radius Housing Association, 2 February 2017.

⁵⁰⁵ Interview with representatives of Apex Housing Association, 7 February 2017.

⁵⁰⁶ Ibid.

⁵⁰⁷ Roundtable discussion with representatives from civil society, 20 September 2016.

⁵⁰⁸ Interview with representatives of Apex Housing Association, 7 February 2017.

iii	The allocation of standard social housing follows the Common Selection Scheme's points process and appears to be adhered to in practice.
iv	The allocation of grouped housing follows the Common Selection Scheme process. Once successful they are added to the waiting list for their chosen grouped housing scheme. Grouped housing is allocated according to family grouping and compatibility. This can hinder access for Travellers who do not fall within family groupings, or where there are compatibility issues.
v	The allocation of a pitch on a serviced site should follow the Common Selection Scheme process. Once successful they should be added to a waiting list for Travellers' sites in NI. However, in practice no Travellers' sites waiting list exists and Travellers self-determine their pitches.
vi	The process by which an individual Traveller or household record their need for a Travellers' site lacks clarity. Travellers are also unaware of the existing process.
vii	The application form for social housing does not clearly set out all accommodation options and does not offer applicants the express opportunity to specify their desire for Traveller-specific accommodation. The NI Housing Executive is reviewing this.
viii	Traveller-specific accommodation is not sufficiently identified as an option during the assessment stages of the Common Selection Scheme. The NI Housing Executive is reviewing this.

Barriers

Domestic Laws and Policies

The Race Relations (NI) Order 1997 prohibits racial discrimination in the provision of goods, facilities and services and in the disposal and management of premises.⁵⁰⁹ This applies to public authorities when carrying out certain functions – healthcare, social security, social protection or social advantage.

The NI Act 1998, Section 75, requires public authorities to have due regard to the need to promote equality of opportunity on a number of grounds, including between persons of a different racial group.

⁵⁰⁹ Articles 21 and 22, Race Relations (NI) Order 1997.

Domestic Practice

Planning Decisions

The Equality Commission NI reported in 2009 that consultation with local Councils regarding planning applications significantly added to the length of time it took to bring forward new sites.⁵¹⁰ Furthermore, the Equality Commission NI identified decisions at a local Council level as “a key stumbling block to [Travellers’] site development”.⁵¹¹ The research reported that interviewees cited “a lack of leadership among local government councillors”. The Equality Commission NI also said that “the contentious nature of site provision in local areas prevents planning decisions being made that would allow sites to be developed”.⁵¹² The Equality Commission NI has not made a formal assessment of the handling of planning functions since functions were transferred in full to Council.⁵¹³

Third Party Objections

The Councils maintain that when public objections to planning applications emerge, they look at whether objections are “based on sound evidence? They’ll test the evidence base. If someone’s objected to something on the evidence base that’s where that objection gets picked up. It’s looking at these kind of criteria tests, rather than objection by objection”.⁵¹⁴ Yet, South Tyrone Empowerment Programme believes Councils are hindering planning proposals for Traveller-specific accommodation before they reach the planning application stages.⁵¹⁵ It is felt Council’s decisions are influenced by third party objections against such accommodation.⁵¹⁶

For example, one planning application for a Travellers’ site received 254 letters of objection and two petitions containing a total of 600 signatures.⁵¹⁷ A representative of the Department for Infrastructure found, “anecdotally, you do get a lot of objections” to planning applications regarding Traveller-specific accommodation.⁵¹⁸ The NI Housing Executive reported it received 700 objections to one of its planning applications for a Travellers’ site.⁵¹⁹ Receiving objections to that extent delays the process. For example, that particular case was subject to a public inquiry.⁵²⁰

Armagh City, Banbridge and Craigavon Borough Council provided evidence of advice given to staff which advises that Council members may receive representations where “pressure may be seen to be contrary to law by promoting what might be regarded as an anti-Traveller position”.⁵²¹ However, “it is quite clear that the Council’s statutory responsibilities... militate against this”.⁵²² This reflects the Code of Conduct for Councillors. It states there should be a balance of “the interests of developers and interest groups with taking planning decisions, by applying... local knowledge and the advice and guidance of planning officers, in a fair, impartial and transparent way, for the benefit of the whole community”.⁵²³ Councillors must “not apply undue pressure towards planning officers to provide a particular recommendation”.⁵²⁴

⁵¹⁰ Equality Commission NI, ‘Outlining Minimum Standards for Traveller Accommodation in NI’ March 2009, at 10.

⁵¹¹ *Ibid.*

⁵¹² *Ibid.*

⁵¹³ Letter from Equality Commission NI to NIHRC, 24 March 2017.

⁵¹⁴ Interview with Council Officials at Belfast City Council, 6 February 2017.

⁵¹⁵ Roundtable discussion with civil society representatives, 20 September 2016.

⁵¹⁶ *Ibid.*; Interview with representatives of the Department for Communities, 1 February 2017

⁵¹⁷ T/2014/0223/F, ‘Planning Appeals Commission Appeal Decision: 2015/A0094’, 4 October 2016, at 10.

⁵¹⁸ Interview with representatives of the Department for Infrastructure, 7 February 2017.

⁵¹⁹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

⁵²⁰ *Ibid.*

⁵²¹ Written correspondence from Armagh City, Banbridge and Craigavon Borough Council, received 16 January 2017.

⁵²² *Ibid.*

⁵²³ Department of the Environment, ‘The NI Local Government Code of Conduct for Councillors’ (DoE, 2014), at para 9.3.

⁵²⁴ *Ibid.*, at para 9.9.

Anti-nomadism

A representative of the Equality Commission NI reported there is a lack of provision for nomadism in NI, “you can see by the typology of the accommodation provision [for Traveller-specific accommodation] that has been made. Transient sites have been the fewest and the thrust has always been about settlement”.⁵²⁵

Some Councils' negative views towards Travellers' sites are on record. The legacy Craigavon District Council felt “the name of the area was changed in recent times in an effort to ‘re-invent’ it with a more positive image. Any attempt to create a temporary halt in the vicinity may reverse the success of that scheme”.⁵²⁶ On another occasion the same Council “deemed [it] impractical and insensitive to have a temporary halting site” beside a sports facility and a cemetery.⁵²⁷ It preferred any Travellers' sites within that Council area would be “out of sight” and “in a corner”.⁵²⁸ A representative of the NI Housing Executive is on record stating they were against the development of a particular Travellers' site as it was “visible to everyone” and believed it would be “an unseemly blot on the landscape”.⁵²⁹

Findings

The NIHRC's findings regarding barriers to Travellers' accommodation in NI are:

i	There is evidence that planning applications for Traveller-specific accommodation receive notable levels of objections from third parties.
ii	Measures are in place to ensure Council's decisions are fair, impartial and transparent. However, it was reported that Council decisions are influenced by third party's anti-Traveller perceptions.

⁵²⁵ Interview with representatives of the Equality Commission NI, 8 February 2017.

⁵²⁶ Letter from Craigavon District Council to NI Housing Executive, 3 July 2006.

⁵²⁷ Ibid.

⁵²⁸ Letter from Craigavon District Council to NI Housing Executive, 4 August 2006.

⁵²⁹ 'Note of Meeting Held between Craigavon Borough Council, Department for Social Development and NI Housing Executive', Craigavon Borough Council Offices, 4 May 2011.

3 Habitability

The duty to provide adequate housing, including Travellers' accommodation, requires that the accommodation is habitable. This duty engages:

Treaty	Article
ICESCR	11
CRC	3
	6(1)
	19
CRPD	28(1)
ECHR	2
	3
	8
European Social Charter	16
European Social Charter (Revised) ⁵³⁰	31

The following soft law standards clarify what this requires:

UN ICESCR Committee
General Comment No 4: The Right to Adequate Housing ⁵³¹
Concluding Observations on the Sixth Periodic Report of the UK and NI ⁵³²
UN General Assembly
Report of the United Nations Conference on Human Settlements (Habitat II) ⁵³³
CoE Advisory Committee on the FCNM
Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs ⁵³⁴
Fourth Opinion on the UK ⁵³⁵
CoE Committee of Ministers
Recommendation on improving the housing conditions of Roma and Travellers in Europe ⁵³⁶

⁵³⁰ Unlike the other human rights treaties listed, the UK (including NI) has not ratified the European Social Charter (Revised) 1996. It has signed this treaty, which obliges the UK to refrain, in good faith, from acts that would defeat the object and purpose of the treaty.

⁵³¹ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991.

⁵³² E/C.12/GBR/CO/6, 'ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 14 July 2016.

⁵³³ A/Conf.165/14, 'UN Conference on Human Settlements (Habitat II)', 14 June 1996.

⁵³⁴ ACFC/31DOC(2008)001, 'CoE Advisory Committee on the FCNM's Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs', 27 February 2008.

⁵³⁵ ACFC/OP/IV(2016)005, 'CoE Advisory Committee on the FCNM: Fourth Opinion on the UK', 27 February 2017.

⁵³⁶ CoE, 'Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe', 25 February 2005.

CoE Commissioner for Human Rights, Alvaro Gil-Robles
Final Report on the Human Rights Situation of the Roma, Sinti and Travellers in Europe ⁵³⁷
CoE Commissioner for Human Rights, Thomas Hammarberg
Recommendation on the Implementation of the Right to Adequate Housing ⁵³⁸
CoE Commissioner for Human Rights, Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing, Miloon Kothari
Joint Statement ⁵³⁹

Human Rights Laws and Standards

United Nations

The ICESCR Committee, General Comment No 4, states that:

adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well.⁵⁴⁰

The CRPD, Article 28(1), further provides that:

State Parties recognise the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realisation of this right without discrimination on the basis of disability.

The CRC, Article 3, requires “the best interests of the child shall be of primary concern”. The CRC Committee confirms this includes consideration of “the environment in relation to safety”.⁵⁴¹ This “means assessing the safety and integrity of the child at the current time; however, the precautionary principle also requires assessing the possibility of future risk and harm and other consequences of the decision for the child’s safety”.⁵⁴² The CRC, Article 19, requires States take “all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental... injury”. The CRC, Article 6(1), also requires a child’s right to life is respected, protected and fulfilled.

The UN Habitat Agenda has also clarified that adequate habitability requires:

adequate privacy; adequate spaces; physical accessibility; adequate security... structural stability and durability; adequate lighting, heating and ventilation; suitable environmental quality and health-related factors.⁵⁴³

⁵³⁷ CommDH(2006)1, ‘Final Report by Mr Alvaro Gil-Robles, CoE Commissioner for Human Rights, on the Human Rights Situation of the Roma, Sinti and Travellers in Europe’, 15 February 2006.

⁵³⁸ CommDH(2009)5, ‘Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing’, 30 June 2009.

⁵³⁹ CommDH/Speech(2007)16, ‘Joint Statement by CoE Commissioner for Human Rights Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari: Governments Should Take Positive Steps to Protect the Housing Rights of Roma in Europe’, 24 October 2007.

⁵⁴⁰ E/1992/23, ‘ICESCR Committee General Comment No 4: The Right to Adequate Housing’, 13 December 1991, at para 8(d).

⁵⁴¹ CRC/C/GC/14, ‘CRC Committee General Comment No 14: Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration’, 29 May 2013, at para 48.

⁵⁴² *Ibid.*, at para 74.

⁵⁴³ A/Conf.165/14, ‘UN Conference on Human Settlements (Habitat II)’, 14 June 1996, at para 60.

In 2016, the ICESCR Committee, following its examination of the UK, called for “corrective measures to address bad housing or sub-standard housing conditions and inhabitability”.⁵⁴⁴

Council of Europe

The ECHR, Article 3, provides for freedom from torture, inhuman or degrading treatment or punishment. This is an absolute, non-derogable right that is guaranteed “irrespective of the victim’s conduct”.⁵⁴⁵ Forcing people to live in dire conditions can result in a violation of Article 3.⁵⁴⁶ For example, in the case of *Moldovan v Romania (No 2)* (2005) the ECtHR concluded that the treatment by public authorities caused “in the victims feelings of fear, anguish and inferiority capable of humiliating and debasing them”.⁵⁴⁷

Unlike torture, the conduct of the State does not have to be deliberate for treatment or punishment to be inhuman or degrading.⁵⁴⁸ Rather, the individual’s suffering must be due to the action or inaction of the State,⁵⁴⁹ and not the individual’s own volition. It must be shown that required services were not offered (eg accommodation maintenance, sanitation), or if they were offered that it was in such a way that they were categorically unavailable, not merely inconvenient and bureaucratic.⁵⁵⁰

Article 3 is usually engaged in only the harshest of circumstances. In *Moldovan v Romania (No 2)* (2005) for example, consideration was given to a:

severely overcrowded and unsanitary environment and its detrimental effect on the applicants’ health and well-being, combined with the length of the period during which the applicants... had to live in such conditions... [the court concluded] the general attitude of the authorities must have caused them [the victims] considerable mental suffering, thus diminishing their human dignity and arousing in them such feelings as to cause humiliation and debasement.⁵⁵¹

The ECHR, Article 8, protects the right to respect for private and family life. In terms of habitability of Travellers’ accommodation, the relevant element of this right is the protection afforded to physical and psychological integrity. It includes a requirement that the State⁵⁵² takes “reasonable and appropriate measures to secure and protect individuals”.⁵⁵³

The ECHR, Article 2, protects the right to life. It requires that States⁵⁵⁴ take all reasonable steps to prevent intentional and unintentional deprivation of life within their jurisdictions.⁵⁵⁵ They also must take reasonable steps to counteract a known real and imminent risk to life.⁵⁵⁶

Article 8 is qualified and can be limited in certain circumstances. An interference with this right may be justified if the State’s acts or inaction were lawful, served a legitimate purpose, and were proportionate.⁵⁵⁷ Article 8 is also subject to the margin of appreciation⁵⁵⁸ and the interests of a democratic society,⁵⁵⁹ which

⁵⁴⁴ E/C.12/GBR/CO/6, ‘ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 14 July 2016, at para 50(c).

⁵⁴⁵ *Chahal v UK* (1996) 23 EHRR 413, at para 79; Articles 3 and 15(2), European Convention on Human Rights 1950.

⁵⁴⁶ *Moldovan v Romania (No 2)* (2007) 44 EHRR 16, at para 16.

⁵⁴⁷ *Ibid*, at para 101.

⁵⁴⁸ *Peers v Greece* (2001) ECHR 296.

⁵⁴⁹ *O’Rourke v UK*, Application No 39022/97, 26 June 2001.

⁵⁵⁰ *Budina v Russia* (2009) ECHR 1104, at Section 3.

⁵⁵¹ *Moldovan v Romania (No 2)* (2007) 44 EHRR 16, at para 111.

⁵⁵² Section 6(1), Human Rights Act 1998.

⁵⁵³ *Storck v Germany* (2006) 43 EHRR 6, at para 149.

⁵⁵⁴ Section 6(1), Human Rights Act 1998.

⁵⁵⁵ *Öneriyildiz v Turkey* (2004) ECHR 657; *LCB v UK* (1999) 27 EHRR 212, at para 36.

⁵⁵⁶ *Burke v UK*, Application No 19807/06, 11 July 2006, at para 1.

⁵⁵⁷ Article 8(2), European Convention on Human Rights 1950.

⁵⁵⁸ *Connors v UK* (2004) ECHR 223, at para 82.

⁵⁵⁹ Article 8(2), European Convention on Human Rights 1950.

provides the State with discretion. For Article 8 to be engaged, there must be a “direct and immediate link” between the measures sought by the applicant and their private, family or home life.⁵⁶⁰ In terms of habitability, there must be a “singular lack of respect for the claimant’s private and family life”. In practice, this means the individual must have been subject to living conditions, which made “it virtually impossible for them to have any meaningful private or family life for the purposes of Article 8”.⁵⁶¹ There is, however, less discretion where family units, particularly those including children, are concerned.⁵⁶²

The European Social Charter, Article 16, provides for the “necessary conditions for the full development of the family... to promote the economic, legal and social protection of family life by such means as... provision of family housing”.⁵⁶³ The European Committee on Social Rights has explained that this requires dwellings to be of a minimum standard and to offer the option of permanency.⁵⁶⁴ The case of *European Roma Rights Centre v Ireland* (2015) clarified that legislation requiring that Travellers’ accommodation is adequate is insufficient, if there is “de facto insufficiency” regarding the accommodation.⁵⁶⁵ Overcrowding, poor sanitation and lack of accommodation for persons with disabilities are factors that may contribute to inadequate accommodation under Article 16,⁵⁶⁶ as are problems that require substantial refurbishments that are not implemented.⁵⁶⁷

The European Social Charter (Revised), Article 31, requires measures that “promote access to housing of an adequate standard”. In this regard, the European Committee on Social Rights has commented that adequate housing means “a dwelling which is structurally secure”, is “safe from a sanitary and health point” and “not overcrowded”.⁵⁶⁸

The CoE Committee of Ministers requires that minimum construction standards are satisfied and that housing can be adapted and enhanced to accommodate “an increasing number of members, changes in economic possibilities and cultural needs, changes in vital needs and the development of aspirations”.⁵⁶⁹

A former CoE Commissioner on Human Rights, Alvaro Gil-Robles, highlighted that “urgent measures are needed to ensure adequate living conditions in winter time”.⁵⁷⁰ He further declared that, “the immediate surroundings of a dwelling must be included in consideration of its habitability”.⁵⁷¹ Another former CoE Commissioner for Human Rights, Thomas Hammarberg, and the former UN Special Rapporteur on Adequate Housing, Miloon Kothari, have linked adequate standards of housing to ensuring “the dignity of the inhabitants”.⁵⁷² Thomas Hammarberg considered it:

elementary that standards for adequate housing are defined by law and applied in practice, and that the object of their application is not merely new projects but that, after reconstruction, the standards should be applied gradually to all existing housing.⁵⁷³

⁵⁶⁰ *Botta v Italy* (1998) 26 EHRR 241, at para 34.

⁵⁶¹ *R (Bernard) v Enfield London Borough* [2002] EWHC 2282, at paras 33-34.

⁵⁶² *Anufrijeva v Southwark* [2003] EWCA Civ 1406, at para 43.

⁵⁶³ Article 16, European Social Charter 1961; Article 16, European Social Charter (Revised) 1996.

⁵⁶⁴ *European Roma Rights Centre v Greece*, Complaint No 15/2003, 8 December 2004, at paras 40-43.

⁵⁶⁵ *European Roma Rights Centre v Ireland*, Complaint No 100/2013, 1 December 2015, at paras 54-80.

⁵⁶⁶ *Ibid.*, at para 81.

⁵⁶⁷ *Ibid.*, at paras 89-92.

⁵⁶⁸ *European Roma Rights Centre v Italy*, Complaint No 27/2004, 7 December 2005, at para 35.

⁵⁶⁹ CoE, ‘Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe’, 25 February 2005, at para 51 and 52.

⁵⁷⁰ CommDH(2006)1, ‘Final Report by Mr Alvaro Gil-Robles, CoE Commissioner for Human Rights, on the Human Rights Situation of the Roma, Sinti and Travellers in Europe’, 15 February 2006, at 19.

⁵⁷¹ CommDH(2009)5, ‘Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing’, 30 June 2009, at para 3.2.2.

⁵⁷² CommDH/Speech(2007)16, ‘Joint Statement by CoE Commissioner for Human Rights Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari: Governments Should Take Positive Steps to Protect the Housing Rights of Roma in Europe’, 24 October 2007.

⁵⁷³ CommDH(2009)5, ‘Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing’, 30 June 2009, at para 3.2.1.

These standards “must apply to both owner-occupied and rented housing, including social rented housing”.⁵⁷⁴ They also require an element of supervision by the State regarding adherence to the standards.⁵⁷⁵

The Advisory Committee on the FCNM has stated that, “substandard housing conditions, often coupled with the physical/spatial separation of persons belonging to certain national minorities, in particular... Travellers, considerably affect their ability to participate in socio-economic life and can result in their further poverty, marginalisation and social exclusion”.⁵⁷⁶ The Advisory Committee has further recommended that “State Parties should develop comprehensive sectoral policies to address problems of substandard housing... which affect persons belonging to certain minorities”.⁵⁷⁷ It has also indicated that “equal access to adequate housing, in particular by improved access to subsidised housing” needs to be promoted.⁵⁷⁸ Specific to the UK, the Advisory Committee on the FCNM acknowledged that there is a “link between poor health conditions and inadequate and insecure campsite availability”.⁵⁷⁹

Standard of Fitness

Domestic Laws and Policies

Domestic law sets a “standard of fitness for human habitation”.⁵⁸⁰ The Housing (NI) Order 1981, as amended,⁵⁸¹ places a statutory duty on public housing bodies to provide a minimum standard of housing. The primary housing body is the NI Housing Executive. Some housing associations also provide Travellers’ standard social housing and grouped housing schemes. These public authorities are responsible for ensuring their accommodation meets minimum standards of fitness. They must “regularly examine housing conditions” to ensure that minimum standards are maintained.⁵⁸²

The Department for Communities has responsibility for setting, reviewing and amending the fitness standard.⁵⁸³ It also has the power to “exercise supervision and control over registered housing associations”.⁵⁸⁴

The minimum standard of fitness for human habitation in NI are set out in the Housing (NI) Order 1981, Article 46(1), which requires that:

- (a) it is structurally stable;
- (b) it is free from serious disrepair;
- (c) it is free from dampness prejudicial to the health of the occupants (if any);
- (d) it has adequate provision for lighting, heating and ventilation;
- (e) it has adequate piped supply of wholesome water;
- (f) there are satisfactory facilities in the house for the preparation and cooking of food, including a sink with a satisfactory supply of hot and cold water;

⁵⁷⁴ Ibid.

⁵⁷⁵ Ibid.

⁵⁷⁶ ACF/C/31/DOC(2008)001, ‘CoE Advisory Committee on the FCNM’s Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs’, 27 February 2008, at para 57.

⁵⁷⁷ Ibid, at para 59.

⁵⁷⁸ Ibid.

⁵⁷⁹ ACF/C/OP/IV(2016)005, ‘Advisory Committee on the FCNM: Fourth Opinion on the UK’, 27 February 2017, at para 139.

⁵⁸⁰ Article 46, Housing (NI) Order 1981; Schedule 5, Housing (NI) Order 1992.

⁵⁸¹ This was amended by Article 90, Housing (NI) Order 1992.

⁵⁸² Article 6(1)(a), Housing (NI) Order 1981.

⁵⁸³ Article 46, Housing (NI) Order 1981.

⁵⁸⁴ Article 4(1)(c), Housing (NI) Order 1992.

- (g) it has as suitably located water-closet for the exclusive use of the occupants (if any);
- (h) it has, for the exclusive use of the occupants (if any), a suitably located fixed bath or shower and wash-hand basin each of which is provided with a satisfactory supply of hot and cold water; and
- (i) it has an effective system for the draining of foul, waste and surface water.

These obligations apply to "housing accommodation", which includes houses,⁵⁸⁵ houses in multiple occupation⁵⁸⁶ and hostels.⁵⁸⁷ It also extends to:

a hut, tent, caravan or other temporary or movable form of shelter which is used for human habitation and has been on substantially the same site or enclosed within the same area for a period of not less than one year.⁵⁸⁸

Private landlords retain the equivalent obligations under the Private Tenancies (NI) Order 2006.⁵⁸⁹ This legislation covers a dwelling-house, including a caravan or trailer.⁵⁹⁰

In November 2017, the Department for Communities was in the process of reviewing the fitness standard, following calls for the standard to be replaced by the Housing Health and Safety Rating System used in England and Wales.⁵⁹¹ This system adopts a more holistic assessment of a dwelling by looking beyond the structure and at the potential risks of harm to the occupants.⁵⁹² The proposed reform is more reflective of human rights standards. This review is ongoing and it is unclear if there is a timeframe for completion.⁵⁹³

The Caravans Act (NI) 1963 empowers the Department for Infrastructure to:

from time to time specify for the purposes of this section model conditions regulating the layout of, and the provisions of facilities, services and equipment for, caravan sites or particular types of caravan site; and in deciding what, if any, conditions to attach to a site licence, a district council shall have regard to any model conditions so specified.⁵⁹⁴

The now Department for Communities has inherited the 'Design Guide for Traveller Sites in NI'. The first guide was published in 1988. It largely covered permanent serviced sites with amenity units and offered little guidance on other types of site or design options. An updated guidance was published in 1997 offering clearer guidance and greater flexibility on design options.⁵⁹⁵ This guide was limited to provision provided by the Local Councils (Housing (NI) Order 2003) and NI Housing Executive (post-2003 Order). Buildings purchased by Travellers themselves and placed on sites were a matter for the Local Councils (Housing (NI) Order 2003) and NI Housing Executive (post-2003 Order) and their local pitch licence agreements.⁵⁹⁶

In 2013, a draft-revised guide was issued for consultation. This review was not published. The unpublished 2013 version was reviewed again in 2016/2017. It was planned that the 2016/2017 version of the guide would be published in March 2017, but as a representative for the Department explained:

⁵⁸⁵ A house includes "any part of a building, being a part which is occupied or intended to be occupied as a separate dwelling; a flat; any yard, garden, outhouse and appurtenances belonging to a house, or usually enjoyed therewith; and the site of a house". See Article 2(2), Housing (NI) Order 1981.

⁵⁸⁶ A house in multiple occupation is one "which is occupied by persons who do not form a single household". See Article 75(1), Housing (NI) Order 1992; Article 2(2), Housing (NI) Order 1981.

⁵⁸⁷ A hostel "means a building wherein is provided for persons generally, or for a class or classes of persons, residential accommodation (otherwise than in separate or self-contained sets of premises) and either board or facilities for the preparation of food adequate to the needs of those persons, or both". See Article 2(2), Housing (NI) Order 1981.

⁵⁸⁸ Article 2(3), Housing (NI) Order 1981.

⁵⁸⁹ Article 17(1), Private Tenancies (NI) Order 2006.

⁵⁹⁰ Article 24(2)(a), Housing (NI) Order 1983; Article 5(1), Housing (NI) Order 2003; Letter from Department for Communities to NIHR, 7 November 2017.

⁵⁹¹ Department for Social Development, 'Review of the Statutory Minimum Housing Fitness Standard for all Tenures of Dwelling: Discussion Paper', (DSD, 2016).

⁵⁹² *Ibid.*, at 9.

⁵⁹³ Letter from Department for Communities, 7 November 2017.

⁵⁹⁴ Section 5(7), Caravans Act (NI) 1963.

⁵⁹⁵ Department of the Environment NI, 'Design Guide for Travellers' Sites in NI' (DoE, 1997).

⁵⁹⁶ *Ibid.*, at 6.

we have one architect... [he has been] working on the new wheelchair standards and on adaptations, that's largely why [we didn't get results] from the consultation. [The architect] has been working on those other areas of policy that impact fairly significantly on people with disabilities, which is a bigger grouping... We just had to prioritise... Given that the 'Design Guide for Travellers Sites in NI' was largely satisfactory in 2013... but wheelchair standard accommodation and adaptation were not satisfactory, [we] prioritised those.⁵⁹⁷

In November 2017, the 2016/2017 version of the guide still being finalised for publication. Thus, the 1997 guide (as the only published update) remains the leading authority.

The reviews of the design guide are technical documents that provide guidance on the design of upgrades to existing sites and the design of new sites. They do not significantly change the procedures or specify where sites should be located, which continue to be determined by the Travellers Needs Assessments.⁵⁹⁸

Domestic Practice

Bricks and Mortar Travellers' Accommodation

The Department for Communities is content that the standard social housing and grouped housing stock in NI is of a "reasonable standard".⁵⁹⁹ The Armagh Travellers Support Group agreed that the standard of social housing for Travellers was generally acceptable.⁶⁰⁰ A number of Travellers interviewed did however highlight individual issues with damp, child safety and a failure to provide the required adaptations for disabilities. These issues concerned NI Housing Executive's standard social housing and private rental properties paid for through Housing Benefit.⁶⁰¹

Travellers' Sites

The NI Housing Executive was satisfied that Travellers' sites are generally of an adequate standard.⁶⁰² A representative stated that some of the sites were "of excellent standard".⁶⁰³ Another representative felt however that the standard of the transit sites were "not as good as it should be... the deterioration in facilities is quite severe".⁶⁰⁴ This observation was based on the fact that either the affected sites were closed for refurbishment or plans were in the place to do so. Another representative of the NI Housing Executive stated:

it is important to us that [Travellers' accommodation is] adequate. We use all the mechanisms [available] to try and ensure that [Travellers' accommodation] is adequate. If there are problems that arise we're very keen to know about those and very keen to get those sorted as quickly as possible... We would work through our local area offices to try and get [any issues] rectified as soon as possible. Where there are other improvements that are needed [we would take them] forward through the [Housing] programme.⁶⁰⁵

⁵⁹⁷ Interview with representatives of Department for Communities, 1 February 2017.

⁵⁹⁸ Evidence from Department for Communities, Response to Question 3, 27 September 2016.

⁵⁹⁹ Interview with representatives of Department for Communities, 1 February 2017.

⁶⁰⁰ Roundtable discussion with civil society organisations, 20 September 2016.

⁶⁰¹ Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 12, 10 December 2016; Group interview with members of the Traveller communities in NI: Interview 13, 14 December 2016; Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

⁶⁰² Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

⁶⁰³ Ibid.

⁶⁰⁴ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017.

⁶⁰⁵ Interview with representatives of the NI Housing Executive: Interview E, 13 February 2017.

The Department for Communities does not inspect Travellers' sites.⁶⁰⁶ It relies on the NI Housing Executive to report sites that fall below minimum standards. The Department has not received any such reports from the NI Housing Executive.⁶⁰⁷ Therefore, a representative of the Department for Communities stated the Department was "content that [Travellers' sites in NI are] at an appropriate standard".⁶⁰⁸

Despite these assurances, in a 2009 study, the Chartered Institute of Housing and the Ulster University found "more Irish Travellers than the wider population in NI lack basic amenities such as water, hot water, drainage, refuse collection and sewerage, and also experience damp and water ingress".⁶⁰⁹ There is evidence this remains the case for some. A Traveller, comparing the sites in NI to those visited in other parts of Europe, stated "I have never seen anything like it [in terms of low standards]".⁶¹⁰ A representative of Belfast City Council was of a similar view and suggested that "everything points out that there is a lack of [adequate] standards and structures to [adequately] maintain Travellers' sites [in NI]".⁶¹¹

When the NI Housing Executive was allocated responsibility for Travellers' sites in 2003,⁶¹² it acknowledged that:

a decrease in demand for the skills and services of the Traveller community resulted in a lack of income which, along with an increase in restrictions on camping places and serviced sites, led to poor living conditions in many areas.⁶¹³

At that time, the NI Housing Executive also accepted that:

there is a need to ensure that the accommodation provided is of a standard comparable to what is currently provided for the sedentary population. There is also a need to ensure that the kind of accommodation is culturally appropriate. Where these considerations have been taken into account... not only the aspirations of Travellers [have been accounted for], but... the requirements of local residents as well.⁶¹⁴

Despite these assertions by the NI Housing Executive, little has changed. Generally, tenants of Travellers' sites interviewed for this investigation found Travellers' sites to be inhabitable.⁶¹⁵ Representatives of the Police Service NI and the Craigavon Travellers Support Committee agreed.⁶¹⁶ One officer, for example, stated "I would like to see a bit more effort [from the public authorities], a large area with concrete and a couple of portaloos and hoses, I don't think fits the bill".⁶¹⁷ An interviewed Traveller stated that "half of those sites is crumbling".⁶¹⁸ Site visits during the investigation indicated that poor housing standards on sites and within

⁶⁰⁶ Letter from Department for Communities to NIHRC, 7 November 2017.

⁶⁰⁷ Ibid.

⁶⁰⁸ Interview with representatives of Department for Communities, 1 February 2017.

⁶⁰⁹ Alison Wallace, 'Housing and Communities' Inequalities in NI' (ECNI, 2015), at 124.

⁶¹⁰ Individual interview with members of the Traveller communities in NI: Interview 17, 14 December 2016.

⁶¹¹ Interview with Council Officials at Belfast City Council, 6 February 2017.

⁶¹² 'HRC-Q3-4: Equality Bulletin Number 11 – Cultural Diversity Handbook' (NIHE, 2005), at 30.

⁶¹³ Ibid.

⁶¹⁴ John O'Connell, The President Robinson Awards for the Design for Traveller Accommodation, 1993 quoted in 'HRC-Q3-4: Equality Bulletin Number 11 – Cultural Diversity Handbook' (NIHE, 2005), at 31.

⁶¹⁵ Individual interview with member of the Traveller communities in NI: Interview 5, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with members of the Traveller communities in NI: Interview 15, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

⁶¹⁶ Interview with a representative of the Police Service NI: Interview A, 14 February 2017; Interview with a representative of the Police Service NI: Interview B, 23 February 2017; Interview with a representative of the Police Service NI: Interview F, 15 February 2017; Roundtable discussion with civil society organisations, 20 September 2016.

⁶¹⁷ Interview with a representative of the Police Service NI: Interview A, 14 February 2017.

⁶¹⁸ Individual interview with member of the Traveller communities in NI: Interview 7, 29 November 2016.

caravans were prevalent and that this was having a negative effect on tenants' health. This included being exposed to cold, damp, mice and rats.⁶¹⁹

The legacy Craigavon Borough Council highlighted that the NI Housing Executive site design "would appear to fall far short of the standards set out in the [then] Draft Design Guide [for Travellers' sites in NI]".⁶²⁰ Civil society organisations feel that the NI Housing Executive views inhabitable Travellers' accommodation as acceptable.⁶²¹ South Tyrone Empowerment Programme, for example, stressed that Travellers' sites are "social housing provision, but they wouldn't meet standards anywhere else. There would be uproar if [similar] conditions [to those on Travellers' sites] were in any other [type of] housing."⁶²²

The sites that were in the worst condition have been renovated or are closed for renovation. Properties remained sub-standard for a long time before action was taken. A number of factors contributed to this delay, including difficulties in the NI Housing Executive obtaining possession of the Travellers' sites to carry out renovations. However, Travellers explained this was because they felt the alternative accommodation offered was unsuitable.⁶²³ The alternative accommodation offered included standard social housing or a pitch on an alternative Travellers' site. Those that wished to remain on a Travellers' site viewed the offer of standard social housing as unsuitable for their cultural needs. The offered alternative Travellers' site was also viewed as unsuitable due to incompatibility issues and its distance from the residents' schools, doctors or family.⁶²⁴

A Police Service NI representative noted that one site was "in a real dangerous state of repair... I was shocked to see families and young children staying there, that's how bad it had got".⁶²⁵ An officer from a different area said of another Travellers' site:

it was probably the worst that [the NI Housing Executive] own in NI. It's truly horrendous... How anybody could survive down there... The fact people were living there, I wouldn't like any of my family to be. It was just squalor, it was just awful. For years... [since shortly after] 2000... [The prefabs were knocked down] and then caravans were brought in. It's never been right since.⁶²⁶

In relation to a third site, a representative of the Police Service NI said "it would be more existence living, rather than your everyday comfort living".⁶²⁷

With regard to the standard of fitness on Travellers' sites, a representative of the Police Service NI found that it can:

depend on the type of Traveller... who is occupying the camp... Depending on who they are... You will get a bad element – toilets are damaged, water is cut off and electricity is cut into... [Then you will get other Travellers who] take pride in where they are and how to look after themselves.⁶²⁸

⁶¹⁹ Individual interview with member of the Traveller communities in NI: Interview 5, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with members of the Traveller communities in NI: Interview 15, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

⁶²⁰ Craigavon Borough Council, 'Assessment of Caravan Site Licence Conditions' (Craigavon Borough Council, 2007), at para 58.

⁶²¹ Roundtable discussion with civil society organisations, 20 September 2016.

⁶²² Ibid.

⁶²³ Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016.

⁶²⁴ Ibid.

⁶²⁵ Interview with a representative of the Police Service NI: Interview A, 14 February 2017.

⁶²⁶ Interview with a representative of the Police Service NI: Interview F, 15 February 2017.

⁶²⁷ Interview with a representative of the Police Service NI: Interview G, 8 March 2017.

⁶²⁸ Interview with a representative of the Police Service NI: Interview A, 14 February 2017.

Another representative warned that all Travellers should not be painted with the same brush. If former tenants cause damage on sites, "but then they move on and other Travellers move in, why should [the new tenants] suffer as a consequence".⁶²⁹

A Derry City and Strabane District Councillor reported that in some circumstances external factors inhibit required upgrades on Travellers' sites. For example:

when [a new road] was proposed [for the middle of a particular site]... there was a reluctance for the NI Housing Executive to do anything, as in upgrading it... They split it in half and put boulders on it, so it only allowed access to the top half... there was no electricity, no running water. They had nowhere to put rubbish.⁶³⁰

A Police Service NI representative agreed the NI Housing Executive "are saying why are we going to spend tens or hundreds of thousands of pounds redeveloping this site and make it state of the art when in a couple of years we're going to lose it"?⁶³¹

A Derry City and Strabane District Councillor believed there "was no willingness" from the regional level of the NI Housing Executive. The Councillor did acknowledge that the NI Housing Executive was facing external pressures:

over the last three or four years, the NI Housing Executive in itself is being run down. It was the best quango that was ever set up in NI. It worked and delivered for everybody. But it is now... there's welfare reform, the Tory cuts... there is an element of trying to privatise the NI Housing Executive... There is an element that I suspect of making the NI Housing Executive not fit for purpose.⁶³²

Caravans

The investigation identified circumstances in which families are paying for a mobile home, often using Housing Benefit, with no monitoring of whether the accommodation is habitable. South Tyrone Empowerment Programme explained:

[the tenants] are still paying years and years later, and the practical use of that accommodation is long gone... it's not fit for purpose any more... There are holes in the floor and there's water getting in around people... Mobile homes are really intended for short-term or periodic use, not constant use by families and they don't last as long... People are maybe 10 years down the line still in a mobile home that they leased.⁶³³

A NI Housing Executive representative indicated that action would be taken if an abandoned caravan was in poor condition, but not an occupied caravan in poor condition.⁶³⁴ Regarding inhabitable occupied caravans, the representative stated that individuals are advised, "if there is a substandard caravan report it to the Travellers support group and make them aware of it... We don't supply mobiles and per the statutory law, we don't have to".⁶³⁵ The premise for this is that "within Housing Benefit, there is no actual rule that says it's a hovel therefore you don't pay Housing Benefit. You are entitled to claim Housing Benefit for the living space that

⁶²⁹ Interview with a representative of the Police Service NI: Interview B, 23 February 2017.

⁶³⁰ Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

⁶³¹ Interview with a representative of the Police Service NI: Interview F, 15 February 2017.

⁶³² Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

⁶³³ Roundtable discussion with civil society organisations, 20 September 2016.

⁶³⁴ Interview with a representative of the NI Housing Executive: Interview D, 30 January 2017.

⁶³⁵ Interview with a representative of the NI Housing Executive: Interview C, 30 January 2017.

you have".⁶³⁶ A number of Traveller support groups raised that this places a heavy and unfair burden on them, rather than the NI Housing Executive.⁶³⁷

Design Guide for Travellers' Sites in NI

In November 2017, the Department for Communities was in the process of reviewing the unpublished 2013 design guide.⁶³⁸ According to a representative of the Department for Communities, the 2013 unpublished guide was similar to the 1997 published guide.⁶³⁹ Public authorities are relying on the 1997 guide, as it is the latest published version. A representative from Belfast City Council raised that "you've got the [1997] designing guide, which doesn't have any kind of powers. It's just information... it is not very descriptive, it is not very thorough in what is required. It is very dated".⁶⁴⁰ The NI Local Government Partnership on Travellers Issues is also concerned that the design guide is not sufficiently prescriptive and believes it would benefit from the inclusion of minimum standards.⁶⁴¹

Findings

The NIHRC's findings regarding standard of fitness of Travellers' accommodation in NI are:

i	A minimum standard of fitness is protected by legislation for standard social housing, grouped housing and private housing. There is no legislation requiring a minimum standard for fitness for caravans, trailers and chalets rented to or owned by Travellers.
ii	The NI Housing Executive are not permitted to provide caravans, trailers or chalets for stationary habitation.
iii	A review of the minimum fitness standard of accommodation in NI is ongoing. The Department for Communities is considering introducing the 'Housing Health and Safety Rating', as in England and Wales.
iv	The 'Design Guide for Travellers' Sites in NI' is outdated, not sufficiently prescriptive and lacks minimum standards. Any reviews have been unpublished and public authorities are relying on the 1997 version.
v	The NI Housing Executive have not consistently complied with the 'Design Guide for Travellers Sites in NI'.

⁶³⁶ Ibid.

⁶³⁷ Roundtable discussion with civil society organisations, 20 September 2016.

⁶³⁸ Interview with representatives of Department for Communities, 1 February 2017.

⁶³⁹ Ibid.

⁶⁴⁰ Interview with Council Officials at Belfast City Council, 6 February 2017.

⁶⁴¹ NI Local Government Partnership on Travellers Issues, 'Design Guide for Traveller Sites in NI: Response by NI Local Government Partnership' (NI Local Government Partnership on Traveller Issues, Date Unknown).

vi	Generally standard social housing, grouped housing, and bricks and mortar private rental paid for by Housing Benefit is reported to be of an adequate standard.
vii	Generally, Travellers' sites are inadequate regarding habitability.
viii	The NI Housing Executive has plans to carry out the renovations required to make all Travellers' sites in NI adequately habitable. However, this process has been subject to delays.
ix	The habitability of long-term caravan and trailer rentals used by Travellers' in NI are often not adequate. Yet, the NI Housing Executive pay Housing Benefit to cover the costs without taking any responsibility for the fitness standard of accommodation being paid for.

Maintenance

Domestic Laws and Policies

The NI Housing Executive has the power to "provide fixtures and fittings in houses, hostels or other buildings acquired by it or under its control".⁶⁴² It also may "support, or aid in the support of" housing associations in their provision of housing.⁶⁴³ The NI Housing Executive has the power to "provide professional, technical and administrative services for owners or occupiers of dwellings" for the purposes of ensuring that the dwelling is "fit for human habitation".⁶⁴⁴ It can also offer financial assistance to housing associations to arrange maintenance, repair or improvement works.⁶⁴⁵

The Caravans Act (NI) 2011 requires occupiers to "keep the caravan in a sound state of repair"⁶⁴⁶ and to "maintain the outside of the caravan and the pitch, including all fences and outbuildings belonging to, or enjoyed with it and the caravan, in a clean and tidy condition".⁶⁴⁷ The owner is "responsible for repairing the base on which the caravan is stationed".⁶⁴⁸ The owner must also "maintain in a clean and tidy condition those parts of the protected site, including access ways, site boundary fences and trees, which are not the responsibility of any occupier of a caravan stationed on the protected site".⁶⁴⁹

The Department for Communities, with the consent of the Department of Finance, can offer financial assistance for maintenance, repairs or improvements.⁶⁵⁰ The Housing (NI) Order 2003 provides for such improvements and repairs grants.⁶⁵¹ These include a renovation grant, a replacement grant, a home repair assistance grant and a disabled facilities grant.⁶⁵²

⁶⁴² Article 28(1)(a), Housing (NI) Order 1981.

⁶⁴³ Article 28(1)(g), Housing (NI) Order 1981.

⁶⁴⁴ Articles 103(1) and 103(2)(a), Housing (NI) Order 1992.

⁶⁴⁵ Article 103(4), Housing (NI) Order 1992.

⁶⁴⁶ Section 21(c) of the Schedule, Caravans Act (NI) Act 2011.

⁶⁴⁷ Section 21(d) of the Schedule, Caravans Act (NI) Act 2011.

⁶⁴⁸ Section 22(c) of the Schedule, Caravans Act (NI) Act 2011.

⁶⁴⁹ Section 22(d) of the Schedule, Caravans Act (NI) Act 2011.

⁶⁵⁰ Article 103(6), Housing (NI) Order 1992.

⁶⁵¹ Article 35, Housing (NI) Order 2003; *See generally* Part III, Chapter I, Housing (NI) Order 2003.

⁶⁵² Available at: http://www.nihe.gov.uk/index/benefits/home_improvement_grants/grants_available.htm

The NI Housing Executive and housing associations have computer systems in place to track a repair from when it is reported, through to its completion. The system has the ability to record and bring to the housing provider's attention any special considerations regarding the tenant.⁶⁵³ This tracking system also has clear time-sensitive targets for repairs.

The NI Housing Executive has maintenance managers that deal with repairs. Repairs can be self-reported via telephone or calling into offices. However, a representative of the NI Housing Executive reported that Travellers "would very seldom ring you. Very, very seldom Travellers would make contact".⁶⁵⁴ Consequently, housing officers identify repairs during visits to the NI Housing Executive's bricks and mortar housing and maintenance manager to the Travellers' sites. Travellers across all types of NI Housing Executive accommodation have a card with the relevant contact numbers. Tenants of the Travellers' sites also have the maintenance manager's mobile number.⁶⁵⁵ The NI Housing Executive assures that it adheres "to the same principles for a Travellers' site as [they] do for [other] accommodation. No difference whatsoever".⁶⁵⁶

An emergency repair is a fault that carries a risk of immediate injury to people or major damage to property (eg gas leak, bare wiring, power failure, unsecured external doors etc).⁶⁵⁷ A response is required within 24 hours.⁶⁵⁸ An urgent repair is one that requires a quick response, but is not an emergency (eg faulty electrical fittings, faulty heating systems, water leaks, blocked sewers or drains etc). A response is required within four working days.⁶⁵⁹ A routine repair (eg gutters, plasterwork, floors, doors, roof tiles, kitchen fittings etc) should be completed within four weeks, unless there is a planned programme of maintenance that would include the required repair.⁶⁶⁰ Post-inspections are conducted on a random selection or certain types of repairs. The area managers on a monthly basis audit repairs.⁶⁶¹

In terms of reporting repairs, a representative of Apex Housing Association explained "we have a handyman... [who] has developed good relations with the families [on one of our grouped housing schemes] and would be able to work closely with [the tenants]".⁶⁶² For the Apex Housing Association a response for immediate repairs is required within a maximum of four hours; emergency repairs within a maximum of 24 hours; urgent repairs within a maximum of four working days; and routine repairs within 28 calendar days.⁶⁶³

Clanmil Housing Association, in addition to regular visits, has developed a text messaging service:

recently we had a meeting with [our tenants]. [We send a text reminding of the meeting] two weeks before, a week before. Then just about an hour before [the meeting] we phone them all just to remind them about the meeting.⁶⁶⁴

⁶⁵³ Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Radius Housing Association, 2 February 2017; Interview with a representative of the NI Housing Executive: Interview B, 26 January 2017.

⁶⁵⁴ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

⁶⁵⁵ *Ibid.*

⁶⁵⁶ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

⁶⁵⁷ Available at: http://www.nihe.gov.uk/index/services/report_a_repair/routine_repairs.htm

⁶⁵⁸ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

⁶⁵⁹ Available at: http://www.nihe.gov.uk/index/services/report_a_repair/urgent_repairs.htm

⁶⁶⁰ *Ibid.*

⁶⁶¹ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

⁶⁶² Interview with representatives of Apex Housing Association, 7 February 2017.

⁶⁶³ Apex Housing Association, 'Tenants Manual' (Apex, 2013), at 39-41.

⁶⁶⁴ Interview with representatives of Clanmil Housing Association, 8 March 2017.

Clanmil is committed to dealing with immediate repairs within four hours.⁶⁶⁵ A response is required for emergency repairs within 24 hours; urgent repairs within four working days; non-urgent repairs within ten working days; and routine repairs within 20 working days.⁶⁶⁶

Required maintenance is usually reported to Radius Housing Association via a phone call from the tenant.⁶⁶⁷ A response and repair was expected within 24 hours of the request being made for an emergency and within four working days for urgent requests.⁶⁶⁸ Routine repairs were to be undertaken and completed within 20 working days.⁶⁶⁹ Long-term repairs were to be carried out within three months.⁶⁷⁰

Domestic Practice

Bricks and Mortar Travellers' Accommodation

Generally, Travellers living in standard social housing and grouped housing are satisfied that repairs and maintenance are satisfactorily carried out within reasonable timeframes.⁶⁷¹ However, there were issues raised around the NI Housing Executive's reported failure to adequately deal with damp,⁶⁷² poor insulation⁶⁷³ and electrical problems.⁶⁷⁴ One Traveller stated "it's all damp in just one corner and when I reported it, all [the NI Housing Executive] said back to me was to get the heating on and dry out the dampness".⁶⁷⁵

Delays in Maintenance

A representative of Clanmil Housing Association indicated that Travellers are often reluctant to self-report repairs:

you'll find if [Travellers] develop a relationship with the Maintenance Officer... They will phone [the maintenance officer] now. But sometimes there's a wee bit of a block... It's working with a big organisation, sometimes it can be intimidating for [the tenants]... If a tenant was having an issue with any of our housing we would say 'come on into the office', but you couldn't do that with Travellers. They don't even like coming into town. We would go out to see them.⁶⁷⁶

Clanmil introduced hubs to areas that have a large number of Travellers. These offer a variety of community and training services, including the capacity to report any maintenance issues.⁶⁷⁷

The NI Housing Executive's repairs follow an appointment system, "we don't arrive out cold".⁶⁷⁸ It does accommodate rearranging appointment times if advanced notice is given.⁶⁷⁹ Even with the appointment system, access can be an issue:

⁶⁶⁵ Clanmil Housing Association, 'Tenants Handbook' (Clanmil, Date Unknown), at 15.

⁶⁶⁶ Ibid.

⁶⁶⁷ Interview with representatives of Radius Housing Association, 2 February 2017.

⁶⁶⁸ Fold Housing Association, 'Tenants' Handbook' (Fold, 2016), at 21-22.

⁶⁶⁹ Ibid.

⁶⁷⁰ Ibid.

⁶⁷¹ Individual interview with a member of the Traveller communities in NI: Interview 2, 11 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 9, 30 November 2016; Individual interview with members of the Traveller communities in NI: Interview 23, 13 February 2017.

⁶⁷² Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Group interview with members of the Traveller communities in NI: Interview 13, 14 December 2016.

⁶⁷³ Ibid.

⁶⁷⁴ Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

⁶⁷⁵ Group interview with members of the Traveller communities in NI: Interview 13, 14 December 2016.

⁶⁷⁶ Interview with representatives of Clanmil Housing Association, 8 March 2017.

⁶⁷⁷ Ibid.

⁶⁷⁸ Interview with a representative of the NI Housing Executive: Interview D, 30 January 2017.

⁶⁷⁹ Ibid.

sometimes [repairs] are outside the time because there is access difficulties... A contractor will go out and if they have two no accesses, they will say 'that's it they have to cancel this job, because we keep running and running and running'. Then you could have a tenant or a member of the Travelling community coming back and saying 'they haven't come out to do my job'. We will go into the system and we'll say 'well actually they were there on those two days'. They do leave access cards and on the access cards it clearly states what time they have been there. Our maintenance officers, they have devices so it shows when they have been at a place.⁶⁸⁰

Similarly, a representative of Radius Housing Association reported that their main issue with repairs, particularly in the grouped housing schemes, was gaining access to the properties.⁶⁸¹ Radius persists until the job is completed.⁶⁸²

Other delays can occur due to a changeover of contractors.⁶⁸³ At different points over the years, Radius Housing Association reported that "threats of violence, verbal abuse" against its staff could also hinder the speed at which repairs were completed.⁶⁸⁴ Radius requested assistance from Traveller support groups in the relevant areas to negotiate to address underlying issues and find solutions.⁶⁸⁵

Travellers' Sites

Travellers living on sites reported what they believed to be unreasonable delays in repairs and maintenance.⁶⁸⁶ For example, one Traveller reported "it takes them weeks and weeks and weeks [to do repairs]".⁶⁸⁷ Another reported their experience of the NI Housing Executive temporarily fixing a problem, with a promise to return to fix the issue permanently. The tenant is still waiting for the permanent fix over a year later.⁶⁸⁸ Another Traveller felt strongly that "[the NI Housing Executive] are not keeping it clean... [and] not maintaining [the site]. There's broken fences, broken kerbs. You can only imagine how dangerous that is for children".⁶⁸⁹ The South Tyrone Empowerment Programme explained "the NI Housing Executive will come out and put up new tiles once in a while [in the washhouses], but they are certainly not fit for purpose any more".⁶⁹⁰ Consequently, it feels that Travellers in NI are denied their tenancy rights.⁶⁹¹

A NI Housing Executive representative responded that:

when we're aware of [repairs], we would have them carried out... Travellers are like any other member of the community too. They basically want it repaired yesterday. We have a set timescale and we categorise our repairs into urgency basically.⁶⁹²

Another representative pointed out that the NI Housing Executive deals with "tens of thousands of repairs... every year. There's always a few [delays]".⁶⁹³

⁶⁸⁰ Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

⁶⁸¹ Interview with representatives of Radius Housing Association, 2 February 2017.

⁶⁸² *Ibid.*

⁶⁸³ Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

⁶⁸⁴ Interview with representatives of Radius Housing Association, 2 February 2017.

⁶⁸⁵ *Ibid.*

⁶⁸⁶ Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016.

⁶⁸⁷ Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016.

⁶⁸⁸ Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

⁶⁸⁹ Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016.

⁶⁹⁰ Roundtable discussion with civil society organisations, 20 September 2016.

⁶⁹¹ *Ibid.*

⁶⁹² Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

⁶⁹³ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017.

Findings

The NIHRC's findings on maintenance of Travellers' accommodation in NI are:

i	The NI Housing Executive and relevant housing associations have mechanisms for reporting maintenance requirements. These mechanisms are subject to time-sensitive targets that are determined by the type of repair.
ii	There is evidence that Travellers are reluctant to report maintenance requirements. The NI Housing Executive and relevant housing associations are aware that this is the case. Yet, not all are adopting a proactive approach to address this issue.
iii	It has been reported that some Travellers are not treating their accommodation with respect.
iv	The NI Housing Executive and relevant housing associations have computer systems, an adequate staff structure and training in place to ensure the maintenance requirements of Travellers' accommodation are tracked and repaired.
v	The NI Housing Executive and relevant housing associations that provide Travellers' accommodation have reasonable time scales in place for repairs.
vi	Delays concerning repairs can occur regarding standard social housing and grouped housing. This can be due to issues beyond the housing providers' control, for example, Travellers not self-reporting issues, a difficulty in gaining access to properties or threats against staff hindering progress. It can also be due to a housing provider failing to adequately deal with reported issues.
vii	Delays regarding repairs regularly occur concerning Travellers' sites. On a number of occasions, these delays were unreasonable. On a number of occasions, the NI Housing Executive used a short-term solution for a long-term problem.
viii	In some cases, tenants' expectations of the time scale for the completion of repairs on Travellers' accommodation is unreasonable.
ix	In some cases, the delays in repairs to Travellers' accommodation can be attributed to tenants preventing the required access or intimidating staff.

Adaptations

Domestic Laws and Policies

The Building Regulations (NI) 2012 state that “reasonable provision shall be made for people to have access to, into, within and to use a building and its facilities”.⁶⁹⁴ This is limited to the entrance storey, or where that storey contains no habitable room, to the principal storey.⁶⁹⁵ These regulations apply to bricks and mortar accommodation, not caravans or stationary mobile homes.⁶⁹⁶

The NI Housing Executive has a statutory power to provide “professional, technical and administrative services for owners or occupiers of dwellings” for required works where the occupant has a disability.⁶⁹⁷ The Department for Communities, with the consent of the Department of Finance, has the statutory power to offer financial assistance for such services.⁶⁹⁸ A disabled facilities grant is available to help improve the home of a person with disability. This grant is subject to the recommendation of an occupational therapist. It is available to owner occupiers, landlords or private tenants. The amount available depends on the approved cost of work and an assessment of personal and financial circumstances.⁶⁹⁹ This grant is not limited to exceptional circumstances⁷⁰⁰ and extends to caravans used as a dwelling house and subject to rates.⁷⁰¹

The ‘Design Guide for Travellers’ Sites in NI’ does not refer to accessibility specifically, other than in the provision of access to a public road.⁷⁰² However, it does state “the construction should meet the requirements of the current Building Regulations”.⁷⁰³ A technical booklet on ‘Access and Facilities for Disabled People’ was issued as part of these regulations in 1994, with the latest update in 2012.⁷⁰⁴ Accessibility is specifically addressed in comparative guidance in England and Wales. The Department for Communities confirmed it was considering accessibility issues as part of the development of the revised design guide.⁷⁰⁵

The NI Housing Executive can install minor adaptations (eg installing handrails) immediately.⁷⁰⁶ More serious adaptations (eg installing a ramp or building an extension) are subject to an accessibility referral system. This involves an assessment by an occupational therapist who will recommend what, if any, adaptations are required. The process must be completed before the NI Housing Executive can take action.⁷⁰⁷ It is the same across all of the NI Housing Executive’s accommodation stock, including Travellers’ sites.⁷⁰⁸ A similar system is in place for the housing associations.

In November 2017, the Department for Communities and the Department for Health’s ‘Inter-Departmental Review of Housing Adaptations’ had been finalised to be considered by the future NI Executive. The review examined the current system of approval, the use of resources, and the delivery of housing adaptations in NI on a cross-tenure basis to maximise resources, ensure best value and equality of provision across health and social care trusts and housing providers. The review report and its recommendations reflect the ongoing

⁶⁹⁴ Regulation 91, Building Regulations (NI) 2012.

⁶⁹⁵ *Ibid.*

⁶⁹⁶ Schedule 2, Building Regulations (NI) 2012.

⁶⁹⁷ Articles 103(1) and 103(2)(b), Housing (NI) Order 2003.

⁶⁹⁸ Article 103(6), Housing (NI) Order 2003.

⁶⁹⁹ Available at: http://www.nihe.gov.uk/index/benefits/home_improvement_grants/grants_available/disabled_facilities_grant.htm

⁷⁰⁰ Available at: http://www.nihe.gov.uk/index/benefits/home_improvement_grants/grants_available.htm

⁷⁰¹ Article 108, Housing (NI) Order 2003; Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

⁷⁰² Department of the Environment, ‘Design Guide for Travellers’ Sites in NI’ (DoE, 1997), at para 2.8.

⁷⁰³ *Ibid.*

⁷⁰⁴ Letter from Department for Communities to NIHRC, 7 November 2017.

⁷⁰⁵ *Ibid.*

⁷⁰⁶ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

⁷⁰⁷ *Ibid.*

⁷⁰⁸ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

need for both Departments to work more closely together, better utilise resources and provide better housing adaptations services.⁷⁰⁹

Domestic Practice

Some Travellers interviewed were happy with the housing provider's response to requests for accessibility adaptations.⁷¹⁰ However, one Traveller reported that it took a long time to implement the adaptations.⁷¹¹ Others believed that the NI Housing Executive could do more⁷¹² and some were concerned that the only option offered for the required adaptations was to move. Moving house was the only option given to a Traveller, who had lived in the same house for four decades⁷¹³ and another who had lived on a site all their life.⁷¹⁴ A number of Travellers interviewed were unaware that they could request accessibility adaptations.⁷¹⁵

Findings

The NIHRC's findings on accessibility of Travellers' accommodation are:

i	There are mixed views on the adequacy of the public authorities' response to requests for accessibility adaptations to Travellers' accommodation.
ii	There are some issues around the accommodation needs of Travellers with disabilities. These include delays in adapting accommodation; requiring tenants to move home to accommodate their needs; and tenants' lack of awareness of their rights in this regard.
iii	The 'Design Guide for Travellers' Sites in NI' provides insufficient guidance regarding accessibility. The Department for Communities is reviewing this.

Health and Safety: Hazards

Domestic Laws and Policies

The Building Regulations (NI) 2012 requires that residential buildings are constructed in a way that prevents harmful effect on the building or the health of occupants caused by the passage of moisture to any part of the building from the ground and the weather.⁷¹⁶ It states that there should be adequate provision and access for hygienic storage of solid waste from a residential building.⁷¹⁷ It also requires that residential buildings are designed and constructed to prevent, as far as reasonably practicable, any harmful effect on the building from

⁷⁰⁹ Letter from Department for Communities to NIHRC, 7 November 2017.

⁷¹⁰ Individual interview with a member of the Traveller communities in NI: Interview 9, 30 November 2016; Individual interview with member of the Traveller communities in NI: Interview 18, 25 January 2017.

⁷¹¹ Individual interview with member of the Traveller communities in NI: Interview 18, 25 January 2017.

⁷¹² Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Group interview with members of the Traveller communities in NI: Interview 13, 14 December 2016.

⁷¹³ Group interview with members of the Traveller communities in NI: Interview 13, 14 December 2016.

⁷¹⁴ Individual interview with a member of the Traveller communities in NI: Interview 0, 7 November 2016.

⁷¹⁵ Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

⁷¹⁶ Regulation 28, Building Regulations (NI) 2012.

⁷¹⁷ Regulation 62, Building Regulations (NI) 2012.

interstitial condensation.⁷¹⁸ These regulations do not extend to caravans or stationary mobile homes.⁷¹⁹ Nor do similar regulations exist for such accommodation.

The Belfast Health and Social Care Trust established a 'Strategy for Improving Traveller Health and Wellbeing'.⁷²⁰ This strategy acknowledged that "poor accommodation" is one of the "key determinants" that contributes to the "low health status of the Traveller community".⁷²¹ The Strategy did not define 'poor accommodation'.

The Working Party on Travellers' Accommodation recommended, if the co-operation policy is invoked, that: occupation does not constitute a measurable public health hazard or cause pollution to water supplies. District Councils should liaise with the landowner, support groups and Traveller families to ensure that services (eg refuse collection) are in place to eliminate any public health hazard.⁷²²

The 'Co-operation Policy Guidelines', which require that the Travellers' occupation does not cause a public health hazard or pollution to the water supplies, reflects this.⁷²³

The 'Design Guide for Travellers' Sites in NI' stated that "a suitable sign with details of the site, warnings, information, etc, should be positioned in a prominent location near the site entrance. Signs must be in graphical form in addition to the written word".⁷²⁴

The design guide required that the construction of buildings on sites met building regulations; that they were adequately insulated; and that anti-condensation measures were implemented.⁷²⁵ The design guide also required that electricity supply cables were located underground with master meters located in a position under the control of the site manager. Concealed or protected wiring was to be used for power sources and satisfy domestic standards. It was further advised that the design and installation of electricity was undertaken by suitably qualified persons and regularly inspected.⁷²⁶

Domestic Practice

Councillors expressed general concern for health and safety on Travellers' sites.⁷²⁷ Common issues observed by the NIHRC and reported by Travellers across NI included overcrowding,⁷²⁸ dangerous washhouses,⁷²⁹ significant build-up of rubbish,⁷³⁰ rat infestations,⁷³¹ and inadequate electricity supplies.⁷³² A representative of

⁷¹⁸ Regulation 29, Building Regulations (NI) 2012.

⁷¹⁹ Schedule 2, Building Regulations (NI) 2012.

⁷²⁰ Belfast Health and Social Care Trust, 'Strategy for Improving Traveller Health and Wellbeing: 2011-2014' (Belfast Health and Social Care Trust, 2011).

⁷²¹ *Ibid.*, at 3.

⁷²² Department of Environment, 'New Policy on Accommodation for Travellers' (DoE, 1999), at 13.

⁷²³ NI Housing Executive, 'Co-operation Policy Guidelines' (NIHE, Date Unknown), at Code of Conduct.

⁷²⁴ Department of the Environment, 'Design Guide for Travellers' Sites in NI' (DoE, 1997), at para 3.22.

⁷²⁵ *Ibid.*, at paras 5.1.-5.4.

⁷²⁶ *Ibid.*, at para 5.8.

⁷²⁷ 'Report of Out-going Executive Committee' in NI Local Government Partnership on Travellers' Issues, 'Minutes of the Local Government Partnership on Traveller Issues', Former Moyle District Council Offices, 29 July 2016; Interview with a Councillor from Belfast City Council, 10 March 2017; Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

⁷²⁸ Roundtable discussion with civil society organisations, 20 September 2016; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017.

⁷²⁹ Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

⁷³⁰ Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with member of the Traveller communities in NI: Interview 15, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016.

⁷³¹ Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with member of the Traveller communities in NI: Interview 15, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016.

⁷³² *Ibid.*

the NI Housing Executive stated that the safety status on some of the Travellers' sites in NI change "on a daily basis. It can change overnight".⁷³³ This can be challenging to manage.

Overcrowding

The NI Housing Executive recorded that of the 316 Traveller households interviewed in 2002, 55 percent found the size of their accommodation to be 'about the right size', but 41 percent found it to be too small.⁷³⁴ Similar data was not gathered in the subsequent Travellers' accommodation needs assessments. In 2008, overcrowding was listed as one of the reasons that Traveller households were dissatisfied with their current accommodation.⁷³⁵ This did not reappear as a reason in the 2014 needs assessment. Respondents were asked whether they were satisfied with their accommodation. This was an open-ended question with no pre-determined answers to choose from if they were dissatisfied.⁷³⁶ Reflecting the NI Housing Executive's 2008 findings, research conducted for the Equality Commission NI found that "overcrowding in social housing and private renting for minority ethnic groups, including Black people and Irish Travellers, is a significant concern as they are three times more likely than White groups to live in crowded homes".⁷³⁷ It is unclear why this is the case.⁷³⁸

Civil society organisations reported that overcrowding was an issue in relation to the habitability of Travellers' accommodation across NI. Craigavon Travellers Support Committee elaborated that recently couples do not move away from home after marriage, "younger couples either don't move on or will put a trailer into the garden, which can then cause problems with the surrounding neighbours".⁷³⁹ Overcrowding on Travellers' sites is a particular issue in the winter months, when family members return from travelling.⁷⁴⁰ It is a cultural tradition for Travellers to live with their extended family, which some existing Travellers' sites are not able to accommodate. Consequently, "you may have three caravans or mobile homes or western roofing houses on the site where there should only be one. The demand for space is so great".⁷⁴¹ Overcrowding is not only an issue in relation to the number of pitches available, but also in terms of the number of people using the washhouses on the site.⁷⁴²

Civil society organisations felt that where overcrowding occurs "a blind eye is turned [by public authorities]... [for example, if a site started with 16] they still continue to operate as though there is still only 16. They collect 16 rents and provision is for 16".⁷⁴³ A representative of the NI Housing Executive accepted that overcrowding was a problem in one of the sites in NI. The response is to "encourage movement of the Travellers communities into adjacent accommodation".⁷⁴⁴ The adjacent accommodation was standard social housing.⁷⁴⁵

Regarding the Travellers' site where the NI Housing Executive accepted that overcrowding was an issue, a consultant has been appointed to report on the different options available for addressing the overcrowding

⁷³³ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

⁷³⁴ NI Housing Executive, 'Travellers Accommodation Needs Assessment in NI 2002' (NIHE, 2002), at Appendix 1, Table 15.

⁷³⁵ Ibid, at Appendix 1, Tables 16 and 19; NI Housing Executive, 'Traveller Accommodation Needs Assessment in NI 2008' (NIHE, 2008), at Appendix 2, Tables 39 and 40; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at Appendix 2, Tables 37 and 38.

⁷³⁶ Letter from NI Housing Executive to NIHRC, 20 March 2017.

⁷³⁷ Alison Wallace, 'Housing and Communities' Inequalities in NI' (ECNI, 2015), at 131.

⁷³⁸ Interview with representatives of the Equality Commission NI, 8 February 2017.

⁷³⁹ Roundtable discussion with civil society organisations, 20 September 2016.

⁷⁴⁰ Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017.

⁷⁴¹ Roundtable discussion with civil society organisations, 20 September 2016.

⁷⁴² Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with member of the Traveller communities in NI:

Interview 21, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017.

⁷⁴³ Roundtable discussion with civil society organisations, 20 September 2016.

⁷⁴⁴ Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

⁷⁴⁵ Ibid.

and land availability.⁷⁴⁶ On receipt of this report, the NI Housing Executive plans to consult with the Travellers living on the site to establish their needs and to discuss the options that are available.⁷⁴⁷ The NI Housing Executive warned that it was “going to be time consuming”.⁷⁴⁸

Safety of Washhouses

A number of Travellers raised health and safety concerns regarding the washhouses available on sites. This includes older and newly renovated sites.⁷⁴⁹ The washhouses were uncomfortably cold and dark, particularly at night and in the winter.⁷⁵⁰ South Tyrone Empowerment Programme found:

the services certainly haven't moved with the time... Another generation will come along and then move in, but there's only one service unit per block. They are basically sheds that people are expected to cook in, wash in, bath their children, bath themselves, all those practical day-to-day living things that should happen. They are freezing, they're mouldy, the tiles are falling off the wall.⁷⁵¹

A Traveller interviewed was concerned that “up over the shower there is an electric heater that you are meant to put on. The steam and the water would electrocute you”.⁷⁵² Another Traveller stated “I wouldn't take a shower out there... [the last time I did, the shower floor was] frozen and I slipped”.⁷⁵³ There were also reports that the doors of the washhouses expand in the cold making it difficult to open, which can cause injury.⁷⁵⁴ Travellers believed that the cold conditions of the washhouses were making members of their family sick, for example leading to kidney infections and pneumonia.⁷⁵⁵

One Traveller requested washhouses that are more appropriate for the climate from the NI Housing Executive. According to the Traveller:

[the NI Housing Executive] responded ‘we are not building no concrete things, no houses, no chalets. I asked [the NI Housing Executive] why do you keep giving us steel pods? Do you not understand even when you are getting a shower, you are still freezing with the cold?... I would be happy... [with a better washhouse] where I can walk in and wash clothes and dry them and a proper [structure], not a steel pod... [The steel pods] are full of rust and there is holes in them and [the rats] will get into that.’⁷⁵⁶

A representative of the NI Housing Executive accepted “the pods have a served purpose, but to me sometimes they have outlived their usefulness... Me personally, I would love... [a] stone or brick structure”.⁷⁵⁷

⁷⁴⁶ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

⁷⁴⁷ Ibid.

⁷⁴⁸ Ibid.

⁷⁴⁹ Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016.

⁷⁵⁰ Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017.

⁷⁵¹ Roundtable discussion with civil society organisations, 20 September 2016.

⁷⁵² Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016.

⁷⁵³ Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

⁷⁵⁴ Ibid.

⁷⁵⁵ Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

⁷⁵⁶ Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

⁷⁵⁷ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

Findings

The NIHRC's findings on dealing with health and safety hazards in Travellers' accommodation in NI are:

i	Health and safety of Travellers' sites is set out in the 'Design Guide for Travellers' Sites in NI'. However, this is not sufficiently prescriptive.
ii	There is evidence of inadequate Travellers' accommodation negatively affecting health.
iii	It has been reported that standard social housing grouped housing satisfies health and safety standards.
iv	It has been reported that Travellers' sites do not satisfy health and safety standards. Particular issues are unsafe washhouses, significant build-up of rubbish, rat infestations and inadequate electricity supplies.
v	Some pitches on Travellers' sites are overcrowded.
vi	The use of steel pods as amenity blocks on Travellers' sites is inappropriate.

Health and Safety: Fire

Domestic Laws and Policies

The Fire and Rescue Services (NI) Order 2006 requires NI Fire and Rescue Service Board to promote fire safety and to make provision for protecting life and property in the event of fires.⁷⁵⁸ The duties relate to reducing the risk of fire; enabling a safe and effective means of escape; extinguishing fires; detecting and providing a warning in the event of a fire; and arrangements for action in event of a fire. This includes taking "all reasonable measures for securing that an adequate supply of water will be available" for members of the fire and rescue services to carry out their functions.⁷⁵⁹ The water undertaker should clearly indicate the location of fire hydrants.⁷⁶⁰ The person in control of the relevant premises should carry out an assessment of the relevant premises to identify any fire risks and take reasonable measures to ensure fire safety.⁷⁶¹ This can include an occupier, owner or manager. The Order's obligations extend to caravans and trailers in principle, however, exclude domestic premises. These are:

premises occupied as a private dwelling (including a stair, passage, garden, yard, garage, outhouse or other appurtenance of such premises which is used in common by the occupants of more than one such dwelling), but does not include a house in multiple occupation.⁷⁶²

⁷⁵⁸ Articles 4, Fire and Rescue Services (NI) Order 2006.

⁷⁵⁹ Article 15, Fire and Rescue Services (NI) Order 2006.

⁷⁶⁰ Article 17, Fire and Rescue Services (NI) Order 2006.

⁷⁶¹ Articles 26(1) and 26(2), Fire and Rescue Services (NI) Order 2006.

⁷⁶² Article 50(6), Fire and Rescue Services (NI) Order 2006.

Caravans or trailers considered private dwellings are excluded from the 2006 Order, but the Order extends to any common areas on a site used by the occupants of one or more caravan or trailer. It also extends to amenity buildings on sites. NI Fire and Rescue Service created 'Fire Safety for the Travelling Community' leaflets that provided images of demonstration, as well as text.⁷⁶³

The Building Regulations (NI) 2012 require that residential buildings are built with fire resistant materials, including adequate warning systems, an adequate means of escape and provide adequate access for the Fire and Rescue Service.⁷⁶⁴ These regulations apply to bricks and mortar accommodation, they do not apply to movable dwellings or mobile accommodation used in a static condition, which excludes caravans, trailers or chalets.⁷⁶⁵

The Fire Safety Regulations (NI) 2010 require the regular review of fire safety assessments in relevant premises, particularly if there is reason to believe that an assessment is no longer valid or there is a significant change.⁷⁶⁶ The Regulations reaffirm the obligations to equip premises with appropriate and accessible means for fire-fighting, means for escape and to conduct maintenance.⁷⁶⁷ The Fire Safety Regulations (NI) 2010 do not apply to domestic premises.⁷⁶⁸

NI Fire and Rescue Service deliver fire safety advice relating to domestic premises, including static and mobile caravans, through various mediums. These include leaflet drops; television and radio adverts; use of social media; the NI Fire and Rescue Service website; social events and displays; targeted educational initiatives and packages; and home fire safety checks.⁷⁶⁹ NI Fire and Rescue Service confirms that "the Travelling community can expect, and will receive, the same level of advice and assistance from NI Fire and Rescue Service as is afforded to all other members of the community in relation to fire safety in the home".⁷⁷⁰

A fairly robust legal framework places an obligation on water undertakers and Councils to ensure hydrants are accessible to NI Fire and Rescue Service. NI Fire and Rescue Service informed investigators that Travellers' sites enjoyed the same access to hydrant provision as that of any rural residence.⁷⁷¹

In terms of operational response, NI Fire and Rescue Service mobilises a proportionate 'pre-determined attendance' to all incidents based on identified risk, incident and property type.⁷⁷² NI Fire and Rescue Service remained confident that the pre-determined attendance process ensured initial crews could deal effectively with incidents encountered within static or mobile residences without the need for further augmentation of water supplies.⁷⁷³

The 'Design Guide for Travellers' Sites in NI' requires that:

*in the interests of fire safety the minimum distance between any two caravans should be not less than six metres and the distance from any part of a caravan to any part of a road within the site should be not less than three metres.*⁷⁷⁴

⁷⁶³ NI Fire and Rescue Service, 'Fire Safety for the Travelling Community' (NIFRS, 2009).

⁷⁶⁴ Regulations 32-37, Building Regulations (NI) 2012.

⁷⁶⁵ Articles 9(d) and 9(e), Schedule 2, Building Regulations (NI) 2012.

⁷⁶⁶ Regulation 3, Fire Safety Regulations (NI) 2010.

⁷⁶⁷ Regulations 12, 13 and 16, Fire Safety Regulations (NI) 2010.

⁷⁶⁸ Written evidence from NI Fire and Rescue Service, 30 September 2016.

⁷⁶⁹ Ibid.

⁷⁷⁰ Ibid.

⁷⁷¹ Ibid.

⁷⁷² Ibid.

⁷⁷³ Ibid.

⁷⁷⁴ Department of the Environment, 'Design Guide for Travellers' Sites in NI' (DoE, 1997), at para 4.1.

To implement this, the design guide recommends that:

permanent and easily identifiable markings should be laid out for caravan parking spaces in accordance with Fire Regulations to reduce the risk of fire. Drainage and electricity connections for caravans must be designed and installed to ensure caravan location on the pitch and six-metre separation.⁷⁷⁵

Pitches should be surfaced (usually with bitmac) and liquefied petroleum gas should be stored according to regulations.⁷⁷⁶ The local fire prevention officer is also to be consulted.⁷⁷⁷ These requirements are reflective of, but do not comprehensively cover, those set out by NI Fire and Rescue Service's prevention note for permanent residential caravan sites.⁷⁷⁸ The Department for Communities and Local Government's good practice guide for designing Gypsy and Travellers' sites in England is more reflective of the prevention note.⁷⁷⁹ The Department for Communities confirmed it intended to include the relevant fire prevention requirements in the forthcoming updated version of the guide.⁷⁸⁰

The NI Housing Executive's licence agreement for Travellers on transit and emergency halting sites refers to fire safety. It requires that the occupants commit themselves to ensuring that they take care to avoid causing fire or creating other hazards, which endanger other persons in the site.⁷⁸¹

Domestic Practice

NI Fire and Rescue Service found no significant incidents that indicate Travellers' accommodation is within an additional or higher risk category in relation to fire safety.⁷⁸² It is concerning that a number of Travellers interviewed were not aware if there were fire safety measures for their accommodation and what they were; this is a particular issue on Travellers' sites.⁷⁸³ Others found that the available fire safety measures are inadequate, particularly on Travellers' sites.⁷⁸⁴ The South Tyrone Empowerment Programme emphasised in the case of one particular Travellers' site:

we have been saying for years the Carrickmines scenario⁷⁸⁵ could happen... at any point in time. You may have multiple units on one plot. If there was a fire on any one of them, it would spread in no time at all... [There are sites where] there is only one way in, [the road] curves away round... There are no turning points... [It is hard to see how emergency services would] physically get in to where they would be needed.⁷⁸⁶

⁷⁷⁵ Ibid, at para 4.4.

⁷⁷⁶ Ibid, at paras 4.6-4.8 and 5.16.

⁷⁷⁷ Ibid, at para 5.14.

⁷⁷⁸ NI Fire Brigade, 'Fire Prevention Note No 12: Permanent Residential Caravan Sites' in Department of the Environment, 'Design Guide for Travellers' Sites in NI' (DoE, 1997), at Appendix F.

⁷⁷⁹ Department for Communities and Local Government, 'Designing Gypsy and Traveller Sites: Good Practice Guide' (DCLG, 2008), at para 4.47.

⁷⁸⁰ Letter from Department for Communities to NIHR, 7 November 2017.

⁷⁸¹ HRAN/HSG/01/07: Traveller Transit and Emergency Sites Management Guidance Manual (Pilot)', November 2006 at Appendix A, 17 and 24.

⁷⁸² Written evidence from NI Fire and Rescue Service, 30 September 2016.

⁷⁸³ Individual Interview with a member of the Traveller communities in NI: Interview 1, 7 November 2016; Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017.

⁷⁸⁴ Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

⁷⁸⁵ On 10 October 2015 a fire engulfed a halting site in Carrickmines, South Dublin. The fire started in a kitchen and quickly spread through the site killing ten people, including five children. See Laura Larkin, 'Carrickmines fire 'started by unattended oven', forensic tests show', *Irish Independent*, 23 November 2015.

⁷⁸⁶ Roundtable discussion with civil society organisations, 20 September 2016.

Findings

The NIHRC's findings on fire safety for Travellers' accommodation in NI are:

i	The 'Design Guide for Travellers' Sites in NI' contains guidance on fire safety. However, this is not sufficiently prescriptive or detailed.
ii	NI Fire and Rescue Service believes Travellers' accommodation is not within an additional or higher risk category in relation to fire safety.
iii	Some Travellers were unhappy with the fire safety measures for their accommodation, particularly regarding Travellers' sites. Some Travellers were unaware if there were safety measures for their accommodation. If there were safety measures, some Travellers were unaware of what they were. If there were safety measures that tenants were aware of, some Travellers believed those measures to be inadequate.

4 Availability of Services, Facilities and Infrastructure

The duty to provide adequate housing, including Travellers' accommodation, requires that services, facilities and infrastructure are adequately available. This duty engages:

Treaty	Article
ICESCR	11
CRC	3(3)
	31
CRPD	28(2)(a)
ECHR	2
	3
	8
European Social Charter (Revised) ⁷⁸⁷	31(1)

The following soft law standards clarify what is required:

UN ICESCR Committee
General Comment No 4: The Right to Adequate Housing ⁷⁸⁸
Concluding Observations on the Fifth Periodic Report of the UK and NI ⁷⁸⁹
Concluding Observations on the Sixth Periodic Report of the UK and NI ⁷⁹⁰
UN CERD Committee
General Recommendation XXVII: On Discrimination against Roma ⁷⁹¹
UN General Assembly
Report of the United Nations Conference on Human Settlements (Habitat II) ⁷⁹²
CoE Advisory Committee on the FCNM
Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs ⁷⁹³
Third Opinion on the United Kingdom ⁷⁹⁴

⁷⁸⁷ Unlike the other human rights treaties listed, the UK (including NI) has not ratified the European Social Charter (Revised) 1996. It has signed this treaty, which obliges the UK to refrain, in good faith, from acts that would defeat the object and purpose of the treaty.

⁷⁸⁸ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991.

⁷⁸⁹ E/C.12/GBR/CO/5, 'ICESCR Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 22 May 2009.

⁷⁹⁰ E/C.12/GBR/CO/6, 'ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 14 July 2016.

⁷⁹¹ CERD Committee, 'General Recommendation XXVII: Discrimination against Roma', 16 August 2000.

⁷⁹² A/Conf.165/14, 'UN Conference on Human Settlements (Habitat II)', 14 June 1996.

⁷⁹³ ACFC/31DOC(2008)001, 'CoE Advisory Committee on the FCNM's Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs', 27 February 2008.

⁷⁹⁴ ACFC/OP/III(2011)006, 'CoE Advisory Committee on the FCNM: Third Opinion on the UK', 30 June, 2011.

CoE Committee of Ministers
Recommendation on the movement and encampment of Travellers in Europe ⁷⁹⁵
Recommendation on improving the housing conditions of Roma and Travellers in Europe ⁷⁹⁶
CoE Commissioner for Human Rights, Alvaro Gil-Robles
Final Report on the Human Rights Situation of the Roma, Sinti and Travellers in Europe ⁷⁹⁷
CoE Commissioner for Human Rights, Thomas Hammarberg
Recommendation on the Implementation of the Right to Adequate Housing ⁷⁹⁸
ECRI
Recommendation No 13: Combating Anti-gypsyism and Discrimination against Roma ⁷⁹⁹

Human Rights Laws and Standards

United Nations

The ICESCR, General Comment No 4, states that:

adequate housing must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.⁸⁰⁰

The CRC, Article 3(3), requires States to “ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in areas of safety”. The CRC, Article 31, also requires States “recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child”.

The CRPD, Article 28(2)(a), requires States:

recognise the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realisation of this right including measures... to ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs.

The UN Habitat Agenda states adequate housing requires “adequate basic infrastructure, such as water supply sanitation, and waste-management facilities”.⁸⁰¹ It extends this to include “social welfare, transport

⁷⁹⁵ CoE, ‘Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe’, 1 December 2004.

⁷⁹⁶ CoE, ‘Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe’, 25 February 2005.

⁷⁹⁷ CommDH(2006)1, ‘Final Report by Mr Alvaro Gil-Robles, CoE Commissioner for Human Rights, on the Human Rights Situation of the Roma, Sinti and Travellers in Europe’, 15 February 2006.

⁷⁹⁸ CommDH(2009)5, ‘Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing’, 30 June 2009.

⁷⁹⁹ CRI(2011)37, ‘ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma’, 24 June 2011.

⁸⁰⁰ E/1992/23, ‘ICESCR Committee General Comment No 4: The Right to Adequate Housing’, 13 December 1991, at para 8(b).

⁸⁰¹ A/Conf.165/14, ‘UN Conference on Human Settlements (Habitat II)’, 14 June 1996, at para 60.

and communications facilities, energy, health and emergency services, schools, public safety, and the management of open spaces".⁸⁰² In practice, public authorities should promote:

- (a) the supply of and access to adequate quantities of safe drinking water;
- (b) adequate sanitation and environmentally sound waste management;
- (c) adequate mobility through access to affordable and physically accessible public transport and other communications facilities;
- (d) access to markets and retail outlets for selling and purchasing basic necessities;
- (e) the provision of social services, especially for underserved groups and communities;
- (f) access to community facilities, including places of worship;
- (g) access to sustainable sources of energy;
- (h) environmentally sound technologies and the planning, provision and maintenance of infrastructure, including roads, streets, parks and open spaces;
- (i) a high level of safety and public security;
- (j) the use of a variety of planning mechanisms that provide for meaningful participation to reduce the negative impacts of biological resources, such as prime agricultural lands and forests, that may arise from human settlements activities;
- (k) planning and implementation systems that integrate all of the above factors into the design and operation of sustainable human settlements.⁸⁰³

The ICESCR Committee has 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".⁸⁰⁴ In terms of how to address these issues, the ICESCR Committee has recommended that "measures designed to satisfy a State party's obligations in respect of the right to adequate housing may reflect whatever mix of public and private sector measures considered appropriate".⁸⁰⁵ The Committee also acknowledges "in some States public financing of housing might most usefully be spent on direct construction of new housing, in most cases, experience has shown the inability of Governments to fully satisfy housing deficits with publicly built housing". In such cases, "promotion by State parties of 'enabling strategies', combined with a full commitment to obligations under the right to adequate housing, should thus be encouraged". This is an obligation "to demonstrate that, in aggregate, the measures being taken are sufficient to realise the right for every individual in the shortest possible time in accordance with the maximum of available resources".⁸⁰⁶

The CERD Committee has recommended that "the necessary measures, as appropriate" are taken "for offering Roma nomadic groups or Travellers camping places for their caravans, with all necessary facilities".⁸⁰⁷ The UN Habitat Agenda notes, "the lack of adequate basic services, a key component of shelter, exacts a heavy toll on human health, productivity and the quality of life".⁸⁰⁸

⁸⁰² Ibid, at para 84.

⁸⁰³ Ibid, at para 85.

⁸⁰⁴ E/C.12/GBR/CO/5, 'ICESCR Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 22 May 2009, at para 30; E/C.12/GBR/CO/6, 'ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 14 July 2016, at para 49.

⁸⁰⁵ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 14.

⁸⁰⁶ Ibid.

⁸⁰⁷ CERD Committee, 'General Recommendation XXVII: Discrimination against Roma', 16 August 2000, at para 32.

⁸⁰⁸ A/Conf.165/14, 'UN Conference on Human Settlements (Habitat II)', 14 June 1996, at para 84.

Council of Europe

The ECHR, Article 3, provides for freedom from torture, inhuman or degrading treatment or punishment. This is an absolute, non-derogable right. Article 3 is guaranteed “irrespective of the victim’s conduct”.⁸⁰⁹ It is only engaged in circumstances, concerning the most severe and degrading situations which cause those affected to feel humiliated and debased.⁸¹⁰

The ECHR, Article 2, requires that States⁸¹¹ take all reasonable steps to prevent intentional and unintentional deprivation of life within its jurisdiction.⁸¹² They also must take reasonable steps to counteract a known real and imminent risk to life.⁸¹³

The ECHR, Article 8, protects the right to respect for private and family life. In the context of Travellers’ accommodation, it is engaged where the poor conditions affect the tenant’s physical and psychological integrity as a direct consequence of the public authorities’ unjustified action or inaction. The family unit, including children, is awarded special protection.⁸¹⁴

The European Committee of Social Rights has confirmed that adequate housing, as provided in the European Social Charter (Revised), Article 31, requires that a dwelling “possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity”.⁸¹⁵ It is also “incumbent on State Parties to adopt appropriate measures for the construction of housing, in particular social housing”.⁸¹⁶ Such amenities should be protected in law and provided in practice.⁸¹⁷

The Committee of Ministers calls for legal standards “applying to public services – water, electricity, street cleaning, sewage systems, refuse disposal, and so on” to “equally apply” to Traveller settlements and campsites.⁸¹⁸ It has further stated that:

nomadic or semi-nomadic groups should be provided access to proper and adequate sanitary conditions as well as easier access to existing health infrastructures and services (especially in emergency situations, and as part of preventative health campaigns). [Travellers] who are permanently and legally settled in derelict or unhealthy surroundings should receive assistance in order to improve the sanitary conditions of their homes (help for repairs, assistance in improving their living conditions and environment, measures to allow them better access to short-term loans for acquiring better housing, mediation in their relation with administrations or public services).⁸¹⁹

The Committee of Ministers reads the availability of services to include a requirement that public transport, health care facilities, access to education, police stations, post and telecommunication offices be made available to Traveller communities.⁸²⁰ Thus, “authorities should pay specific attention to the physical distance between [Traveller] settlements and camp sites and schools”.⁸²¹

⁸⁰⁹ *Chahal v UK* (1996) 23 EHRR 413, at para 79; Articles 3 and 15(2), European Convention on Human Rights 1950.

⁸¹⁰ *Moldovan v Romania (No 2)* (2005) 44 EHRR 16, at paras 101 and 111.

⁸¹¹ Article 6(1), European Convention on Human Rights 1950.

⁸¹² *Öneriyildiz v Turkey* (2004) ECHR 657; *LCB v UK* (1999) 27 EHRR 212, at para 36.

⁸¹³ *Burke v UK*, Application No 19807/06, 11 July 2006, at para 1.

⁸¹⁴ *Storck v Germany* (2006) 43 EHRR 6, at para 149; *Connors v UK* (2004) ECHR 223, at para 82; *Botta v Italy* (1998) 26 EHRR 241, at para 34; *R (Bernard) v Enfield London Borough* [2002] EWHC 2282, at paras 33-34; *Anufrijeva v Southwark* [2003] EWCA Civ 1406, at para 28; Article 8(2), European Convention on Human Rights 1950.

⁸¹⁵ *European Roma Rights Centre v Italy*, Complaint No 27/2004, 7 December 2005, at para 35.

⁸¹⁶ *Ibid.*, at para 45.

⁸¹⁷ *European Roma Rights Centre v Ireland*, Complaint No 100/2013, 1 December 2015, at paras 54-80.

⁸¹⁸ CoE, ‘Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe’, 25 February 2005, at para 49.

⁸¹⁹ *Ibid.*, at para 34.

⁸²⁰ *Ibid.*, at para 49.

⁸²¹ *Ibid.*

The Committee of Ministers has confirmed that all the requirements regarding availability of services, facilities and infrastructure extend to transit sites, halting sites and encampment sites.⁸²² It recommends:

Member States should ensure that an adequate number of transit/halting sites are provided to nomadic and semi-nomadic Roma. These transit/halting sites should be adequately equipped with necessary facilities including water, electricity, sanitation and refuse collection. The physical borders or fences should not harm the dignity of the persons and their freedom of movement.⁸²³

The former CoE Commissioner for Human Rights, Alvaro Gil-Robles, supported the requirement for “appropriate infrastructure, including electricity, roads, clean water and garbage removal” to be put in place where “such infrastructure does not exist”.⁸²⁴ Similarly, the Committee of Ministers identifies Travellers’ accommodation should be “equipped with minimum facilities”.⁸²⁵ It defines “minimum facilities” as including “water supply, connection to the electricity network, sanitary facilities and a rubbish bin”.⁸²⁶ The former CoE Commissioner for Human Rights, Thomas Hammarberg, stated he considered it:

elementary that standards for adequate housing are defined by law and applied in practice, and that the object of their application is not merely new projects but that, after reconstruction, the standards should be applied gradually to all existing housing.⁸²⁷

These standards “must apply to both owner-occupied and rented housing, including social rented housing”.⁸²⁸ They also require an element of supervision by the State regarding adherence to the standards. This supervision could be the State’s “own measures”, but “must include the sustainability of public services, ie water, electricity and communications”.⁸²⁹

The ECRI has called for Travellers to be “afford[ed]... access to decent housing”.⁸³⁰ This includes ensuring that “appropriate encampment areas, whether for permanent occupation or transit, are available to Travellers in sufficient numbers on suitable and duly serviced sites”.⁸³¹

The Advisory Committee on the FCNM has called for the development of “comprehensive sectoral policies to address... [a] lack of access to basic infrastructure, which affect persons belonging to certain minorities”.⁸³² Specifically, the Advisory Committee has recommended that the UK government:

take more vigorous measures to meet the accommodation needs of Gypsies and Travellers; increase the delivery of sites, including by improving the coordination of the different levels of authorities involved in sites delivery; ensure that local authorities comply with their responsibilities in sites delivery and find adequate solutions to the accommodation needs of Gypsies and Travellers.⁸³³

⁸²² CoE, ‘Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe’, 1 December 2004, at para 23(i).

⁸²³ CoE, ‘Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe’, 25 February 2005, at para 33.

⁸²⁴ CommDH(2006)1, ‘Final Report by Mr Alvaro Gil-Robles, CoE Commissioner for Human Rights, on the Human Rights Situation of the Roma, Sinti and Travellers in Europe’, 15 February 2006, at 19.

⁸²⁵ CoE, ‘Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe’, 1 December 2004, at para 23(i).

⁸²⁶ *Ibid.*, at para 7.

⁸²⁷ CommDH(2009)5, ‘Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing’, 30 June 2009, at 3.2.1.

⁸²⁸ *Ibid.*

⁸²⁹ *Ibid.*

⁸³⁰ CRI(2011)37, ‘ECRI General Policy Recommendation No 13: Combating Anti-Gypsism and Discrimination against Roma’, 24 June 2011, at para 6(a).

⁸³¹ *Ibid.*, at para 6(k).

⁸³² ACF/31DOC(2008)001, ‘CoE Advisory Committee on the FCNM’s Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs’, 27 February 2008, at para 59.

⁸³³ ACF/OP/III(2011)006, ‘CoE Advisory Committee on the FCNM: Third Opinion on the UK’, 30 June, 2011.

Services

Domestic Laws and Policies

The Building Regulations (NI) 2012 require the provision of adequate means of ventilation for people in residential buildings.⁸³⁴ The sanitary pipework, underground foul drainage and rainwater drainage necessary for hygienic and adequate disposal of foul water and rainwater should be provided to every building.⁸³⁵ A water closet and washbasin should be provided in the entrance storey or principal storey of residential buildings.⁸³⁶ The application of these regulations is restricted to bricks and mortar accommodation.⁸³⁷

Under the Caravans Act (NI) 2011, the owner is "responsible for... maintaining any gas, electricity, water, sewerage or other services supplied by the owner to the pitch or to the caravan".⁸³⁸

The Water and Sewerage Services (NI) Order 2006 requires water undertakers to ensure that water supplied for domestic purposes including cooking, drinking, food preparation or washing is wholesome at the time of supply.⁸³⁹ Regarding sewage, it is the duty of every sewerage undertaker to provide, improve, extend and maintain public sewers and any lateral drains.⁸⁴⁰ They are also obliged to ensure that such systems effectively drain.⁸⁴¹ This extends to drainage, via a public sewer or lateral drain, for domestic purposes regarding premises on which there are buildings.⁸⁴² Reasonable installation costs of such a drain can be the responsibility of the affected person.⁸⁴³ This extends to providing drainage for domestic purposes in a particular locality,⁸⁴⁴ though considerations such as geology, costs and environment are to be accounted.⁸⁴⁵

The obligation for provision of services extends to unauthorised encampments where there is a co-operation policy. The 'Co-operation Policy Guidelines' state:

where it has been agreed that the encampment will be accepted for an agreed period, the [NI Housing Executive's] Traveller Unit will arrange for the provision of refuse and toilet facilities. Where possible, access to water will also be provided (this will depend on the availability of services in the area).

The strength of this requirement is unclear. The language in the code of conduct for the co-operation policy is weaker regarding refuse disposal. It states that "where possible" the NI Housing Executive "will provide facilities for refuse disposal and arrange for regular collection".⁸⁴⁶

The Regional Development Strategy 2035 requires that the allocation of housing growth consider the existence of community assets and physical infrastructure such as water, waste, sewage, including spare capacity.⁸⁴⁷

The 'Design Guide for Travellers in NI' states "drinking water, electricity, sewage, refuse disposal and

⁸³⁴ Regulation 65, Building Regulations (NI) 2012.

⁸³⁵ Regulation 79, Building Regulations (NI) 2012.

⁸³⁶ Regulation 94, Building Regulations (NI) 2012.

⁸³⁷ Schedule 2, Building Regulations (NI) 2012.

⁸³⁸ Section 22(c) of the Schedule, Caravans Act (NI) Act 2011.

⁸³⁹ Article 108, Water and Sewerage Services (NI) Order 2006; Regulation 4, Water Supply (Water Quality) Regulations (NI) 2007.

⁸⁴⁰ Article 149(1)(a), Water and Sewerage Services (NI) Order 2006.

⁸⁴¹ Article 149(1)(a), Water and Sewerage Services (NI) Order 2006.

⁸⁴² Articles 154(1) and 154(2), Water and Sewerage Services (NI) Order 2006.

⁸⁴³ Article 155(2), Water and Sewerage Services (NI) Order 2006.

⁸⁴⁴ Article 157(1), Water and Sewerage Services (NI) Order 2006.

⁸⁴⁵ Article 157(3), Water and Sewerage Services (NI) Order 2006.

⁸⁴⁶ NI Housing Executive, 'Co-operation Policy Guidelines' (NIHE, Date Unknown), at Code of Conduct.

⁸⁴⁷ Department for Regional Development, 'Regional Development Strategy 2035' (DRD, 2010), at Table 3.2.

drainage... [should be provided] on all serviced sites. A pay telephone and street lighting should be provided on sites with permanent service units".⁸⁴⁸

The provision of such services differs according to the type of site. Permanent sites should have amenity buildings. These permanent buildings contain, at minimum a toilet, shower/bathroom; heating for space water and clothes drying; hot and cold-water supply; drainage; electricity and ventilation.⁸⁴⁹ Whether the amenity building contains a kitchen is determined through consultation with Travellers.⁸⁵⁰ A warden's unit, without a shower/bathroom or kitchen, is required as an additional basic amenity building for use as a small office or clinic/interview room.⁸⁵¹ Vandal and tamper-proof street lighting should be provided on permanent sites.⁸⁵² Arrangements should be made for mail delivery to individual units.⁸⁵³

Transit sites should have drainage; water to each pitch; a portaloos on a concrete base connected to a sewage disposal system and waste disposal/collection service. On such sites the mains water supply should be provided to each pitch.⁸⁵⁴ The electricity to mini-pillars at pitches is optional.⁸⁵⁵

Temporary or emergency sites should be well-drained; have water; have a portaloos; and have a waste disposal/collection service. The water outlet should not be less than one outlet per three families.⁸⁵⁶ Electricity on such sites is optional and dependent on availability, practicality and cost.⁸⁵⁷

The electricity supply (where provided) in all types of sites should be individually metered to each amenity unit/pitch.⁸⁵⁸ The drainage system should be underground with robust and lockable gullies and manhole covers.⁸⁵⁹ The drainage system should be connected to a sewer or an appropriate alternative and be adequate to hygienically dispose of foul, rain and surface water.⁸⁶⁰ Where possible, individual bins should be provided to each pitch, with skips in a separate area for bulky items.⁸⁶¹

The NI design guide is similar to the Department for Communities and Local Government's good practice guide for designing Gypsy and Travellers' sites in England. Additional requirements in England include that portaloos on temporary stopping places should be gender-specific.⁸⁶² In November 2017, the Department for Communities was reviewing the NI design guide and indicated that it was considering including guidance on gender specific portaloos at temporary stopping sites.

The NI Housing Executive's 'Traveller Transit and Emergency Sites Management Guidance Manual' requires that a designated officer monitor daily sites that are transient in nature.⁸⁶³ A portaloos should be supplied where required and cleaned weekly.⁸⁶⁴ Wheeled refuse containers for the disposal of household and organic waste should be supplied where necessary and appropriate, with the district officer assigned to liaise with the local Council to arrange for refuse collection.⁸⁶⁵

⁸⁴⁸ Department of the Environment, 'Design Guide for Travellers' Sites for NI' (DoE, 1997), at para 2.8.

⁸⁴⁹ *Ibid.*, at paras 4.9-4.11, 5.7 and 5.9.

⁸⁵⁰ *Ibid.*

⁸⁵¹ *Ibid.*, at paras 4.10-4.11.

⁸⁵² *Ibid.*, at para 5.13.

⁸⁵³ *Ibid.*, at para 5.17.

⁸⁵⁴ *Ibid.*, at para 5.6.

⁸⁵⁵ *Ibid.*, at para 4.7.

⁸⁵⁶ *Ibid.*, at para 5.5.

⁸⁵⁷ *Ibid.*, at para 4.6.

⁸⁵⁸ *Ibid.*, at para 5.8.

⁸⁵⁹ *Ibid.*, at para 5.11.

⁸⁶⁰ *Ibid.*, at para 5.10.

⁸⁶¹ *Ibid.*, at para 5.12.

⁸⁶² Department for Communities and Local Government, 'Designing Gypsy and Traveller Sites: Good Practice Guide' (DCLG, 2008), at para 9.8-9.11.

⁸⁶³ 'HRAN/HSG/01/07: Traveller Transit and Emergency Sites Management Guidance Manual (Pilot)', November 2006, at Appendix A, para 6.1.

⁸⁶⁴ *Ibid.*, at Appendix A, paras 6.4-6.6.

⁸⁶⁵ *Ibid.*, at Appendix A, para 6.8.

Domestic Practice

In 2008, of the 449 Travellers' households interviewed by the NI Housing Executive 89 percent had access to electricity and toilet facilities and 87 percent had access to mains water.⁸⁶⁶ Similar statistics were not gathered in 2002.⁸⁶⁷ Similar questions were asked in 2014, but only 15 percent of the 384 Traveller households interviewed provided a response.⁸⁶⁸ The low response rate was because those living in bricks and mortar housing were excluded from this question in the 2014 assessment.⁸⁶⁹ Consequently, the 2014 statistics on available services were not a reliable marker.

The Travellers interviewed for this investigation who lived in standard social housing, grouped housing, hostels or private rented accommodation paid by Housing Benefit were generally satisfied with the services provided.⁸⁷⁰ However, there were regional disparities.

Civil society organisations reported accessing services on sites was an issue.⁸⁷¹ In 2007, the Equality Commission NI highlighted a "lack of adequate housing and accommodation for Travellers" as a key inequality.⁸⁷² In 2009, research conducted for the Equality Commission NI raised concerns regarding the "severe undersupply of decent, culturally sensitive accommodation for Travellers".⁸⁷³ In 2017, the Equality Commission NI was not "able to identify up-to-date information with regards to the general levels of adequacy of specific types of sites".⁸⁷⁴ However, interviews with Travellers and observational visits to Travellers' sites conducted as part of this investigation indicated that these issues persisted, particularly in relation to electricity, sanitation, water, postal services and refuse disposal. There is an inconsistency across NI in the services offered to sites.⁸⁷⁵ Some Travellers on sites had an array of services provided;⁸⁷⁶ others were lacking adequate street lighting,⁸⁷⁷ adequate postal services,⁸⁷⁸ adequate refuse disposal,⁸⁷⁹ adequate access to

⁸⁶⁶ NI Housing Executive, 'Traveller Accommodation Needs Assessment in NI 2008' (NIHE, 2008), at Appendix 2, Tables 31 and 35; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at Appendix 2, Table 28.

⁸⁶⁷ Ibid.

⁸⁶⁸ Ibid.

⁸⁶⁹ Letter from NI Housing Executive to NIHRC, 20 March 2017.

⁸⁷⁰ Individual interview with a member of the Traveller communities in NI: Interview 2, 11 November 2016; Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 9, 30 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 11, 10 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 12, 10 December 2016; Group interview with members of the Traveller communities in NI: Interview 13, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 18, 25 January 2017; Individual interview with members of the Traveller communities in NI: Interview 23, 13 February 2017.

⁸⁷¹ Roundtable discussion with civil society organisations, 20 September 2016.

⁸⁷² Equality Commission NI, 'Statement on Key Inequalities in NI' (ECNI, 2007), at 23.

⁸⁷³ Chartered Institute of Housing and the University of Ulster, 'Outlining Minimum Standards for Traveller Accommodation' (ECNI, 2009), at 9.

⁸⁷⁴ Equality Commission NI, 'Statement on Key Inequalities in Housing and Communities in NI: Full Statement' (ECNI, 2017), at para 8.5.

⁸⁷⁵ Comparison of all of the interviews conducted with members of the Traveller communities in NI; Comparison of findings from observational visits conducted at all of the Travellers' sites in NI run by public authorities between November 2016 and April 2017.

⁸⁷⁶ Individual interview with a member of the Traveller communities in NI: Interview 1, 7 November 2016.

⁸⁷⁷ Individual interview with a member of the Traveller communities in NI: Interview 1, 7 November 2016; Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with member of the Traveller communities in NI: Interview 15, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017.

⁸⁷⁸ Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017.

⁸⁷⁹ Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016; 'Complaints' email from Armagh City, Banbridge and Craigavon to NI Housing Executive, 29 August 2007; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017; 'Minutes of meeting between NI Housing Executive Travellers Support Unit, Craigavon Travellers Support Committee, Assistant Manager of Lurgan NI Housing Executive and Environmental Health', at para 2.1.

sanitation;⁸⁸⁰ adequate access to electricity;⁸⁸¹ adequate access to water;⁸⁸² adequate drainage;⁸⁸³ or the ability to access the internet.⁸⁸⁴ A historical lack of facilities on Travellers' sites was a reason why some Travellers moved into standard bricks and mortar accommodation. For example, one Traveller stated "trailers [are] no life, no washing, no nothing".⁸⁸⁵ Another raised the need for long-term solutions to ongoing issues. They did not see the point in spending thousands of pounds on short-term fixes, whilst failing to address the root cause of the problem and taking steps to prevent similar issues arising in the future.⁸⁸⁶

The NI Housing Executive claimed it was "regularly looking at whether things are changing on a site, maybe to allow us to consider changing the status and the services available on that site from what we call transit up to service standard".⁸⁸⁷ On occasion, Travellers living on transit sites on a permanent basis receive only transient provision – a portaloos, a standpipe for running water and one electricity socket per pitch.⁸⁸⁸ This limited set up is intended for Travellers staying no more than three months at a time, but it can be the provision offered for a period extending beyond this. Craigavon Travellers Support Committee identified an issue in accessing services within a reasonable period of time when a Traveller family is rehoused onto a site. It found that:

the same policies are applied to that person pulling on to that pitch as there would be if they were moving from house to house. The change of tenancy legally can take anywhere up to four weeks. That's a Traveller pulling on to what is a glorified carpark... There is a tin pod; it won't be fit for purpose. It is usually welded shut because of health and safety issues. That family can be on that site for up to four weeks [without services] if forms aren't filled out as quickly as they should be.⁸⁸⁹

It could sometimes be longer. The Craigavon Travellers Support Committee reported families waiting for two and half months to get electricity and access to sanitation, "that would be typical. That isn't unusual".⁸⁹⁰ The Armagh Travellers Group felt that the attitude of the public authorities is "don't rock the boat, and don't ask for anything".⁸⁹¹ Travellers also reported this attitude when they presented issues to the NI Housing Executive.⁸⁹² Some tenants endure the conditions indefinitely, as they believe they have no other option regarding Travellers' sites.⁸⁹³ Other tenants wish to stay, but eventually move due to the poor provision.⁸⁹⁴ This can be

⁸⁸⁰ Group interview with members of the Traveller communities in NI: Interview 6, 29, November 2016; Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with members of the Traveller communities in NI: Interview 15, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017; 'Minutes of meeting between NI Housing Executive Travellers Support Unit, Craigavon Travellers Support Committee, Assistant Manager of Lurgan NI Housing Executive and Environmental Health', at para 2.1.

⁸⁸¹ Group interview with members of the Traveller communities in NI: Interview 6, 29, November 2016; Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017.

⁸⁸² Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017.

⁸⁸³ Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

⁸⁸⁴ Group interview with members of the Traveller communities in NI: Interview 6, 29, November 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with members of the Traveller communities in NI: Interview 15, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

⁸⁸⁵ Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016.

⁸⁸⁶ Individual interview with member of the Traveller communities in NI: Interview 17, 14 December 2016.

⁸⁸⁷ Interview with representatives of the NI Housing Executive: Interview E, 13 February 2017.

⁸⁸⁸ Group interview with members of the Traveller communities in NI: Interview 6, 29, November 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Observations of the co-investigators during visits to Travellers' sites across NI; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

⁸⁸⁹ Roundtable discussion with civil society organisations, 20 September 2016.

⁸⁹⁰ Ibid.

⁸⁹¹ Ibid.

⁸⁹² Individual interview with a member of the Traveller communities in NI: Interview 0, 7 November 2016.

⁸⁹³ Roundtable discussion with civil society organisations, 20 September 2016; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

⁸⁹⁴ Ibid.

to another Travellers' site, standard social housing or out of NI. In a number of cases, Travellers were living with transient conditions while stationary for years. An interviewed Traveller believed:

the NI Housing Executive probably thought 'why should I put money back into the caravan site?' ... We are not going nowhere. We are up here nearly four to five years, we are not leaving... We are settled now and we are staying.⁸⁹⁵

In this situation Travellers have had to adapt, relying on expensive and, at times, dangerous measures. On some Travellers' sites, the only option for bathing facilities is to visit the local swimming pool or to use public toilets. On some Travellers' sites, there is no capability to set up a washing machine safely, meaning those affected have to use expensive laundrette services. It leads Travellers to set up unsafe electrical connections due to the insufficient electricity supply.⁸⁹⁶ The Belfast Travellers' Forum reported these poor standards are forcing Travellers into poverty.⁸⁹⁷

When issues are resolved, the long process that it takes to reach resolution should not be ignored:

I don't want [the NI Housing Executive] coming up trying to be all goody two shoes, 'did you like what we done for you?' It's better late than never, I understand that, but what about the four or five years when we were actually living on top of each other?⁸⁹⁸

The NI Housing Executive maintained that it was:

aware that there are some families who do have extended periods of stay in what is a transit site, so technically on occasion... there would be more of a serviced kind of requirement as opposed to a transit requirement... A lot of our sites... try to accommodate the different requirements. We are always looking at the balance of that.⁸⁹⁹

The attempt to strike a balance by developing mixed sites – transit/serviced is not seen as appropriate.⁹⁰⁰ Also, the NI Housing Executive's adoption of a general use approach to its sites is reportedly not always appropriate. For example, it is not always appropriate for Travellers using transit pitches to move to serviced pitches due to compatibility issues (ie certain Traveller families or individuals are feuding or refuse to live together).⁹⁰¹

The NI Housing Executive is looking at improving service provision on Travellers' sites, "over the next few years what we are trying to do is bring most sites up to serviced standard... Transit sites have become serviced sites... I am not going to lie and say that they haven't. Circumstances have prevailed".⁹⁰² These plans extend from 2015 to 2018. However, any future development of Travellers' sites "would need to be all... at the one time because [any new transit site] would become de facto a serviced site [otherwise]".⁹⁰³

⁸⁹⁵ Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

⁸⁹⁶ Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Observations of the co-investigators during visits to Travellers' sites across NI.

⁸⁹⁷ Travellers Questionnaire, Written evidence from Belfast Travellers Forum, 3 October 2016.

⁸⁹⁸ Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

⁸⁹⁹ Interview with a representative of the NI Housing Executive: Interview E, 13 February 2017.

⁹⁰⁰ Observational visits to Travellers' accommodation across NI between November 2016 and April 2017; Email from NI Local Government Partnership on Travellers' Issues to Belfast City Council, 2 November 2016.

⁹⁰¹ Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

⁹⁰² Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

⁹⁰³ Ibid.

Electricity Supply

Some interviewed Travellers stated “lack of electricity would discourage them from moving on” to a site.⁹⁰⁴ A NI Housing Executive representative explained:

when you have families moving off the site, between them moving off and us going out to inspect the site, vandalism can occur... We would seal the pod up. We don't carry out the repairs there and then... in case they are vandalised again... We will seal the pods up. When someone arrives onto the site requesting it, we will open the site, or the pod. We will carry out the repairs for them in the exact same way we do it for the settled community... We will carry out a change of tenancy inspection of the pod. If there are health and safety issues or if there is work to be done, it is not going to be immediately readily available... It may take us a few days to carry out the work, but as soon as it is available, we'll give [the tenant] the key and it will be available for [their] use.⁹⁰⁵

Similarly:

if [the NI Housing Executive] put all ten pods on [to a ten pitch site]... and [only] three [pitches are] occupied... It is public money... You are not going to supply it... If this family is there and they are willing to stay and they have signed a lease or licence for the pitch, [the NI Housing Executive] will deliver the pod.⁹⁰⁶

If the electrical infrastructure exists, insufficient sockets for the demand is common on Travellers' sites. Consequently, “you have everything doubled up and that's fairly dangerous, because you have about six things going to the one double adapter”.⁹⁰⁷ Another Traveller reported “there's some broken electric boxes [on the site]. There's a tap right behind it, so you can imagine how dangerous that would be”.⁹⁰⁸ The NI Housing Executive noted tampering leading to illegal abstraction of electricity is a problem on some Travellers' sites.⁹⁰⁹ On one site where this was an issue, the NI Housing Executive reassessed how electricity was supplied to the site and consulted with Travellers on how to address the persistent issue.⁹¹⁰ Subsequent works took place to resolve the issue.⁹¹¹

Cable burning can be an issue on some Travellers' sites.⁹¹² It is an offence to burn insulation from a cable with a view to recovering the internal metal.⁹¹³ The electricity provider's response has been to cut off the electricity supply.⁹¹⁴ A representative of the Police Service NI highlighted that in instances where electricity is cut-off, those occupying the Travellers' site rely on unsafe alternative heating. With poor ventilation in the caravans, in one particular case it was reported “I thought [the Traveller] was going to end up dead from the smell of the gas, even more so than the cold”.⁹¹⁵ A Councillor from Belfast City Council stated:

⁹⁰⁴ Craigavon Inter-Agency Forum on Travellers, 'Inter-Agency Meeting re Travellers, Craigavon Area', Craigavon Civic and Conference Centre, 11 August 2008, at para 5.2.

⁹⁰⁵ Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

⁹⁰⁶ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

⁹⁰⁷ Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016.

⁹⁰⁸ Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016.

⁹⁰⁹ NI Housing Executive, 'HRC-06-3: Scheme Design Report: The Glen Travellers Site, Coalisland', Date Unknown, at para 1; Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

⁹¹⁰ Ibid.

⁹¹¹ Interview with a representative of the NI Housing Executive: Interview D, 30 January 2017; Interview with a representative of the NI Housing Executive: Interview C, 30 January 2017.

⁹¹² 'Minutes of meeting between NI Housing Executive Travellers Support Unit, Craigavon Travellers Support Committee, Assistant Manager of Lurgan NI Housing Executive and Environmental Health', at para 2.1; Craigavon Inter Agency Forum on Travellers, 'Interagency Meeting re Traveller Issues, Craigavon Area', Craigavon Civic Centre, 15 December 2009.

⁹¹³ Article 56, Pollution Control and Local Government (NI) Order 1978.

⁹¹⁴ 'Minutes of meeting between NI Housing Executive Travellers Support Unit, Craigavon Travellers Support Committee, Assistant Manager of Lurgan NI Housing Executive and Environmental Health', at para 2.1; Craigavon Inter Agency Forum on Travellers, 'Interagency Meeting re Traveller Issues, Craigavon Area', Craigavon Civic Centre, 15 December 2009.

⁹¹⁵ Interview with a representative of the Police Service NI: Interview G, 8 March 2017.

I took [the NI Housing Executive's] point in terms of their frustration... There's a lack of responsibilities of some of the Traveller families, but that doesn't escape the necessity for [the NI Housing Executive] to act in an appropriate way and find the resources to do that... [Public authorities] have to do more.⁹¹⁶

Rubbish Collection

A build-up of rubbish occurs on and around some Traveller-specific accommodation.⁹¹⁷ Toybox and An Munia Tober are concerned about the impact of this on the tenants.⁹¹⁸ On one site, a Derry City and Strabane District Councillor reported that the build-up of rubbish "was Calcutta stuff... It was rough".⁹¹⁹

Local Councils have responsibility for rubbish disposal and may be alerted to any issues at Travellers' accommodation in a number of ways. These include: tracking the route of the bin lorries and why bins are not collected; the Council's waste management team and environmental health officers monitor bin collections and report any potential problems; Councils engage with inter-agency forums and Traveller support groups; and monitor complaints made to the Council.⁹²⁰

Where this is an issue, the NI Housing Executive, with the assistance of the relevant Council clean the area, but they can find it "difficult to maintain".⁹²¹ The public authorities in general reported difficulties in providing services for numerous reasons. For example, the NI Housing Executive supply bins, but they are often burned or stolen;⁹²² the bins are "infrequently, if at all" left by residents at the required location for collection;⁹²³ the bins are often contaminated;⁹²⁴ the Council is often not informed when the population levels change on a site;⁹²⁵ the bin collection staff can feel intimidated;⁹²⁶ or the tenants of the affected Travellers' sites may not be willing to take responsibility for the bins.⁹²⁷ Some Travellers believed the issue was driven by discriminatory attitudes of the relevant public authorities. As one person put it:

the NI Housing Executive are going back and saying they are getting a load of cheek off the Travellers, we're not. The bin men are going back to the NI Housing Executive and saying we are not going back up there... [they claim Travellers] are chasing them with spades. Lies, a load of lies... [the accusations that Travellers are] stealing the bins, burning the bins. Generally speaking, if a bin man came to empty your rubbish, why would you chase the bin men with a sword?... That is just nonsense.⁹²⁸

⁹¹⁶ Interview with a Councillor from Belfast City Council, 10 March 2017.

⁹¹⁷ Craigavon Inter Agency Forum on Travellers, 'Interagency Meeting re Traveller Issues, Craigavon Area', Craigavon Civic Centre, 15 December 2009, at para 3; Roundtable discussion with civil society organisations, 20 September 2016.

⁹¹⁸ Roundtable discussion with civil society organisations, 20 September 2016.

⁹¹⁹ Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

⁹²⁰ Interview with Council Officials at Belfast City Council, 6 February 2017; Response received from Environmental Health Representatives at Armagh, Banbridge and Craigavon Borough Council to Additional Questions from the NIHRC, 20 March 2017; Letter from Derry City and Strabane District Council to NIHRC, 29 March 2017.

⁹²¹ 'Minutes of Monthly Environmental Services Committee', 8 March 2012, at ES138/12.

⁹²² 'Chief Environmental Health Officer's Confidential Report', CARS Committee, 10 December 2014.

⁹²³ Ibid.

⁹²⁴ Response received from Environmental Health Representatives at Armagh, Banbridge and Craigavon Borough Council to Additional Questions from the NIHRC, 20 March 2017.

⁹²⁵ Interview with Council Officials at Belfast City Council, 6 February 2017.

⁹²⁶ Response received from Environmental Health Representatives at Armagh, Banbridge and Craigavon Borough Council to Additional Questions from the NIHRC, 20 March 2017.

⁹²⁷ 'Chief Environmental Health Officer's Confidential Report', CARS Committee, 10 December 2014; Interview with a representative of the Police Service NI: Interview B, 23 February 2017.

⁹²⁸ Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

Postal Services

According to South Tyrone Empowerment Programme lack of postal services is an issue for some Travellers:

for years... a lot of post was going to the NI Housing Executive's district office. Then their staff, whenever there was someone available, were coming out and distributing the post. But it could be two weeks... Then we discovered that each individual family or unit up on the site, there was no actual postal address for them. That had implications around a whole range of things – voting, accessing credit, or opening bank accounts etc.⁹²⁹

The NI Housing Executive understands this a historical issue, which has been resolved.⁹³⁰

Findings

The NIHRC's findings on availability of services for Travellers' accommodation in NI are:

i	The provision of most standard services (electricity, water, heating, drainage, sanitation, waste disposal) is regulated regarding all Travellers' accommodation.
ii	Generally standard services (electricity, water, heating, drainage, sanitation, waste disposal) are adequately available in practice within bricks and mortar Travellers' accommodation, including grouped housing.
iii	The standard services (electricity, water, heating, drainage, sanitation, waste disposal) are not adequately available in practice on some Travellers' sites.
iv	There are significant delays in standard services (adequate or otherwise) being provided on some Travellers' sites. This is forcing some Travellers to seek accommodation elsewhere that is not satisfactory for their cultural needs.
v	On occasion, a Travellers' site categorised and maintained by the NI Housing Executive as a transit site are occupied as a serviced site in practice.
vi	Travellers have made adaptations where adequate services are not provided. This includes relying on expensive and, at times, dangerous measures.
vii	The NI Housing Executive is looking at ways to improve service and facility provision on Travellers' sites, including introducing serviced site provision to transit sites. This is an ongoing process that was to run from 2015 to 2018.

⁹²⁹ Roundtable discussion with civil society organisations, 20 September 2016.

⁹³⁰ Letter from NI Housing Executive to NIHRC, 3 November 2017.

viii	The NI Housing Executive does not renovate unoccupied Travellers' accommodation. This is due to concerns about vandalism and efficient use of public money. As a result, Travellers are not always able to avail of services immediately when moving on to a new Travellers' site.
ix	On some Travellers' sites, the electricity supply is reportedly insufficient to meet demand and inadequately maintained.
x	There has reportedly been cases of illegal abstraction of electricity on some Travellers' sites.
xi	On some Travellers' sites, waste disposal can be inadequate. This can be for a variety of reasons – damaged bins; contamination; tenants unwilling to take responsibility; unreported population levels; staff intimidation; discrimination. It leads to unsanitary conditions and rodent infestations.
xii	On some Travellers' sites, until recently postal services were inadequate. This affects other areas such as voting, accessing credit or opening bank accounts.

Facilities

Domestic Laws and Policies

The 'Design Guide for Travellers' Sites in NI' provides sites should "have reasonable, safe and direct access onto a public road. It would be preferable if there was ready access to public transport routes".⁹³¹ It requires good sight lines; enough room to manoeuvre caravans on tow into and within the site; ramps to reduce vehicular speeds; good quality roadways; and footpaths at the entrance from the public road.⁹³² It identifies the potential need for and provision of community facilities; convenient off-site workspace; limited off-pitch parking; and grazing areas for horses and ponies, where reasonably practicable.⁹³³ It further provides "the site should be located within reasonable proximity (no more than 2 miles) from schools, shops, medical services, churches and community facilities".⁹³⁴

Concerning children's play areas, Planning Policy Statement 8 requires that:

for residential development of 100 units or more, or for development sites of five hectares or more, an equipped children's play area will be required as an integral part of the development. The Department will consider an exception to this requirement where an equipped children's play area exists within reasonable walking distance (generally around 400 metres) of the majority of the units within the development scheme.⁹³⁵

⁹³¹ Department of the Environment, 'Design Guide for Travellers' Sites in NI' (DoE, 1997), at para 2.8.

⁹³² *Ibid*, at paras 3.6-3.13.

⁹³³ *Ibid*, at paras 3.19-3.23.

⁹³⁴ *Ibid*, at para 2.8.

⁹³⁵ Planning Service, 'Planning Policy Statement 8 (PPS 8): Open Space, Sport and Outdoor Recreation: Policy OS 2 – Public Open Space in New Residential Development' (DoE, 2004), at 19-20.

The design guide states a play area:

of sufficient size must be provided on each permanent site... The play area should be located away from vehicular traffic and inaccessible to vehicles. It should be fenced and clearly defined with appropriate signage as a play area.⁹³⁶

Planning Policy HS 3 specifies Traveller-specific accommodation can include “where appropriate, the provision of workspace” to enable trade operations.⁹³⁷ Regarding animals, the NI Housing Executive’s licence agreement for transit and emergency halting sites states that only one domestic pet can be kept on site and no horses, donkeys or other non-domestic animals can be kept on the pitch, site or neighbouring NI Housing Executive land without the permission of the relevant district manager.⁹³⁸ The NI Housing Executive expressly prohibits bringing or keeping horses or other non-domestic animals on a permanent serviced pitch and/or Travellers’ site.⁹³⁹ However, the NI Housing Executive does “recognise that [keeping animals] is part of [Travellers’] culture too, so there has been leniency. It is not gung-ho, walk out, horse away. We work with the families and try our best”.⁹⁴⁰

When requested, Apex Housing Association can design sizeable hard-standing areas and stables for horses into its grouped housing schemes.⁹⁴¹ Radius Housing Association’s grouped housing schemes offer space and stables for animals.⁹⁴² Clanmil Housing Association adopt the same approach. Requests for areas for animals were not raised during its consultation process and such facilities were not included as a result. However, Clanmil are open to allowing animals if “it’s not causing any nuisance to anyone” and the animals are “well contained within the area”. It stressed “it has to be safe [to do so] and the animals have to be properly looked after”.⁹⁴³

The Police Service NI has powers to seize an animal found wandering on any public road and (if its owner is not known) impound it with a suitable person.⁹⁴⁴ The Police Service NI can also agree to pay that person any reasonable costs incurred in caring for the animal. The seizure must be publicised and, if no owner is forthcoming after 14 days, the Police Service NI can arrange for the animal to be sold and any proceeds subtracted against the cost of the maintenance. If the owner is established they can be prosecuted.⁹⁴⁵ An animal is “any horse (including pony, ass and mule), cattle, sheep, goat or swine or any deer not in the wild state”.⁹⁴⁶ Every horse or pony is required to be registered with a passport and microchip under the Horse Passports Regulation (NI) Order 2010. If registered the owner is easily identified. If not registered, the keeper is any person who owns the animal or has it in their possession. If the owner is under 16 years of age, the keeper is the head of the household.⁹⁴⁷

⁹³⁶ Department of the Environment, ‘Design Guide for Travellers’ Sites for NI’ (DoE, 1997), at para 3.16.

⁹³⁷ Department of the Environment, ‘Planning Policy Statement 12: Housing in Settlements – Policy HS 3 (Amended) Travellers Accommodation’ (DoE, 2013).

⁹³⁸ ‘HRAN/HSG/01/07: Traveller Transit and Emergency Sites Management Guidance Manual (Pilot)’, November 2006 at Appendix A, 17 and 24.

⁹³⁹ NI Housing Executive, ‘Written Statement under the Caravans Act (NI) 2011 Required to be given to a Proposed Tenant on a Pitch on a Serviced Site’, Date Unknown, at Tenant’s Obligations, para 10.

⁹⁴⁰ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

⁹⁴¹ Response received from Apex Housing Association to Additional Questions, 3 March 2017.

⁹⁴² Interview with representatives of Radius Housing Association, 2 February 2017.

⁹⁴³ Interview with representatives of Clanmil Housing Association, 8 March 2017.

⁹⁴⁴ Article 10, Animals (NI) Order 1976.

⁹⁴⁵ Article 93, Roads (NI) Order 1993.

⁹⁴⁶ Article 93(4), Roads (NI) Order 1993.

⁹⁴⁷ Article 2(2)(b), Animals (NI) Order 1976.

Domestic Practice

Children's Play Area

The 2008 Travellers' Accommodation Needs Assessment found that only 5 percent had access to a children's play area.⁹⁴⁸ Similar statistics are not available for the 2002 and 2014 surveys.⁹⁴⁹ Child safety was highlighted as an issue on some Travellers' sites. Residents were particularly concerned at the lack of safe play areas for children within their accommodation. This includes those living in standard social housing, private rented housing and Traveller-specific accommodation.⁹⁵⁰ Toybox stated:

there is no physical or defined place for a child. There is no play area... It's about child safety. One of the things we're trying to encourage parents is to get their children physically healthy, emotionally and socially. But the trailers are so close together there are no safe spaces. Cars and vans come into the sites... there are ramps on sites, but... [there are no] visual reminders to people that there are children about.⁹⁵¹

The Craigavon Travellers Support Committee requested play areas on some Travellers' sites.⁹⁵² The NI Housing Executive's response was "play provisions were the Council's responsibility".⁹⁵³

Caravans

Caravans that are not causing an obstruction are permitted long-term within Traveller-specific accommodation.⁹⁵⁴ Within standard social housing tenants cannot park caravans or trailers in their driveway.⁹⁵⁵ Within Apex Housing Association's standard social housing, as long as caravans are parked on the tenants' own driveway, there is no issue.⁹⁵⁶ This is not, however, a common policy among the interviewed housing associations. Often caravans in the driveways of standard social housing are prohibited by tenancy agreements.⁹⁵⁷ Radius Housing Association maintained "[we] appreciate that [Travellers] will say 'it's their culture to travel', but they've chosen to live in settled accommodation. It's striking that balance".⁹⁵⁸

Animals

A representative of the NI Housing Executive claimed "in NI, unlike [Ireland], the Councils here have what is known as grazing land. We would at all times direct [Travellers] to the local Council to rent grazing land for their horse".⁹⁵⁹ Yet securing land for grazing was reported to be an ongoing issue.⁹⁶⁰ Some Councillors believe that Councils are "not responsible for providing land for grazing purposes".⁹⁶¹ Others believe that

⁹⁴⁸ NI Housing Executive, 'Traveller Accommodation Needs Assessment in NI 2008' (NIHE, 2008), at Appendix 2, Tables 31 and 35; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at Appendix 2, Table 28.

⁹⁴⁹ Ibid.

⁹⁵⁰ Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 9, 30 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 12, 10 December 2016; Individual interview with members of the Traveller communities in NI: Interview 15, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017.

⁹⁵¹ Roundtable discussion with civil society organisations, 20 September 2016.

⁹⁵² Ibid.

⁹⁵³ Ibid.

⁹⁵⁴ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017; Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Radius Housing Association, 2 February 2017.

⁹⁵⁵ Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

⁹⁵⁶ Interview with representatives of Apex Housing Association, 7 February 2017.

⁹⁵⁷ Interview with representatives of Radius Housing Association, 2 February 2017.

⁹⁵⁸ Ibid.

⁹⁵⁹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

⁹⁶⁰ Craigavon Inter-Agency Forum on Travellers, 'Interagency Meeting re Traveller Issues, Craigavon Area', Craigavon Civic and Conference Centre, 11 November 2008, at para 3; Craigavon Inter-Agency Forum on Travellers, 'Interagency Meeting re Traveller Issues, Craigavon Area', Craigavon, 23 February 2010, at para 2.1.

⁹⁶¹ 'Town Clerk and Chief Executive's Report: Derry City Council', June 2009, at C244/09.

Councils “must be careful not to disadvantage or isolate the travelling community... [the] Council had a moral responsibility to have the matter resolved”.⁹⁶² A representative of the Police Service NI reported:

a horse is a big, big thing with Travellers. They have nowhere to put them and I have worked with [Travellers] for a long, long time trying to get them somewhere... [Travellers] want fields and want a piece of plot to say ‘this is where I am going to put my caravan and this is where I am going to graze my animals’. That’s what they want. They want to be left in peace.⁹⁶³

Consequently, Travellers put animals on land without authorisation and without the appropriate fencing or hedging. The animals gain access to roads and cause significant danger to motorists.⁹⁶⁴ Roaming dogs are also an issue.⁹⁶⁵ The Police Service NI responds by consulting with Travellers in a bid to resolve these issues. If the problems persist, the animals are confiscated.⁹⁶⁶ Often the animals are not reclaimed and have to be rehomed. A representative of the Police Service NI explained:

we were plagued with animals getting on the road... The problem is that when we arrived, no member of the Traveller community would take responsibility... it was denial, denial, denial. So it had come to the stage where I had no option but to seize the horses, they were a danger to the road. Ears would prick up then, still nobody would come forward because of the seizure bill and the vet’s bill and some animals were in a bad state... Sixteen horses I have had to seize over the course of a couple years and they were rehomed... It got the message across. I tried and tried and tried and I knew loads of Travelling men that had horses and I told them what was going to happen, but still nobody paid heed until eventually they realised I was deadly serious. It only took the seizure of about sixteen horses that this changed completely.⁹⁶⁷

Trade

The NI Housing Executive’s licence agreement for transit and emergency halting sites states that such sites cannot be used to carry out any trade or business, or for keeping scrap metal or similar materials.⁹⁶⁸ Such limitations are contrary to what the NI Housing Executive accepts as key features of Travellers’ culture.⁹⁶⁹ Apex Housing Association’s tenancy agreements do not permit the use of its property for commercial business, including grouped housing schemes.⁹⁷⁰ Apex did not receive any queries from grouped housing scheme tenants querying or seeking permission to trade on their premises.⁹⁷¹ This implies that Apex would consider such requests. Clanmil Housing Association’s properties are not built for such purposes.⁹⁷² Radius Housing Association does not accommodate areas for trade within its grouped housing schemes, as it reported issues around insurance and tax.⁹⁷³

⁹⁶² Ibid.

⁹⁶³ Interview with a representative of the Police Service NI: Interview A, 14 February 2017.

⁹⁶⁴ Craigavon Inter-Agency Forum on Travellers, ‘Interagency Meeting re Traveller Issues, Craigavon Area’, Craigavon Civic and Conference Centre, 11 November 2008, at para 3; Craigavon Inter Agency Forum on Traveller Issues, ‘Roles and Responsibilities of Member Organisations’, 3 February 2014, at 8; ‘Minutes of meeting between NI Housing Executive Travellers Support Unit, Craigavon Travellers Support Committee, Assistant Manager of Lurgan NI Housing Executive and Environmental Health’, at para 2.5.

⁹⁶⁵ ‘Minutes of meeting between NI Housing Executive Travellers Support Unit, Craigavon Travellers Support Committee, Assistant Manager of Lurgan NI Housing Executive and Environmental Health’, at para 2.5.

⁹⁶⁶ Interview with a representative of the Police Service NI: Interview A, 14 February 2017; Interview with a representative of the Police Service NI: Interview B, 23 February 2017; Interview with a representative of the Police Service NI: Interview E, 22 February 2017; Interview with a representative of the Police Service NI: Interview G, 8 March 2017.

⁹⁶⁷ Interview with a representative of the Police Service NI: Interview A, 14 February 2017.

⁹⁶⁸ ‘HRAN/HSG/01/07: Traveller Transit and Emergency Sites Management Guidance Manual (Pilot)’, November 2006, at Appendix A, 17 and 24.

⁹⁶⁹ NI Housing Executive, ‘HRC-Q3-4: Equality Bulletin Number 11 – Cultural Diversity Handbook’ (NIHE, 2005), at 31.

⁹⁷⁰ Response received from Apex Housing Association to Additional Questions, 3 March 2017.

⁹⁷¹ Ibid.

⁹⁷² Interview with representatives of Clanmil Housing Association, 8 March 2017.

⁹⁷³ Interview with representatives of Radius Housing Association, 2 February 2017.

Findings

The NIHRC's findings on availability of facilities for Travellers' accommodation in NI are:

i	The provision of children's play areas set out in the 'Design Guide for Travellers' Sites in NI' is not sufficiently prescriptive.
ii	A lack of adequate areas for children to safely play is an issue across all types of Travellers' accommodation. It is a particular concern regarding Travellers' sites.
iii	Generally parking caravans is permitted within Traveller-specific accommodation, as long as it does not cause an obstruction.
iv	Generally parking caravans within standard social housing is prohibited.
v	Adequate legislation is in place to deal with wandering animals.
vi	Reasonable provision will be made to accommodate Travellers' non-domestic animals within Traveller-specific accommodation.
vii	There is a lack of grazing land available for Travellers' non-domestic animals.
viii	Planning Policy HS 3 allows for the provision of workspace on Traveller-specific accommodation, where appropriate. However, the NI Housing Executive and relevant housing association's tenancy agreements prohibit trade within Travellers' accommodation.

Infrastructure: Roads and Pavements

Domestic Laws and Policies

Under the Regional Development Strategy 2035, the allocation of housing growth should consider the potential for integrating land use and public transport and walking and cycling routes.⁹⁷⁴ Planning Policy Statement 3 provides guidance around this, primarily placing an obligation on developers to ensure that roads to, from, or within their developments are accessible and safe.⁹⁷⁵

Domestic Practice

Some Travellers interviewed reported a lack of footpaths on Travellers' sites.⁹⁷⁶ Travellers are making their own speed ramps within Travellers' sites and the roadways of standard social housing.⁹⁷⁷ This highlights that vehicle safety is an issue and that is going unaddressed by the public authorities.

Findings

The NIHRC's findings on availability of adequate infrastructure for Travellers' accommodation in NI are:

- | | |
|---|--|
| i | Some Travellers' accommodation has an inadequate infrastructure including lack of footpaths and safety ramps. This is a particular issue on Travellers' sites. |
|---|--|

⁹⁷⁴ Department for Regional Development, 'Regional Development Strategy 2035' (DRD, 2010), at Table 3.2.

⁹⁷⁵ Planning Service, 'Planning Policy Statement 3 (PPS 3 Revised Feb 2005): Access, Movement and Parking' (DoE, 2005).

⁹⁷⁶ Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with members of the Traveller communities in NI: Interview 15, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

⁹⁷⁷ Observational visits to Travellers' accommodation across NI between November 2016 and April 2017; Individual interview with a member of the Traveller communities in NI: Interview 9, 30 November 2016.

5 Security of Tenure

The duty to provide adequate housing, including Travellers' accommodation, requires that residents have security of tenure. This duty engages:

Treaty	Article
ICESCR	11
ECHR	3
	8
	14
European Social Charter	16

The following soft law standards clarify what this requires:

UN ICESCR Committee
General Comment No 4: The Right to Adequate Housing ⁹⁷⁸
UN Human Rights Council
Report of the UN Special Rapporteur on the Right to Adequate Housing and Non-Discrimination ⁹⁷⁹
CoE Committee of Ministers
Recommendation on improving the housing conditions of Roma and Travellers in Europe ⁹⁸⁰
CoE Commissioner for Human Rights, Thomas Hammarberg
Recommendation on the Implementation of the Right to Adequate Housing ⁹⁸¹

Human Rights Laws and Standards

United Nations

The ICESCR Committee, General Comment No 4, recognises "tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owneroccupation, emergency housing and informal settlements, including occupation of land or property".⁹⁸²

In order to comply with the right to adequate housing, States must ensure that:

notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take

⁹⁷⁸ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991.

⁹⁷⁹ A/HRC/22/46, 'Report of the Special Rapporteur on the Right to Adequate Housing as a Component of the Right to Adequate Housing and on the Right to Non-Discrimination in this Context, Raquel Rolnik', 24 December 2012.

⁹⁸⁰ CoE, 'Recommendation Rec(2005)4 of the Committee of Ministers on improving the housing conditions of Roma and Travellers in Europe', 25 February 2005.

⁹⁸¹ CommDH(2009)5, 'Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing', 30 June 2009.

⁹⁸² E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 8(a).

immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.⁹⁸³

The former UN Special Rapporteur on the Right to Adequate Housing, Raquel Rolnik, highlighted that “access to secure housing and land is a prerequisite for human dignity and an adequate standard of living”.⁹⁸⁴ She further commented “self-made and unplanned settlements with precarious housing conditions epitomise tenure insecurity in a very visible form”.⁹⁸⁵ Informal settlements are not the only example of tenure insecurity, a wide range of groups may be insecure including people on land set aside or affected by development projects, tenants with or without leases/titles, those in informal settlements or formal contexts and nomadic groups.⁹⁸⁶

There is an immediate obligation to ensure a minimum degree of security of tenure for all,⁹⁸⁷ including low-income groups, informal settlers and minorities.⁹⁸⁸ It must include:

- (a) legal protection from forced eviction, harassment and other threats;
- (b) recognition-legally by other authorities, but also by private actors of the right to live in a secure place in peace and dignity (including receiving support from authorities and equal access to and availability of all public services;
- (c) justiciability - in other words, security of tenure must be enforceable; and
- (d) any other aspect required as a step towards the enjoyment of other components of the right to adequate housing.⁹⁸⁹

Council of Europe

The ECHR, Articles 8 (right to respect for private and family life), 14 (right to non-discrimination, when exercising other ECHR rights), and, in serious cases, 3 (prohibition of torture, inhuman and degrading treatment) may be engaged where a person’s legal security of tenure is impeded due to intimidation and harassment. For example, in the case of *Moldovan v Romania (No 2)* (2005) the applicants alleged that following the murder of a non-Roma villager and three Roma villagers, the police encouraged a crowd to destroy properties. Thirteen Roma homes were destroyed, including those of the seven applicants. The ECtHR concluded the overt and unjustifiable differential treatment from the public authorities towards Roma and the repeated failure of the public authorities to prevent the extreme intimidation and harassment of the Roma amounted to a violation of these three provisions in this case.⁹⁹⁰

The former CoE Human Rights Commissioner, Thomas Hammarberg stated “security of tenure has a dual meaning: it is a measure toward fulfilment of the right to housing on one hand, and it is used as a counter-measure aimed at preventing unpredictable homelessness on the other”.⁹⁹¹ He further emphasised that States should legislate to create security of tenure for tenants or to create rights to accommodation for

⁹⁸³ Ibid.

⁹⁸⁴ A/HRC/22/46, ‘Report of the Special Rapporteur on the Right to Adequate Housing as a Component of the Right to Adequate Housing and on the Right to Non-Discrimination in this Context, Raquel Rolnik’, 24 December 2012, at para 1.

⁹⁸⁵ Ibid, at para 9.

⁹⁸⁶ This is not an exhaustive list. See *ibid*, at para 11.

⁹⁸⁷ Ibid, at paras 48-49.

⁹⁸⁸ Ibid, at para 50.

⁹⁸⁹ Ibid, at para 69.

⁹⁹⁰ *Moldovan and Others v Romania (No 2)* (2005) ECHR 473, at paras 107-109, 113 and 140.

⁹⁹¹ CommDH(2009)5, ‘Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing’, 30 June 2009, at para 3.1.1.

the homeless.⁹⁹² Additionally, “the tenant must be protected against unfair or disproportionate contractual conditions, faults and deficiencies in the dwelling, and indiscriminate rent rises or termination of contract”.⁹⁹³

The CoE Committee of Ministers recommends that Member States “make every effort to resolve the undefined legal status of Roma settlements as a precondition for further improvements”.⁹⁹⁴ The Committee of Ministers includes Travellers within the definition of Roma. The CoE Committee of Ministers provide that Member States, through their relevant authorities, should also consider appropriate mechanisms to enable nomadic and semi-nomadic people to acquire caravans or mobile homes through low interest loans or other financial schemes, which do not put them at a disadvantage with regard to possibilities offered to sedentary people.⁹⁹⁵

The ECRI definition of Roma also includes Travellers.⁹⁹⁶ The ECRI recommended that States take steps to legalise the occupation of Traveller sites or dwellings built in breach of town planning regulations, once the situation has been tolerated for a long period by the public authorities.⁹⁹⁷

Legal Security of Tenure

Domestic Laws and Policies

Security of tenure is governed by the Housing (NI) Order 1983, as amended. This legislation defines dwelling houses to include, a house or part of a house or land let together with a dwelling house, unless it is agricultural land exceeding two acres.⁹⁹⁸ After the completion of a one-year introductory tenancy, residents in bricks and mortar accommodation owned by social landlords have security of tenure.⁹⁹⁹ Social housing landlords must provide tenants with a written copy of the tenancy agreement.¹⁰⁰⁰ The 1983 Order, Article 28, provides that a secure tenancy may only be brought to an end by a court order. This notice shall be in a form set out in regulations.¹⁰⁰¹ The Housing (NI) Order 2003 provides that, in respect of introductory tenancies, social housing landlords must provide the introductory tenant with a written statement of the tenancy terms.¹⁰⁰² In addition, the landlord may only bring an introductory tenancy to an end by obtaining a court order for the possession of the dwelling-house.¹⁰⁰³

The Caravans Act (NI) 2011 contains protections for those living in caravans. Part one of the Act applies to residential occupiers on protected sites. Protected sites are permanent sites that can be utilised all year round.¹⁰⁰⁴ A residential occupier is one who is entitled to station their caravan on a protected site and occupy it as their main residence for more than twelve months.¹⁰⁰⁵ Owners of protected caravan sites are required to provide caravan owners with a written statement on specified issues. These include the names and addresses of the parties, particulars about the land on which the occupier is entitled to station the caravan, and the express terms to be contained within the agreement within 28 days.¹⁰⁰⁶ The 2011 Act contains provisions to

⁹⁹² Ibid, at para 2.3.

⁹⁹³ Ibid, at para 3.1.1.

⁹⁹⁴ CoE, ‘Recommendation Rec(2005)4 of the Committee of Ministers on improving the housing conditions of Roma and Travellers in Europe’, 25 February 2005, at para 24.

⁹⁹⁵ Ibid, at para 44.

⁹⁹⁶ CRI(2011)37, ‘ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma’, 24 June 2011, at para 6(e).

⁹⁹⁷ Ibid.

⁹⁹⁸ Article 24, Housing (NI) Order 1983.

⁹⁹⁹ Article 7, Housing (NI) Order 2003.

¹⁰⁰⁰ Article 38(3), Housing (NI) Order 1983.

¹⁰⁰¹ Article 28, Housing (NI) Order 1983.

¹⁰⁰² Article 18(2), Housing (NI) Order 2003.

¹⁰⁰³ Article 9(9), Housing (NI) Order 2003

¹⁰⁰⁴ Section 17, Caravans Act (NI) 2011.

¹⁰⁰⁵ Section 1, Caravans Act (NI) 2011.

¹⁰⁰⁶ Section 2, Caravans Act (NI) 2011

enable the County Court to hear matters and to make decisions relating to residential agreements. Arbitration is available as an alternative to court proceedings, where the parties have agreed in writing to this course of action.¹⁰⁰⁷

Part two of the 2011 Act applies to seasonal holiday caravan owners and requires owners of caravan sites to provide caravan owners with written statements clearly setting out the terms of their agreement.¹⁰⁰⁸ In the case of a seasonal agreement, the minimum period is 28 days or for a shorter period agreed in writing with the proposed occupier.¹⁰⁰⁹ The protections of part two of the Act extend to Travellers on transit sites.¹⁰¹⁰

Specific to Travellers' sites that are transient in nature, the NI Housing Executive's 'Traveller Transit and Emergency Sites Management Guidance Manual' stipulates a licence agreement is required for the occupancy of transit or emergency halting sites.¹⁰¹¹ The relevant officer should ensure that the licence is signed and understood.¹⁰¹² The licence is for 28 days and defines the entitlements and responsibilities of both parties, both the NI Housing Executive and the licensee. At the end of the 28 days, the licence can be renewed up to a maximum of three times, per annum, on any particular site. If a family refuses to move after the licence period has expired, the relevant housing provider should seek legal advice.¹⁰¹³ The manual also requires a designated officer to monitor emergency halting or transit Travellers' sites on a daily basis.¹⁰¹⁴

The NI Housing Executive has a co-operation policy that allows Travellers to temporarily camp on public land. This policy is not a substitute for serviced, transit or emergency halting Travellers' sites. It "is meant as a humane requirement rather than an alternative to permanent sites".¹⁰¹⁵ A number of criteria must be satisfied for the policy to be utilised. Travellers are permitted to remain on the public land under this policy, as long as occupation on the site does not create a public health hazard, pollution, or a traffic hazard.¹⁰¹⁶ The policy only applies where there is no other immediate use for the public land and with the understanding that it does not create a right to long-term use of the site.¹⁰¹⁷ Occupation must be reviewed regularly and occur at least every three months.¹⁰¹⁸ The occupants must also "behave in a reasonable and orderly manner".¹⁰¹⁹ Changes must not be made to the land and occupants must not carry out construction or other works on the land.¹⁰²⁰ The land must not be used for business activities. Occupants must not keep non-domestic pets on the land and must keep domestic pets on the land under control.¹⁰²¹

The Rent (NI) Order 1978 and the Private Tenancies (NI) Order 2006 set out the law on the private rented sector and the powers of local Councils to enforce the legislation. This legislative framework is relevant, as some Travellers reside within the private rented sector. It requires landlords to provide a written statement of the tenancy agreement's terms. If a contract does not provide for the duration of a tenancy term, the 2006 Order provides for a default term of six months.¹⁰²²

¹⁰⁰⁷ Section 6, Caravans Act (NI) 2011.

¹⁰⁰⁸ Section 8(1), Caravans Act (NI) 2011.

¹⁰⁰⁹ Section 8(2), Caravans Act (NI) 2011.

¹⁰¹⁰ Response received from Department for Communities to Additional Questions from the NIHRC, 23 February 2017.

¹⁰¹¹ The manual was produced on a pilot basis, but according to the NI Housing Executive, this has been adopted on a permanent basis by the NI Housing Executive's Traveller Policy Unit. See Letter from NI Housing Executive to NIHRC, 20 March 2017.

¹⁰¹² HRAN/HSG/01/07, 'NI Housing Executive's Traveller Transit and Emergency Sites Management Guidance Manual (Pilot)', at para 5.1.

¹⁰¹³ *Ibid.*

¹⁰¹⁴ *Ibid.*, at para 6.1.

¹⁰¹⁵ Available at: https://www.nihe.gov.uk/index/advice/advice_for_travellers/co-operation_policy.htm

¹⁰¹⁶ NI Housing Executive, 'HRC-Q2-6: Co-operation Policy Guidelines: Code of Conduct', Date Unknown.

¹⁰¹⁷ *Ibid.*

¹⁰¹⁸ *Ibid.*

¹⁰¹⁹ *Ibid.*

¹⁰²⁰ *Ibid.*

¹⁰²¹ *Ibid.*

¹⁰²² Article 13, Private Tenancies (NI) Order 2006.

The Tenancy Terms Regulations (NI) 2007 requires that a tenant is given at least four weeks written notice of the date on which a notice to quit is due to take effect.¹⁰²³ The Department for Communities published proposals in January 2017 to make changes to strengthen security of tenure in NI's private rented sector. They included amending legislation to ensure that private tenants receive a written agreement. This must contain mandatory terms, regardless of the length or type of tenancy. They also proposed amending the notice to quit period from four weeks to two months for tenancies lasting longer than 12 months.¹⁰²⁴

Domestic Practice

Provision of Agreements and Licences

The website NI Direct provides both brief and detailed guidance on the Caravans Act (NI) 2011.¹⁰²⁵ These do not address the situation of Travellers. Instead, anyone looking for more detailed guidance on how the Act applies to Travellers' sites should contact the NI Housing Executive directly.¹⁰²⁶ The Department for Communities confirmed that Travellers on the NI Housing Executive's serviced sites are covered under the 2011 Act and that this "gives security of tenure for park home residents and promotes a culture of openness and transparency by requiring written statements which clearly set out the terms of the agreement between the site owner and the caravan owner".¹⁰²⁷

A NI Housing Executive representative confirmed that leases under the 2011 Act "more or less mirror normal NI Housing Executive tenancy agreements".¹⁰²⁸

The majority of Travellers interviewed, who lived in all types of permanent social housing, had an introductory tenancy or a secure tenancy.¹⁰²⁹ One Traveller reported having to terminate a contract for life due to intimidation.¹⁰³⁰ Another, living in grouped housing remembered signing a contract, but was unsure how long it remained valid.¹⁰³¹ In terms of hostel accommodation, an interviewed Traveller who was living in such accommodation had not signed an agreement.¹⁰³²

A Traveller living in private rented accommodation reported having an initial contract, but was unsure if it remained valid.¹⁰³³ One Traveller was homeless and moving between the homes of family members, with no security of tenure.¹⁰³⁴ Another Traveller had been affected by the closure of a Travellers' site and was consequently sofa surfing.¹⁰³⁵ These situations of homelessness had occurred because the affected Travellers viewed the alternative accommodation offered by the NI Housing Executive as unsuitable due to type, location or compatibility issues.

¹⁰²³ Article 14, Private Tenancies (NI) Order 2006; Regulation 2, Schedule to the Tenancy Terms Regulations (NI) 2007.

¹⁰²⁴ Department for Communities, 'Private Rented Sector: Proposals for Change', January 2017, at 34.

¹⁰²⁵ Available at: <https://www.nidirect.gov.uk/publications/caravans-act-detailed-guidance>; Available at: <https://www.nidirect.gov.uk/publications/short-guide-caravans-act-ni-2011>.

¹⁰²⁶ Available at <https://www.nidirect.gov.uk/publications/caravans-act-detailed-guidance>; Letter from Department for Communities to NIHRC, 7 November 2017.

¹⁰²⁷ Response received from Department for Communities to Additional Questions from the NIHRC, 23 February 2017.

¹⁰²⁸ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁰²⁹ Individual interview with a member of the Traveller communities in NI: Interview 2; Group Interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 9, 30 November 2016; Group interview with members of the Traveller communities in NI: Interview 13, 14 December 2016; Individual interview with a member of the Traveller communities in NI: Interview 14, 14 December 2016; Individual interview with a member of the Traveller communities in NI: Interview 18, 25 January 2017; Group interview with an individual member of the Traveller communities in NI and an advocate, Interview 26, 5 April 2017.

¹⁰³⁰ Individual interview with a member of the Traveller communities in NI: Interview 24, 9 March 2017.

¹⁰³¹ Individual interview with a member of the Traveller communities in NI, Interview 23, 13 February 2017.

¹⁰³² Individual interview with a member of the Traveller communities in NI: Interview 11, 10 December 2016.

¹⁰³³ Individual interview with a member of the Traveller communities in NI: Interview 12, 10 December 2016.

¹⁰³⁴ Individual interview with a member of the Traveller communities in NI; Interview 20, 25 January, 2017.

¹⁰³⁵ Group interview with members of the Traveller communities in NI: Interview 6, 30 November 2016.

Some interviewed Travellers on permanent serviced sites had signed agreements.¹⁰³⁶ One Traveller, who had been living on a site for an extended period, did not know whether they had a contract or how long they could stay on the site.¹⁰³⁷ Another Traveller had no contract or legal security of tenure, as they were squatting on Council land.¹⁰³⁸ It was the same for another Traveller, who had unofficially pitched adjacent to a transit Travellers' site.¹⁰³⁹ On one particular Travellers' site, the residents had been living on it for a number of years without agreements.¹⁰⁴⁰ It was located on land owned by Clanmil Housing Association and maintained by the NI Housing Executive. Therefore, it is categorised as a de facto serviced site for the purposes of this investigation.

The NI Housing Executive said it had a 'Service Level Agreement' to look after the maintenance of the de facto serviced site, but not the management of the site.¹⁰⁴¹ When Clanmil originally purchased the land, the intention was to develop the site for a grouped housing scheme.¹⁰⁴² On one part of the site, a grouped housing scheme was developed for a particular family. However, on the other part of the site, the intended additional grouped housing scheme was not developed, at the request of the family.¹⁰⁴³ The corresponding planning permission has expired.¹⁰⁴⁴ Clanmil finds "almost by default now we're holding on to a site which is occupied by Travellers and caravans, which was never our intention or remit".¹⁰⁴⁵ It was "verbally advised" that the NI Housing Executive was intending to withdraw from the Service Level Agreement.¹⁰⁴⁶ In November 2017, the Service Level Agreement was still in place.¹⁰⁴⁷ However, if the NI Housing Executive does terminate the agreement, Clanmil is concerned "what that would mean for the families living on the site... [because] we couldn't manage and maintain a caravan site, as well as our management of the wider site in terms of asset management and our role of providing homes to meet social housing need".¹⁰⁴⁸ Clanmil is "attempting to see how working with all stakeholders, [it] could address the issue around the management and maintenance of the [Travellers'] site, as well as delivering some social housing on the rear part of the site".¹⁰⁴⁹

The uncertainty around this site and the lack of licence agreements for the existing residents, raised concerns regarding the security of tenure of those currently on that particular site. In terms of how long they were guaranteed to live on the site, in November 2017, Clanmil did not know. A representative of Clanmil explained "we are exploring with our partners... what we can provide within the interests of the Travellers who live there. I can't give you a timeline on that".¹⁰⁵⁰ Belfast City Council confirmed that because the site had existed for at least 15 years, it had passed the five-year time limit for enforcement action.¹⁰⁵¹

Regarding emergency halting and transit Travellers' sites, there are issues relating to provision of tenancy agreements. Several Travellers residing on transit Travellers' sites reported they did not have an agreement

¹⁰³⁶ Group interview with members of the Traveller communities in NI: Interview 7, 30 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 14, 14 December 2016;

¹⁰³⁷ Individual interview with a member of the Traveller communities in NI: Interview 1, 7 November 2017.

¹⁰³⁸ Individual interview with a member of the Traveller communities in NI: Interview 5, 29 November 2016.

¹⁰³⁹ Individual interview with a member of the Traveller communities in NI: Interview 15, 14 December 2016.

¹⁰⁴⁰ Individual interview with a member of the Traveller communities in NI: Interview 21, 10 February 2017.

¹⁰⁴¹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁰⁴² Interview with representatives of Clanmil Housing Association, 8 March 2017.

¹⁰⁴³ Letter from Clanmil Housing Association to the NIHRC, 30 September 2016.

¹⁰⁴⁴ Planning Decision, 'Z/2007/2445/F', 6 March 2009; Response received from Planning Department Representatives at Belfast City Council to Additional Questions from the NIHRC, 17 March 2017; Section 61, Planning Act (NI) 2011.

¹⁰⁴⁵ Interview with representatives of Clanmil Housing Association, 8 March 2017.

¹⁰⁴⁶ Letter from Clanmil Housing Association to NIHRC, 10 November 2017.

¹⁰⁴⁷ Ibid.

¹⁰⁴⁸ Ibid.

¹⁰⁴⁹ Ibid.

¹⁰⁵⁰ Interview with representatives of Clanmil Housing Association, 8 March 2017.

¹⁰⁵¹ Interview with officials from Belfast City Council, 6 February 2017; Section 61, Planning Act (NI) 2011.

or a licence.¹⁰⁵² The NI Housing Executive's Travellers' Accommodation Needs Assessment reported in 2014, 15 (32 percent) out of 47 respondents had a licence for their site, 11 (23 percent) did not, and the remaining 21 (45 percent) did not know if they had a licence or not.¹⁰⁵³ The 2002 and 2008 assessments did not ask this question.

A representative of the NI Housing Executive said "everybody gets a copy of the licence agreement of roughly about 15 pages and it defines the terms and everything".¹⁰⁵⁴ The NI Housing Executive reported facing challenges in getting licences signed.¹⁰⁵⁵ For example, on one site where three pitches were occupied, the tenants of two pitches signed a tenancy agreement and the tenants of the remaining pitch refused to sign. If an agreement is not signed, it is referred to the NI Housing Executive's legal department.¹⁰⁵⁶ However, the NI Housing Executive found it "hard to enforce if [Travellers] refuse to sign" a tenancy agreement.¹⁰⁵⁷ There can be difficulties in contacting the unsigned tenants and a number of visits may be required to get agreements signed.¹⁰⁵⁸ The NI Housing Executive claims that it persists until an agreement is signed.¹⁰⁵⁹ South Tyrone Empowerment Programme was concerned, even when completed licence agreements for transient sites are obtained, that:

these temporary tenancies... roll over... [This] has an impact on whether [the NI Housing Executive] actually do anything about the Traveller need. It doesn't show the real need because people are in this 3 month rolling tenancies they're not counted as being in housing need.¹⁰⁶⁰

Changes to Social Security Benefits

Changes or suspension of social security benefits, such as Housing Benefit, affects Travellers' security of tenure. Civil society organisations highlighted a number of contributing factors. These included Travellers missing social security appointments, failing to respond to letters, or "mix ups in Housing Benefit payments that have accrued over time".¹⁰⁶¹ These issues can lead to the suspension of Housing Benefit, resulting in housing debt and homelessness.¹⁰⁶² An interviewed Traveller reported a mix-up over Housing Benefit caused them to accrue a £17,500 housing debt before becoming homeless.¹⁰⁶³ A public authority's failure to accommodate special needs, such as literacy issues or inadequate postal services on Travellers' sites, can exacerbate these issues.¹⁰⁶⁴

Provision of Caravans

Housing Benefit can be paid to cover the costs of private caravan rental payments on NI Housing Executive pitches. In one example, a Traveller had a contract providing tenure for life for their pitch on a Travellers' site, but they were renting their mobile homes from a private rental contractor. The private contractor gave the Traveller a year's notice that they were to cease caravan rentals and any associated upgrading.¹⁰⁶⁵ This

¹⁰⁵² Individual interview with a member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with a member of the Traveller communities in NI, Interview 22, 10 February 2017; Individual interview with a member of the Traveller communities in NI: Interview 25, 9 March 2017.

¹⁰⁵³ NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2015), at Table 33.

¹⁰⁵⁴ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017.

¹⁰⁵⁵ Ibid; Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017; Interview with representatives of the NI Housing Executive: Interview A, 30 January 2017.

¹⁰⁵⁶ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

¹⁰⁵⁷ Ibid.

¹⁰⁵⁸ Interview with representatives of the NI Housing Executive: Interview A, 25 February 2017.

¹⁰⁵⁹ Ibid; Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

¹⁰⁶⁰ Roundtable discussion with civil society representatives, 20 September 2016.

¹⁰⁶¹ Ibid.

¹⁰⁶² Ibid; Individual interview with a member of the Traveller Communities in NI: Interview 20, 25 January 2017.

¹⁰⁶³ Individual interview with a member of the Traveller communities in NI: Interview 20, 25 January 2017.

¹⁰⁶⁴ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁰⁶⁵ Individual interview with a member of the Traveller communities in NI: Interview 8, 30 November 2016.

development affected the Travellers' security of tenure as they were unsure whether the caravan would be removed at the end of the year's notice.¹⁰⁶⁶ The Traveller had been looking for a new private contractor to provide their caravan, but no one was willing to offer them a rental contract for a new caravan.¹⁰⁶⁷ It appeared buying was their only option if they wished to continue to live in a caravan. The Traveller reported "I don't have the money for a new caravan".¹⁰⁶⁸ Under the Housing (NI) Order 1981, the NI Housing Executive is restricted to providing bricks and mortar accommodation.¹⁰⁶⁹ Furthermore, Article 125 of the Housing (NI) Order 2003 permits the NI Housing Executive to provide Travellers' sites, but makes it clear that the NI Housing Executive "shall not have power under this Article to provide caravans".¹⁰⁷⁰ Therefore, the NI Housing Executive would be acting ultra vires if it entered into contracts that would allow the procurement of caravans for the purposes of rentals agreements.

Intimidation

Some members of the Traveller communities in NI have experienced threats of intimidation and violence from the settled community, which affects security of tenure. The Armagh Travellers Support Group reported a case where a Traveller experienced violence, which caused the family to move to another area.¹⁰⁷¹ In a different area, another Traveller family terminated their lease due to alleged intimidation. The affected Traveller said:

I have never been evicted and I am not being evicted, but we just can't live with the abuse and getting threatened. . . . Since we moved here, because I am a Traveller I have never been welcomed with the community and then we got a death threat, [that we have] to leave with no reason.¹⁰⁷²

Similarly, another Traveller reported:

I've moved to a caravan. Before then I had an apartment. Just last week, two bedrooms. Everything was going lovely. Everything was great with the kids and stuff. Then all of a sudden, masked men comes to the door and tells you to leave. There is no reason for it.¹⁰⁷³

The NI Housing Executive were aware there were threats that came from within the Traveller communities, but "when we wanted to take [the affected Travellers] through the homelessness [procedure], they were very loath to give us the full reasons or the full picture of what had occurred or happened".¹⁰⁷⁴ The Police Service NI also had experience of feuds between families in the Traveller communities in NI.¹⁰⁷⁵ These internal issues affect security of tenure in the same way as intimidation from the settled community.

Some believe the responses of the public authorities to these threats are inadequate. One Traveller said they felt the Police Service NI and the housing provider could have done more to help. When seeking assistance from public authorities they were told, "would you not be better leaving"?¹⁰⁷⁶ The NI Housing Executive has an anti-social behaviour policy that applies in respect of Travellers, as well as the settled community.¹⁰⁷⁷ Yet, the Armagh Travellers Support Group found that when "we went to the NI Housing Executive [seeking assistance with a case of intimidation] . . . they were very hesitant to get involved".¹⁰⁷⁸

¹⁰⁶⁶ Ibid.

¹⁰⁶⁷ Ibid.

¹⁰⁶⁸ Ibid.

¹⁰⁶⁹ Article 27, Housing (NI) Order 1981.

¹⁰⁷⁰ Article 25(6), Housing (NI) Order 2003.

¹⁰⁷¹ Interview with representative of Armagh Travellers Support Group, 25 January 2017.

¹⁰⁷² Individual interview with a member of the Traveller communities: Interview 24, 9 March 2017.

¹⁰⁷³ Individual interview with a member of the Traveller communities: Interview 25, 9 March 2017.

¹⁰⁷⁴ Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

¹⁰⁷⁵ Interview with a representative of the Police Service NI: Interview B, 23 February 2017.

¹⁰⁷⁶ Individual interview with a member of the Traveller communities in NI: Interview 24, 9 March 2017.

¹⁰⁷⁷ Letter from NI Housing Executive to NIHRC, 3 November 2017.

¹⁰⁷⁸ Interview with representative of Armagh Travellers Support Group, 25 January 2017.

Findings

The NIHRC's findings on security of tenure on Travellers' accommodation in NI are:

i	There is publicly available guidance on the Caravans Act (NI) 2011, but it does not elaborate on how this legislation applies to Travellers accommodation.
ii	The NI Housing Executive has failed in some instances to ensure that Travellers have site licence agreements. This is a particular issue on transit Travellers' sites.
iii	Changes or suspension of social security benefits can negatively affect security of tenure, resulting in housing debt and, in some cases, homelessness.
iv	The NI Housing Executive has a statutory duty to provide bricks and mortar social housing and Travellers' sites. It appears that it cannot provide caravans for Travellers.
v	Some Travellers with legal security of tenure have experienced incidents of intimidation that has forced them to leave their homes.
vi	Some believe the public authorities' response to reports of intimidation were inadequate.
vii	Some Travellers have been living on a de facto serviced Travellers' site in NI for many years. This has implications in relation to security of tenure for those living on the site.

6 Forced Eviction, Harassment and Other Threats

The duty to provide adequate housing, including Travellers' accommodation, requires protection from forced eviction, harassment and other threats. This duty engages:

Treaty	Article
ICCPR	17
ICESCR	2
	3
	11
CRC	3
	27
ECHR	8
European Social Charter	16

The following soft law standards clarify what this requires:

UN ICESCR Committee
General Comment No 4: The Right to Adequate Housing ¹⁰⁷⁹
General Comment No 7: Forced Evictions ¹⁰⁸⁰
Concluding Observations on the Sixth Periodic Report of the UK and NI ¹⁰⁸¹
UN Human Rights Committee
General Comment No 16: Right to Privacy ¹⁰⁸²
UN Human Rights Council
UN Basic Principles on Development Based Evictions and Displacement ¹⁰⁸³
Report of the UN Special Rapporteur on the Right to Adequate Housing as a Component of the Right to Adequate Housing and on the Right to Non-Discrimination in this Context ¹⁰⁸⁴

¹⁰⁷⁹ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991.

¹⁰⁸⁰ E/1998/22, 'ICESCR Committee General Comment No 7: Forced Evictions', 20 May 1997.

¹⁰⁸¹ E/C.12/GBR/CO/6, 'Concluding Observations on the Sixth Periodic Report of the United Kingdom of Great Britain and NI', 24 June 2016.

¹⁰⁸² Human Rights Committee, 'General Comment No 16: Article 17 on the Right to Privacy', 8 April 1988.

¹⁰⁸³ A/HRC/4/18, 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standards of Living, Miloon Kothari', 5 February 2007, at Annex I.

¹⁰⁸⁴ A/HRC/22/46, 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living and on the Right to Non-Discrimination in this Context, Raquel Rolnik', 24 December 2012.

CoE Committee of Ministers
Recommendation on improving the housing conditions of Roma and Travellers in Europe ¹⁰⁸⁵
Recommendation on the Movement and Encampment of Travellers in Europe ¹⁰⁸⁶
CoE European Commission against Racism and Intolerance
Recommendation No 13: Combating anti-gypsyism and discrimination against Roma ¹⁰⁸⁷
CoE Commissioner for Human Rights, Alvaro Gil Robles
Report on the Human Rights Situation of the Roma, Sinti and Travellers in Europe ¹⁰⁸⁸
CoE Commissioner for Human Rights, Thomas Hammarberg
Recommendation on the Implementation of the Right to Adequate Housing ¹⁰⁸⁹
CoE Commissioner for Human Rights, Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing, Miloon Kothari
Joint Statement ¹⁰⁹⁰

Human Rights Laws and Standards

United Nations

The ICCPR, Article 17, provides:

1. no-one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence; and
2. everyone has the right to the protection of the law against such interference.

The UN Human Rights Committee, General Comment No 16, specifies that States are obliged to adopt legislative and other measures to give effect to the prohibition against such interferences.¹⁰⁹¹

The ICESCR Committee, General Comment No 7, highlights the importance of effective protection against forced evictions. It requires legislation includes measures which:

- (a) provide the greatest possible security of tenure to occupiers of houses and land;
- (b) conform to the [ICESCR]; and
- (c) are designed to control strictly the circumstances under which evictions may be carried out. The legislation must also apply to all agents acting under the authority of the State or who are accountable to it.¹⁰⁹²

¹⁰⁸⁵ CoE, 'Recommendation Rec(2005)4 of the Committee of Ministers on improving the housing conditions of Roma and Travellers in Europe', 25 February 2005.

¹⁰⁸⁶ CoE, 'Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe', 1 December 2004.

¹⁰⁸⁷ CRI(2011)37, 'ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma', 24 June 2011.

¹⁰⁸⁸ CommDH(2006)1, 'Final Report by Mr Alvaro Gil-Robles, CoE Commissioner for Human Rights, on the Human Rights Situation of the Roma, Sinti and Travellers in Europe', 15 February 2006.

¹⁰⁸⁹ CommDH(2009)5, 'Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing', 30 June 2009.

¹⁰⁹⁰ CommDH/Speech(2007)16, 'Joint Statement by CoE Commissioner for Human Rights Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari: Governments Should Take Positive Steps to Protect the Housing Rights of Roma in Europe', 24 October 2007.

¹⁰⁹¹ Human Rights Committee, 'General Comment No 16: Article 17 on the Right to Privacy', 8 April 1988, at 1.

¹⁰⁹² E/1998/22, 'ICESCR Committee General Comment No 7: Forced Evictions', 20 May 1997, at para 9.

The ICESCR's non-discrimination provisions "impose additional obligations on the government to ensure that, where evictions do occur, appropriate measures are taken to ensure that no form of discrimination is involved".¹⁰⁹³

Forced evictions are considered "incompatible with the requirements of the [ICESCR]" and "can only be justified in the most exceptional circumstances."¹⁰⁹⁴ The reference in ICESCR, Article 2, to progressive achievement based on available resources will "rarely be relevant" to forced evictions.¹⁰⁹⁵ There are a number of procedural requirements that should be followed by States where forced evictions occur. The requirements include:

- (a) an opportunity for genuine consultation with those affected;
- (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;
- (c) information on the proposed evictions;
- (d) government officials or their representatives to be present during an eviction;
- (e) all persons carrying out the eviction to be properly identified; and
- (f) evictions do not take place in particularly bad weather or at night, unless the affected persons consent otherwise.¹⁰⁹⁶

In terms of unauthorised encampments, the ICESCR Committee recommends the Unauthorised Encampments (NI) Order 2005 is repealed.¹⁰⁹⁷

The CRC, Article 3, requires the State to act in the "best interests of the child". Article 27 requires the State to "recognise the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development".

The former UN Special Rapporteur on Adequate Housing, Miloon Kothari, published detailed principles and guidelines in respect of development-based evictions.¹⁰⁹⁸ Some of these are relevant to Travellers' accommodation. Prior to deciding to initiate an eviction, the authorities must demonstrate that such action is unavoidable.¹⁰⁹⁹ States should ensure that no-one is arbitrarily deprived of possession of their property. Furthermore, due eviction notice should allow and enable those subject to eviction to take an inventory, in order to assess the values of their properties, investments and other material goods that may be damaged. Those subject to eviction should be given the opportunity to assess and document non-monetary losses to be compensated.¹¹⁰⁰ Evictions should not result in rendering individuals homeless, or vulnerable to a violation of other human rights. Alternative housing should be situated as close as possible to the original place of residence and source of livelihood of those evicted.¹¹⁰¹ States must also take steps to ensure women are not subject to gender-based violence and discrimination in the course of evictions, and that the human rights of children are protected.¹¹⁰² States should also ensure members of the same extended family or community are not separated because of evictions.¹¹⁰³

¹⁰⁹³ Ibid, at para 10.

¹⁰⁹⁴ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 8(a).

¹⁰⁹⁵ E/1998/22, 'ICESCR Committee General Comment No 7: Forced Evictions', 20 May 1997, at para 8.

¹⁰⁹⁶ Ibid, at para 15.

¹⁰⁹⁷ E/C.12/GBR/CO/6, 'Concluding Observations on the Sixth Periodic Report of the United Kingdom of Great Britain and NI', 24 June 2016, at para 50(d).

¹⁰⁹⁸ A/HRC/4/18, 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standards of Living, Miloon Kothari', 5 February 2007, at Annex I.

¹⁰⁹⁹ Ibid, at Annex I, para 40.

¹¹⁰⁰ Ibid, at Annex I, para 42.

¹¹⁰¹ Ibid, at Annex I, para 43.

¹¹⁰² Ibid, at Annex I para 47.

¹¹⁰³ Ibid, at Annex I, para 52.

Miloon Kothari and Thomas Hammarberg, former CoE Commissioner for Human Rights, called on States to strengthen security of tenure measures by ensuring legal protection against forced eviction. Where:

persons and/or communities have been expelled from their housing or land, either as a result of ethnic or other conflict or as a result of arbitrary acts by the public administration or persons acting on their behalf, due remedy and restitution should be swiftly forthcoming.¹¹⁰⁴

Additionally, “persons or entities culpable for violations of law should be brought to justice” and “the use of criminal law measures to thwart nomadism should be ended”.¹¹⁰⁵

Council of Europe

The ECHR, Article 8, obliges States to ensure that when evictions take place, they are proportionate to the legitimate aim being pursued.¹¹⁰⁶ Procedural safeguards must also be in place to prevent unjustified evictions.¹¹⁰⁷

Under the ECHR, Article 8, a legitimate aim could include public authorities seeking to regain possession of land from persons who do not have a right to occupy it.¹¹⁰⁸ A legitimate aim could also be where there is public interest in taking measures to cope with hazards, such as a lack of sewage and sanitary facilities.¹¹⁰⁹ However, a State should take into account the disadvantaged position of a social group.¹¹¹⁰ It should also consider the period during which those facing eviction lived undisturbed on the settlement.¹¹¹¹ In other words, whether they “de facto tolerated the unlawful settlement” for a significant period.¹¹¹² The ECtHR has noted that “proportionality” can be “inextricably linked to the use for which the authorities seek to recover the land”.¹¹¹³ For example, whether the construction plans invoked were close to implementation.¹¹¹⁴

The ECHR, Article 8, further requires that a State conducts a “genuine” consultation with the persons affected by an eviction on their rehousing options.¹¹¹⁵

The ECHR, Article 1, Protocol 1, provides:

every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

In order to be justified, any interference with the right to peaceful enjoyment of property must serve a legitimate objective in the general or public interest.¹¹¹⁶ The interference must also be proportionate in striking a fair balance between the protection of the person’s right to peaceful enjoyment of property and the “demand of the general interest of the community”.¹¹¹⁷

¹¹⁰⁴ CommDH/Speech(2007)16, ‘Joint Statement by CoE Commissioner for Human Rights Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari: Governments Should Take Positive Steps to Protect the Housing Rights of Roma in Europe’, 24 October 2007.

¹¹⁰⁵ *Ibid.*

¹¹⁰⁶ Article 8(2), European Convention on Human Rights 1950

¹¹⁰⁷ *Connors v UK* (2004) ECHR 223, at para 95.

¹¹⁰⁸ *Yordanova and Others v Bulgaria* (2012) ECHR 758, at para 111.

¹¹⁰⁹ *Ibid.*, at para 114.

¹¹¹⁰ *Ibid.*, at para 127.

¹¹¹¹ *Ibid.*, at para 127; *Winterstein and others v France* (2013) ECHR 984, at para 78.

¹¹¹² *Winterstein and others v France* (2013) ECHR 984, at para 155.

¹¹¹³ *Yordanova and Others v Bulgaria* (2012) ECHR 758, at para 127.

¹¹¹⁴ *Ibid.*, at para 127.

¹¹¹⁵ *Bagdonavicius and Others v Russia* (2016) ECHR 871, at para 107.

¹¹¹⁶ *James v UK* (1986) ECHR 2, at para 45.

¹¹¹⁷ *Sporrong and Lönnroth v Sweden* (1982) ECHR 5, at para 69.

The European Social Charter, Article 16, provides for the protection of the family, including provision of family housing. The European Committee of Social Rights elaborated this includes “security from unlawful eviction”.¹¹¹⁸ Safeguards must be in place that ensure consultation with those affected, reasonable notice of the eviction, adequate information for those affected and adequate provision of alternative accommodation.¹¹¹⁹ This provision mirrors the ICESCR, Article 11.

The CoE Committee of Ministers recommend that Member States establish a legal framework to ensure effective protection against unlawful forced and collective evictions.¹¹²⁰ In the case of lawful evictions, those affected should be provided with appropriate alternative accommodation, if needed. Legislation should also define the procedures for legal eviction. Measures must include consultation with the community or individual concerned; reasonable notice; provision of information; a guarantee that the eviction will be carried out in a reasonable manner; effective legal remedies; and free or low cost legal assistance for the persons concerned. Additionally, the alternative housing should not cause further segregation.¹¹²¹

The Committee of Ministers has also emphasised the importance of the use of proportionate responses to illegal encampments, including negotiations or the use of legal action.¹¹²² A State:

should seek where possible, solutions, which are acceptable to all parties in order to avoid Roma [including Travellers] from being excluded from access to services and amenities to which they are entitled as citizens of the State where they live.¹¹²³

The ECRI recommends reasonable notice of an eviction is given and those affected are offered the opportunity for rehousing in decent accommodation.¹¹²⁴ Steps should be taken to legalise the occupation of sites or dwellings built in breach of planning regulations, once the situation has been tolerated for a long period by the public authorities.¹¹²⁵

The former CoE Commission for Human Rights, Thomas Hammarberg stated “certain standards must be set for the legal protection of tenants, including standards relating to harassment, threats and forced eviction”.¹¹²⁶ He also noted evictions for unauthorised encampments should be kept under review.¹¹²⁷

Evictions

Domestic Laws and Policies

An introductory tenancy is a probationary period for twelve months, after which the tenant may become a secure tenant, if they meet the terms of their tenancy agreement.¹¹²⁸ A secure tenancy enables a tenant to live in their home for the rest of their lives, as long as they follow the terms of the tenancy agreement.¹¹²⁹

¹¹¹⁸ *European Roma Rights Centre v Ireland*, Complaint No. 100/2013, 1 December 2015, at para 56.

¹¹¹⁹ *Ibid.*, at paras 165 and 166. The European Committee of Social Rights found a violation of Revised European Social Charter, Article 16, in this complaint. The wording of the European Social Charter, Article 16, and Revised European Social Charter, Article 16, is identical. Although the UK has not ratified the Revised European Social Charter, this complaint provides guidance relevant to the UK’s obligations under the European Social Charter, Article 16.

¹¹²⁰ CoE, ‘Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe’, 1 December 2004, at para 30; CoE, ‘Recommendation Rec(2005)4 of the Committee of Ministers on improving the housing conditions of Roma and Travellers in Europe’, 25 February 2005, at para 26.

¹¹²¹ *Ibid.*

¹¹²² CoE, ‘Recommendation Rec(2005)4 of the Committee of Ministers on improving the housing conditions of Roma and Travellers in Europe’, 25 February 2005, at para 24.

¹¹²³ *Ibid.*

¹¹²⁴ CRI(2011)37, ‘ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma’, 24 June 2011, at para 6(d).

¹¹²⁵ *Ibid.*, at para 6(e).

¹¹²⁶ CommDH(2009)5, ‘Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing’, 30 June 2009, at para 3.1.1

¹¹²⁷ CommDH(2006)1, ‘Final Report by Mr Alvaro Gil-Robles, CoE Commissioner for Human Rights, on the Human Rights Situation of the Roma, Sinti and Travellers in Europe’, 15 February 2006, at 40.

¹¹²⁸ A secure tenancy enables a tenant to live in their home for the rest of their lives as long as they follow the terms of the tenancy agreement.

¹¹²⁹ Available at: <https://www.nidirect.gov.uk/articles/secure-tenancies>

The Housing (NI) Order 1983 states a secure tenancy of a dwelling house cannot be brought to an end by a landlord, except by obtaining a court order.¹¹³⁰ It sets out the notice requirements for possession proceedings. This includes that the landlord must serve notice on the tenant, unless the court considers it just and equitable to dispense with such a notice.¹¹³¹ It sets out the conditions for making the order. Primarily, the court must consider the eviction reasonable and there should be suitable alternative accommodation available.¹¹³² In assessing whether alternative accommodation is suitable, regard shall be had to:

- (a) the nature of the accommodation which it is the practice of the landlord to allocate to persons with similar needs;
- (b) whether it is reasonably suitable to the prospective tenant and his family with regards to proximity to place of work or education;
- (c) its distance from the home of any member of the tenant's family if proximity to it is essential to that member's or the tenant's well-being;
- (d) the needs and means of the tenant and his family;
- (e) the terms on which the accommodation is available; and
- (f) if furniture was provided by the landlord, whether it will be provided in the alternative accommodation.¹¹³³

There are a number of grounds for re-possession in relation to dwelling houses let under secure tenancies. These include non-payment of rent; if the tenant or a person residing in the house was involved in anti-social behaviour; if the home has not been kept in good condition; or the tenant did not tell the truth on a housing application form.¹¹³⁴

The Housing (Amendment) Act (NI) 2016 provides that a person may provide information to the NI Housing Executive or a registered housing association where information is required for housing management purposes. The purposes include: applying for injunctions prohibiting anti-social behaviour; applying for possession orders withholding consent to the mutual exchange of secure tenancies; instigating criminal proceedings; deciding whether a secure tenant is entitled to exercise the right to buy their home; and determining that a person is not eligible for accommodation on the basis of unacceptable behaviour.¹¹³⁵

The Secure Tenancies (Notice) Regulations (NI) 2014 prescribe a form of notice for possession. This has to be served on a secure tenant under the Housing (NI) Order 1983 before the court can consider proceedings for possession of a dwelling house let under a secure tenancy, or for the termination of a secure tenancy. The regulations require that the notice sets out the grounds on which an order for possession is sought and the time limits for court proceedings.¹¹³⁶ The court must be satisfied that there is suitable alternative accommodation available, if an order is granted.¹¹³⁷ The notice must advise the secure tenant that, if they accept an offer of support with the aim of helping address the behaviour, the landlord may decide to review its decision to seek an order for possession.¹¹³⁸ The notice warns tenants that if they do not accept an offer of support, the landlord is likely to seek to commence proceedings immediately.¹¹³⁹

¹¹³⁰ Article 27, Housing (NI) Order 1983.

¹¹³¹ Article 28, Housing (NI) Order 1983.

¹¹³² Article 29, Housing (NI) Order 1983.

¹¹³³ Schedule 3, Housing (NI) Order 1983.

¹¹³⁴ Schedule 3, Housing (NI) Order 1983.

¹¹³⁵ Section 2, Housing (Amendment) Act (NI) 2016.

¹¹³⁶ Schedule, Secure Tenancies (Notice) Regulations (NI) 2014.

¹¹³⁷ *Ibid.*

¹¹³⁸ *Ibid.*

¹¹³⁹ *Ibid.*

The Caravans Act (NI) 2011 provides that the occupiers may terminate the agreement if they provide the site owner with at least four weeks' written notice.¹¹⁴⁰ Grounds for termination of the agreement include: breach of the terms, the court is satisfied the occupier is not occupying the caravan as the only residence, the conditions of the caravan have a detrimental impact on the amenity of the site and the court considers it appropriate to have the agreement terminated.¹¹⁴¹ It is an offence for the owner of a protected site or their agent to intend to cause the occupier to abandon the caravan, remove it from the site or prevent them from having access to their rights or a form of redress.¹¹⁴² A person guilty of an offence is liable on summary conviction to a fine not exceeding the statutory maximum and a term of imprisonment not exceeding six months.¹¹⁴³ On conviction on indictment, the penalty may be a fine or a term of imprisonment not exceeding two years or both.¹¹⁴⁴ The 2011 Act enables local Councils to prosecute offences in relation to sites within their districts.¹¹⁴⁵

Part three of the 2011 Act protects those living on all Travellers' sites managed by the NI Housing Executive from illegal eviction and harassment.¹¹⁴⁶ The Department for Communities is required to carry out a review every five years on parts one and two of the Schedule of the Act.¹¹⁴⁷

The Rent (NI) Order 1978, as amended by the Private Tenancies (NI) Order 2006, contains the criminal offence of harassment and unlawful eviction without due process of the law. The 1978 Order provides a landlord shall be guilty of an offence if his or her actions are likely to interfere with the peace and comfort of the tenant, or if services required for the occupation of a residential dwelling house are persistently withdrawn.¹¹⁴⁸ A person shall not be guilty of an offence if it is proven that there were reasonable grounds for withdrawing that service.¹¹⁴⁹ A person guilty of an offence shall be liable on summary conviction to a fine not exceeding £1,000, or to a term of imprisonment not exceeding six months. For a conviction on indictment, the maximum term of imprisonment is raised to two years.¹¹⁵⁰ The Private Tenancies (NI) Order 2006 provides that a notice given by a landlord shall not be valid unless given in writing and the effective date is no less than four weeks after being issued.¹¹⁵¹

The Planning Act (NI) 2011 enables local Councils to issue enforcement notices to remedy breaches of planning control.¹¹⁵² The 2011 Act contains time limits for actions in respect of planning control breaches. Where development occurs without the required planning permission, the time limit for enforcement action is five years. This time limit begins on the date on which operations were substantially completed.¹¹⁵³ A person can apply to the relevant local Council for a certificate to establish whether the continued use or development of land is lawful.¹¹⁵⁴

¹¹⁴⁰ Schedule, Caravans Act (NI) 2011, at para 3.

¹¹⁴¹ *Ibid*, at para 4.

¹¹⁴² Section 12, Caravans Act (NI) 2011.

¹¹⁴³ Section 12(8), Caravans Act (NI) 2011.

¹¹⁴⁴ Section 12(8), Caravans Act (NI) 2011. The maximum fine is £5000. See Section 5(2), Fines and Penalties (NI) Order 1984.

¹¹⁴⁵ Section 12(12), Caravans Act (NI) 2011.

¹¹⁴⁶ Correspondence from Department for Social Development to the Social Development Committee, 29 June 2010. See Social Development Committee, 'NIA 15/10/11R: Report on the Caravans Bill', Session 2010/11.

¹¹⁴⁷ Section 4(6), Caravans Act (NI) 2011.

¹¹⁴⁸ Article 54(2A), Rent (NI) Order 1978.

¹¹⁴⁹ Article 54(2B), Rent (NI) Order 1978.

¹¹⁵⁰ Article 54(3), Rent (NI) Order 1978.

¹¹⁵¹ Article 14, Private Tenancies (NI) Order 2006.

¹¹⁵² Section 138, Planning (NI) Act 2011.

¹¹⁵³ Section 132, Planning (NI) Act 2011.

¹¹⁵⁴ Section 169, Planning (NI) Act 2011.

Domestic Practice

It is rare for the NI Housing Executive to conduct evictions involving Travellers. Most of the representatives from the NI Housing Executive said they had not been involved with evictions or they were not aware of evictions in their areas.¹¹⁵⁵ Representatives of Apex Housing Association reported that Travellers had been evicted who were squatting within a grouped housing scheme. Those affected were subsequently rehoused.¹¹⁵⁶ There have been no evictions within Clanmil Housing Association's grouped housing schemes. Clanmil could not confirm if any Travellers living in its standard social housing were or had been subject to an eviction.¹¹⁵⁷

The NI Housing Executive has not evicted anyone from its Travellers' sites since 2003.¹¹⁵⁸ Between the introduction of the Caravans Act (NI) 2011 and September 2016, a review of the legislation found there were 13 reported cases of harassment or illegal eviction on a caravan site. These were not Traveller-related and were all resolved without court action.¹¹⁵⁹

The NI Housing Executive has sought vacant possession of a Travellers' site in order to conduct works for health and safety reasons.¹¹⁶⁰ The site was officially closed in May 2015, but possession was not achieved until August 2016.¹¹⁶¹ The NI Housing Executive reported "while families left the site, new families continued to use the site despite being aware of the lack of facilities".¹¹⁶² In May 2015, the NI Housing Executive provided notice to those on the affected site and offered alternative accommodation, with the promise they could return on completion of the required works. Some Travellers believe this was an eviction, with the intention to close the site permanently.¹¹⁶³ Some Travellers also disputed whether the alternative accommodation offered was suitable. The choice was either culturally inadequate standard social housing or a pitch on a Travellers' site where there were known incompatibility issues.¹¹⁶⁴ A representative of the Police Service NI suggested the site was going to be vested for the development of the A5 and would remain closed.¹¹⁶⁵ However, the representative understood the NI Housing Executive were aware of their obligations to provide another site in the district.¹¹⁶⁶ A local Councillor believed the NI Housing Executive intended to close the site.¹¹⁶⁷ The NI Housing Executive reported that it intends to renovate and reopen the site. If the development of the A5 goes ahead, the NI Housing Executive confirmed that it will run through the site. This will "lead the NI Housing Executive to identify suitable land for alternative site provision".¹¹⁶⁸

Armagh City, Banbridge and Craigavon Borough Council was unaware of evictions involving Travellers within its remit.¹¹⁶⁹ Derry City and Strabane District Council had initiated eviction proceedings in relation to Travellers occupying land within its Council area, but those subject to the eviction vacated the site before proceedings

¹¹⁵⁵ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017; Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017; Interview with representatives from the NI Housing Executive: Interview C, 30 January 2017; Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017; Interview with representatives from Radius Housing Association, 2 February 2017.

¹¹⁵⁶ Interview with representatives of Apex Housing Association, 7 February 2017.

¹¹⁵⁷ Interview with representatives of Clanmil Housing Association, 8 March 2017.

¹¹⁵⁸ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹¹⁵⁹ Response received from Department for Communities to Additional Questions from the NIHRC, 23 February 2017.

¹¹⁶⁰ Interview with representatives from the NI Housing Executive: Interview C, 30 January 2017; Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016; Interview with a representative of the Police Service NI: Interview F, 15 February 2017; Letter from NI Housing Executive to NIHRC, 20 March 2017.

¹¹⁶¹ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017; Interview with a representative from the NI Housing Executive: Interview C, 30 January 2017.

¹¹⁶² Correspondence from the NI Housing Executive to the NIHRC, 20 March 2017.

¹¹⁶³ Group interview with members of the Traveller communities in NI: Interview 13, 14 December 2016.

¹¹⁶⁴ Ibid.

¹¹⁶⁵ Interview with a representative of the Police Service NI: Interview F, 15 February 2017.

¹¹⁶⁶ Ibid.

¹¹⁶⁷ Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

¹¹⁶⁸ Letter from NI Housing Executive to NIHRC, 20 March 2017.

¹¹⁶⁹ Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHRC, 29 March 2017.

commenced.¹¹⁷⁰ Mid Ulster District Council issued an eviction notice to Travellers pitched on a public car park within its remit. The Travellers failed to comply with the notice and the Council made an application to the High Court. The Travellers vacated the car park prior to the hearing, which halted the eviction proceedings.¹¹⁷¹ A Traveller family was evicted from the Belfast City Council area.¹¹⁷²

Last Resort

All of the housing providers respect that evictions should be a measure of last resort.¹¹⁷³ For example, Apex Housing Association stated it had a maximum of two evictions a year across its 5,500 properties, including Travellers' accommodation.¹¹⁷⁴

The NI Housing Executive stressed evictions are:

*the last resort for any family, never mind Travellers... After all we are the strategic housing authority, we are the last stop shop, we are the ones that are the most reluctant to actually go down that line if you had to.*¹¹⁷⁵

All of the interviewed housing associations must follow a 'Pre-Action Protocol' before the eviction case will be considered by the court.¹¹⁷⁶ Clanmil Housing Association stressed it wants to keep tenants as long as possible.¹¹⁷⁷ Apex and Clanmil housing associations offer Money Advice Services in cases where debt is an underlying factor.¹¹⁷⁸

Even once eviction proceedings are initiated, the NI Housing Executive will continue to attempt to negotiate an agreement with the individuals facing eviction.¹¹⁷⁹ If the issue leading to the eviction can be resolved, the notice will be withdrawn on reaching resolution.¹¹⁸⁰ For example, if anti-social behaviour is a factor, mediation services are offered. It is only "if all else fails, as a last resort, [the NI Housing Executive] serve a notice."¹¹⁸¹ The NI Housing Executive also ensures there are no underlying mental health issues and considers whether there is a need to engage with other agencies, including mental health and social services.¹¹⁸² Clanmil Housing Association uses acceptable behaviour contracts in a bid to resolve eviction cases resulting from anti-social behaviour.¹¹⁸³

Provision of Notices

The NI Housing Executive serve eviction notices of four weeks. On expiry of the four weeks, the NI Housing Executive liaise with their legal department to set a court date.¹¹⁸⁴ Housing associations also offer notice periods.¹¹⁸⁵ Radius Housing Association said they offer a notice of intention and then would service notice.¹¹⁸⁶

¹¹⁷⁰ Letter from Derry City and Strabane District Council to NIHRC, 29 March 2017.

¹¹⁷¹ Letter from Mid Ulster District Council to NIHRC, 19 April 2017.

¹¹⁷² Letter from NI Housing Executive to NIHRC, 3 November 2017.

¹¹⁷³ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017; Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017; Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017; Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Radius Housing Association; Interview with representatives of Clanmil Housing Association, 8 March 2017.

¹¹⁷⁴ Interview with representatives of Apex Housing Association, 7 February 2017.

¹¹⁷⁵ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹¹⁷⁶ Interview with representatives of Radius Housing Association, 2 February 2017.

¹¹⁷⁷ Interview with representatives of Clanmil Housing Association, 8 March 2017.

¹¹⁷⁸ Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017.

¹¹⁷⁹ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

¹¹⁸⁰ Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

¹¹⁸¹ Ibid.

¹¹⁸² Ibid.

¹¹⁸³ Interview with representatives of Clanmil Housing Association, 8 March 2017.

¹¹⁸⁴ Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

¹¹⁸⁵ Interview with representatives of Radius Housing Association, 2 February, 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Apex Housing Association, 7 February 2017.

¹¹⁸⁶ Interview with representatives of Radius Housing Association, 2 February 2017.

Apex Housing Association said that their Travellers' accommodation operates in line with general housing and if they wanted to evict someone, from a property, they would "have to go through a court process."¹¹⁸⁷

Some interviewed Travellers reported that they had been served with eviction notices. One Traveller reported "I was given the letter and I left the house on the date I was told".¹¹⁸⁸ There was no suggestion that the determined period was unreasonable. In another case, a local Councillor reported their Council had issued an eviction notice to a Traveller couple living on an unofficial site. The Travellers involved relayed "we were threatened here by the Council... We were threatened here lots of times by the Council... they gave us [28 days] to get off".¹¹⁸⁹

In a third case involving a particular Travellers' site, there were differences in opinion as to whether the required eviction protocol was followed. Some Travellers claim the NI Housing Executive did not serve notices of their intention:

*we... went to a funeral in the UK, came back and basically without a court order or eviction note to say that's you, you're summonsed to go to court etc, etc... [that] hasn't taken place and it hasn't been issued from a judge.*¹¹⁹⁰

Some Travellers believe there was also no right of appeal.¹¹⁹¹ From the NI Housing Executive's perspective, the Travellers' site in question was officially closed in May 2015 for maintenance work to address health and safety issues, but the NI Housing Executive did not gain vacant possession until August 2016.¹¹⁹² The NI Housing Executive claims notices were put on the site entrance to prohibit access in May 2015. It said the notices were largely ignored, leaving them no option but to close the site over a year later to allow works to proceed.¹¹⁹³

A representative of the Police Service NI provided evidence that the requirement to serve reasonable notice was not being adhered to in all circumstances. They reported that a Traveller in private rented accommodation had "been encouraged to move on" by their landlord without an eviction notice. This action was attributed to difficulties with other residents, such as problems with rubbish left around the property and the children being abusive to other residents. The representative of the Police Service NI believed that the affected Traveller was not being forced out of their property and did not recognise that the required eviction procedures had not been followed.¹¹⁹⁴

Consultation with Evictees

All of the housing providers recognise that consultation with potential evictees is required. This is prior to and during eviction proceedings, with the purpose of reaching a resolution.¹¹⁹⁵ Consultation is also required to ensure those facing eviction have all the relevant information and understand such information.¹¹⁹⁶ A representative from the NI Housing Executive provided evidence that "if someone is in contravention of their tenancy agreement, before we even go down the line of a notice we try to engage with [the potential evictees]." Another representative of the NI Housing Executive highlighted that they would engage with other

¹¹⁸⁷ Interview with representatives of Apex Housing Association, 7 February 2017.

¹¹⁸⁸ Individual interview with a member of the Traveller communities in NI: Interview 20, 25 January 2017.

¹¹⁸⁹ Group interview with members of the Traveller communities in NI: Interview 5, 29 November 2016; Telephone call with Derry City and Strabane District Councillor, 4 January 2017.

¹¹⁹⁰ Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016.

¹¹⁹¹ Ibid.

¹¹⁹² Letter from NI Housing Executive to NIHRC, 20 March 2017.

¹¹⁹³ Ibid.

¹¹⁹⁴ Interview with a representative of the Police Service NI: Interview G, 8 March 2017.

¹¹⁹⁵ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017; Interview with representatives of NI Housing Executive: Interview B, 26 January 2017; Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017.

¹¹⁹⁶ Interview with representatives of Radius Housing Association, 2 February 2017.

statutory bodies, including social services, the Police Service NI and other statutory organisations to make sure information is available.¹¹⁹⁷ The NI Housing Executive stressed that on one closed site they “consulted with all resident families to explain the nature of the works and the need to complete health and safety works.”¹¹⁹⁸ Apex Housing Association said they consult with potential evictees “the whole way through the process”, as well as engaging with Traveller Support organisations, such as An Munia Tober, or liaising with social services.¹¹⁹⁹

Some Travellers report that they were not adequately consulted prior to or during the eviction process.¹²⁰⁰ In one case, a Traveller said that their site was closed down when “there was a window of opportunity...there was no-one on the site.”¹²⁰¹ In another case where a Traveller was served an eviction notice, they reported no one came from the concerned public authority to discuss alternatives to the eviction.¹²⁰² Also, the notification letter did not offer an opportunity to challenge proceedings.¹²⁰³

Provision of Alternative Accommodation

The NI Housing Executive’s policy is to attempt to assist evicted persons (including Travellers) before their eviction date, through the homeless procedures. Temporary alternative accommodation may be offered, if they satisfy the criteria. If deemed intentionally homeless, the affected persons are given 28 days to vacate the temporary accommodation and to seek alternative accommodation.¹²⁰⁴ Housing associations do not assess housing need; this is the responsibility of the NI Housing Executive.¹²⁰⁵

The Police Service NI believes alternative accommodation should be a main consideration in the eviction decision-making process.¹²⁰⁶ A representative of the Police Service NI stressed, for example, “you can’t drag their caravans out onto a public road and leave them there”.¹²⁰⁷ The NI Housing Executive maintains it does offer alternative accommodation where required.¹²⁰⁸ However, some questioned whether the offers of alternative accommodation made by the NI Housing Executive were suitable.¹²⁰⁹

For example, where the NI Housing Executive sought vacant possession of a Travellers’ site for refurbishment, those affected were offered alternative accommodation. The NI Housing Executive report it offered standard social housing, “as per the homeless legislation and a number of families were happy to accept [such housing]”.¹²¹⁰ A Travellers’ site 16 miles away was refurbished to allow the families to temporarily relocate. However, the affected family were “burnt out” of this site in 2013 and did not want to return.¹²¹¹ Vacant pitches at other sites throughout NI were also offered, but the affected Travellers felt these were too far from schools, doctors and family members.¹²¹² Faced with a situation where their original accommodation was no

¹¹⁹⁷ Interview with representatives of NI Housing Executive: Interview B, 26 January 2017

¹¹⁹⁸ Letter from NI Housing Executive to NIHRC, 20 March 2017.

¹¹⁹⁹ Interview with representatives of Apex Housing Association, 7 February 2017;

¹²⁰⁰ Group interview with members of the Traveller communities in NI: Interview 5, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016.

¹²⁰¹ Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016.

¹²⁰² Group interview with members of the Traveller communities in NI: Interview 5, 29 November 2016.

¹²⁰³ Ibid.

¹²⁰⁴ Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

¹²⁰⁵ Interview with representatives of Radius Housing Association, 2 February 2017.

¹²⁰⁶ Interview with a representative of the Police Service NI: Interview A, 14 February 2017; Interview with a representative of the Police Service NI: Interview D, 23 February 2017; Interview with a representative of the Police Service NI: Interview B, 23 February 2017; Interview with a representative of the Police Service NI: Interview F, 15 February 2017; Interview with a representative of the Police Service NI: Interview G, 8 March 2017.

¹²⁰⁷ Interview with a representative of the Police Service NI: Interview F, 15 February 2017.

¹²⁰⁸ Letter from NI Housing Executive to NIHRC, 7 November 2017.

¹²⁰⁹ Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016; Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

¹²¹⁰ Letter from NI Housing Executive to NIHRC, 20 March 2017.

¹²¹¹ Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016.

¹²¹² Observational visits to Travellers’ accommodation across NI between November 2016 and April 2017.

longer available, those that did not want to live in standard social housing were either “sofa-surfing”¹²¹³ or living on an unauthorised encampment with no access to running water or electricity and no safe play area for the children.¹²¹⁴

A local Councillor felt:

it is the NI Housing Executive more or less fulfilling their statutory obligation and once they fulfil their statutory obligation legally, they don't have to find you anywhere. So if they say to you 'listen we have a site within this area or within another area and you say no I can't go to that', then they just say 'we offered alternative accommodation'.¹²¹⁵

The NI Housing Executive is satisfied such an approach fulfilled its obligation to offer alternative accommodation.¹²¹⁶ In that particular case, the NI Housing Executive had:

made substantial efforts to gain access to a site for the purposes of improving the quality and services available at this site. We made substantial efforts to ensure that Traveller families had a wide range of choices in accommodation and ensured that all families were aware of their choices and knew how to avail of them. This is evidenced by the fact that [most of] the families accepted alternative accommodation.¹²¹⁷

However, the NI Housing Executive explained it could not build individual Travellers' sites for each Traveller family.¹²¹⁸

Timings and Weather conditions in Evictions

The NI Housing Executive takes into account timings and weather throughout the eviction process.¹²¹⁹ The NI Housing Executive report that it seeks to involve a number of other statutory agencies, Councillors and Traveller support groups to ensure that the needs of Travellers are accommodated.¹²²⁰ It is the “exact same as the settled community”.¹²²¹

The Enforcement of Judgements Office manages evictions, including its implementation.¹²²² The Police Service NI made it clear that weather conditions and time of day are taken into account in their decision-making processes, when involved in evictions.¹²²³ A representative of the Police Service NI clarified “we wouldn't be rapping anybody's door in the middle of the night unless it was absolutely necessary, it is all about being proportionate”.¹²²⁴ Representatives of the Armagh, Banbridge and Craigavon Borough Council supported this approach.¹²²⁵

¹²¹³ Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016.

¹²¹⁴ Ibid; Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

¹²¹⁵ Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

¹²¹⁶ Letter from NI Housing Executive to NIHRC, 3 November 2017.

¹²¹⁷ Letter from NI Housing Executive to NIHRC, 20 March 2017.

¹²¹⁸ Letter from NI Housing Executive to NIHRC, 3 November 2017.

¹²¹⁹ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017; Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017;

¹²²⁰ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017;

¹²²¹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017

¹²²² Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017; Interview with representatives of Radius Housing Association, 2 February 2017; Interview with representatives from Clanmil Housing Association, 8 March 2017.

¹²²³ Interview with a representative of the Police Service NI: Interview A, 14 February 2017; Interview with a representative of the Police Service NI: Interview B, 23 February 2017; Interview with a representative of the Police Service NI: Interview F, 15 February 2017; Interview with a representative of the Police Service NI: Interview E, 22 February 2017; Interview with a representative of the Police Service NI: Interview D, 23 February 2017.

¹²²⁴ Interview with a representative of the Police Service NI: Interview E, 22 February 2017.

¹²²⁵ Interview with Council officials of Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

Yet some Travellers reported this was not the case in practice. An interviewed Traveller reported a local Council attempted to evict them in bad weather.¹²²⁶ On another occasion, they returned to their unauthorised encampment at seven o'clock in the evening to find the gate of the site padlocked, which denied them access to their residential caravan.¹²²⁷

Deprivation of Property

Representatives of the Police Service NI are aware that seizing property, such as caravans, could render Travellers homeless.¹²²⁸ A representative of the Police Service NI stated that this would "weigh heavily" in the consultation process on evictions and there needs to be provision for alternative accommodation in such circumstances.¹²²⁹ A representative of the Police Service NI identified the key problem is that a vehicle could also be a dwelling. They explained "to [Travellers] it is a dwelling house. Then you are looking at how long those Travellers have been in occupation of a campsite. If they are there for three or four weeks there is a certain degree of permanency".¹²³⁰

Some Travellers reported that they returned to their Travellers' site to find it closed "everything was destroyed and they had no home to go to"¹²³¹ as their residential caravans were on the site. The affected Travellers reported they were threatened with arrest for trespass anytime they attempted to gain access to their property on the site.¹²³² A local Councillor confirmed that access to the site was prohibited:

they blocked, concreted the site... with bollards, so they blocked access into the site. But it blocked access in and also blocked access out and there was caravans in there. It resulted in some caravans having to be abandoned. Some were set on fire.¹²³³

According to a representative of the Police Service NI, three or four caravans were left on the site and they had been approached by Travellers seeking to retrieve their property. The Police Service NI has the power to remove the vehicles, but it refuses to pay:

contractors to come in and remove their stuff and then store it... you come to an agreement with these people and have it removed... Even though legislation says we have a power to seize and remove, we said we wouldn't be doing it.¹²³⁴

An affected Traveller reported that when they tried to retrieve their property, they were asked to produce receipts for the caravans. The Traveller explained "when you are in the Travelling community, when you buy something off another Travelling person, it's all in good faith. That caravan could be gone twenty different hands from the first moment that caravan was bought".¹²³⁵

The NI Housing Executive stated it issued notice that it would happily open the affected site for 24 hours to allow the Travellers to remove their vehicles. The NI Housing Executive liaised with the Travellers' main contacts, but nobody took them up on the offer.¹²³⁶

¹²²⁶ Group Interview with members of the Traveller communities in NI: Interview 5, 29 November 2016.

¹²²⁷ Ibid.

¹²²⁸ Interview with a representative of the Police Service NI: Interview C, 21 February 2017; Interview with a representative of the Police Service NI: Interview E, 22 February 2017; Interview with a representative of the Police Service NI: Interview D, 23 February 2017

¹²²⁹ Interview with a representative of the Police Service NI: Interview C, 21 February 2017.

¹²³⁰ Interview with a representative of the Police Service NI: Interview D, 23 February 2017

¹²³¹ Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016.

¹²³² Group interview with members of the Traveller Communities, 29 November 2016.

¹²³³ Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

¹²³⁴ Interview with a representative of the Police Service NI: Interview F, 15 February 2017.

¹²³⁵ Group Interview with members of the Traveller communities in NI: Interview 6, 29 November 2016.

¹²³⁶ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

The NI Housing Executive was hesitant to remove the property itself. It explained this was due to their concerns that “the value of the caravans is nothing. They have no value whatsoever.”¹²³⁷ Thus, care needed to be taken because the caravans, if towed, would fall apart due to their state of disrepair and the NI Housing Executive would be held responsible. The costs of removal and the lack of storage facilities were also factors.¹²³⁸

Travellers reported that a tax book, known as a V5 document, was not accepted as proof of ownership when they went to retrieve their confiscated property.¹²³⁹ The NI Housing Executive stated a tax book “would be substantive evidence”.¹²⁴⁰ A representative of the Police Service NI reasoned “the fact that if it was insured to him...his name’s on the V5...I would take that as proof that he owns it”.¹²⁴¹

Findings

The NIHRC’s findings on forced evictions and Travellers’ accommodation in NI are:

i	The NI Housing Executive, housing associations and local Councils have procedural requirements in place for eviction proceedings.
ii	The evidence demonstrates that there have been few evictions involving Travellers.
iii	Public authorities view evictions as a measure of last resort.
iv	Some Travellers have reported that procedural safeguards are not always followed in practice.
v	Some Travellers have had difficulties in retrieving property and reportedly have been asked for documentation to prove ownership of property that is impossible to produce, such as receipts.

Unauthorised Encampments

Domestic Laws and Policies

The Unauthorised Encampments (NI) Order 2005 enables a police officer to direct a person to leave land and remove any vehicle or other property with them on that land.¹²⁴² Certain conditions must be satisfied and alternative accommodation must be available.¹²⁴³ Non-compliance with a direction is an offence. A police officer can respond with a power of seizure.¹²⁴⁴ The offender can also be subject to a fine or imprisonment.¹²⁴⁵

¹²³⁷ Ibid.

¹²³⁸ Ibid.

¹²³⁹ Group interview with representatives of the Traveller communities in NI: Interview 6, 30 November 2016.

¹²⁴⁰ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹²⁴¹ Interview with a representative of the Police Service NI: Interview F, 15 February 2017.

¹²⁴² Articles 3 and 5, Unauthorised Encampments (NI) 2005.

¹²⁴³ Article 5, Unauthorised Encampments Order (NI) 2005.

¹²⁴⁴ Articles 4 and 6, Unauthorised Encampments (NI) 2005.

¹²⁴⁵ Articles 3 and 6, Unauthorised Encampments (NI) 2005.

Reasonable distance is not defined in the 2005 Order and it is considered “impracticable” to create such a definition.¹²⁴⁶ To establish a reasonable distance, police should consult with the NI Housing Executive and any relevant authorities. This should take into account all relevant factors including social needs, welfare or other needs of those affected. This includes consideration of the local road conditions, weather conditions, and time of day.¹²⁴⁷ Although the Unauthorised Encampments (NI) Order 2005 does not define reasonable distance, the Housing (NI) Order 1983 states that determining whether accommodation:

is reasonably suitable to those needs regard shall be had to –

- (a) the nature of the accommodation which it is the practice of the landlord to allocate to persons with similar needs;
- (b) the distance of the accommodation available from the place of work or education of the tenant and of any members of his family;
- (c) its distance from the home of any member of the tenant’s family if proximity to it is essential to that members’ or the tenant’s well-being;
- (d) the needs (as regards extent of accommodation) and means of the tenant and his family;
- (e) the terms on which the accommodation is available and the terms of the tenancy;
- (f) if any furniture was provided by the landlord for use under the tenancy, whether furniture is to be provided for use in the other accommodation and, if it is, the nature of that furniture.¹²⁴⁸

In exercising powers under the 2005 Order, the decision maker should consider all the relevant circumstances.¹²⁴⁹ This includes the personal circumstances of the Travellers. For example, the presence of elderly persons, persons with disabilities, pregnant women, children and other persons whose well-being may be jeopardised by an ill-judged move. A decision may be taken to explicitly exclude individuals or families with particular welfare needs from a direction to leave land.¹²⁵⁰ Decisions should also be in line with the Human Rights Act 1998 and demonstrably take account of any welfare needs of those affected prior to making a decision to evict.¹²⁵¹

The Police Service NI issues a district training document on the use of the Unauthorised Encampments (NI) Order 2005. It stresses every effort should be made to avoid a forced eviction. It clarifies police can only act when those affected have failed to respond to requests from, or on behalf of, the landowner by a certain date. It also requires consultation with a police officer, of at least Inspector rank, before the exercise of the powers under the 2005 Order.¹²⁵²

Domestic Practice

Use of the Unauthorised Encampments (NI) Order 2005

Figures show that the Police Service NI attended 102 incidents regarding unauthorised encampments between 2006/2007 and 2015/2016. According to this data, the powers under the 2005 Order are rarely used. For the first two years following the enactment of the 2005 Order (April 2006 to March 2008), the powers in the Unauthorised Encampments (NI) Order 2005 were used 94 times, with no arrests, fines or vehicles

¹²⁴⁶ Department for Social Development, ‘Guide to the Unauthorised Encampments (NI) 2005’, 30 June 2006, at para 1.10.

¹²⁴⁷ *Ibid.*, at para 2.16.

¹²⁴⁸ Part II(2), Schedule 3, Housing (NI) Order 1983.

¹²⁴⁹ Department for Social Development, ‘Guide to the Unauthorised Encampments (NI) 2005’, 30 June 2006, at para 1.11.

¹²⁵⁰ *Ibid.*, at para 1.18.

¹²⁵¹ *Ibid.*, at para 1.17.

¹²⁵² Police Service NI, ‘District Training: Unauthorised Encampments (NI) Order 2005’, 22 April 2008.

seized.¹²⁵³ This included attended incidents, formal directions and no formal directions. Between April 2008 and March 2016, the powers were used 110 times, plus two arrests, fines or vehicles seized.¹²⁵⁴ In the majority of cases, there were no formal directions issued and the duration of the unauthorised encampment was between one and five days.¹²⁵⁵ The figures indicate that the highest number of encampments were in Armagh City, Banbridge, Craigavon and Newry and Mourne police districts.¹²⁵⁶ There is a lack of detailed disaggregated data, which inhibits the ability to determine how many of these incidents concerned Travellers. However, data does show that in 2015/2016 there were nine reported incidents, six involving Irish Travellers and one other Traveller.¹²⁵⁷

A number of factors contribute to why the 2005 Order is rarely used. Generally, unauthorised encampments concerning Travellers are only for a short period, such as to enable family members to attend a funeral or wedding.¹²⁵⁸ In such instances, the public authorities rely on the NI Housing Executive's 'Co-operation Policy' to accommodate the short-term need, as opposed to calling on the police to invoke the 2005 Order.¹²⁵⁹ A number of representatives of the Police Service NI reported exercising discretion regarding the powers under the 2005 Order.¹²⁶⁰ This involves adopting "a common sense approach" and recognising there is a "duty of care" towards Travellers.¹²⁶¹ A representative of the Police Service NI felt a civil injunction, as opposed to "criminalising it through the police", was a better option.¹²⁶² In effect, the use of the 2005 Order should be a last resort and subject to the principles of "reasonableness" and "proportionality".¹²⁶³ Another representative of the Police Service NI stressed that having to rely on the 2005 Order exposes an accommodation issue, which is the responsibility of the NI Housing Executive.¹²⁶⁴

Public Authorities' Fulfilling Responsibilities under the Unauthorised Encampments (NI) Order 2005

In cases of unauthorised encampments, the NI Housing Executive local offices have a number of responsibilities including completing a housing needs assessment, advising on site availability and housing options, and relaying information to its Traveller Unit.¹²⁶⁵ The Traveller Unit will notify the landowner, liaise with the Police Service NI and arrange delivery of portaloos.¹²⁶⁶ One representative from the NI Housing Executive highlighted "we would be encouraging them as best as we can. Look don't stay here, we have availability at an emergency halting site, you will have better services available to you, would you not move there?"¹²⁶⁷

A Police Service NI representative highlighted the challenges in signposting Travellers to an authorised encampment in their area "because I don't even know if one exists."¹²⁶⁸ A representative of the Belfast City Council found the Unauthorised Encampments (NI) Order 2005 difficult to enforce due to "a lack of ethnically

¹²⁵³ Information extrapolated Police Service NI records of Unauthorised Encampments for 2006/2007 to 2015/2016.

¹²⁵⁴ Ibid.

¹²⁵⁵ Ibid.

¹²⁵⁶ Ibid.

¹²⁵⁷ Information extrapolated from Police Service NI records on district returns for July 2015 to June 2016.

¹²⁵⁸ Interview with representatives of the NI Housing Executive: Interview E, 13 February 2017; Interview with Council officials from Derry City and Strabane District Council, 15 February 2017; Interview with Council officials from Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

¹²⁵⁹ Ibid.

¹²⁶⁰ Interview with a representative of the Police Service NI: Interview A, 14 February 2017; Interview with a representative of the Police Service NI: Interview B, 23 February 2017; Interview with a representative of the Police Service NI: Interview D, 23 February 2017; Interview with a representative of the Police Service NI: Interview E, 22 February 2017; Interview with a representative of the Police Service NI: Interview F, 15 February 2017;

¹²⁶¹ Interview with a representative of the Police Service NI: Interview E, 22 February 2017

¹²⁶² Interview with a representative of the Police Service NI: Interview D, 23 February 2017.

¹²⁶³ Ibid.

¹²⁶⁴ Interview with a representative of the Police Service NI: Interview B, 23 February 2017.

¹²⁶⁵ Written information obtained during interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹²⁶⁶ Ibid.

¹²⁶⁷ Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

¹²⁶⁸ Interview with a representative of the Police Service NI: Interview E, 22 February 2017.

suitable alternative accommodation".¹²⁶⁹ They found the only alternative accommodation available is hostel accommodation, which "doesn't work for Travellers".¹²⁷⁰

The NI Housing Executive claimed there were pitches available on alternative Travellers' sites, but those on unauthorised encampments tended not to avail of such vacancies.¹²⁷¹ Compatibility issues between Traveller families is a factor. In the NI Housing Executive's experience, some Travellers have refused to avail of the pitches, even when there is no one else on the site. This is due to the cultural belief that a family that previously lived on the site has a territorial claim to that site, even if they have no intention of returning.¹²⁷² Another challenge was expectations around "reasonable distance". A representative of the Police Service NI found the NI Housing Executive's definition of reasonable distance could be sixty miles away.¹²⁷³ They believed moving people on was just displacing the problem.¹²⁷⁴

Additionally, the NI Housing Executive has offered accommodation that was declined because the Travellers were only "moving through".¹²⁷⁵ In other cases, Travellers will have moved on before the NI Housing Executive has the opportunity to engage, assess their needs and offer site provision.¹²⁷⁶

Impact of the Unauthorised Encampments (NI) Order 2005

The Local Government Partnership on Travellers Issues view was that the Unauthorised Encampments (NI) Order 2005 should never have been enacted and that "the lack of the NIHE response to ministerial conditions would suggest that the 2005 Order should not be in operation, even now".¹²⁷⁷ David Hanson, the then Minister of State for the NI Office, said in Parliament in 2005 that he intended to defer bringing the substantive provisions of the 2005 Order into effect until he was satisfied that there was a sufficient number of transit sites operational in NI. The Minister anticipated that five transit sites would be operational in 2006.¹²⁷⁸ These sites were not provided.¹²⁷⁹ When asked why this was the case, a representative from the NI Housing Executive said that the need would be judged on the numbers of unauthorised encampments. The representative also said that due to technologies such as Skype, the propensity to travel had diminished.¹²⁸⁰

A number of interviewees expressed a view that the 2005 Order has had an impact on the Traveller communities, particularly on their nomadic lifestyle.¹²⁸¹ The Equality Commission NI did not have evidence on how the law was being enforced, but understood that the legislation "has not been vigorously enforced".¹²⁸² Nevertheless, the Equality Commission NI reported that their engagement with Travellers indicated that confiscation of caravans permitted under the legislation "is a fairly significant disincentive, for people who are going to be camping on the road side for any length of time".¹²⁸³ Craigavon Travellers Support Committee stated:

¹²⁶⁹ Response received from Planning Department Representatives at Belfast City Council to Additional Questions from the NIHRC, 27 March 2017.

¹²⁷⁰ Interview with Council officials from Belfast City Council, February 2017.

¹²⁷¹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹²⁷² Ibid.

¹²⁷³ Interview with a representative of the Police Service NI: Interview D, 23 February 2017.

¹²⁷⁴ Ibid.

¹²⁷⁵ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹²⁷⁶ Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

¹²⁷⁷ Letter from NI Local Government Partnership on Travellers Issues to NIHRC, 11 November 2016.

¹²⁷⁸ House of Commons Written Answers 'Column 238W: Unauthorised Encampments Order', 7 November 2005.

¹²⁷⁹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹²⁸⁰ Ibid.

¹²⁸¹ Interview with representatives of the Equality Commission NI, 8 February 2017; Roundtable discussion with representatives from civil society groups, 20 September 2016.

¹²⁸² Interview with representatives of the Equality Commission NI, 8 February 2017.

¹²⁸³ Ibid.

the impact of the Unauthorised Encampment Order has definitely reduced families' ability to travel... Craigavon would have had a high number of roadside encampments up until about 4 or 5 years ago and we would have had to deal with roadside evictions at least once a month. That has just stopped because families just won't travel now, because their trailer can be seized.¹²⁸⁴

Craigavon Travellers Support Committee explained that if Travellers are moved from a Council area, they cannot come back into that Council area for a set period of time, which limits Travellers' ability to travel between families.¹²⁸⁵ South Tyrone Empowerment Programme highlighted that such scenarios may not have reached the stage of court proceedings, "but they will have actually been moved on in the initial stage".¹²⁸⁶

A number of representatives of the Police Service NI expressed the view that the Unauthorised Encampments (NI) Order 2005 bears more heavily on Travellers.¹²⁸⁷ One representative said that "no other community have been involved in encampments, it's just the Travellers" because of their transient lifestyle.¹²⁸⁸ Another representative of the Police Service NI expressed that the legislation "is contrary to the Race Relations Order, these are nomadic people. That is straight away infringing on their human rights".¹²⁸⁹

Some representatives of the Police Service NI did express the view that the legislation was necessary to deal with unauthorised encampments.¹²⁹⁰ One representative acknowledged that it was useful to have powers or policies in place, but said "I just think that there's other ways round it".¹²⁹¹

The Equality Commission NI expressed concern to the former Department of Social Development (now Department for Communities) during the development of the policy proposals underpinning the 2005 Order "that the introduction of the legislation, as proposed by the Department, constitutes a contravention of both international human rights standards and equality legislation and strongly urges the Department to abandon the proposal".¹²⁹² Specific concerns were also raised on the potential impact of legislation on Travellers with disabilities or with health problems; children in school; women trying to access antenatal care; and mothers who had given birth.¹²⁹³

The Department for Communities acknowledged that "the Department's monitoring does indicate that the use of the powers under the Order affects the Irish Traveller community, but the number of occasions when they are relied on remains very small".¹²⁹⁴ The Minister for Communities "is not prepared to consider repealing the Order".¹²⁹⁵

¹²⁸⁴ Roundtable discussion with representatives from civil society groups, 20 September 2016.

¹²⁸⁵ Ibid.

¹²⁸⁶ Ibid.

¹²⁸⁷ Interview with a representative of the Police Service NI: Interview A, 14 February 2017; Interview with a representative of the Police Service NI: Interview F, 15 February 2017; Interview with a representative of the Police Service NI: Interview D, 23 February 2017; Interview with a representative of the Police Service NI: Interview E, 22 February 2017.

¹²⁸⁸ Interview with a representative of the Police Service NI: Interview B, 23 February 2017.

¹²⁸⁹ Interview with a representative of the Police Service NI: Interview D, 23 February 2017.

¹²⁹⁰ Interview with a representative of the Police Service NI: Interview E, 22 February 2017; Interview with a representative of the Police Service NI: Interview B, 23 February 2017; Interview with a representative of the Police Service NI: Interview G, 8 March 2017.

¹²⁹¹ Interview with a representative of the Police Service NI: Interview F, 15 February 2017.

¹²⁹² Letter from Equality Commission NI to NIHRC, 24 March 2017.

¹²⁹³ Interview with representatives of the Equality Commission NI, 8 February 2017.

¹²⁹⁴ Letter from the Department for Communities to NIHRC, 23 February 2017.

¹²⁹⁵ Ibid.

Findings

The NIHRC's findings on unauthorised encampments and Travellers' accommodation in NI:

i	The data suggests that the Unauthorised Encampments (NI) Order 2005 is rarely used.
ii	Police Service NI figures for the year 2015/2016 indicate that the Unauthorised Encampments (NI) Order 2005 is mainly applied against members of the Traveller communities.
iii	The evidence suggests that the Police Service NI exercise discretion when considering utilising the powers under the Unauthorised Encampments (NI) Order 2005.
iv	A lack of suitable culturally appropriate alternative accommodation makes it difficult for the public authorities to exercise their powers under the Unauthorised Encampments (NI) Order 2005.
v	The Unauthorised Encampments (NI) Order 2005 has a disproportionate impact on Travellers, given their nomadic lifestyle.
vi	As well as its actual use in cases involving Travellers, the threat of the Unauthorised Encampments (NI) Order 2005 may discourage Travellers from engaging in nomadism.
vii	The Department for Communities acknowledges that the Unauthorised Encampments (NI) Order 2005 affects the Irish Traveller community in NI. However, there are no plans to repeal the Order.

7 Affordability

The right to adequate housing requires that accommodation, including Travellers' accommodation, is affordable. This duty engages:

Treaty	Article
ICESCR	11
CRC	27(3)
CRPD	28(2)(d)
ECHR	2
	3
	8
European Social Charter	16
European Social Charter (Revised) ¹²⁹⁶	31

The following soft law standards clarify these components:

UN ICESCR Committee
General Comment No 4: The Right to Adequate Housing ¹²⁹⁷
UN General Assembly
Report of the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context: Mission to the UK and NI ¹²⁹⁸
CoE Committee of Ministers
Recommendation on improving the housing conditions of Roma and Travellers in Europe ¹²⁹⁹
CoE Commissioner for Human Rights, Thomas Hammarberg
Implementation of the Right to Adequate Housing ¹³⁰⁰

¹²⁹⁶ Unlike the other human rights treaties listed, the UK (including NI) has not ratified the European Social Charter (Revised) 1996. It has signed this treaty, which obliges the UK to refrain, in good faith, from acts that would defeat the object and purpose of the treaty.

¹²⁹⁷ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991.

¹²⁹⁸ A/HRC/25/54/Add.2, 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this Context, Raquel Rolnik: Mission to the UK of Great Britain and NI', 30 December 2013.

¹²⁹⁹ CoE, 'Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe', 25 February 2005.

¹³⁰⁰ CommDH(2009)5, 'Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing', 30 June 2009.

Human Rights Laws and Standards

United Nations

The ICESCR Committee, General Comment No 4, states that:

personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised. Steps should be taken by States parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels. States parties should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs. In accordance with the principle of affordability, tenants should be protected by appropriate means against unreasonable rent levels or rent increases. In societies where natural materials constitute the chief sources of building materials for housing, steps should be taken by States parties to ensure availability of such materials.¹³⁰¹

From a practical perspective, the ICESCR Committee has urged the adoption of “all necessary measures to address the housing deficit by ensuring sufficient supply of housing, in particular social housing units, especially for the most disadvantaged and marginalised individuals and groups”.¹³⁰²

The CRC, Article 27(3), establishes:

States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to... housing.

The CRPD, Article 28(2)(d), provides:

State Parties recognise the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realisation of this right including measures... to ensure access by persons with disabilities to public housing programmes.

The UN Habitat Agenda reaffirms the right to adequate housing includes “equal access to affordable, adequate housing for all persons and their families”.¹³⁰³ This required making sure that “adequate privacy; adequate space; physical accessibility; adequate security; security of tenure; structural stability and durability; adequate lighting; sanitation and waste-management facilities; suitable environmental quality and health-related factors; and adequate and accessible location with regard to work and basic facilities” are all “available at an affordable cost”.¹³⁰⁴

¹³⁰¹ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 8(c).

¹³⁰² E/C.12/GBR/CO/6, 'ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 14 July 2016, at para 50(a).

¹³⁰³ A/Conf.165/14, 'UN Conference on Human Settlements (Habitat II)', 14 June 1996, at Annex I, paras 8 and 39.

¹³⁰⁴ *Ibid.*, at Annex I, para 60.

The UN Habitat Agenda promotes the expansion of the “supply of affordable housing by enabling markets to perform efficiently and in a socially and environmentally responsible manner, enhancing access to land and credit and assisting those who are unable to participate in housing markets”.¹³⁰⁵ This is extended to “increasing the supply of affordable rental, communal, cooperative and other housing through partnerships among public, private and community initiatives”.¹³⁰⁶ It also promotes the use of affordable construction methods and technologies.¹³⁰⁷ The UN Habitat Agenda suggests adopting policies that:

- i) expand... the supply of affordable housing through appropriate regulatory measures and market incentives;
- ii) increase... affordability through the provision of subsidies and rental and other forms of housing assistance to people living in poverty;
- iii) support... community-based, cooperative and non-profit rental and owner-occupied housing programmes;
- iv) promote... supporting services for the homeless and other vulnerable groups;
- v) mobilise... innovative financial and other resources – public and private – for housing and community development;
- vi) create... and promote... market-based incentives to encourage the private sector to meet the need for affordable rental and owner-occupied housing;
- vii) promote... sustainable spatial development patterns and transportation systems that improve accessibility of goods, services, amenities and work.¹³⁰⁸

The former UN Special Rapporteur on Adequate Housing, Raquel Rolnik, confirmed that affordability is a component of the right to adequate housing and called for affordable housing to be a priority for planning and land management systems.¹³⁰⁹ Targeted measures should also be in place to “increase the supply of housing in the private market for those individuals and households who face unaffordable alternatives, especially for young and those in the middle and lower ends of the spectrum”.¹³¹⁰ She also promoted releasing “public land to tackle lack of availability of housing favour social and affordable housing, including through local Councils, housing associations, cooperatives and community land trusts”.¹³¹¹

Council of Europe

Specific to affordability, where a State has not imposed any direct ill-treatment on an individual, the ECHR Article 3, can be engaged if “subsistence and livelihood is not sufficient for basic needs”.¹³¹² The State “responsibility could arise for ‘treatment’ where an applicant, in circumstances wholly dependent on State support, found [themselves] faced with official indifference when in a situation of serious deprivation or want incompatible with human dignity”.¹³¹³

In some circumstances, public authorities can be required to devote resources to ensure enjoyment of the ECHR, Article 8, for example obliging the State to provide positive welfare support, such as housing.¹³¹⁴ In the context of Article 8, this was only in special circumstances and not “a matter of course”.¹³¹⁵

¹³⁰⁵ *Ibid.*, at Annex I, para 9.

¹³⁰⁶ *Ibid.*, at Annex I, para 40(h).

¹³⁰⁷ *Ibid.*, at Annex I, paras 40(f) and 69(d).

¹³⁰⁸ *Ibid.*, at Annex I, para 61(c).

¹³⁰⁹ A/HRC/25/54/Add.2, ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this Context, Raquel Rolnik: Mission to the UK of Great Britain and NI’, 30 December 2013, at paras 7 and 78(e).

¹³¹⁰ *Ibid.*, at para 78(f).

¹³¹¹ *Ibid.*, at para 78(d).

¹³¹² *Budina v Russia* (2009) ECHR 1104, at Section 3.

¹³¹³ *Ibid.*

¹³¹⁴ *Anufrijeva v Southwark* [2003] EWCA Civ 1406, at para 28.

¹³¹⁵ *Ibid.*, at para 33.

The European Social Charter, Article 16, requires that:

with a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Contracting Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits... provisions of family housing... and other appropriate means.

Specific to housing, the European Social Charter (Revised), Article 31, states:

with a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

1. to promote access to housing of an adequate standard;
2. to prevent and reduce homelessness with a view to its gradual elimination;
3. to make the price of housing accessible to those without adequate resources.

The requirement for affordable accommodation is linked to the obligation to offer accommodation in an adequate location as "the temporal and financial costs of getting to and from the place of work" should not "place excessive demands upon the budgets of poor households".¹³¹⁶

The CoE Committee of Ministers has called for Member States to "promote and protect the right to adequate housing for all, as well as ensure equal access to adequate housing for [Travellers] through appropriate, proactive policies, particularly in the area of affordable housing and service delivery".¹³¹⁷ This includes having "practical and affordable housing alternatives, so as to discourage settlements in, near or on hazardous areas".¹³¹⁸

The former CoE Commissioner for Human Rights, Thomas Hammarberg, confirmed that housing should be affordable and of adequate quality.¹³¹⁹ This requires that "supply and demand are balanced in the housing market in general and in the rental market in particular". The measures to ensure this include "regulation of social housing costs, rent regulation in the private sector, and provision of direct or indirect income transfers".¹³²⁰ He also promoted support for homebuyers, low-cost housing and compensation for housing costs that cover the cost of basic amenities.¹³²¹

Travellers' Accommodation and Affordability

Domestic Laws and Policies

The 'Supporting People' programme was established as part of a UK-wide initiative. It was introduced to NI under the Housing Support Services (NI) Order 2002 and the Housing Support Services Regulations (NI) 2003. The Programme equips and supports vulnerable people in NI to live independently. People can receive support in a hostel, in sheltered housing or in other types of supported housing accommodation. Support can also be provided to people in their own homes.¹³²² The 'Comprehensive Traveller Accommodation Needs Assessment' is used as a basis for the programme's partnering actions.

¹³¹⁶ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 8(f).

¹³¹⁷ CoE, 'Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe', 25 February 2005, at Appendix, section II, para 4. Emphasis added.

¹³¹⁸ *Ibid.*, at Appendix, section II, para 21.

¹³¹⁹ CommDH(2009)5, 'Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing', 30 June 2009, at sections 2.1 and 2.2.

¹³²⁰ *Ibid.*, at section 3.4.

¹³²¹ *Ibid.*, at sections 3.4.1 and 3.4.2.

¹³²² Letter from Department for Communities to NIHRC, 7 November 2017.

The 'Design for Travellers' Sites in NI' does not address affordability of Travellers' sites. By contrast, the UK Department for Communities and Local Government good practice guide for designing Gypsy and Travellers' sites in England does address this issue. It recommends that amenity buildings incorporate cost effective energy efficiency measures.¹³²³ It also recommends that the heating supply to amenity buildings is economical and capable of individual control for each room.¹³²⁴

Domestic Practice

Rent Prices

Housing Benefit is a social security benefit paid by the NI Housing Executive. It helps people on a low income pay their rent and rates. It is available for all accommodation types, irrespective of the type of landlord.¹³²⁵

The rent on all Travellers' accommodation offered by the NI Housing Executive and the three interviewed housing associations are within the range of Housing Benefit. Apex, Clanmil and Radius housing associations are concerned that the introduction of the social security reform measures, in particular the benefit cap and the Local Housing Allowance, will make accommodation unaffordable across the board, not only for Travellers.¹³²⁶ As a representative of Radius Housing Association stated "the chances are nobody's rent will ever be covered in entirety again".¹³²⁷ Apex Housing Association is putting measures in place to assist with mitigating the impact such as developing Living Centres that offer foodbank vouchers, cooking facilities and social security advice.¹³²⁸ Clanmil Housing Association introduced something similar to certain areas with its localised hubs.¹³²⁹

For Travellers' sites two rents can be required – a ground rent for sites and a separate rent for a mobile home. Both payments can be made using Housing Benefit.¹³³⁰ There is no guarantee that Housing Benefit will be sufficient to cover both rents. In May 2016, the Government introduced a benefit cap for claimants of a working age.¹³³¹ This potentially affects the amount of Housing Benefit available to an individual. Furthermore, the two-child limit for new claimants of Child Tax Credit is due to be fully implemented in November 2018. This will stop the payment of tax credits (and its successor Universal Credit) for a third or subsequent child to any new claimants. This could negatively affect the affected families' wider budget, including their ability to pay rent.

The ground rent, when required, is paid to the NI Housing Executive. There is no rental charge for pitches on emergency halting or transit sites, even if such a site becomes de facto permanent.¹³³² On serviced Travellers' sites, a standard charge of £25 per pitch, per week applies.¹³³³

The NI Housing Executive does not supply caravans, trailers or chalets. Chalets must be purchased from private vendors. It is not possible for Travellers to rent chalets.¹³³⁴ Private landlords are phasing out long-term

¹³²³ Department for Communities and Local Government, 'Designing Gypsy and Traveller Sites: Good Practice Guide' (Department for Communities and Local Government, 2008), at para 7.21.

¹³²⁴ *Ibid.*, at para 7.23.

¹³²⁵ Available at: <http://www.nihe.gov.uk/index/benefits/housingbenefit.htm>

¹³²⁶ Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Radius Housing Association, 2 February 2017.

¹³²⁷ Interview with representatives of Radius Housing Association, 2 February 2017.

¹³²⁸ Interview with representatives of Apex Housing Association, 7 February 2017.

¹³²⁹ Interview with representatives of Clanmil Housing Association, 8 March 2017.

¹³³⁰ Roundtable discussion with civil society organisations, 20 September 2016.

¹³³¹ NI Executive, 'Benefit Cap: Frequently Asked Questions' (NIHE, 2016).

¹³³² Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

¹³³³ *Ibid.*

¹³³⁴ Roundtable discussion with civil society organisations, 20 September 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

caravan and trailer rental for Travellers.¹³³⁵ Buying a caravan or trailer is not an option for everyone. Many Travellers rely on social security, do not have the required savings and are unable to access a loan. This raises issues around security of tenure for those currently renting a caravan or trailer. Even if security of tenure is guaranteed for the existing caravan or trailer, it creates a precarious situation regarding future repairs or the ability to replace the caravan or trailer when it becomes inhabitable. As a Traveller who rented a caravan reported:

I don't have the money for a different caravan... We are looking [for a new supplier], but no one really wants to take us on. Then if somebody's taking you on, maybe they want £7000 or £8000 deposit [to buy a new caravan or chalet]. It's not hundreds, it's thousands. It's not manageable.¹³³⁶

Bills

Of the Travellers interviewed, a number stated they found it a struggle to pay bills.¹³³⁷ This was a particular issue for those living on Travellers' sites where caravans with poor insulation and a lack of washing facilities were prevalent. In such instances, heating, clothing, showering and laundry bills were the greatest struggles.¹³³⁸

Research commissioned by the Equality Commission NI in 2009 reported that a lack of amenities on sites was forcing some Traveller households into poverty. For example, not being connected to the electricity mains or not having showering facilities incurred an extra expense for running generators and paying for shower facilities at local leisure centres.¹³³⁹ This is a particular issue on emergency halting and transit Travellers' sites, or in instances where there are delays in setting up a pitch on a serviced Travellers' site.¹³⁴⁰

Findings

The NIHRC's findings on affordability and Travellers' accommodation in NI are:

i	The rent for standard social housing, grouped housing and pitches on Travellers' sites is set at an affordable rate.
ii	The rent for caravans and trailers is unregulated, which creates a risk of it being set at an unaffordable rate.
iii	The unavailability of long-term caravans or trailer rental to Travellers risks such accommodation becoming unaffordable in the future.

¹³³⁵ Ibid.

¹³³⁶ Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

¹³³⁷ Individual interview with member of the Traveller communities in NI: Interview 5, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 6, 29, November 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with members of the Traveller communities in NI: Interview 15, 14 December 2016; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017; Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

¹³³⁸ Individual interview with member of the Traveller communities in NI: Interview 5, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 6, 29, November 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with members of the Traveller communities in NI: Interview 15, 14 December 2016; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017.

¹³³⁹ Chartered Institute of Housing and the University of Ulster, 'Outlining Minimum Standards for Traveller Accommodation' (ECNI, 2009), at 70.

¹³⁴⁰ Individual interview with member of the Traveller communities in NI: Interview 5, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 6, 29, November 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with members of the Traveller communities in NI: Interview 15, 14 December 2016; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017.

iv	Private landlords' decision to no longer rent chalets and the unregulated rates for the purchase of chalets made such accommodation unaffordable for those on low income.
v	Housing Benefit is available for all types of Travellers' accommodation. As the current rental rates for accommodation provided by public authorities were set at Housing Benefit rates or below, this assistance makes rent affordable for low income families. However, there are concerns whether Housing Benefit is sufficient to cover unregulated private rents.
vi	There are concerns that current and pending social security reforms would make future rents unaffordable.
vii	There are concerns that the lack of services on Travellers' sites is increasing the cost of living.

8 Location

The duty to provide adequate housing requires that accommodation, including Travellers' accommodation, should be adequately located. This duty engages:

Treaty	Article
ICESCR	11
CRC	3
	6(1)
	19
ECHR	2
	3
	8

The following soft law standards clarify what this requires:

UN ICESCR Committee
General Comment No 4: The Right to Adequate Housing ¹³⁴¹
UN General Assembly
Report of the United Nations Conference on Human Settlements (Habitat II) ¹³⁴²
CoE Committee of Ministers
Recommendation on the movement and encampment of Travellers in Europe ¹³⁴³
Recommendation on improving the housing conditions of Roma and Travellers in Europe ¹³⁴⁴
CoE Commissioner for Human Rights, Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing, Miloon Kothari
Joint Statement ¹³⁴⁵
ECRI
Recommendation No 13: Combating Anti-gypsyism and Discrimination against Roma ¹³⁴⁶

¹³⁴¹ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991.

¹³⁴² A/Conf.165/14, 'UN Conference on Human Settlements (Habitat II)', 14 June 1996.

¹³⁴³ CoE, 'Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe', 1 December 2004.

¹³⁴⁴ CoE, 'Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe', 25 February 2005.

¹³⁴⁵ CommDH/Speech(2007)16, 'Joint Statement by CoE Commissioner for Human Rights Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari: Governments Should Take Positive Steps to Protect the Housing Rights of Roma in Europe', 24 October 2007.

¹³⁴⁶ CRI(2011)37, 'ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma', 24 June 2011.

Human Rights Laws and Standards

United Nations

The ICESCR Committee, General Comment No 4, states that:

housing must be in a location which allows access to employment options, healthcare services, schools, childcare centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants.¹³⁴⁷

The CRC, Article 3, requires “the best interests of the child shall be of primary concern”. The CRC Committee confirms this includes consideration of “the environment in relation to safety”.¹³⁴⁸ This “means assessing the safety and integrity of the child at the current time; however, the precautionary principle also requires assessing the possibility of future risk and harm and other consequences of the decision for the child’s safety”.¹³⁴⁹ The CRC, Article 19, requires States to take “all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental... injury”. The CRC, Article 6(1), also requires a child’s right to life is respected, protected and fulfilled.

The UN Habitat Agenda states the definition of adequate housing includes “adequate and accessible location with regard to work and basic facilities; all of which should be available at an affordable cost”.¹³⁵⁰

Council of Europe

The positive obligation to protect the family under the ECHR, Article 8, extends to addressing disproportionate environmental risks,¹³⁵¹ industrial pollution,¹³⁵² noise pollution,¹³⁵³ water supply contamination, and waste collection, management, treatment and disposal.¹³⁵⁴ It does not extend to mobile phone antennas, subject to future scientific evidence that such apparatus is detrimental to human health.¹³⁵⁵ Public authorities are required to provide prompt essential information about the risks to those affected by environmental issues.¹³⁵⁶

The positive obligation to protect life under the ECHR, Article 2, extends to addressing environmental issues such as dangerous industrial activities,¹³⁵⁷ and industrial emissions where there is a sufficient causal link.¹³⁵⁸ The location of one’s home may also engage the ECHR, Article 3, which provides for freedom from torture, inhuman or degrading treatment or punishment.

¹³⁴⁷ E/1992/23, ‘ICESCR Committee General Comment No 4: The Right to Adequate Housing’, 13 December 1991, at para 8(f).

¹³⁴⁸ CRC/C/GC/14, ‘CRC Committee General Comment No 14: Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration’, 29 May 2013, at para 48.

¹³⁴⁹ *Ibid*, at para 74.

¹³⁵⁰ A/Conf.165/14, ‘UN Conference on Human Settlements (Habitat III)’, 14 June 1996, at para 60.

¹³⁵¹ *Guerra and Others v Italy* (1998) ECHR 7, at paras 56-60.

¹³⁵² *Lopez Ostra v Spain* (1994) ECHR 46, at paras 44-58.

¹³⁵³ *Moreno Gómez v Spain* (2004) ECHR 633, at paras 53-63; *Deés v Hungary* (2010) ECHR 1772, at paras 18-24; *Bor v Hungary* (2013) ECHR 557, at paras 22-28.

¹³⁵⁴ *Brânduse v Romania*, Application No 6586/03, 7 April 2009, at paras 68-76.

¹³⁵⁵ *Luginbühl v Switzerland*, Application No 42756/02, 17 January 2006.

¹³⁵⁶ *Guerra and Others v Italy* (1998) ECHR 7, at para 60.

¹³⁵⁷ *Öneriyildiz v Turkey* (2004) ECHR 657, at paras 109-110.

¹³⁵⁸ *Smaltini v Italy*, Application No 43961/09, Admissibility Decision, 16 April 2015.

The CoE Committee of Ministers requires:

all conditions necessary to pursue [sedentary or nomadic] lifestyles should be made available to [Travellers] by the national, regional and local authorities in accordance with the resources available and to the rights of others and within the legal framework relating to building, planning and access to private land.¹³⁵⁹

This includes introducing provision that enables Travellers to “be able to acquire their own accommodation by different means, forms and methods of access to housing, such as social housing, cooperatives, do-it-yourself housing, public housing, caravans and other innovative forms of housing”.¹³⁶⁰

Regarding practical steps, the Committee of Ministers requires Traveller housing to be “located in areas that are fit for habitation or suitable for construction under current legislation, and in ecologically healthy surroundings”.¹³⁶¹ Measures should be adopted that enable Traveller communities “to react to unexpected events, such as natural disasters or epidemics, which often disproportionately affect vulnerable groups living in precarious settlements”.¹³⁶² Where existing settlements cannot be removed from “unsuitable locations”, they “should be improved by appropriate and constructive environmental measures”.¹³⁶³ The Committee of Ministers states public authorities should “take account of Travellers’ traditional encampment sites” when selecting “such areas”.¹³⁶⁴ This includes ensuring there are a “sufficient” number “taking into account the demographic trends among the families concerned, and their location in zones suited to the frequency of use of Travellers”.¹³⁶⁵

In 2007, the then CoE Commissioner for Human Rights, Thomas Hammarberg, and the then UN Special Rapporteur on Adequate Housing, Miloon Kothari, note that “substandard education” of Travellers is “often a result of placement far from decent schools”.¹³⁶⁶

The ECRI recommends steps to “legalise the occupation of Roma sites or dwellings built in breach of town planning regulations once the situation has been tolerated for a long period of time by the public authorities”.¹³⁶⁷ It also recommends “spatial planning regulations do not systematically impede the traditional life of Travellers”.¹³⁶⁸

Planning

Domestic Laws and Policies

Planning permission is required for certain types of development.¹³⁶⁹ To obtain such approval the individual or company wishing to carry out the development must apply to their local Council (for local and major

¹³⁵⁹ CoE, ‘Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe’, 25 February 2005, at II(3); CoE, ‘Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe’, 1 December 2004, at Preamble.

¹³⁶⁰ CoE, ‘Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe’, 25 February 2005, at para 31.

¹³⁶¹ *Ibid.*, at para 48.

¹³⁶² *Ibid.*

¹³⁶³ *Ibid.*

¹³⁶⁴ CoE, ‘Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe’, 1 December 2004, at para 22.

¹³⁶⁵ *Ibid.*, at para 23(ii).

¹³⁶⁶ CommDH/Speech(2007)16, ‘Joint Statement by Council of Europe Commissioner for Human Rights Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari: Governments Should Take Positive Steps to Protect the Housing Rights of Roma in Europe’, 24 October 2007.

¹³⁶⁷ CRI(2011)37, ‘ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma’, 24 June 2011, at para 6(e).

¹³⁶⁸ *Ibid.*, at para 6(j).

¹³⁶⁹ See Sections 23 and 24, Planning Act (NI) 2011.

developments) or the Department for Infrastructure (for regionally significant developments).¹³⁷⁰ Regarding Travellers' accommodation, the relevant planning authorities are the local Councils. Any development that is subject to planning permission can only commence after planning permission is granted. Unless, otherwise stated, planning permission lasts indefinitely.¹³⁷¹ For the full planning permission to remain valid, the development must commence within five years of approval.¹³⁷² For reserved matters, development must commence within three years of the reserved approval.¹³⁷³ If development is carried out without the required approval, or in breach of conditions attached to granted planning permission or approval, it can be subject to an enforcement notice.¹³⁷⁴ An enforcement notice may be issued where the local Council requires that the unauthorised development is demolished or the unauthorised use of the development ceases. The issuing of an enforcement notice is discretionary.¹³⁷⁵

The owner of an unauthorised development can apply for a retrospective certificate of existing lawful use or development. This protects lawful developments granted a certificate from enforcement action.¹³⁷⁶ If an unauthorised development survives five years without an enforcement notice, it becomes immune to enforcement action.¹³⁷⁷ Refusal of planning permissions or approval subject to conditions, and enforcement notices can be subject to appeal.¹³⁷⁸ The Planning Appeals Commission, an independent body, considers such appeals.¹³⁷⁹ The Department for Infrastructure has discretionary powers to assess a Council's performance, including its planning decisions.¹³⁸⁰

Planning policies guide whether planning permission is granted for Travellers' accommodation. The former Department for the Environment (now Department for Infrastructure) has responsibility for the preparation of planning policy and legislation.¹³⁸¹ The Department for Infrastructure and local Councils share responsibility for implementing these laws and policies.

In April 2015, the NI planning system changed from a unitary scheme, where all planning powers rested with the Department for Infrastructure, to a two-tier model of delivery, whereby local Councils have primary responsibility for the implementation of key planning functions. This includes local plan making, development management and planning enforcement. The Department for Infrastructure retains responsibility for regional planning policy, the determination of regionally significant developments and called-in applications and planning legislation. It also provides oversight, guidance for local Councils, governance and performance management functions. The Planning Act (NI) 2011 introduced this reform.¹³⁸² Each local Council is required to:

¹³⁷⁰ Interview with Council Officials at Armagh, Banbridge and Craigavon Borough Council, 20 February 2017; Interview with Council Officials at Belfast City Council, 6 February 2017; Interview with Council Officials at Derry City and Strabane District Council, 15 February 2017; Interview with Council Officials at Mid Ulster District Council, 15 March 2017; Response from Department for Infrastructure to NIHRC, 13 November 2017.

¹³⁷¹ Section 61, Planning Act (NI) 2011.

¹³⁷² *Ibid.*

¹³⁷³ Response from Department for Infrastructure to NIHRC, 13 November 2017.

¹³⁷⁴ Sections 138 and 139, Planning Act (NI) 2011.

¹³⁷⁵ Sections 138(1) and 139(1), Planning Act (NI) 2011; Interview with Council Officials at Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

¹³⁷⁶ Interview with Council Officials at Belfast City Council, 6 February 2017; Interview with Council Officials at Mid Ulster District Council, 15 March 2017.

¹³⁷⁷ Section 132, Planning (NI) Act 2011.

¹³⁷⁸ Sections 58 and 143, Planning (NI) Act 2011; Response from Department for Infrastructure to NIHRC, 13 November 2017.

¹³⁷⁹ Part 9, Planning (NI) Act 2011 replaced Part XI, Planning (NI) Order 1991.

¹³⁸⁰ Sections 207 and 208, Planning (NI) Act 2011.

¹³⁸¹ The then Department of the Environment had responsibility for planning policies regarding housing settlements and land use until 14 January 2008. This responsibility moved to the then Department for Regional Development on 15 January 2008. These responsibilities were transferred to the Department for Infrastructure on 8 May 2016. See Section 1(1), Planning Act (NI) 2011; Available at: <http://www.planningni.gov.uk/>.

¹³⁸² Letter from Department for Infrastructure to NIHRC, 22 September 2016.

keep under review the matters which may be expected to affect the development of its district or the planning of that development. Those matters include the principal physical, economic, social and environmental characteristics as well as population, communications, transport and traffic.¹³⁸³

From a human rights perspective, planning policies must be compliant with the ECHR, by virtue of the Human Rights Act 1998. In particular Articles 6, 8, 14 and Article 1, Protocol 1. The then Department of the Environment, was satisfied that “its [planning] processes and practices are compatible with the ECHR”.¹³⁸⁴ The Department for Infrastructure inherited these planning processes and practices.

The introduction of Local Development Plans for each local Council area is ongoing.¹³⁸⁵ In time, these will replace existing Area Plans and Planning Policy Statements. This is an opportunity for each local Council to replace the existing Area Plans¹³⁸⁶ and to review the Planning Policy Statements¹³⁸⁷ relevant to its area. No local Council’s Local Development Plans were published at the time of this investigation and the earliest new plans will likely be adopted is around 2020.¹³⁸⁸ Once adopted, each Local Development Plan will be subject to annual monitoring.¹³⁸⁹ Regarding these plans, the Strategic Planning Policy Statement for NI requires a housing need assessment by the NI Housing Executive or other relevant housing authority.¹³⁹⁰ This includes Travellers’ accommodation.

The housing needs assessment should influence how the pending Local Development Plans facilitate a reasonable mix and balance of housing tenures and types.¹³⁹¹ The Local Development Plans should take account of the Strategic Planning Policy Statement’s strategic direction. Such plans are subject to public consultation and tested for ‘soundness’ by means of an independent examination prior to adoption.¹³⁹² Regarding Travellers’ accommodation, where a need is identified a suitable site should also be identified within the Local Development Plan.¹³⁹³ The site must offer adequate landscaping, be compatible with the existing settlement and environment, and offer workspace, play space and visitor parking where appropriate.¹³⁹⁴

Planning Policies Relevant to Travellers’ Accommodation

The Regional Development Strategy 2035 sets out the strategy vision for future development across NI, including Travellers’ accommodation. It requires that the allocation of housing growth considers the environmental assets of the settlement, the potential of flooding from rivers, the sea or surface water run-off and its potential to accommodate future outward growth without significant environmental degradation.¹³⁹⁵ The potential to maintain a sense of place and to integrate a new development, in a way that does not detract from the character and identity of the settlement, is also to be considered.¹³⁹⁶

¹³⁸³ Department of the Environment, ‘Local Development Plans: DOE Environmental Evidence and Information’ (DoE, 2015), at para 1.1.

¹³⁸⁴ The Planning Service, ‘The Hierarchy of the Planning Documents and their Role in Making a Planning Decision’ (DoE, 2004), at 7.

¹³⁸⁵ Part 2, Planning Act (NI) 2011; Planning (Local Development Plan) Regulations (NI) 2015.

¹³⁸⁶ Section 4 of the Planning (NI) Order 1991 enabled the Department of the Environment to create, alter, repeal or replace a development plan for any area in NI.

¹³⁸⁷ Planning Policy Statements set out the policies of the Department of the Environment on particular aspects of land-use planning and apply to the whole of NI. Their contents must be taken into account in preparing development plans and are also material to individual planning applications and appeals. Available at: http://www.planningni.gov.uk/index/policy/planning_statements_and_supplementary_planning_guidance.htm.

¹³⁸⁸ Response from Department for Infrastructure to NIHRc, 13 November 2017.

¹³⁸⁹ Sections 6 and 21, Planning Act (NI) 2011.

¹³⁹⁰ Department of the Environment, ‘Strategic Planning Policy Statement for NI (SPPS): Planning for Sustainable Development’ (DoE, 2015), at para 6.139.

¹³⁹¹ *Ibid.*

¹³⁹² Letter from the Department for Infrastructure to NIHRc, 22 September 2016.

¹³⁹³ Department of the Environment, ‘Strategic Planning Policy Statement for NI (SPPS): Planning for Sustainable Development’ (DoE, 2015), at para 6.145.

¹³⁹⁴ Department of the Environment, ‘Planning Policy Statement 12: Housing in Settlements – Policy HS 3 (Amended) Travellers Accommodation’ (DoE, 2013), at 4; Department of the Environment, ‘Strategic Planning Policy Statement for NI (SPPS): Planning for Sustainable Development’ (DoE, 2015), at para 6.144.

¹³⁹⁵ Department for Regional Development, ‘Regional Development Strategy 2035’ (DRD, 2010), at Table 3.2.

¹³⁹⁶ *Ibid.*

Planning Policy Statement 12 applies to all residential development proposals within cities, towns, villages and small settlements in NI.¹³⁹⁷ Planning Policy Statement 21 sets out planning policies for development in the countryside.¹³⁹⁸ These policies establish the requirements for developing private accommodation and standard social housing. The factors that should be considered include “demonstrable housing need”, “suitable mix of housing”, promoting “housing within existing urban areas... appropriate to the scale and design to the cities and towns of NI”, and striking a balance “between the need to protect the countryside from unnecessary or inappropriate development, while supporting rural communities”.¹³⁹⁹

The leading policy regarding Traveller-specific accommodation is Planning Policy HS 3.¹⁴⁰⁰ This applies to urban and rural Traveller-specific accommodation.¹⁴⁰¹ Planning Policy HS 3 specifically considers development proposals for the accommodation of Travellers' distinctive needs.¹⁴⁰² Planning Policy HS 3 was limited to transit sites,¹⁴⁰³ but now extends to serviced sites and grouped housing schemes.¹⁴⁰⁴

Where “a local housing needs assessment identified that there is a demonstrable need for Travellers specific accommodation, planning permission will be granted for a suitable facility which meets this need” and satisfies planning requirements concerning landscaping, environmental amenity and facilities.¹⁴⁰⁵ If such needs cannot be “readily met within an existing settlement in the locality”, rural planning applications for Traveller-specific accommodation will be considered.¹⁴⁰⁶ Such applications should “meet the policy requirements of Policy CTY 5 – ‘Social and Affordable Housing’”.¹⁴⁰⁷ This limits any rural development to “a group of no more than 14 dwellings” and requires a demonstration of need.¹⁴⁰⁸ Factors for consideration include proximity to existing settlement, amenities and environment; whether the land was formerly developed; and visual integration with the landscape.¹⁴⁰⁹ The rural settlement should also be “located adjacent or close to a traditional focal point such as a church, hall, school or community centre”.¹⁴¹⁰

An exception exists for rural single-family transit or serviced Travellers' sites. Such applications are permitted “without a requirement to demonstrate need”.¹⁴¹¹ They are assessed on their merits, including taking “full account of planning, environmental and other material considerations – for example, the availability of suitable infrastructure and services”.¹⁴¹²

Processing Planning Applications

A consultation process commences on receipt of a planning application for any development, including Travellers' accommodation. The application is sent to key public authority consultees and neighbours are notified. Others are notified through an advertisement of new applications in the local press and on the

¹³⁹⁷ Department for Regional Development, ‘Planning Policy Statement 12 (PPS 12): Housing Settlements’ (DRD, 2005).

¹³⁹⁸ Department of the Environment, ‘Planning Policy Statement 21: Sustainable Development in the Countryside’ (DoE, 2010).

¹³⁹⁹ Department for Regional Development, ‘Planning Policy Statement 12 (PPS 12): Housing Settlements – HS 2 Social Housing’ (DRD, 2005), at 10 and 34; Department of the Environment, ‘Planning Policy Statement 21: Sustainable Development in the Countryside’ (DoE, 2010), at para 3.2.

¹⁴⁰⁰ Department for Regional Development, ‘Planning Policy Statement 12 (PPS 12): Housing Settlements’ (DRD, 2005), at para 4; Department of the Environment, ‘Planning Policy Statement 21: Sustainable Development in the Countryside’ (DoE, 2010), at 12; Department of the Environment, ‘Planning Policy Statement 12: Housing in Settlements – Policy HS 3 (Amended) Travellers Accommodation’ (DoE, 2013).

¹⁴⁰¹ *Ibid.*

¹⁴⁰² Department of the Environment, ‘Planning Policy Statement 12: Housing in Settlements – Policy HS 3 (Amended) Travellers Accommodation’ (DoE, 2013), at 3; Response from Department for Infrastructure to NIHR, 13 November 2017.

¹⁴⁰³ Department for Regional Development, ‘Planning Policy Statement 12 (PPS 12): Housing Settlements’ (DRD, 2005), at 35;

¹⁴⁰⁴ *Boswell’s Application* [2009] NIOB 95; Department of the Environment, ‘Planning Policy Statement 12: Housing in Settlements – Policy HS 3 (Amended) Travellers Accommodation’ (DoE, 2013), at 4.

¹⁴⁰⁵ Department of the Environment, ‘Planning Policy Statement 12: Housing in Settlements – Policy HS 3 (Amended) Travellers Accommodation’ (DoE, 2013), at 4.

¹⁴⁰⁶ *Ibid.*

¹⁴⁰⁷ *Ibid.*; Department of the Environment, ‘Strategic Planning Policy Statement for NI (SPPS): Planning for Sustainable Development’ (DoE, 2015), at para 6.146.

¹⁴⁰⁸ Department of the Environment, ‘Planning Policy Statement 21: Sustainable Development in the Countryside’ (DoE, 2010), at 21.

¹⁴⁰⁹ *Ibid.*

¹⁴¹⁰ *Ibid.*

¹⁴¹¹ Department of the Environment, ‘Planning Policy Statement 12: Housing in Settlements – Policy HS 3 (Amended) Travellers Accommodation’ (DoE, 2013), at 4.

¹⁴¹² *Ibid.*

Planning NI website. A case officer is appointed as the point of contact. They carry out site inspections, can meet with the applicant and other interested parties where necessary, and prepare a report on the main planning issues. The Development Management Group usually discusses applications at its monthly meeting.¹⁴¹³ An authorised officer chairs this meeting and the participants form an opinion on the application. For applications not decided by planning officers, the Council Planning Committee makes the decision.¹⁴¹⁴ Where a planning application is refused, the affected applicants can appeal the Council's planning decision to the Planning Appeals Commission.¹⁴¹⁵

Regarding Travellers' accommodation, the relevant Council's Local Development Plan, the Strategic Planning Policy Statement, local material circumstances and all other material planning considerations guide the decision process.¹⁴¹⁶ The relevant and weight of all material considerations, including planning policy, is a matter for the decision maker. However, any decision of a planning officer or committee should be "based on proper planning reasons".¹⁴¹⁷ Councillors are not to "apply undue pressure towards planning officers to provide a particular recommendation on any planning decision".¹⁴¹⁸ There should be a balance of "the interests of developers and interest groups with taking planning decisions, by applying... local knowledge and the advice and guidance of planning officers, in a fair, impartial and transparent way, for the benefit of the whole community".¹⁴¹⁹ Any support for decisions or plans contrary to a planning officer's recommendation should be "on the basis of sound planning considerations which must fairly and reasonably relate to the application concerned". This includes "planning policy, landscaping, impact on the neighbourhood, planning history".¹⁴²⁰ Councillors should declare any conflict of interest and remove themselves from the planning decision-making process.¹⁴²¹

Major development planning applications should be processed within 30 weeks.¹⁴²² Local development planning applications should be processed within 15 weeks.¹⁴²³ Additionally, 70 percent of enforcement cases dealt with by local Councils should be progressed within 39 weeks of receipt of complaint.¹⁴²⁴ Prior to the enactment of the Local Government (Performance Indicators and Standards) Order (Northern Ireland) 2015, the Planning Service required 60 percent of major applications were processed within 23 weeks, 70 percent of intermediate applications were processed within 31 weeks and 80 percent of minor planning applications were processed within 18 weeks.¹⁴²⁵

Domestic Practice

Between 1983 and November 2016, 34 planning applications were submitted regarding Travellers' sites (including five private sites) and 11 for grouped housing schemes in NI.¹⁴²⁶ Of the Travellers' site applications, 29 (85 percent) were granted and five (15 percent) were refused. Of the 29 granted, 26 (90 percent) were

¹⁴¹³ Response from the Department for Infrastructure to NIHRC, 13 November 2017.

¹⁴¹⁴ Available at: <https://www.nidirect.gov.uk/articles/planning-system-how-decision-reached>.

¹⁴¹⁵ Sections 58-60 and 203, Planning Act (NI) 2011.

¹⁴¹⁶ Letter from Department for Infrastructure to NIHRC, 22 September 2016; Response from Department for Infrastructure to NIHRC, 13 November 2017.

¹⁴¹⁷ Department of the Environment, 'Protocol for the Operation of Planning Committees' (DoE, 2015), at para 30.

¹⁴¹⁸ Department of the Environment, 'The NI Local Government Code of Conduct for Councillors' (DoE, 2014), at para 9.9.

¹⁴¹⁹ *Ibid.*, at para 9.3.

¹⁴²⁰ *Ibid.*, at paras 9.9 and 9.10.

¹⁴²¹ *Ibid.*, at paras 9.16 and 9.18.

¹⁴²² Local Government (Performance Indicators and Standards) Order (NI) 2015.

¹⁴²³ *Ibid.*

¹⁴²⁴ *Ibid.*

¹⁴²⁵ Department of the Environment, 'Development Management Statistics NI: 2010/11 Annual Statistical Bulletin' (DoE, 2011), at Appendix 3 – Key Performance Targets.

¹⁴²⁶ The planning applications processed for Traveller-specific sites are set out in Appendix II. Available at: <http://www.nihrc.org/>.

developed and three (10 percent) were not developed. Of the grouped housing applications, all 11 (100 percent) were granted. Nine (82 percent) have been developed and two (18 percent) are undeveloped.¹⁴²⁷

The Equality Commission NI was concerned the planning applications received for Travellers' accommodation in NI do not reflect the need identified.¹⁴²⁸ It found:

data from the NI Housing Executive with regard to the number of planning applications the NI Housing Executive made for Traveller sites during 2007 to 2015 showed that, of eight planning applications lodged within the time period: three were granted permission; two were refused permission (one of which had previously been granted); the land was withdrawn by the owner for two applications; and, the [then] Department for Social Development asked the NI Housing Executive to withdraw one application.¹⁴²⁹

The NI Housing Executive reported there were barriers to planning permission beyond its control.¹⁴³⁰ One interviewed Traveller maintained that the public authorities "just don't want to build sites for Travellers".¹⁴³¹ A representative of the NI Housing Executive suggested:

there is not goodwill of any organisation that I know that is saying 'well that's a wonderful idea, we will build a Travellers' site'. Yet with our statutory duty and our will to actually recognise the need for more accommodation and culturally sensitive accommodation, we have all of those obstacles to overcome before we can actually put a workman on the ground.¹⁴³²

Land Identification

The NI Housing Executive's key issues regarding planning applications were identified as "finding the appropriate site for Travellers and one that's acceptable. Sites that are in the right place and the right location that have the right resources".¹⁴³³ Identified need, land availability, land suitability, planning laws, public perceptions, and the views of local Councils determine the right site.¹⁴³⁴

The planning authorities rely on the NI Housing Executive to establish need, "they determine what's required, the number of pitches, spacing and [the Councils] will then process the application based on what [the NI Housing Executive] determine the need is".¹⁴³⁵ The NI Housing Executive identifies need through its Travellers' accommodation needs assessments.¹⁴³⁶ These assessments assist the development of the NI Housing Executive's 'Traveller Accommodation Programme'. This programme is reviewed annually, in conjunction with all interested stakeholders, to reflect the changing needs and aspirations of the Traveller communities.¹⁴³⁷

Identifying land involves a comprehensive review of all NI Housing Executive land and non-NI Housing Executive land in areas of accommodation need. It also involves advertising in the local press. This is to encourage expressions of interest from private landowners willing to sell their land for Travellers'

¹⁴²⁷ Planning Decision, 'Z/2007/2445/F', 6 March 2009; Section 61, Planning Act (NI) 2011. One of these planning applications for grouped housing remains undeveloped (Planning Decision, 'H/2000/0173/F', 21 June 2000), but because the original plans were replaced by an additional planning application (Planning Decision, 'H/2001/0392/F', 30 July 2001).

¹⁴²⁸ Equality Commission NI, 'Key Inequalities in Housing and Communities in NI: Full Statement' (ECNI, 2017), at para 1.10; Interview with representatives of the Equality Commission for NI, 8 February 2017.

¹⁴²⁹ Equality Commission NI, 'Key Inequalities in Housing and Communities in NI: Full Statement' (ECNI, 2017), at para 8.14.

¹⁴³⁰ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁴³¹ Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017.

¹⁴³² Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁴³³ Interview with representatives of the NI Housing Executive: Interview E, 13 February 2017.

¹⁴³⁴ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁴³⁵ Interview with Council Officials at Derry City and Strabane District Council, 15 February 2017.

¹⁴³⁶ NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2015), at 12.

¹⁴³⁷ Available at: <http://www.nihe.gov.uk/index/corporate/strategies/travellers.htm>; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2015), at 30.

accommodation.¹⁴³⁸ Between 2006 and 2011, the NI Housing Executive examined over 300 NI Housing Executive and non-NI Housing Executive sites for the purposes of developing Travellers' accommodation.¹⁴³⁹

Regarding public perceptions, when objections to planning applications emerge, local Councils look at whether objections are "based on sound evidence? They'll test the evidence base. If someone's objected to something on the evidence base that's where that objection gets picked up. It's looking at these kind of criteria tests, rather than objection by objection".¹⁴⁴⁰

The NI Housing Executive believes local Councils are content for Travellers' accommodation to be built "somewhere else, but they don't want it built in their backyard".¹⁴⁴¹ Research commissioned by the Equality Commission NI in 2009 supports this.¹⁴⁴² In terms of one particular Travellers' site, a NI Housing Executive representative recounted:

[we proposed] building on our own land and we couldn't get it through Council. We met all the planning law at one stage... At the hour of midnight we were told there was no longer surplus land by the Council. Five years of work literally went up the pan in one sentence.¹⁴⁴³

South Tyrone Empowerment Programme acknowledges the difficulties the NI Housing Executive has in getting approval for appropriate land, particularly "trying to get Councils and the Planning Office on board... Councillors will roll into public meetings and veto it entirely and [the planning permission] doesn't even get off the ground".¹⁴⁴⁴

Fulfilling granted planning permission for Traveller-specific accommodation can also be an issue.¹⁴⁴⁵ Of the 34 planning applications received for Travellers' sites between 1983 and November 2016, three remain undeveloped. Two are no longer valid due to lack of development¹⁴⁴⁶ and one is due to expire in February 2018.¹⁴⁴⁷ Of the 11 planning applications received for grouped housing between 1983 and November 2016, two remain undeveloped.¹⁴⁴⁸ Consequently, their validity has expired.¹⁴⁴⁹

The NI Housing Executive noted Travellers' schemes with planning approval, on occasion, "had to be shelved due to Councils' reluctance to allow NI Housing Executive access to their lands".¹⁴⁵⁰ In one instance, the affected Council had plans for future development in the designated area and offered to facilitate access to an alternative privately owned piece of land.¹⁴⁵¹ The NI Housing Executive rejected the alternative land for an unknown reason.¹⁴⁵² The NI Housing Executive found "some Councils would be different than other Councils to work with".¹⁴⁵³ On other occasions, the NI Housing Executive shelved developments because it believed there was no longer a need.¹⁴⁵⁴ Civil society organisations raised concerns regarding the willingness of the

¹⁴³⁸ Available at: <http://www.nihe.gov.uk/index/corporate/strategies/travellers.htm>.

¹⁴³⁹ Letter from NI Housing Executive to Local Government Partnership on Traveller Issues, 4 November 2011.

¹⁴⁴⁰ Interview with Council Officials at Belfast City Council, 6 February 2017.

¹⁴⁴¹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁴⁴² Chartered Institute of Housing and the University of Ulster, 'Outlining Minimum Standards for Traveller Accommodation' (ECNI, 2009), at 70.

¹⁴⁴³ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁴⁴⁴ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁴⁴⁵ A breakdown of Traveller-specific planning applications by Council area are provided in Appendix II. Available at: <http://www.nihrc.org/>.

¹⁴⁴⁶ Planning Decision, 'N/2008/0545/F', 18 February 2011; Planning Decision, 'N/2011/0327/F', 21 September 2012; Section 61, Planning Act (NI) 2011.

¹⁴⁴⁷ Planning Decision, 'N/2011/0241/F', 22 February 2013; Section 61, Planning Act (NI) 2011.

¹⁴⁴⁸ Planning Decision, 'Z/2007/2445/F', 6 March 2009. Another planning application for grouped housing was granted and remains undeveloped (Planning Decision, 'H/2000/0173/F', 21 June 2000), but this is because the original plans were replaced by an additional planning application (Planning Decision, 'H/2001/0392/F', 30 July 2001). The second planning application was granted and the grouped housing scheme was developed.

¹⁴⁴⁹ Section 61, Planning Act (NI) 2011.

¹⁴⁵⁰ Letter from NI Housing Executive to Local Government Partnership on Traveller Issues, 4 November 2011.

¹⁴⁵¹ Letter from Craigavon Borough Council to NI Housing Executive, 4 May 2011; Letter from Craigavon District Council to NI Local Government Partnership on Traveller Issues, 17 January 2012.

¹⁴⁵² Letter from Craigavon District Council to NI Local Government Partnership on Traveller Issues, 17 January 2012.

¹⁴⁵³ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁴⁵⁴ Ibid.

NI Housing Executive to develop Travellers' sites that have received approvals, "[there are cases where] site permission [has been] granted for well over a year now and ground hasn't broken".¹⁴⁵⁵

Delays

Planning applications for Travellers' sites are categorised as local applications.¹⁴⁵⁶ In 2015, a statutory obligation was introduced requiring that all local planning applications be processed within 15 weeks.¹⁴⁵⁷ Delays are a common complaint in planning across the board. The average processing time for local applications to decision or withdrawal was 18 weeks in the first quarter of 2016/2017,¹⁴⁵⁸ three weeks longer than the statutory requirement. This reduced to 15.6 weeks in the first quarter of 2017/2018,¹⁴⁵⁹ 0.6 weeks longer than the statutory requirement. For local residential applications in the first quarter of 2017/2018 was 14.6 weeks,¹⁴⁶⁰ which meets the statutory requirement.

Planning applications for Traveller-specific accommodation are subject to significant delays irrespective of approval or refusal. Only on one occasion was a reason given for the delay. An application for a 12-pitch serviced site took 136 weeks to process. The cited reason for the two-and-half year delay was protracted negotiations over development size and local objections.¹⁴⁶¹ The few Traveller-specific planning applications processed within 15 weeks concerned amendments to existing developments; these took between 7 and 15 weeks to process.

Of the 34 planning applications received for Travellers' sites between 1983 and November 2016, 23 (68 percent) took longer than 15 weeks, nine were processed within 15 weeks (26 percent) and two (six percent) took an unknown period to process. Of the 11 planning applications received for grouped housing between 1983 and November 2016, five (45 percent) took longer than 15 weeks, four (36 percent) were processed within 15 weeks and two (18 percent) took an unknown period to process.¹⁴⁶² These included planning permission requests for the development of new Travellers' sites and amendments to existing sites.

Planning applications submitted pre-2015 were not subject to the 15-week statutory obligation. However, the data gathered for this investigation shows that reaching a decision on the development of new Traveller-specific accommodation can take anything from 24 weeks to six years to process.¹⁴⁶³

The Department for Infrastructure has the power to call-in planning applications.¹⁴⁶⁴ This is where the Department can direct that the decision-making power on a particular planning application is taken out of the hands of the relevant local Council. When this occurs, the Department can either make a decision on the application offering the opportunity to appeal to the Planning Appeals Commission, or subject the called-in application to a public inquiry held by the Planning Appeals Commission or a person appointed by the Department.¹⁴⁶⁵ If a public inquiry occurs, the Planning Appeals Commission or person appointed by the Department will make recommendations, which the Department can decide to accept or reject.¹⁴⁶⁶ There must be a pattern of issues for a planning application to be called-in; however, excessive delays were not

¹⁴⁵⁵ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁴⁵⁶ Interview with representatives of Department for Infrastructure, 7 February 2017.

¹⁴⁵⁷ Local Government (Performance Indicators and Standards) Order (NI) 2015.

¹⁴⁵⁸ Department for Infrastructure, 'NI Planning Statistics: First Quarter 2016/17 Statistical Bulletin' (DfI, 2016).

¹⁴⁵⁹ Department for Infrastructure, 'NI Planning Statistics: First Quarter 2017/18 Statistical Bulletin' (DfI, 2017).

¹⁴⁶⁰ *Ibid.*

¹⁴⁶¹ Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHRC, 29 March 2017; Planning Decision, 'N/2008/0545/F', 18 February 2011.

¹⁴⁶² A breakdown Council area of Traveller-specific planning applications are provided in Appendix II. Available at: <http://www.nihrc.org/>.

¹⁴⁶³ Local Government (Performance Indicators and Standards) Order (NI) 2015; Department of the Environment, 'Development Management Statistics NI: 2010/11 Annual Statistical Bulletin' (DoE, 2011), at Appendix 3 – Key Performance Targets.

¹⁴⁶⁴ Section 29, Planning Act (NI) 2011; Interview with representatives of Department for Communities, 1 February 2017.

¹⁴⁶⁵ Sections 29(6) and 29(7), Planning Act (NI) 2011.

¹⁴⁶⁶ Sections 29(8) and 29(9), Planning Act (NI) 2011.

usually a criteria for calling-in applications.¹⁴⁶⁷ This power has not been exercised for planning applications concerning Travellers' accommodation in NI. The onus is placed on the NI Housing Executive to request an intervention from the Department.¹⁴⁶⁸ However, the legislation indicates the relevant Department can initiate this process.¹⁴⁶⁹ The Department for Infrastructure also highlighted any person can request it calls-in a planning application.¹⁴⁷⁰

The Promoting Social Inclusion Working Group on Travellers in 2000 agreed planning applications for Travellers' sites are subject to unnecessary delays and recommended a review of the process.¹⁴⁷¹ The Equality Commission NI found with planning "getting things done is very slow"¹⁴⁷² and consequently Travellers "will end up continuing to live in poor conditions or else moving in to social housing or the private rented sector".¹⁴⁷³ This unsuitable alternative accommodation is "often in areas where there is no previous local connection"¹⁴⁷⁴ and no "family... [or] social support".¹⁴⁷⁵

Quality of Planning Applications

Representatives from Armagh City, Banbridge and Craigavon Borough Council do not believe there are any unnecessary delays within their Council area. They explained "the time taken to process an application is down essentially to two things – the quality of the application itself and the information that comes into support it; and then the role of the consultees [other public authorities]".¹⁴⁷⁶ The Council clarified:

*we are relying on [the applicants] looking at the application and responding to consultations promptly. They might come back and say 'the information here is lacking', in which case the planning authority can go back to the applicant for more information or, if there are sufficient grounds, refuse it. These days, planning authorities have statutory targets to meet, which are set by central government.*¹⁴⁷⁷

The Armagh City, Banbridge and Craigavon Borough Council takes a number of steps to keep delays in planning decisions to a minimum. It hosts pre-application discussions with the applicants offering guidance on filling out an application; offers training to planning agents on the application process; and offers training to its Councillors as the decision makers.¹⁴⁷⁸

In terms of consultations, Belfast City Council notes, "there are service agreements set out between the statutory partners and planning service. In theory, when a consultation goes out the statutory partner should have a time-period within which they should be responding to".¹⁴⁷⁹ The Department for Infrastructure confirmed statutory consultees have a duty to respond to consultations within the period set out in legislation.¹⁴⁸⁰

¹⁴⁶⁷ Response from Department for Infrastructure to NIHR, 13 November 2017.

¹⁴⁶⁸ Interview with representatives of Department for Communities, 1 February 2017.

¹⁴⁶⁹ Section 29, Planning Act (NI) 2011.

¹⁴⁷⁰ Response from Department for Infrastructure to NIHR, 13 November 2017.

¹⁴⁷¹ OFMDFM, 'Promoting Social Inclusion Working Group on Travellers' (OFMDFM, 2000), at Recommendation 8.

¹⁴⁷² Interview with representatives of the Equality Commission for NI, 8 February 2017; Chartered Institute of Housing and the University of Ulster, 'Outlining Minimum Standards for Traveller Accommodation' (ECNI, 2009), at 70.

¹⁴⁷³ Interview with representatives of the Equality Commission for NI, 8 February 2017.

¹⁴⁷⁴ Chartered Institute of Housing and the University of Ulster, 'Outlining Minimum Standards for Traveller Accommodation' (ECNI, 2009), at 71.

¹⁴⁷⁵ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁴⁷⁶ Interview with Council Officials at Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

¹⁴⁷⁷ Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHR, 2 November 2017.

¹⁴⁷⁸ Interview with Council Officials at Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

¹⁴⁷⁹ Interview with Council Officials at Belfast City Council, 6 February 2017.

¹⁴⁸⁰ Section 229, Planning Act (NI) 2011; Article 15, Planning (General Development Procedure) Order (NI) 2015; Response from the Department for Infrastructure to NIHR, 13 November 2017.

Third Party Objections

Third party objections by non-public authorities can be a source of delay in processing Travellers' accommodation planning applications:

if we get over a certain number of objections [by non-public authority third parties] a decision has to be taken not by planning officers, but by the Planning Committee... That could delay it slightly. Not by any real length of time, but it could hold it up by a few weeks.¹⁴⁸¹

A representative of the NI Housing Executive agreed:

public perception... is very hard to get around. [On one site, the NI Housing Executive] put in a planning application and we got seven hundred objections and we finished up with a public inquiry... That is the type of environment that you are working in.¹⁴⁸²

A representative from the Department for Communities supported this, "one of the biggest issues is local opposition in some ways and how that feeds into the political process".¹⁴⁸³ A representative from the Department for Infrastructure advised "there is a big issue for planners generally when you face an application for a Travellers scheme because there is generally a lot of objection to it, depending on where it is".¹⁴⁸⁴

A representative from Derry City and Strabane District Council explained:

the Council would advertise [any planning applications being considered] and make people aware. People would be free to submit any representations, positive or negative. It's purely speculative depending on where the site was, proximity or any other conditions. We have no idea what people could say. It would have expected if there were any applications from... the NI Housing Executive... they're going to have gone through a process before it comes to planning to identify a proper site both in planning policy terms and technically... So then it's a matter of public consultation and who knows what we would get.¹⁴⁸⁵

A representative from Belfast City Council maintained:

planning gets a very bad press for delays in the system. The things that are out of the control of the Council and the planning officer is when the consultations happen. So if you're going to statutory partners that you've got a statutory duty to consult, if they delay in getting information back. Or, if you require something else from the applicant to allow you to assess the approval, that they are slow in getting that piece of information back to you, then that can delay things.¹⁴⁸⁶

A representative from the Department for Communities suggested the NI Housing Executive may not sufficiently inform the settled residents affected by pending planning applications for Traveller-specific accommodation on all occasions.¹⁴⁸⁷ The Department's representative believed this contributed to third-party objections.¹⁴⁸⁸ The NI Housing Executive stated, in general, it consulted on the planning applications for new

¹⁴⁸¹ Interview with Council Officials at Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

¹⁴⁸² Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁴⁸³ Interview with representatives of Department for Communities, 1 February 2017.

¹⁴⁸⁴ Interview with representatives of Department for Infrastructure, 7 February 2017.

¹⁴⁸⁵ Interview with Council Officials at Derry City and Strabane District Council, 15 February 2017.

¹⁴⁸⁶ Interview with Council Officials at Belfast City Council, 6 February 2017.

¹⁴⁸⁷ Interview with representatives of Department for Communities, 1 February 2017.

¹⁴⁸⁸ Ibid.

Travellers' sites.¹⁴⁸⁹ It highlighted that in emergency situations, the welfare of the affected Travellers was the primary concern and, in such situations, there may not be the opportunity to consult in an extensive way.¹⁴⁹⁰

Barriers to Private Travellers' Sites

Of the 34 planning applications received for Travellers' sites between 1983 and November 2016, five were private sites. There were significant delays in reaching the decisions, but all five (100 percent) were eventually granted.¹⁴⁹¹

According to the Department for Infrastructure:

it's irrelevant who the developer is, who the applicant is, who the landowner is... It's purely an assessment of the development itself and whether it is suitable for the piece of land on which it is applying... The needs issue might be an issue, but it won't depend on... whether [the applicant] is a Traveller family or the community itself or whether it is an independent body.¹⁴⁹²

There is "well over 95 percent approval rate in NI, but people perceive the planning system as being very restrictive... You only ever hear about the [refused applications], you don't hear about... the other ones that do get approved".¹⁴⁹³

Findings

The NIHRC's findings on planning permission and Travellers' accommodation in NI are:

i	All affected parties are offered the opportunity to consult on planning applications for Travellers' accommodation. However, such consultations do not adequately consider literacy issues and the lack of empowerment within the Traveller communities in NI.
ii	Planning decisions are guided by planning policies, need, environmental impact, landscaping, impact on neighbourhood and planning history. They also require a balance between the interest of developers and those affected by the proposals. All decisions are required to be fair, impartial and transparent.
iii	Planning decisions related to Traveller-specific accommodation are required to be made within 15 weeks. Any delay should be proportionate and justified.
iv	The number and location of planning applications for Traveller-specific accommodation in NI do not reflect the identified need.
v	Identified need, land availability, land suitability, planning policies, public perceptions and the views of the local Councils influence land availability for Traveller-specific accommodation in NI.

¹⁴⁸⁹ Letter from NI Housing Executive to NIHRC, 3 November 2017.

¹⁴⁹⁰ Ibid.

¹⁴⁹¹ Planning Decision, 'F/1999/0201', Date Unknown; Planning Decision, 'N/2005/0754/F', 9 June 2006; Planning Decision, 'M/2013/0095/F', 29 March 2013; Planning Decision, 'LA09/2016/0950/F', 7 April 2017; Planning Decision, 'LA09/2016/0521/F', 5 July 2017.

¹⁴⁹² Interview with representatives of Department for Infrastructure, 7 February 2017.

¹⁴⁹³ Ibid.

vi	The NI Housing Executive finds it difficult to identify land for Travellers' sites in NI.
vii	In some cases, the NI Housing Executive has not developed Travellers' sites that it has obtained planning permission for.
viii	The NI Housing Executive and relevant housing associations are not developing all Traveller-specific accommodation that is granted planning permission. This is attributed to local Councils refusing access to the designated land, a change in need and the NI Housing Executive's unwillingness to develop Travellers' sites.
ix	Planning applications for Traveller-specific accommodation are subject to significant and unnecessary delays. This is particularly true for new developments.
x	The delays regarding planning applications for Traveller-specific accommodation is attributed to poor quality of applications, third party objections influenced by negative public perceptions of Traveller-specific accommodation and lack of resources.
xi	The Department for Infrastructure is not using its powers to call-in planning regarding Traveller-specific accommodation. It places the onus on the housing provider to request an intervention.
xii	Some local Councils found clear deadlines, pre-application discussions and training assisted with improving the quality of planning applications for Travellers' accommodation.
xiii	Some Councils believed better consultation with settled residents would assist with addressing the negative public perceptions of Traveller-specific accommodation.
xiv	There is no prohibition on Traveller's developing their own private Travellers' sites. The approval rate for such applications is high, but there have been significant processing delays.

Site Licences

Domestic Laws and Policies

Additional to planning permission, “an occupier of any land shall not... cause or permit any part of the land to be used as a caravan site unless he is the holder of a site licence”.¹⁴⁹⁴ A caravan site is defined as “land on which a caravan is stationed for the purpose of human habitation and land which is used in conjunction with land on which a caravan is so stationed”.¹⁴⁹⁵ Subject to the exemptions list, this includes private and public sites used for private or commercial reasons. A licence is not required for individuals who:

- had a caravan that they did not live in on land around their home;
- brought a caravan onto a particular site, stayed no more than two nights (with the total number of days within a period of 12 months not exceeding 28 days) and there were not any other caravans on the site;
- had three or less caravans on a particular site, not less than five acres, for no more than 28 days of a period of 12 months;
- were forestry workers, builders, travelling showmen or seasonal workers (like fruit pickers) that were staying in caravans on the site;
- had a caravan licence exemption certificate.¹⁴⁹⁶

Site licences require approved planning permission.¹⁴⁹⁷ Local Councils are responsible for site licences attributed to sites within their jurisdiction.¹⁴⁹⁸ The local Council is to issue a licence within two months of a valid application.¹⁴⁹⁹ An extension can be agreed in writing between the applicant and the relevant local Council.¹⁵⁰⁰ If a valid application is submitted and the local Council does not grant a site licence within the statutory time limit, the applicant has not committed an offence.¹⁵⁰¹ A granted site licence expires with planning permission.¹⁵⁰²

The requirement for a site licence depends on the type of site and length of occupancy. Considering what is exempt within the legislation, a licence is required for a serviced site, a general use transit site, multiple occupancy emergency halting sites, and single occupancy emergency halting sites occupied for 28 days or more in a 12-month period. A licence is not required for a single occupancy emergency halting site, if occupied for maximum of two consecutive nights and less than a total 28 days within a 12-month period.¹⁵⁰³ A site licence is not required for a transit site, used in the winter months or for business throughout the year, by certified travelling showmen.¹⁵⁰⁴

Local Councils can attach conditions to a site licence.¹⁵⁰⁵ This includes restrictions on the number of caravans, how long they are on the site, the type of caravans, the location of caravans and amenities, the provision of amenities, and landscaping.¹⁵⁰⁶ If the applicant disagrees, they can appeal to the local Magistrates Court.¹⁵⁰⁷

¹⁴⁹⁴ Section 1, Caravans Act (NI) 1963.

¹⁴⁹⁵ Section 1(4), Caravans Act (NI) 1963.

¹⁴⁹⁶ Schedule, Caravans Act (NI) 1963.

¹⁴⁹⁷ Section 3(3), Caravans Act (NI) 1963.

¹⁴⁹⁸ Section 3, Caravans Act (NI) 1963.

¹⁴⁹⁹ Section 3(4), Caravans Act (NI) 1963.

¹⁵⁰⁰ Section 3(4), Caravans Act (NI) 1963.

¹⁵⁰¹ Section 6, Caravans Act (NI) 1963.

¹⁵⁰² Section 4, Caravans Act (NI) 1963; Interview with Council Officials at Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

¹⁵⁰³ Schedule, Caravans Act (NI) 1963, at para 2.

¹⁵⁰⁴ Schedule, Caravans Act (NI) 1963, at para 10.

¹⁵⁰⁵ Section 5, Caravans Act (NI) 1963.

¹⁵⁰⁶ Section 5, Caravans Act (NI) 1963.

¹⁵⁰⁷ Section 7, Caravans Act (NI) 1963.

The relevant local Council can change the conditions at any time and the licence holder should facilitate this.¹⁵⁰⁸ A Council official from the relevant local Council can visit sites used as a caravan site or with a pending application.¹⁵⁰⁹ The licence should be clearly visible on the relevant site.¹⁵¹⁰ Non-compliance with these stipulations is subject to a maximum fine of £2,500.¹⁵¹¹

The then Department of the Environment (now Department for Infrastructure) issued the 'Model licence conditions for Residential Caravan Sites 1994'. These set out conditions for residential caravan sites. Guidance specific to the design and maintenance of Travellers' sites includes those issued by the then Department of the Environment¹⁵¹² and the English Department for Communities and Local Government.¹⁵¹³ These are not binding. The Equality Commission NI also issued research outlining the minimum standards for Travellers.¹⁵¹⁴

Domestic Practice

In November 2017, all seven Travellers' sites in NI maintained by the NI Housing Executive were operating without a valid site licence.¹⁵¹⁵ Legahory Close (Armagh, Banbridge and Craigavon Borough Council) was temporarily licenced between October 2009 and February 2012.¹⁵¹⁶ In November 2016, the NI Housing Executive had also lodged a site licence application for Acorn Grove (Armagh, Banbridge and Craigavon Borough Council), but this remained unprocessed by the Council in November 2017.¹⁵¹⁷ The Department for Infrastructure was unaware that the Travellers' sites maintained by the NI Housing Executive were not adequately licenced.¹⁵¹⁸ The Department views this as the responsibility of the local Councils, in line with the Caravans Act (NI) 1963.¹⁵¹⁹

Prosecution

The NI Housing Executive is liable to prosecution for operating Travellers' sites without a licence.¹⁵²⁰ Yet there is no will within the local Councils to investigate unlicensed Travellers' sites maintained by the NI Housing Executive. A representative from Derry City and Strabane District Council stated it would investigate if the Council received a complaint, which it had not.¹⁵²¹

A representative of the Derry City and Strabane District Council believed the responsibility was on the NI Housing Executive to make an application.¹⁵²² A representative of the Armagh City, Banbridge and Craigavon Borough Council reasoned "the NI Housing Executive not applying for a site licence, in terms of our enforcement role, it wouldn't be a key priority for us".¹⁵²³ A number of local Councils highlighted they relied on negotiations to address any issues with fellow public authorities,¹⁵²⁴ believing "it's about working in partnership with other statutory and voluntary and community organisations to try and progress this in the

¹⁵⁰⁸ Section 8, Caravans Act (NI) 1963.

¹⁵⁰⁹ Section 23, Caravans Act (NI) 1963.

¹⁵¹⁰ Section 5(4), Caravans Act (NI) 1963; Department of the Environment for NI, 'Model Licence Conditions: Residential Caravan Sites' (DoE, 1994), at paras 31-34.

¹⁵¹¹ Sections 9 and 11, Caravans Act (NI) 1963.

¹⁵¹² Department of the Environment for NI, 'Design Guide for Travellers' Sites in NI' (DoE, 1997).

¹⁵¹³ Department for Communities and Local Government, 'Designing Gypsy and Traveller Sites: Good Practice Guide' (DCLG, 2008).

¹⁵¹⁴ Chartered Institute of Housing and the University of Ulster, 'Outlining Minimum Standards for Traveller Accommodation' (ECNI, 2009).

¹⁵¹⁵ The breakdown of by Council area of Travellers' sites and licencing are provided in Appendix II. Available at: <http://www.nihrc.org/>.

¹⁵¹⁶ Craigavon Borough Council, 'Assessment of Caravan Site Licence Conditions' (Craigavon Borough Council, 2007); Armagh City, Banbridge and Craigavon Borough Council, 'Legahory Close – Site Licence and Conditions' (Armagh City, Banbridge and Craigavon Borough Council, 2016).

¹⁵¹⁷ Interview with Council Officials at Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

¹⁵¹⁸ Response received from Department for Infrastructure to Additional Questions from the NIHRC, 3 March 2017.

¹⁵¹⁹ Response of the Department for Infrastructure to NIHRC, 13 November 2017.

¹⁵²⁰ Section 1(2), Caravans Act (NI) 1963.

¹⁵²¹ Interview with Council Officials at Derry City and Strabane District Council, 15 February 2017.

¹⁵²² Ibid.

¹⁵²³ Interview with Council Officials at Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

¹⁵²⁴ Ibid; Interview with Council Officials at Derry City and Strabane District Council, 15 February 2017.

interests of everybody".¹⁵²⁵ Yet, local Councils appear to adopt a different approach regarding private site owners (ie those that were not public authorities). In 2008, a legacy Council convicted and fined the owner of a private Travellers' site operating without a licence.¹⁵²⁶

Delays

On site licences, the NI Housing Executive found "the wheels move very, very slowly on that. On all... sides [ie between the NI Housing Executive and the relevant Council]".¹⁵²⁷ Of the two site licence applications submitted by the NI Housing Executive, delays in processing the applications were common practice.

An application for Legahory Close (Armagh, Banbridge and Craigavon Borough Council area) was submitted in May 2007 and a two-and-half year licence was issued in October 2009 (ie it expired in February 2012). The planning permission granted for Legahory Close was for a temporary emergency halting site that was permitted to exist from February 2007 until February 2012. A corresponding site licence application was lodged, but protracted discussions regarding the site licence conditions led to the two-and-half year delay in issuing the site licence. The relevant Council at that time was concerned that provision on the Travellers' site did not equate to the actual use of the site. The site licence application was for an emergency halting site, but the Council felt it was utilised as a transit site in practice. The actual use of the site (as a transit site), required greater amenities. The deficiency in standards on the site was resolved through concerted efforts made by the Council to secure a higher level of amenities, more appropriate to the actual use of the site.¹⁵²⁸ Once this was resolved, the Council granted a site licence for the remaining time left on the granted planning permission.¹⁵²⁹

The NI Housing Executive submitted an application for a site licence for the Acorn Grove serviced site (Armagh City, Banbridge and Craigavon Borough Council area) in November 2016. The site received planning permission in 2001 and had been in use for years before the site licence application. The NI Housing Executive's site licence application was incomplete.¹⁵³⁰ These omissions delayed the process, but were resolved with the NI Housing Executive submitting the required additional information.¹⁵³¹ The NI Housing Executive was awaiting confirmation from the Council that their application was successful.¹⁵³² The reasons for delay in confirming the outcome of the site licence application were unclear, with both the Councils and NI Housing Executive allotting blame to one another.

The NI Housing Executive reported it was unable to make an application for its Travellers' sites in Belfast City Council area, as the necessary forms were unavailable.¹⁵³³ The Council was addressing this.¹⁵³⁴

¹⁵²⁵ Interview with Council Officials at Derry City and Strabane District Council, 15 February 2017.

¹⁵²⁶ Response received from Environmental Health Representatives at Armagh City, Banbridge and Craigavon Borough Council to Additional Questions from the NIHRC, 20 March 2017.

¹⁵²⁷ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017.

¹⁵²⁸ Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHRC, 2 November 2017.

¹⁵²⁹ Craigavon Borough Council, 'Assessment of Caravan Site Licence Conditions' (Craigavon Borough Council, 2007); Armagh City, Banbridge and Craigavon Borough Council, 'Legahory Close – Site Licence and Conditions' (Armagh City, Banbridge and Craigavon Borough Council, 2016).

¹⁵³⁰ The original application stated the licence was for six pitches, but did not include converting the administrative block to domestic use bringing the number to seven. The application also did not include information in relation to fire safety, street lighting and sanitary facilities. See Letter from Armagh City, Banbridge and Craigavon District Council to the NI Housing Executive, 10 November 2016; Letter from NI Housing Executive to Armagh City, Banbridge and Craigavon District Council, 22 November 2016; Interview with Council Officials at Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

¹⁵³¹ Letter from Armagh City, Banbridge and Craigavon District Council to the NI Housing Executive, 10 November 2016; Letter from NI Housing Executive to Armagh City, Banbridge and Craigavon District Council, 22 November 2016.

¹⁵³² Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁵³³ Ibid.

¹⁵³⁴ Ibid.

Relevance to Travellers' Sites

Local Councils were unclear on whether a Travellers' site requires a site licence. However, legal advice had reportedly been sought in the past, which determined Travellers' sites do require a site licence.¹⁵³⁵ Contrarily, a representative from Belfast City Council believed the requirement for a site licence does not extend to Travellers' sites. They stated, "if you look at the Model Conditions¹⁵³⁶ in relation to the Caravans Act (NI) 1963... [they] specifically say that they don't apply to Traveller sites... We would always have been of the opinion that the Caravans Act did not apply".¹⁵³⁷

Yet, the Caravans Act (NI) 1963 does not exclude all Travellers' sites. Its Traveller-specific exceptions focus on persons who are travelling with a caravan for one or two nights, travelling showmen, and agricultural workers.¹⁵³⁸ The terminology used in the Model Conditions lacks clarity. It states the conditions "are for residential caravan sites, on which some or all the caravans are used as permanent residences by *people other than travelling people* or agricultural workers [emphasis added]".¹⁵³⁹ The Caravans Act (NI) 1963 is the legislative authority. Reading together the legislation and guidance, the term "travelling people" refers to travellers staying for less than two nights or travelling showmen, not members of travelling communities as a whole.

Other local Councils appeared to be confused regarding the requirement to obtain a site licence. Mid Ulster District Council believes site licences are not required for Travellers' sites within its remit, as they are on land owned by the Council. A site licence is registered to the tenant.¹⁵⁴⁰ Land occupied by the Council is exempt.¹⁵⁴¹ However, the NI Housing Executive has had responsibility for Travellers' sites in NI since 2003.¹⁵⁴² It is not subject to the same exemptions as the Council and is required to have a site licence for its Travellers' sites.

A representative of the NI Housing Executive feels "in the whole of the UK, we are the only local authority that has to apply for a site licence. That is totally wrong".¹⁵⁴³ When the Caravans Act (NI) 1963 was introduced, local Councils had statutory responsibility for providing Travellers' sites in NI and for issuing site licences. Reflective of this joint role, Travellers' sites on Council land did not require a site licence.¹⁵⁴⁴ The NI Housing Executive took over responsibility for providing Travellers' sites from the local Councils in 2003,¹⁵⁴⁵ but the responsibility for site licencing remains with Councils. Consequently, the Council's exemptions are not transferred to the NI Housing Executive. The NI Housing Executive believes it should be an exempt organisation.¹⁵⁴⁶ If this is achieved, such exemption only extends to residential Travellers' sites with a maximum occupancy of five caravans used for human habitation.¹⁵⁴⁷ This applies, unless the full exemption given to the Councils is transferred to the NI Housing Executive.¹⁵⁴⁸

¹⁵³⁵ Craigavon Borough Council, 'Assessment of Caravan Site Licence Conditions' (Craigavon Borough Council, 2007); Armagh City, Banbridge and Craigavon Borough Council, 'Legahory Close – Site Licence and Conditions' (Armagh City, Banbridge and Craigavon Borough Council, 2016).

¹⁵³⁶ Department of the Environment, 'Model Licence Conditions: Residential Caravan Sites' (DoE, 1994).

¹⁵³⁷ Interview with Council Officials at Belfast City Council, 6 February 2017.

¹⁵³⁸ Schedule, Caravans Act (NI) 1963.

¹⁵³⁹ Department of the Environment, 'Model Licence Conditions: Residential Caravan Sites' (DoE, 1994), at para 5.

¹⁵⁴⁰ Section 1(3), Caravans Act (NI) 1963.

¹⁵⁴¹ Schedule, Caravans Act (NI) 1963, at para 11.

¹⁵⁴² Article 28A, Housing (NI) Order 1981.

¹⁵⁴³ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁵⁴⁴ Schedule, Caravans Act (NI) 1963, at para 11.

¹⁵⁴⁵ Article 125, Housing (NI) Order 2003.

¹⁵⁴⁶ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017; Schedule, Caravans Act (NI) 1963, at paras 4-6 and 12.

¹⁵⁴⁷ Schedule, Caravans Act (NI) 1963, at para 5(1).

¹⁵⁴⁸ Schedule, Caravans Act (NI) 1963, at para 11.

A representative from Derry City and Strabane District Council believes the Caravans Act (NI) 2011, not the Caravans Act (NI) 1963, introduces the requirement for NI Housing Executive-run Travellers' sites to be licenced. It believed site licencing to be a relatively new requirement and its Council was still getting to grips with the practice. Consequently, the sites within its remit were not yet licenced.¹⁵⁴⁹ This is inaccurate. The Caravans Act (NI) 1963 legislates for site licences and the corresponding statutory duties have existed since the enactment of the legislation.

Benefits of Site Licences

Site licences cover spacing, specific issues relating to fire safety and services on Travellers' sites.¹⁵⁵⁰ Planning does not deal with such issues.¹⁵⁵¹ The NI Housing Executive queried:

*if we have adhered to guidelines and [the Council's] planning permissions and approvals, why would a Council have to come at the end and then all of a sudden add a lot of conditions? [Is it] to prevent [the NI Housing Executive] from getting a licence?*¹⁵⁵²

The Equality Commission NI is not in favour of site licencing. It feels the requirement for a site licence could prevent the development of serviced and transit sites.¹⁵⁵³ Representatives from Armagh City, Banbridge and Craigavon Borough Council reasoned "our planning regulations, planning policies... are all... about the type of development, not who the end user would necessarily be".¹⁵⁵⁴ This requirement extends to all residential caravan sites, not only Traveller-specific sites. If properly engaged with, the site licence requirements protect such sites from inadequate conditions.¹⁵⁵⁵ For example, concerning the one successful site licence application, the NI Housing Executive submitted a site licence application for an emergency halting site. Analysing the expected length of time that individual families would use the site, the Council concluded it was a transit site in practice,¹⁵⁵⁶ which requires more provision than an emergency halting site. The Council initially refused to issue a site licence until the NI Housing Executive constructed the required transit site provision.¹⁵⁵⁷

The current site licence legislation (from 1963) does not deal specifically with Travellers' accommodation.¹⁵⁵⁸ The more recent Model Conditions (from 1994) offer some guidance on what a site licence should contain.¹⁵⁵⁹ Local Councils also consider the 'Design Guide for Travellers Sites in NI'¹⁵⁶⁰ and the design guidance issued by the Department of Communities and Local Government England,¹⁵⁶¹ when determining the conditions of a site licence.¹⁵⁶² Yet the former is outdated¹⁵⁶³ and the latter is specific to England. Representatives of the Armagh, Banbridge and Craigavon Borough Council believe new legislation or the formulation of new guidelines for site licences, which reflect contemporary Travellers' sites in NI, should be introduced.¹⁵⁶⁴ The NI Local Government Partnership on Travellers' Issues also suggested the creation of a model site licence setting out conditions

¹⁵⁴⁹ Interview with Council Officials at Derry City and Strabane District Council, 15 February 2017.

¹⁵⁵⁰ Department of the Environment, 'Model Licence Conditions: Residential Caravan Sites' (HSM, 1994).

¹⁵⁵¹ Interview with Council Officials at Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

¹⁵⁵² Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁵⁵³ Equality Commission NI, 'NI Housing Strategy 2012-2017 (DSD): Briefing to Assembly Committee for Social Development' (ECNI, 2013), at 2; Letter from Equality Commission NI to NIHRC, 31 March 2017.

¹⁵⁵⁴ Interview with Council Officials at Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

¹⁵⁵⁵ Ibid; Interview with Council Officials at Belfast City Council, 6 February 2017; Interview with Council Officials at Derry City and Strabane District Council, 15 February 2017.

¹⁵⁵⁶ Craigavon Borough Council, 'Assessment of Caravan Site Licence Conditions' (Craigavon Borough Council, 2007).

¹⁵⁵⁷ Ibid.

¹⁵⁵⁸ Interview with Council Officials at Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

¹⁵⁵⁹ Department of the Environment, 'Model Licence Conditions: Residential Caravan Sites' (HSM, 1994).

¹⁵⁶⁰ Department of the Environment NI, 'Design Guide for Travellers' Sites in NI' (DoE, 1997).

¹⁵⁶¹ Department of Communities and Local Government, 'Designing Gypsy and Traveller Sites: Good Practice Guide' (DCLG, 2008)

¹⁵⁶² Response received from Environmental Health Representatives at Armagh City, Banbridge and Craigavon Borough Council to Additional Questions from the NIHRC, 20 March 2017.

¹⁵⁶³ Interview with Council Officials at Belfast City Council, 6 February 2017.

¹⁵⁶⁴ Interview with Council Officials at Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

specific to each type of Travellers' site in NI.¹⁵⁶⁵ The Partnership believed this would "achieve a common acceptable standard of provision and managements. This was essential to enable every Council having sites in their area to provide community services on an equitable basis regardless of location".¹⁵⁶⁶ The local Councils in NI are currently considering this.¹⁵⁶⁷ A representative of Belfast City Council warned "it should have some... attached powers to it. Because at the moment... [the penalty for not having a site licence] is one of the smallest you can get".¹⁵⁶⁸

Findings

The NIHRC's findings on site licences and Travellers' accommodation in NI are:

i	The relevant laws and policies regarding site licences are outdated. They also lack clarity regarding their applicability to Travellers' sites and the scope of this applicability. The Caravans Act 1963 and the 'Model Licence Conditions: Residential Caravan Sites' use inconsistent language and definitions, which causes confusion.
ii	In practice, the site licencing of Travellers' sites is ineffective due to public authorities disregarding their statutory duties. Of the seven Travellers' sites in NI all have operated without a licence, with the exception of one site that was licenced for a period. The NI Housing Executive submitted one site licence application for existing sites in Autumn 2016. This coincided with the commencement of this investigation.
iii	The two site licence applications that have been submitted have been subject to significant delays. This is attributed to incomplete applications.
iv	There is an inconsistent approach and the law is not being applied. Local Councils' opinions differ as to whether Travellers' sites in NI require site licences. There is outdated language within the corresponding legislation and policies that requires addressing, but it is determined site licences are required for Travellers' sites in NI. The extent to which is determined by the type of site and length of occupancy. A licence is required for a serviced site, general use transit site, multiple occupancy emergency halting site and signal occupancy emergency halting site occupied for 28 days or more in a 12-month period.
v	The NI Housing Executive wishes to be made an exempt organisation regarding site licencing. The distinct roles of the NI Housing Executive and local Councils in relation to Travellers' sites in NI justify an exemption being made.
vi	Some public authorities believe planning permission is sufficient and there is no need for Travellers' sites to require a licence. However, planning does not cover safety requirements.

¹⁵⁶⁵ 'Issue of Operators' Licences to NI Housing Executive (esp. Craigavon)' in NI Local Government Partnership on Traveller Issues, 'Minutes of the Meeting Held on Friday 18 January 2008 at Bagenal's Castle, Newry, Newry and Mourne District Council', 18 January 2008.

¹⁵⁶⁶ 'Matters Arising' in NI Local Government Partnership on Travellers Issues, 'Minutes of the meeting held on 28 March 2008 at Craigavon Civic Centre Lakeview Road, Craigavon', 28 March 2008.

¹⁵⁶⁷ Interview with Council Officials at Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

¹⁵⁶⁸ Interview with Council Officials at Belfast City Council, 6 February 2017.

vii	Some believe requiring Travellers' sites to have a licence is discriminatory. However, a licence is required for all residential caravan sites (with some exceptions), not only Travellers' sites.
viii	An effective site licencing system assists with ensuring Travellers' sites are meeting a minimum standard of provision and safety related to their actual use. The need for such a safeguard is evidenced by the existing inadequacies in relation to habitability and services.
ix	Some public authorities and civil society organisations believe there is a need to update the legislation and policies regulating site licencing and to make them more relevant to current Travellers' sites in NI.
x	Some public authorities and civil society organisations believe there is a need to develop model licences setting out the minimum standard of provision and safety required for each type of Travellers' site in NI. They believe all local Councils should use these as a template.
xi	Some public authorities believe the enforcement powers attached to site licences should be reviewed to provide an incentive for compliance.

Infrastructure

Domestic Laws and Policies

The 'Design Guide for Travellers' Sites in NI' suggests serviced sites are located where there is easy access to major roads and public transport to accommodate employment, education, shopping and health facilities.¹⁵⁶⁹ The same suggestions extend to transit sites, though priority is given to access to schools.¹⁵⁷⁰ Regarding emergency halting sites, the guidance identifies safe and convenient access to road networks with minimum disruption to the surrounding communities as a priority.¹⁵⁷¹ Serviced sites should be in a safe environmental location, provide visual and acoustic privacy, and have characteristics that are sympathetic to the local environment.¹⁵⁷²

The 'Co-operation Policy Guidelines' recognise Travellers face difficulties in accessing education, health and community services when residing in unauthorised camps. The guidelines state "officers must work with Travellers in order to minimise these difficulties".¹⁵⁷³ The NI Housing Executive's Traveller Unit should also contact the "local Traveller support group (should one exist in the area) who will provide support in accessing other services including health and education".¹⁵⁷⁴

¹⁵⁶⁹ Department of the Environment, 'Design Guide for Travellers' Sites in NI' (DoE, 1997), at para 1.1.

¹⁵⁷⁰ Ibid, at para 6.1.

¹⁵⁷¹ Ibid, at para 11.1.

¹⁵⁷² Department of the Environment, 'Design Guide for Travellers' Sites in NI' (DoE, 1997), at para 1.1.

¹⁵⁷³ NI Housing Executive, 'Co-operation Policy Guidelines' (NIHE, Unknown Date), at 2.

¹⁵⁷⁴ Ibid, at 3.

Domestic Practice

The Travellers interviewed, across all types of Travellers' accommodation, are satisfied their accommodation is adequately located;¹⁵⁷⁵ particularly if it means they are close to their family¹⁵⁷⁶ and historical roots.¹⁵⁷⁷ The Travellers interviewed were also content that their accommodation had sufficient access to public transport, schools, doctors and employment opportunities.¹⁵⁷⁸ The Craigavon Travellers Support Committee agreed.¹⁵⁷⁹ The Commission found schools, doctor surgeries and local amenities are within a maximum two mile radius of Travellers' accommodation, except those located in the middle of the countryside.¹⁵⁸⁰ A local bus service is accessible within less than half a mile of Traveller's accommodation, except those located in the middle of the countryside.¹⁵⁸¹

Findings

The NIHRC's finding on infrastructure of Travellers' accommodation in NI, from the perspective of location is:

i	Travellers interviewed are generally satisfied their accommodation is adequately located to access public services.
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Health and Safety

Domestic Laws and Policies

The 'Design Guide for Travellers' Sites in NI' states the health and safety of the tenants on all types of Travellers' sites, particularly children, should be considered.¹⁵⁸² Travellers' sites "should be located in pleasant surroundings or where such can be provided at reasonable cost. Landscaping and boundary definition should help to provide seclusion for the site residents and shelter from wind".¹⁵⁸³ The proposed land should

1575 Individual interview with a member of the Traveller communities in NI: Interview 1, 7 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 2, 11 November 2016; Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Group interview with member of the Traveller communities in NI: Interview 5, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 9, 30 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 11, 10 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 12, 10 December 2016; Group interview with members of the Traveller communities in NI: Interview 13, 14 December 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 18, 25 January 2017; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 20, 25 January 2017; Individual interview with members of the Traveller communities in NI: Interview 23, 13 February 2017; Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

1576 Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017.

1577 Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017.

1578 Individual interview with a member of the Traveller communities in NI: Interview 1, 7 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 2, 11 November 2016; Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Group interview with member of the Traveller communities in NI: Interview 5, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 9, 30 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 11, 10 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 12, 10 December 2016; Group interview with members of the Traveller communities in NI: Interview 13, 14 December 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 18, 25 January 2017; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 20, 25 January 2017; Individual interview with members of the Traveller communities in NI: Interview 23, 13 February 2017; Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

1579 Roundtable discussion with civil society organisations, 20 September 2016.

1580 Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

1581 Ibid.

1582 Department of the Environment, 'Design Guide for Travellers' Sites in NI' (DoE, 1997), at para 1.1.

1583 Ibid, at para 2.8.

be capable of the planned development and be subject to a survey for any potential problems, such as waterlogging, flooding, landfill, contamination.¹⁵⁸⁴

Domestic Practice

Travellers interviewed are generally satisfied their accommodation is in a safe location. Electric pylons or pollution is not an issue.¹⁵⁸⁵

Findings

The NIHRC's finding on health and safety of Travellers' accommodation in NI, from the perspective of location is:

- | | |
|---|---|
| i | Travellers interviewed are generally satisfied their accommodation is in a safe location. However, there are some concerns regarding proximity to main roads. |
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¹⁵⁸⁴ Ibid.

¹⁵⁸⁵ Individual interview with a member of the Traveller communities in NI: Interview 0, 7 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 1, 7 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 2, 11 November 2016; Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Group interview with member of the Traveller communities in NI: Interview 5, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 9, 30 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 11, 10 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 12, 10 December 2016; Group interview with members of the Traveller communities in NI: Interview 13, 14 December 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with member of the Traveller communities in NI: Interview 15, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 17, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 18, 25 January 2017; Individual interview with member of the Traveller communities in NI: Interview 20, 25 January 2017; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 23, 13 February 2017; Individual interview with member of the Traveller communities in NI: Interview 24, 9 March 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017; Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

9 Participation

There is a duty to provide for the effective participation of persons belonging to national minorities, including Travellers. This duty engages:

Treaty	Article
ICCPR	19
	25
	27
CERD	2
	5(d)(viii)
CEDAW	7
CRC	12
	13
CRPD	21
ECHR	10
FCNM	15

The following soft law instruments clarify what this requires:

UN Human Rights Committee
General Comment No 28: Equality of Rights of Men and Women ¹⁵⁸⁶
CERD Committee
Concluding Observations on the Twenty-first to Twenty-third Periodic Reports of the UK of Great Britain and NI ¹⁵⁸⁷
General Recommendation XXVII: Discrimination against Roma ¹⁵⁸⁸
UN General Assembly
Report of the United Nations Conference on Human Settlements (Habitat II) ¹⁵⁸⁹
Report of the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context: Mission to the United Kingdom of Great Britain and Northern Ireland ¹⁵⁹⁰

¹⁵⁸⁶ CCPR/C/21/Rev.1/Add.10, 'Human Rights Committee General Comment No 28: Equality of Rights Between Men and Women', 29 March 2000

¹⁵⁸⁷ CERD/C/GBR/CO/21-23, 'Concluding Observations of the CERD Committee on the Twenty-first to Twenty-third Periodic Reports to the UK of Great Britain and NI', 3 October 2016.

¹⁵⁸⁸ CERD Committee, 'General Recommendation XXVII: Discrimination against Roma', 16 August 2000.

¹⁵⁸⁹ A/Conf.165/14, 'UN Conference on Human Settlements (Habitat II)', 14 June 1996.

¹⁵⁹⁰ A/HRC/25/54/Add.2, 'Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this Context, Raquel Rolnik: Mission to the UK of Great Britain and NI', 30 December 2013.

CoE Advisory Committee on the FCNM
Explanatory Report of the FCNM ¹⁵⁹¹
Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs ¹⁵⁹²
Fourth Opinion on the UK ¹⁵⁹³
CoE Committee of Ministers
Recommendation on Policies for Roma and Travellers in Europe ¹⁵⁹⁴
Recommendation on Mediation as an Effective tool for Promoting Respect for Human Rights and Social Inclusion ¹⁵⁹⁵
CoE Commissioner for Human Rights, Thomas Hammarberg
Recommendation on the Implementation of the Right to Adequate Housing ¹⁵⁹⁶
Positions on the Human Rights of Roma ¹⁵⁹⁷
Viewpoint: Serious Implementation of Human Rights Standards Requires that Benchmarking Indicators are Defined ¹⁵⁹⁸
CoE Commissioner for Human Rights, Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing, Miloon Kothari
Joint Statement ¹⁵⁹⁹
ECRI
Recommendation No 3: Combating Racism and Intolerance in Roma/Gypsies ¹⁶⁰⁰
Recommendation No 13: Combating Anti-gypsyism and Discrimination against Roma ¹⁶⁰¹

Human Rights Law and Standards

United Nations

The ICCPR, Article 19, provides “everyone shall have the right to hold opinions without interference”¹⁶⁰² and “right to freedom of expression”.¹⁶⁰³ This includes the “freedom to seek, receive and impart information and

¹⁵⁹¹ CoE, ‘Explanatory Report of the FCNM’ (CoE, 1995).

¹⁵⁹² ACFC/31DOC(2008)001, ‘CoE Advisory Committee on the FCNM’s Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs’, 27 February 2008.

¹⁵⁹³ ACFC/OP/IV(2016)005, ‘CoE Advisory Committee on the FCNM: Fourth Opinion on the UK’, 27 February 2017.

¹⁵⁹⁴ CoE, ‘Recommendation Rec(2008)5 of the Committee of Ministers to Member States on Policies for Roma and/or Travellers in Europe’, 20 February 2008.

¹⁵⁹⁵ CoE, ‘Recommendation Rec(2012)9 of the Committee of Ministers to Member States on Mediation as an Effective Tool for Promoting Respect for Human Rights and Social Inclusion of Roma’, 12 September 2012.

¹⁵⁹⁶ CommDH(2009)5, ‘Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing’, 30 June 2009.

¹⁵⁹⁷ CommDH/PositionPaper (2010)3, ‘Commissioner for Human Rights Positions on the Human Rights of Roma’, 30 May 2010.

¹⁵⁹⁸ Thomas Hammarberg, ‘Serious Implementation of Human Rights Standards Requires that Benchmarking Indicators are Defined’ in CoE, ‘Human Rights in Europe: Growing Gaps – Viewpoints by Thomas Hammarberg CoE Commissioner for Human Rights’ (CoE, 2010), at 75-80.

¹⁵⁹⁹ CommDH/Speech(2007)16, ‘Joint Statement by CoE Commissioner for Human Rights Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari: Governments Should Take Positive Steps to Protect the Housing Rights of Roma in Europe’, 24 October 2007.

¹⁶⁰⁰ CRI(98)29 rev., ‘ECRI General Policy Recommendation No 3: Combating Racism and Intolerance Against Roma/Gypsies’, 6 March 1998.

¹⁶⁰¹ CRI(2011)37, ‘ECRI General Policy Recommendation No 13: Combating Anti-gypsyism and Discrimination against Roma’, 24 June 2011.

¹⁶⁰² Article 19(1), International Covenant on Civil and Political Rights 1966.

¹⁶⁰³ Article 19(2), International Covenant on Civil and Political Rights 1966.

ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through other media of his choice".¹⁶⁰⁴ It may be subject to certain restrictions that are "provided by law and are necessary: a) for respect of the rights or reputations of others; b) for the protection of... public order, or of public health or morals".¹⁶⁰⁵

The ICCPR, Article 25, requires "every citizen shall have the right and the opportunity, without any of the distinctions mentioned in [the ICCPR] Article 2 and without unreasonable restrictions... to take part in the conduct of public affairs, directly or through freely chosen representatives". Furthermore, the ICCPR, Article 27 requires:

in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

The Human Rights Committee recommends "effective measures" should be taken to ensure men and women can participate "equally in responsibility and authority within the family" and "in the conduct of public affairs and in public office, including appropriate affirmative action". This includes ensuring an equal right to vote.¹⁶⁰⁶

The CEDAW, Article 7, provides a State:

shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- a) to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- b) to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- c) to participate in non-government organisations and associations concerned with the public and political life of the country.

The CRC, Article 12(1), provides a State:

shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

The CRC, Article 13, and CRPD, Article 21, protect the freedom of expression of children and persons with disabilities, respectively.

Reflecting CERD, Articles 2 and 5(d)(viii), the CERD Committee recommends Travellers and their representatives are involved "at the earliest stages in the development and implementation of policies and programmes affecting them" and this process is sufficiently transparent.¹⁶⁰⁷ This involves promoting "more awareness" among Travellers "of the need for their more active participation in public and social life and in promoting their own interests".¹⁶⁰⁸ It includes organising training programmes for public officials,

¹⁶⁰⁴ Ibid.

¹⁶⁰⁵ Article 19(3), International Covenant on Civil and Political Rights 1966.

¹⁶⁰⁶ CCPR/C/21/Rev.1/Add.10, 'Human Rights Committee General Comment No 28: Equality of Rights Between Men and Women', 29 March 2000, at paras 25 and 29.

¹⁶⁰⁷ CERD Committee, 'General Recommendation XXVII: Discrimination against Roma', 16 August 2000, at para 43.

¹⁶⁰⁸ Ibid, at para 44.

representatives and prospective candidates “aimed at improving their political, policy-making and public administration skills”.¹⁶⁰⁹

The CERD Committee recommends the UK government develops a comprehensive housing strategy that ensures a systematic and coherent approach in addressing the challenges that Travellers continue to face. Travellers should be consulted throughout this process, including “before any measures that affect their situation... are implemented”.¹⁶¹⁰ This extends to changes in legislation or amendments to the definition of Travellers.¹⁶¹¹ Travellers’ views should be “duly taken into account” and the changes should not “adversely affect their rights, including the rights of people who have stopped travelling permanently”.¹⁶¹²

The UN Habitat Agenda encourages “all key actors in public, private and community sectors to play an effective role – at the national, state/provincial, metropolitan and local levels – in human settlements and shelter development”.¹⁶¹³ This includes:

enabling local leadership, promoting democratic rule, exercising public authority and using public resources in all public institutions at all levels in a manner that is conducive to ensuring transparent, responsible, accountable, just, effective and efficient governance of towns, cities and metropolitan areas.¹⁶¹⁴

It requires “decentralising authority and resources, as appropriate”, including “functions and responsibilities to the level most effective in addressing the needs of people in their settlements” and “facilitating participation by tenants in the management of public and community-based housing”.¹⁶¹⁵

The former Special Rapporteur on Adequate Housing, Raquel Rolnik, states one way to “address challenges to overcome persistent inequalities in housing” is to promote “active, free and meaningful participation of all in decisions made about housing”.¹⁶¹⁶

Council of Europe

The ECHR, Article 10(1), provides “everyone has the right to freedom of expression”. Article 10(2) further provides that the right to freedom of expression may be subject to limitations “prescribed by law” and “necessary in a democratic society” in the interests of inter alia:

- public safety;
- prevention of disorder or crime;
- for the protection of health or morals;
- for the protection of the reputation or rights of others; or for preventing the disclosures of information received in confidence.

Any limitation must be proportionate to the legitimate aim pursued.¹⁶¹⁷ Freedom of expression “affords the opportunity to take part in the public exchange of cultural, political and social information and idea of all kinds”.¹⁶¹⁸

¹⁶⁰⁹ Ibid, at para 45.

¹⁶¹⁰ CERD/C/GBR/CO/21-23, ‘Concluding Observations of the CERD Committee on the Twenty-first to Twenty-third Periodic Reports to the UK of Great Britain and NI’, 3 October 2016, at para 25(a).

¹⁶¹¹ Ibid.

¹⁶¹² Ibid, at paras 25(c) and 25(d).

¹⁶¹³ A/Conf.165/14, ‘UN Conference on Human Settlements (Habitat II)’, 14 June 1996, at para 44.

¹⁶¹⁴ Ibid, at paras 45(a), 45(c) and 45(M).

¹⁶¹⁵ Ibid.

¹⁶¹⁶ A/HRC/25/54/Add.2, ‘Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-discrimination in this Context, Raquel Rolnik: Mission to the UK of Great Britain and NI’, 30 December 2013, at para 78(i).

¹⁶¹⁷ *Handyside v UK* (1976) ECHR 5, at para 49.

¹⁶¹⁸ *Karatas v Turkey* (1999) ECHR 47, at para 49.

The Advisory Committee on the FCNM provides States should “create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them”¹⁶¹⁹ to encourage “real equality”¹⁶²⁰ and enhance “social cohesion”.¹⁶²¹

The Advisory Committee on the FCNM recommends Travellers should be consulted “by means of appropriate procedures” regarding legislation, administrative measures, national and regional development plans and programmes “likely to affect them directly”.¹⁶²² Measures should be in place to enable the effective participation of Travellers in “decision-making processes and elected bodies both at national and local levels”.¹⁶²³ This involves “undertaking studies, in conjunction with these persons, to assess the possible impact on them of projected development activities”.¹⁶²⁴ It requires the implementation of “effective channels for communication” aimed at providing “continuing and substantive dialogue, both between persons belonging to national minorities and the majority population and between persons belonging to national minorities and the authorities”.¹⁶²⁵ It is:

not sufficient for State Parties to formally provide for the participation of persons belonging to national minorities. They should also ensure that their participation has a substantial influence on decisions which are taken, and that there is... a shared ownership of the decisions taken.¹⁶²⁶

Safeguards include “exchange of information, dialogue, informal and formal consultation and participation in decision-making”.¹⁶²⁷ This can be “through different channels, ranging from consultative mechanisms to special parliamentary arrangements” with particular attention “paid to equal participation of women and men belonging to national minorities”.¹⁶²⁸ It is essential that persons belonging to national minorities are represented and have the opportunity to participate in elected bodies, public administration, judiciary and law-enforcement agencies, but this is “not sufficient”.¹⁶²⁹ This may require choice and adaptable modalities of the electoral system.¹⁶³⁰ The Advisory Committee also promotes specialised governmental structures dealing with minority issues and utilising the media to promote “a spirit of tolerance and intercultural dialogue”.¹⁶³¹ The outcome of any consultation should “adequately reflect” Travellers’ views.¹⁶³²

Effective contributions by Travellers’ representatives requires “capacity building and resources”.¹⁶³³ Effective participation includes the facilitation of “intercultural dialogue by making it possible for national minorities to be visible, have their voice heard and participate effectively in decision-making, including participation on issues of relevance to the society at large”.¹⁶³⁴ The “different obstacles” that “different minority groups

¹⁶¹⁹ ACFC/31DOC(2008)001, ‘CoE Advisory Committee on the FCNM’s Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs’, 27 February 2008, at para 9.

¹⁶²⁰ CoE, ‘Explanatory Report of the FCNM’ (CoE, 1995), at para 80.

¹⁶²¹ ACFC/31DOC(2008)001, ‘CoE Advisory Committee on the FCNM’s Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs’, 27 February 2008, at para 9.

¹⁶²² CoE, ‘Explanatory Report of the FCNM’ (CoE, 1995), at para 80.

¹⁶²³ Ibid.

¹⁶²⁴ Ibid.

¹⁶²⁵ ACFC/31DOC(2008)001, ‘CoE Advisory Committee on the FCNM’s Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs’, 27 February 2008, at para 11.

¹⁶²⁶ Ibid, at para 19.

¹⁶²⁷ Ibid, at para 70.

¹⁶²⁸ Ibid.

¹⁶²⁹ Ibid, at para 72.

¹⁶³⁰ Ibid.

¹⁶³¹ Ibid, at paras 73 and 74.

¹⁶³² Ibid, at para 71.

¹⁶³³ Ibid, at para 21.

¹⁶³⁴ Ibid, at para 22.

face... to their participation in socio-economic life" should be taken into account to address specific groups' needs.¹⁶³⁵

Legislation should be in place to promote and protect effective participation.¹⁶³⁶ This may require specialised training and measures, such as outreach activities and adaptation of services, to make public services and welfare institutions "easily accessible and available".¹⁶³⁷ Measures should be taken to ensure residency, language and other requirements as a condition for participation in socio-economic life are not "undue or disproportionate".¹⁶³⁸

The Advisory Committee on the FCNM further recommends "when specific institutions exist for channelling such support, persons belonging to national minorities should be adequately represented and should be able to take part in the corresponding decision-making".¹⁶³⁹ This could be assisted by "decentralisation" and assessing the level of participation of national minorities in the media.¹⁶⁴⁰

Specific to the UK, the Advisory Committee on the FCNM recommended for immediate action that "a multi-agency taskforce on Travellers' sites in NI" is setup "to cater to the needs of Irish Travellers".¹⁶⁴¹

The Committee of Ministers recommends Traveller communities and organisations are provided "with the means to participate in the process of conceiving, designing, implementing and monitoring policies and programmes aimed at improving their housing situation".¹⁶⁴² This should be as early as possible in the planning process and at all stages of the monitoring process.¹⁶⁴³ Incentives should be offered for Travellers to "participate in the entire process of renovation/construction works of their future homes".¹⁶⁴⁴ The Committee of Ministers also recognised mediation as "a useful tool for improving... inclusion".¹⁶⁴⁵

The former CoE Commissioner for Human Rights, Thomas Hammarberg and the former UN Special Rapporteur on Adequate Housing, Miloon Kothari, called for a "full and meaningful consultation" with "affected" Travellers.¹⁶⁴⁶ The former CoE Commissioner stated Travellers "must be seen as key partners and be fully empowered in setting out and implementing the agenda for securing [their] own rights".¹⁶⁴⁷ For strategies "to be effective, the full participation by [Travellers] in the development, implementation and evaluation of the strategies is key".¹⁶⁴⁸ This includes formulating and implementing the strategies "in close co-operation with regional and local authorities". Traveller candidates should be promoted within political parties, at European, national and local elections, and within public administrations. Civil society organisations should be supported and respected.¹⁶⁴⁹ They are "key vehicles for further political participation and capacity building" of Travellers.¹⁶⁵⁰

¹⁶³⁵ Ibid, at para 25.

¹⁶³⁶ Ibid, at paras 32-36.

¹⁶³⁷ Ibid, at paras 37-41.

¹⁶³⁸ Ibid, at paras 54-56.

¹⁶³⁹ Ibid, at para 66.

¹⁶⁴⁰ Ibid, at paras 67 and 68.

¹⁶⁴¹ ACFC/OP/IV(2016)005, 'CoE Advisory Committee on the FCNM: Fourth Opinion on the UK', 27 February 2017, at 2.

¹⁶⁴² CoE, 'Recommendation Rec(2008)5 of the Committee of Ministers to Member States on Policies for Roma and/or Travellers in Europe', 20 February 2008, at Appendix, section II, para 6.

¹⁶⁴³ Ibid, at Appendix, section II, paras 19 and 30.

¹⁶⁴⁴ Ibid, at Appendix, section II, para 38.

¹⁶⁴⁵ CoE, 'Recommendation Rec(2012)9 of the Committee of Ministers to Member States on Mediation as an Effective Tool for Promoting Respect for Human Rights and Social Inclusion of Roma', 12 September 2012.

¹⁶⁴⁶ CommDH/Speech(2007)16, 'Joint Statement by CoE Commissioner for Human Rights Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari: Governments Should Take Positive Steps to Protect the Housing Rights of Roma in Europe', 24 October 2007.

¹⁶⁴⁷ CommDH/PositionPaper (2010)3, 'Commissioner for Human Rights Positions on the Human Rights of Roma', 30 May 2010, at 4.

¹⁶⁴⁸ Ibid, at 3.

¹⁶⁴⁹ Ibid, at 4.

¹⁶⁵⁰ Ibid.

The ECRI recommends States “develop institutional arrangements to promote an active role and participation” of Travellers “in the decision-making process, through national, regional and local consultative mechanisms, with priority placed on the idea of partnership on an equal footing”.¹⁶⁵¹

Effective Participation

Domestic Laws and Policies

The ‘Tenant Participation Strategy for NI, 2015-2020’ aims “to increase tenant involvement in the delivery of social housing services and the decisions that are made about these services” for the purpose of improving “the quality of social housing services for tenants and landlords”.¹⁶⁵² It identifies ten principles as guidance. These focus on promoting good relations, accessibility, accountability, sharing information and reasonable timeframes.¹⁶⁵³ The strategy does not reference groups with specific housing needs (ie Travellers), or make clear that it includes all types of social housing, such as grouped housing and Travellers’ sites.

The Racial Equality Strategy states that the Racial Equality Subgroup will set up a group on Roma, Gypsies and Travellers “as soon as practicable”.¹⁶⁵⁴ This “may comprise representatives from Departments, statutory and voluntary/community organisations and others as agreed by the Subgroup”.¹⁶⁵⁵

The ‘Equality Scheme for the NI Housing Executive’ identifies consultation as an important aspect of promoting equality of opportunity and good relations.¹⁶⁵⁶ It commits the NI Housing Executive to seek the views of those directly affected as early as possible, for an adequate period, at an appropriate time and in an appropriate form.¹⁶⁵⁷ It commits the NI Housing Executive to make appropriate accessibility and format adaptations, to adequately train consultants and to effectively raise awareness within consultees.¹⁶⁵⁸ It also commits the NI Housing Executive to take account of the consultation results in making decisions and to provide feedback to consultees in a timely manner.¹⁶⁵⁹

Local Councils have a statutory obligation to advertise all new planning applications on a weekly basis in the local newspapers.¹⁶⁶⁰ The relevant Council is only obligated to directly notify an affected occupier of land neighbouring the application site. The time limit for responses is within 14 days of receipt of the notification letter.¹⁶⁶¹ A prospective planning applicant for major developments is required to conduct pre-application community consultation before submitting a planning application.¹⁶⁶² This statutory obligation does not extend to local developments, ie Traveller-specific accommodation. Each local Council has a statutory duty to “prepare a statement of community involvement” for pending Local Development Plans.¹⁶⁶³ This should be used to prepare strategies and local policies plans.¹⁶⁶⁴

¹⁶⁵¹ CRI(98)29 rev, ‘ECRI General Policy Recommendation No 3: Combating Racism and Intolerance Against Roma/Gypsies’, 6 March 1998, at 5.

¹⁶⁵² Department for Social Development, ‘A Tenant Participation Strategy for NI: 2015 to 2020’ (DSD, 2016), at 5.

¹⁶⁵³ *Ibid.*, at 7-9.

¹⁶⁵⁴ OFMDFM, ‘Racial Equality Strategy 2015-2025’ (OFMDFM, 2015), at 53.

¹⁶⁵⁵ *Ibid.*

¹⁶⁵⁶ NI Housing Executive, ‘Equality Scheme for the NI Housing Executive’ (NIHE, 2013), at para 3.1.

¹⁶⁵⁷ *Ibid.*, at paras 3.2-3.2.2 and 3.2.6-3.2.7.

¹⁶⁵⁸ *Ibid.*, at paras 3.2.8-3.2.9.

¹⁶⁵⁹ *Ibid.*, at paras 3.2.10-3.2.11.

¹⁶⁶⁰ Article 8, Planning (General Development Procedure) Order 2015.

¹⁶⁶¹ Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHR, 30 September 2016.

¹⁶⁶² Section 27(1), Planning Act (NI) 2011.

¹⁶⁶³ Section 4, Planning Act (NI) 2011.

¹⁶⁶⁴ Sections 8(4)(b) and 9(4)(b), Planning Act (NI) 2011.

The 'Design Guide for Travellers' Sites in NI' encourages Travellers' site providers to "consult widely and meaningfully with the local Traveller population and Travellers who are regular visitors prior to and during identification and development of suitable sites".¹⁶⁶⁵ This involves the "active participation" of Travellers, including children, and Traveller support groups as early as practicable, including the design process.¹⁶⁶⁶ It also requires "a systematic approach to consultation with the local settled community" to provide "objective information on the Traveller and to deal with irrational arguments inspired by prejudice and ignorance".¹⁶⁶⁷

Domestic Practice

Public Authorities

Departments

In 1996, a 'Working Party on Accommodation for Travellers' was setup by the then Department of the Environment for NI. It remained in place until 2006.¹⁶⁶⁸ In 1998, the Working Party published a consultation document. Speaking about the consultation document, a representative of the Belfast Sites Project stated "we offered many sensible recommendations to the Working Group, which are not present in the document".¹⁶⁶⁹ Travellers also found the consultation document contained factual inconsistencies and numerical inaccuracies.¹⁶⁷⁰

The Department for Communities and the Department for Infrastructure welcome feedback through their complaints processes, NI Housing Executive, departmental staff and Members of the NI Assembly.¹⁶⁷¹ However, unless consulting on a "particular policy", the Department for Communities relies on "intermediaries" (such as the NI Housing Executive) to consult directly with Travellers. A representative of the Department reasoned, "Travellers don't necessarily... want departments turning up on sites to ask them questions".¹⁶⁷² Yet, the majority of Travellers interviewed confirmed they would be willing to discuss their needs and views with any public authorities, if approached.¹⁶⁷³ The Department for Infrastructure attends equality meetings where it engages with An Munia Tober.¹⁶⁷⁴ An Munia Tober's remit is, however, limited to Travellers in Belfast.

¹⁶⁶⁵ Department of the Environment, 'Design Guide for Travellers' Sites in NI' (DoE, 1997), at 5.

¹⁶⁶⁶ Ibid, at paras 2.1, 3.4 and 3.17.

¹⁶⁶⁷ Ibid, at para 2.2.

¹⁶⁶⁸ Michael Hayes and Thomas Acton, *Travellers, Gypsies, Roma: The Demonisation of Difference* (Cambridge Scholars Publishing, 2009), at 42.

¹⁶⁶⁹ Clare Murphy, 'Travellers unhappy with housing document', *The Irish Times*, 6 August 1998.

¹⁶⁷⁰ Ibid.

¹⁶⁷¹ Evidence from Department for Communities, Response to Question 10, 27 September 2016; Letter from Department for Communities to NIHRC, 7 November 2017.

¹⁶⁷² Interview with representatives of Department for Communities, 1 February 2017.

¹⁶⁷³ Group interview with member of the Traveller communities in NI: Interview 5, 29 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 11, 10 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 12, 10 December 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with member of the Traveller communities in NI: Interview 17, 14 December 2016; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 23, 13 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017; Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

¹⁶⁷⁴ Interview with representatives of Department for Infrastructure, 7 February 2017.

NI Housing Executive

The NI Housing Executive commits itself to continuing to work in partnership with Traveller support groups and the general public.¹⁶⁷⁵ It places “emphasis and value upon the aspirations and capabilities of its partners”.¹⁶⁷⁶ The NI Housing Executive established a Housing Community Network in 1982 to “involve residents and their local community associations in discussing and developing their local services and addressing housing issues generally”.¹⁶⁷⁷ Thus, a central panel advising on the NI Housing Executive’s policies and procedures was set up. This comprises of 15 tenant and community representatives nominated from the area networks.¹⁶⁷⁸ Travellers are not represented.¹⁶⁷⁹

The NI Housing Executive actively consults with Travellers’ support groups and Travellers when planning provision for new Travellers’ accommodation or developing existing Travellers’ accommodation.¹⁶⁸⁰ The NI Housing Executive also consults Travellers and their representative organisations on tackling public perceptions, which pose a barrier to the provision of Travellers’ accommodation.¹⁶⁸¹ The NI Housing Executive “wouldn’t deliver anything without” consultation, because “unless you have the Traveller involved directly, you are wasting money”.¹⁶⁸² This includes consulting on any amendments to existing service provision¹⁶⁸³ and the needs, types of accommodation and supporting infrastructure desired for new developments.¹⁶⁸⁴

The NI Housing Executive’s main source of such information is the ‘Travellers’ Accommodation Needs Assessments’. This five-year survey has been criticised for containing inaccuracies and misrepresentations.¹⁶⁸⁵ Occasionally, the NI Housing Executive contracts third parties as consultants to conduct its needs assessments.¹⁶⁸⁶ Operational and personnel problems with the third parties often mean Travellers prefer dealing directly with the NI Housing Executive.¹⁶⁸⁷ In 2005, the NI Housing Executive published a report that included a suggestion that only consultants with experience of working with Travellers should be contracted.¹⁶⁸⁸

A representative of the NI Housing Executive believes “we have a good relationship with our Travellers... It has been an ongoing relationship... I don’t think that they would have any problems with ourselves”.¹⁶⁸⁹ Some interviewed Travellers do not agree. One found the NI Housing Executive “just ignore you... because of who we are”.¹⁶⁹⁰ Another felt Travellers are taken for granted by the NI Housing Executive and are consequently ignored.¹⁶⁹¹ South Tyrone Empowerment Programme found Travellers are “promised things” by the NI Housing Executive to “pacify in that moment”, but “nothing materialises”.¹⁶⁹² Thus, the “trust is... gone”.¹⁶⁹³

¹⁶⁷⁵ NI Housing Executive, ‘Corporate and Business Plans: Regional Services 2015/16-2017/18’ (NIHE, 2016), at 6.

¹⁶⁷⁶ *Ibid.*

¹⁶⁷⁷ Available at: http://www.nihe.gov.uk/index/community/get_involved/housing_community_network.htm

¹⁶⁷⁸ *Ibid.*

¹⁶⁷⁹ Letter from NI Housing Executive to NIHRC, 20 March 2017.

¹⁶⁸⁰ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁶⁸¹ NI Housing Executive, ‘Traveller Accommodation Update 2011: Corporate Services Division for Board Meeting’, 27 April 2011, at paras 3.0-3.13, 6.1 and 7.0; Letter from NI Housing Executive to NIHRC, 20 March 2017.

¹⁶⁸² Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁶⁸³ NI Housing Executive, ‘HRC-D6-3: Scheme Design Report: The Glen Travellers Site, Coalisland’, Date Unknown, at para 3.

¹⁶⁸⁴ NI Housing Executive, ‘Evaluation of Traveller Grouped Housing’ (NIHE, 2005), at Section A, para 3.1.

¹⁶⁸⁵ Roundtable discussion with civil society organisations, 20 September 2016; NI Local Government Partnership on Travellers Issues meeting with NIHRC, 4 October 2016.

¹⁶⁸⁶ NI Housing Executive, ‘Evaluation of Traveller Grouped Housing’ (NIHE, 2005), at Section A, paras 3.6 and 3.7.

¹⁶⁸⁷ *Ibid.*, at Section C.

¹⁶⁸⁸ *Ibid.*

¹⁶⁸⁹ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

¹⁶⁹⁰ Individual interview with member of the Traveller communities in NI: Interview 5, 29 November 2016.

¹⁶⁹¹ Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016.

¹⁶⁹² Roundtable discussion with civil society organisations, 20 September 2016.

¹⁶⁹³ *Ibid.*

Interviewed Travellers reported the NI Housing Executive does not take responsibility for Travellers' accommodation issues, "the NI Housing Executive would always have us go to the Council... The Council would say 'ring the NI Housing Executive'".¹⁶⁹⁴ The Craigavon Travellers Support Committee found consequently, "nothing ever changes".¹⁶⁹⁵

An interviewed Traveller used to attend meetings with the NI Housing Executive, but stopped going because of feeling ignored.¹⁶⁹⁶ Another Traveller reported every time the NI Housing Executive visited their accommodation, "we don't bother [to] go up around them because they don't give us anything".¹⁶⁹⁷ Another Traveller believed there was only ever change when the NI Housing Executive felt external pressures, such as the Commission's investigation.¹⁶⁹⁸

A representative of the NI Housing Executive accepted relations with Travellers "can go hot and cold".¹⁶⁹⁹ It was explained Travellers "tend to, when they hear information, to believe it is sacrosanct. I am going 'no, no, no let me explain. This is why that happened, this is why we are going to do such and such'".¹⁷⁰⁰ The representative stressed "it's a two-way process".¹⁷⁰¹ The NI Housing Executive should work with Travellers, but "you also want the Travellers to work for themselves".¹⁷⁰²

Housing Associations¹⁷⁰³

Apex Housing Association conducts targeted consultations for its grouped housing schemes. It also collects customer satisfaction information on a regular basis across all of its housing stock. Travellers are included in the process, but there are no specific questions related to Travellers.¹⁷⁰⁴ The methods used include customer satisfaction surveys, feedback cards, verbal feedback and mystery shopping.¹⁷⁰⁵

Clanmil Housing Association undertakes community consultation on all its proposed new housing developments, including its grouped housing schemes. This includes liaising with political representatives, adjoining residents and community groups, regardless of the client group proposed for the housing.¹⁷⁰⁶ The methods of consultation include written notification of proposals, phone calls, emails and public information meetings on the design, management and maintenance services.¹⁷⁰⁷

Radius Housing Association conducts a major customer satisfaction survey every three years through face-to-face interviews.¹⁷⁰⁸ This includes its grouped housing schemes. Other services are subject to periodic surveys on a more informal basis. For example, feedback after a repair is completed.¹⁷⁰⁹

¹⁶⁹⁴ Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

¹⁶⁹⁵ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁶⁹⁶ Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

¹⁶⁹⁷ Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017.

¹⁶⁹⁸ Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

¹⁶⁹⁹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁷⁰⁰ *Ibid.*

¹⁷⁰¹ *Ibid.*

¹⁷⁰² *Ibid.*

¹⁷⁰³ For purposes of this investigation, housing associations that provide social housing to Travellers (a public function) and receive public subsidy in some capacity are classified as a public authority in the context of fulfilling this public function. See *Weaver v London and Quadrant Housing Trust* [2009] EWCA Civ 587; Department for Communities, 'Proposals to Seek Reversal of the Reclassification of Registered Social Housing Providers in NI' (Department for Communities, 2016), at Annex B.

¹⁷⁰⁴ Letter from Apex Housing Association to NIHRC, 4 October 2016.

¹⁷⁰⁵ *Ibid.*

¹⁷⁰⁶ Written evidence from Clanmil Housing Association, 30 September 2016.

¹⁷⁰⁷ *Ibid.*

¹⁷⁰⁸ Interview with representatives of Radius Housing Association, 2 February 2017.

¹⁷⁰⁹ *Ibid.*

Interviewed Travellers are satisfied with their relationships with housing associations.¹⁷¹⁰ One interviewee raised that more could be done in situations of neighbour disputes.¹⁷¹¹

Local Councils

Local Councils receive feedback on their services through the normal channels.¹⁷¹² The details of all planning applications are available on the relevant Council's website. Individuals, groups and organisations can comment on a planning application. The newspaper advertisement and the relevant Council's website include details of how to make representations.¹⁷¹³

Regarding targeted consultation, local Councils regularly consult other statutory bodies on issues related to Travellers, but only consult Travellers when it is a statutory obligation.¹⁷¹⁴ There appears to be confusion within some local Councils as to when consultation with Travellers is required. For example, a representative of Belfast City Council highlighted that the 'Design Guide for Travellers' Sites' in NI says "Councils will engage in consultation with Travellers inside the communities... did it mean the NI Housing Executive?".¹⁷¹⁵ The assumption is yes, but clarity is lacking.¹⁷¹⁶ Local Councils have "a statutory obligation to make sure everyone is consulted" on the pending Local Development Plans.¹⁷¹⁷

Belfast City Council employs a Traveller liaison officer who aims to "improve the quality of life issues of the Traveller community and empower the Traveller community to take informed decisions that positively impacts on their community".¹⁷¹⁸ It means:

there is leadership in the Council trying to do something for a community that is getting very little... it seems that the support groups are disappearing and there's a lack of interest and there is more focus on universal services. The Traveller community seems to be losing out, even more than before. The fact that there is a full-time dedicated officer in Belfast City Council to do with Travellers can be nothing but positive.¹⁷¹⁹

There are no plans to introduce a similar role to other Council areas.¹⁷²⁰ It is felt existing partnerships in Traveller forums are satisfactory.¹⁷²¹ A Belfast City Councillor is in favour of a Traveller liaison officer in local Councils, but stressed the officer should have the opportunity to regularly engage with Councillors.¹⁷²²

The NI Local Government Partnership on Travellers Issues offers support to local Councils.¹⁷²³ Set up in 2000 on an ad-hoc basis; the Partnership meets bi-monthly to discuss Traveller-specific issues, including accommodation.¹⁷²⁴ Each local Council can have three elected representatives and one officer sitting on the

¹⁷¹⁰ Individual interview with a member of the Traveller communities in NI: Interview 2, 11 November 2016; Individual interview with member of the Traveller communities in NI: Interview 23, 13 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017

¹⁷¹¹ Individual interview with member of the Traveller communities in NI: Interview 24, 9 March 2017.

¹⁷¹² Including a comments, compliments or complaints form; in person at the relevant Council's reception; in writing; by email; by telephone; by text-phone; or through the relevant Council's website. See Derry City and Strabane District Council, 'A Guide to Making Comments, Compliments and Complaints' (Derry City and Strabane District Council, 2016), at 1.

¹⁷¹³ Interview with Council Officials at Derry City and Strabane District Council, 15 February 2017.

¹⁷¹⁴ Interview with Council Officials at Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017; Letter from Mid Ulster District Council to NIHR, 27 April 2017.

¹⁷¹⁵ Interview with Council Officials at Belfast City Council, 6 February 2017.

¹⁷¹⁶ Ibid.

¹⁷¹⁷ Interview with Council Officials at Belfast City Council, 6 February 2017; Interview with Council Officials at Mid Ulster District Council, 15 March 2017; Interview with Council Officials at Derry City and Strabane District Council, 15 February 2017.

¹⁷¹⁸ Written evidence from Belfast City Council, 3 October 2016.

¹⁷¹⁹ Interview with Council Officials at Belfast City Council, 6 February 2017.

¹⁷²⁰ Response received from Environmental Health Representatives at Armagh City, Banbridge and Craigavon Borough Council to Additional Questions from the NIHR, 20 March 2017.

¹⁷²¹ Ibid.

¹⁷²² Interview with a Councillor from Belfast City Council, 10 March 2017.

¹⁷²³ NI Local Government Partnership on Travellers Issues meeting with NIHR, 4 October 2016.

¹⁷²⁴ Ibid.

Partnership. Ten of the eleven local Councils are members. Mid Ulster District Council is not a member of the Partnership, for reasons unknown.¹⁷²⁵ It has no plans to become a member.¹⁷²⁶ The Partnership acknowledges it has to engage with "Travellers themselves".¹⁷²⁷ Travellers attend its meetings on occasion, but "there are difficulties in getting [Travellers] to attend".¹⁷²⁸

Inter-Agency Groups

A number of Traveller-specific inter-agency groups, which consider accommodation issues, exist in NI:

- The Racial and Equality Subgroup is in discussions about setting up the Roma, Gypsies and Travellers thematic group. If set up, it is expected to include direct departmental representation, making it the only Traveller-specific inter-agency group with such representation.
- The NI Housing Executive used to host a Traveller forum, which is no longer running.¹⁷²⁹ The Craigavon Travellers Support Committee found its membership "was by invitation only. We tried to get on... and we couldn't... We were actually asked to leave a meeting once".¹⁷³⁰
- The Traveller Action Group is supported by the Western Health and Social Care Trust. It and its subgroups, including Housing Accommodation, meet every two months. Members of local Traveller families have attended,¹⁷³¹ but it is difficult to encourage.¹⁷³²
- The legacy Craigavon Borough Council facilitated the Craigavon Inter-Agency Forum.¹⁷³³ It involved ad hoc consultation with members of local Traveller families.¹⁷³⁴ The new Council continues to support this Forum.
- Belfast City Council established a group in 2013 to look at how it could work effectively with the Traveller communities in its Council area. This included consideration of accommodation issues.¹⁷³⁵ This Forum was short-lived. In November 2017, Belfast City Council were in the process of establishing a new inter-agency forum. This will include an accommodation sub-group.¹⁷³⁶
- Newry, Mourne and Down District Council facilitates a Newry, Mourne and Down Traveller Forum. Key issues of the Forum include Travellers' accommodation.¹⁷³⁷

Membership of these groups is determined by the individual group's terms of reference. Generally, membership extends to the relevant public authorities and civil society groups. Attendance at these groups is inconsistent.¹⁷³⁸ Each individual group's resources determine the extent of engagement with individual Travellers.¹⁷³⁹

¹⁷²⁵ Letter from Mid Ulster District Council to NIHR, 27 April 2017.

¹⁷²⁶ Ibid.

¹⁷²⁷ 'AOB' in NI Local Government Partnership on Travellers Issues, 'Minutes of the Local Government Partnership on Travellers', Former Offices of Castlereagh Borough Council, 1 April 2016.

¹⁷²⁸ Ibid.

¹⁷²⁹ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁷³⁰ Ibid.

¹⁷³¹ 'NI Housing Executive's Investigation Index – Documents Relating to Question 9 posed by NIHR in Notification Letter to the NI Housing Executive', September 2016.

¹⁷³² 'HRC-Q3-1: Travellers' Action Group Meeting', Gransha Park House, 10 June 2015.

¹⁷³³ Response received from Environmental Health Representatives at Armagh City, Banbridge and Craigavon Borough Council to Additional Questions from the NIHR, 20 March 2017.

¹⁷³⁴ Craigavon Inter Agency Traveller Forum, 'Inter-Agency Meeting re Travellers at Burnside and Legahory Craigavon', Civic Centre, 28 November 2007, at para 1; Craigavon Inter Agency Traveller Forum, 'Inter-Agency Meeting re Travellers at Burnside and Legahory Craigavon', Civic Centre, 17 December 2007, at para 2.

¹⁷³⁵ Written evidence from Belfast City Council, 3 October 2016.

¹⁷³⁶ Louise O'Meara, 'Collaboration to Improve Outcomes for Travellers', Inter-agency Workshop, Malone House Belfast, 12 January 2017; Interview with Council Officials at Belfast City Council, 6 February 2017.

¹⁷³⁷ Email from Newry, Mourne and Down District Council to NIHR, 30 September 2016.

¹⁷³⁸ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁷³⁹ Craigavon Inter Agency Traveller Forum, 'Interagency Meeting re Traveller Issues, Craigavon Area', Craigavon Civic Centre, 25 January 2011, at para 2.1.

Some public authorities also host ad hoc Traveller-specific inter-agency meetings to address specific issues, for example, local Councils.¹⁷⁴⁰ Regarding its grouped housing scheme in the Belfast City Council area, Apex Housing Association meets with the Traveller liaison officers of the NI Housing Executive and Belfast City Council on an ad hoc basis and retains regular contact with Traveller support groups.¹⁷⁴¹ The NI Local Government Partnership requested regular interim meetings with the NI Housing Executive, but the NI Housing Executive did not see the need for such engagement.¹⁷⁴²

Travellers' accommodation falls within the remit of some general inter-agency groups. The Western Health and Social Care Trust Steering Group runs information days and cultural awareness training with staff and partner organisations regarding Travellers' accommodation.¹⁷⁴³ The Public Health Agency is a regional group focused on promoting and protecting health and wellbeing.¹⁷⁴⁴ Its remit includes Travellers' accommodation.¹⁷⁴⁵ Membership of these groups extend across the relevant public authorities and civil society organisations. The latter also includes representation from the Department of Health.

A representative of the NI Housing Executive feels inter-agency forums do not improve Travellers' participation as "there is no Traveller involvement... [We] can sit around here and talk about Travellers all we want, but do we really know the needs and aspirations of the Travellers?... I would personally rather have Travellers at everything".¹⁷⁴⁶ The Armagh Travellers Support Group stressed the need to be "strategically stronger" and to ensure the "voice of Traveller/non-Traveller work together".¹⁷⁴⁷

Travellers

A representative from Belfast City Council raised concerns that Traveller community groups do not exist:

this has been an issue for a long time now, but there is not capacity within the Traveller community to have a voice that represents all of them... [Travellers] don't operate as a community any more. Before there were structures in place to allow them to have a voice, to have commonalities, to have a common goal between all of them, or agreements. There were little agreements that would ease them and allow them to operate as a community group. This is not happening anymore. Now you're talking about isolated individuals within the Traveller community... engagement was easier [in the past]. I'm not saying it was easy, but it was easier.¹⁷⁴⁸

The Craigavon Travellers Support Committee agreed "Traveller families speak for themselves and not as a group".¹⁷⁴⁹ The Armagh Travellers Support Group finds the Travellers' voice is "getting weaker, more diluted".¹⁷⁵⁰ A representative of the Belfast City Council linked this to the movement towards standard social housing, as Travellers "used to live, all the families together in the same spot... everyone was more or less in touch. Now everyone has been scattered and there is isolation".¹⁷⁵¹

¹⁷⁴⁰ Letter from Craigavon Borough Council to NI Housing Executive, 4 August 2006; Letter from Fermanagh and Omagh District Council to NIHRC, 26 September 2016.

¹⁷⁴¹ Interview with representatives of Apex Housing Association, 7 February 2017.

¹⁷⁴² 'Correspondence with NI Housing Executive' in the NI Local Government Partnership in Travellers Issues, 'Minutes of the Meeting of the NI Local Government Partnership held on Friday 19 October 2007 under the auspices of Carrickfergus Borough Council', 19 October 2007; 'Traveller Consultative Forum' in NI Local Government Partnership on Traveller Issues, 'Minutes of the Meeting Held on Friday 18 January 2008 at Bagenal's Castle, Newry, Newry and Mourne District Council', 18 January 2008.

¹⁷⁴³ Letter from Fermanagh and Omagh District Council to NIHRC, 26 September 2016.

¹⁷⁴⁴ Available at: <http://www.publichealth.hscni.net/about-us>

¹⁷⁴⁵ Public Health Agency meeting with NIHRC, 24 April 2017.

¹⁷⁴⁶ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁷⁴⁷ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁷⁴⁸ Interview with Council Officials at Belfast City Council, 6 February 2017.

¹⁷⁴⁹ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁷⁵⁰ Ibid.

¹⁷⁵¹ Interview with Council Officials at Belfast City Council, 6 February 2017.

A Derry City and Strabane District Councillor highlighted locating Travellers' sites on "the fringes of the city" means the tenants "don't feel that they are part of the city".¹⁷⁵² If "you are not involved in the day-to-day community... there are barriers to participation".¹⁷⁵³

Travellers are also disengaging due to frustration. They are frustrated at the use of superficial consultation, "we get that all the time [from Travellers] 'how many times have we been consulted?'... [Travellers] have been consulted to death. People disengage from the process and there's not trust in it".¹⁷⁵⁴ The Craigavon Travellers Support Committee is concerned that the public authorities' failure to manage the expectations of Travellers contributes to the frustration. For example, within questionnaires from public authorities, "the question 'what would you like to live in?'. There is an assumption that this is going to materialise into an actual house somewhere or a grouped housing scheme".¹⁷⁵⁵ It is also believed public authorities have "a 'say no' mentality when it comes to working with Travellers",¹⁷⁵⁶ which contributes to frustrations.

Traveller Support Groups

Traveller support groups offer information, support and advice to Travellers. Such support is not available across NI, there are five Traveller support groups in NI extending across three local Council areas only.

Council Area	Traveller Support Group
Antrim and Newtownabbey Borough Council	No Traveller Support Group
Ards and North Down Borough Council	No Traveller Support Group
Armagh City, Banbridge and Craigavon Borough Council	Armagh Travellers Support Group (Armagh area) Craigavon Travellers Support Committee (Craigavon area)
Belfast City Council	An Munia Tober
Causeway Coast and Glens Borough Council	No Traveller Support Group
Derry City and Strabane District Council	No Traveller Support Group
Fermanagh and Omagh District Council	No Traveller Support Group
Lisburn and Castlereagh City Council	No Traveller Support Group
Mid and East Antrim Borough Council	No Traveller Support Group

¹⁷⁵² Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

¹⁷⁵³ Ibid.

¹⁷⁵⁴ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁷⁵⁵ Ibid.

¹⁷⁵⁶ Ibid.

Council Area	Traveller Support Group
Mid Ulster District Council	An Tearmann South Tyrone Empowerment Programme
Newry, Mourne and Down District Council	No Traveller Support Group

A representative of the NI Housing Executive felt that the absence of a Traveller support group in some areas posed “the biggest problem”.¹⁷⁵⁷

The NI Housing Executive liaises with Traveller support groups regarding Travellers' accommodation because “they have so much information... the Traveller families are in and out with them on a daily basis”.¹⁷⁵⁸ A representative of the Belfast City Council finds the Traveller support groups have an important role in terms of service provision, but questions how representative they are.¹⁷⁵⁹ Some interviewed Travellers rely heavily on Traveller support groups to assist in addressing accommodation issues. This includes appointing the relevant Traveller support group as their representation for dealing with public authorities.¹⁷⁶⁰ However, a number of Travellers identified difficulties with access. Some Travellers do not live within the remit of a Traveller support group.¹⁷⁶¹ Others feel another family has a territorial claim over the Traveller support group for their area.¹⁷⁶² Others oppose Traveller support groups, believing the purpose is to provide a settled person with a job, not to represent Travellers.¹⁷⁶³ Other interviewed Travellers are satisfied to represent themselves.¹⁷⁶⁴ A representative of the Police Service NI highlighted the difficulties facing Traveller support groups:

the whole thing is fluid, they are trying to build relationships and then the Travellers move on. If they are constantly trying to build that, who are they actually representing?... The needs are different within each family. It is difficult to try and feed what the issues are whenever they are always changing.¹⁷⁶⁵

The Craigavon Travellers Support Committee agrees “new Travellers” in an “area don't necessarily go to” Traveller Support groups.¹⁷⁶⁶ Yet, it finds it difficult to persuade public authorities to consider alternatives to relying on Traveller support groups.¹⁷⁶⁷

Traveller support groups feel there is a heavy burden placed on them to act as representatives of the Traveller communities in NI.¹⁷⁶⁸ A representative of the Equality Commission NI explained this is due to the limited resources available to Traveller support groups.¹⁷⁶⁹ The Armagh Travellers Support Group feels the heavy burden placed on Traveller support groups in NI means public authorities are not fulfilling their obligations towards Travellers and their housing needs. It believes “if there was a relationship” between the

¹⁷⁵⁷ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017.

¹⁷⁵⁸ Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

¹⁷⁵⁹ Interview with Council Officials at Belfast City Council, 6 February 2017.

¹⁷⁶⁰ Individual interview with a member of the Traveller communities in NI: Interview 2, 11 November 2016; Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Individual interview with member of the Traveller communities in NI: Interview 18, 25 January 2017; Individual interview with member of the Traveller communities in NI: Interview 20, 25 January 2017.

¹⁷⁶¹ See Table above.

¹⁷⁶² Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

¹⁷⁶³ Travellers from NI attending the Participation and Practice of Rights, ‘Housing and Accommodation Rights: Lessons from the Grassroots’, Crescent Arts Centre Belfast, 22 June 2017.

¹⁷⁶⁴ Individual interview with a member of the Traveller communities in NI: Interview 1, 7 November 2016; Individual interview with member of the Traveller communities in NI: Interview 23, 13 February 2017.

¹⁷⁶⁵ Interview with a representative of the Police Service NI: Interview B, 23 February 2017.

¹⁷⁶⁶ Craigavon Inter-Agency Forum on Travellers, ‘Inter-Agency Meeting re Travellers, Craigavon Area’, Craigavon Civic and Conference Centre, 11 August 2008, at para 5.1.

¹⁷⁶⁷ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁷⁶⁸ Ibid.

¹⁷⁶⁹ Interview with representatives of the Equality Commission NI, 8 February 2017.

NI Housing Executive and Travellers, the Traveller support groups “probably wouldn’t be needed” to address accommodation issues.¹⁷⁷⁰ Yet, it found public authorities “would pass the buck to us quite a lot”.¹⁷⁷¹ The attitude is “you are the Traveller support group, you deal with that’. Rather than it being the other way around”.¹⁷⁷² The Craigavon Travellers Support Committee agrees.¹⁷⁷³ It made a decision:

to take a step back. . . It seems to be that there’s nearly a transfer of management of the sites [to the Travellers support groups]. The NI Housing Executive are pushing further and further into what we’re willing to do and what they should be doing. We are stepping back hugely. We can already see the gaps that is creating.¹⁷⁷⁴

The resources available to Traveller support groups is not sufficient for what is expected.¹⁷⁷⁵ An Múna Tober highlights “over the past couple of years, none of the Travellers’ support groups, having gone through the lengthy and difficult process, have got one penny from [the then] OFMDFM [now Executive Office]”.¹⁷⁷⁶ The Armagh Travellers Support Group agreed. To do their job they are “relying on charitable money, the Big Lottery”.¹⁷⁷⁷ Consequently, representatives of the Equality Commission NI over the course of their work found “there has been a decline in the number of Traveller support groups, as austerity has essentially pinched them as well. Most of them appear to . . . have gone to the wall”.¹⁷⁷⁸ For example, funding issues contributed to the closing of the Derry Traveller Support Group.¹⁷⁷⁹ The NI Local Government Partnership on Travellers Issues is concerned “there is no longer a viable voice for the Traveller community”.¹⁷⁸⁰

Traveller support groups feel they receive insufficient notice of forthcoming consultations by public authorities to enable adequate support of Travellers’ participation in the process.¹⁷⁸¹ For example, with the ‘Travellers’ Accommodation Needs Assessment’, the Craigavon Travellers Support Committee reported:

it was done before we knew it. We were told ‘we need to go out next Tuesday and do this’. When we went back to the NI Housing Executive and said ‘Look, we have a number of concerns here’, it was just ‘well, it’s happening’”.¹⁷⁸²

Good Practice

A representative of the Police Service NI highlighted the need for collaboration and cooperation between public authorities and civil society organisations.¹⁷⁸³ Pavee Point stresses “you need to have Travellers at the epicentre in terms of active consultation and participation, not just a tokenistic gesture of inviting Travellers to consult for the purposes of consultation”.¹⁷⁸⁴ The Participation and the Practice of Rights emphasises participation with Travellers must take place at every level, including the process of data collection and critiquing government policy. The focus should not be on “an advisory body that the State bounces ideas off”.¹⁷⁸⁵ Travellers “should be involved in defining their own priorities and what needs to be done”.¹⁷⁸⁶ In

¹⁷⁷⁰ Interview with representative of Armagh Travellers Support Group, 25 January 2017.

¹⁷⁷¹ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁷⁷² Ibid.

¹⁷⁷³ Ibid.

¹⁷⁷⁴ Ibid.

¹⁷⁷⁵ Ibid.

¹⁷⁷⁶ Ibid.

¹⁷⁷⁷ Ibid.

¹⁷⁷⁸ Interview with representatives of the Equality Commission NI, 8 February 2017.

¹⁷⁷⁹ ‘Town Clerk and Chief Executive’s Report: Derry City Council’, June 2012, at D169/12.

¹⁷⁸⁰ NI Local Government Partnership Travellers Issues, ‘Design Guide for Traveller Sites in NI: Response by NI Local Government Partnership’ (NI Local Government Partnership Travellers Issues, Date Unknown).

¹⁷⁸¹ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁷⁸² Ibid.

¹⁷⁸³ Interview with a representative of the Police Service NI: Interview E, 22 February 2017.

¹⁷⁸⁴ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁷⁸⁵ Ibid.

¹⁷⁸⁶ Ibid.

support, the Promoting Social Inclusion Working Group on Travellers recommended design and management of accommodation schemes should be set up for Travellers.¹⁷⁸⁷ A Belfast City Councillor highlights proactive engagement with Travellers is required.¹⁷⁸⁸ A representative of Derry City and Strabane District Council agrees, “you need face-to-face groups and to work with the community workers”.¹⁷⁸⁹

The Department for Communities and Local Government’s identifies consultations with prospective residents of a Travellers’ site should be held regularly¹⁷⁹⁰ and conducted in partnership with planners, the fire officer, the police, the local highway authority, site managers, maintenance officers and the settled community.¹⁷⁹¹ Consultations should take place at times convenient for Travellers,¹⁷⁹² in a comfortable and accessible environment.¹⁷⁹³ The method of consultation should also be tailored to Travellers’ circumstances, such as low literacy levels.¹⁷⁹⁴ The outcomes of the consultation should be explained clearly to participants, including the reasons for not implementing expressed preferences.¹⁷⁹⁵ An Munia Tober agreed good practice requires that Travellers are “taken into consideration” and “part of the plan” from start to finish.¹⁷⁹⁶ In November 2017, the Department for Communities reported it was in the process of updating the ‘Design Guide for Travellers Sites in NI’ and was considering including up-to-date guidance on consultation.¹⁷⁹⁷

Civil society groups suggested that good practice regarding Travellers’ participation exists within the health sphere in NI where there are “supportive and proactive programmes, addressing Travellers’ needs and listening to what Travellers are identifying as their barriers and their needs”. These include Traveller-led groups such as An Crushan Munia and Dha Cultuir.¹⁷⁹⁸ This is achieved by “speaking directly to the families and to who the families are giving a mandate to”¹⁷⁹⁹ and providing adequate resources.¹⁸⁰⁰

Developing Relations

Engagement

Pavee Point believes local and national engagement is crucial, “[in Ireland], we meet with local groups, but we also meet on a national level... [Otherwise] what you have then is pockets of Traveller organisations and the workers might be from one particular family or one particular area. That creates problems”.¹⁸⁰¹ The National Travellers Accommodation Consultative Committee, setup in Ireland under the Housing (Traveller Accommodation) Act 1998, is an example of good practice.¹⁸⁰²

To build relationships with Travellers, a representative of the NI Housing Executive felt “you basically have to get to know the... tenants... Get out, walk and talk”.¹⁸⁰³ Apex Housing Association’s approach for developing long-term relationships is to “try and keep the same housing officer in an area for a prolonged period of time so they have the opportunity to build that relationship and get to know the tenants”.¹⁸⁰⁴

¹⁷⁸⁷ OFMDFM, ‘Promoting Social Inclusion Working Group on Travellers’ (OFMDFM, 2000), at Recommendation 9.

¹⁷⁸⁸ Interview with a Councillor from Belfast City Council, 10 March 2017.

¹⁷⁸⁹ Interview with Council Officials at Derry City and Strabane District Council, 15 February 2017.

¹⁷⁹⁰ Department for Communities and Local Government, ‘Designing Gypsy and Traveller Sites: Good Practice Guide’ (DCLG, 2008), at para 1.15.

¹⁷⁹¹ *Ibid.*, at paras 10.1 and 10.18-10.20.

¹⁷⁹² *Ibid.*, at para 10.12.

¹⁷⁹³ *Ibid.*, at para 10.8.

¹⁷⁹⁴ *Ibid.*, at para 10.09.

¹⁷⁹⁵ *Ibid.*, at paras 10.16-10.17.

¹⁷⁹⁶ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁷⁹⁷ Letter from Department for Communities to NIHRC, 7 November 2017.

¹⁷⁹⁸ Southern Health and Social Care Trust, ‘Southern Health and Social Care Trust Traveller Action Group Progress Report: Progress Update March 2012’ (SHSCT, 2012), at 3.

¹⁷⁹⁹ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁸⁰⁰ *Ibid.*

¹⁸⁰¹ *Ibid.*

¹⁸⁰² *Ibid.*

¹⁸⁰³ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁸⁰⁴ Interview with representatives of Apex Housing Association, 7 February 2017.

A Belfast City Councillor agreed “you need to have some sort of consistent approach so you can have advocates for [Travellers] who are making sure... their housing needs are front and centre... in that process”.¹⁸⁰⁵ Yet, a representative from the Department for Communities found “some [Travellers] had moved on and that changed the dynamic”.¹⁸⁰⁶ Councillors from Derry City and Strabane District Council agree this makes it difficult to build and maintain relationships with Travellers.¹⁸⁰⁷

A representative of the Police Service NI found the initial engagement with Travellers difficult “who do you go to? Who’s the Travellers’ spokesperson? Travellers are fragmented – different families, different clans, different issues, different areas”.¹⁸⁰⁸ Developing trust is a key factor,¹⁸⁰⁹ but this is not without its challenges. For example, “if you are perceived [to be] friends with one family, you might not be accepted with another family”.¹⁸¹⁰

From the Travellers interviewed, those in grouped housing and those in Travellers’ sites had different experiences regarding consultation during the planning stages of new builds or renovations. For grouped housing schemes, “they wanted to know the way we wanted them or if we liked it. They’d put you first before they made the houses”.¹⁸¹¹ For Travellers’ sites, there is a lack of consultation, which means the sites are not culturally appropriate in terms of size and design.¹⁸¹² If the NI Housing Executive “get the Travellers involved and they ask every question that needs to be asked first, things works out a lot better”.¹⁸¹³ The NI Housing Executive is making efforts to address this.¹⁸¹⁴

A representative of the Police Service NI stressed public authorities should “actually speak to [Travellers], as opposed to at them”.¹⁸¹⁵ There should be a focus on finding “what [Travellers] need or want”.¹⁸¹⁶ This is most successful “by actually calling down to speak to Travellers, going into their caravan, having a cup of tea... Uniform is a barrier... you go in your [private clothes], their level”.¹⁸¹⁷ Another representative from the Police Service NI agreed “not going in with an overly aggressive stance... It is fairness, it is dignity, it’s respect, it’s how you treat people”.¹⁸¹⁸ From a policing perspective “neighbourhood policing’s the key, where you have the officers set aside from response who are able to engage with people, talk with people”.¹⁸¹⁹ A representative of the Police Service NI stressed the need for a formalised point of contact system within public authorities to ensure there is a succession plan when employees move on.¹⁸²⁰ This should be a two-way system; Travellers should know the point of contact in the police and vice versa.¹⁸²¹

There is precedent for Traveller-specific community centres, but they are all closed.¹⁸²² Community centres assisted public authorities’ engagement with Travellers from all Travellers’ accommodation.¹⁸²³ It “was a

¹⁸⁰⁵ Interview with a Councillor from Belfast City Council, 10 March 2017.

¹⁸⁰⁶ Interview with representatives of Department for Communities, 1 February 2017.

¹⁸⁰⁷ Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

¹⁸⁰⁸ Interview with a representative of the Police Service NI: Interview D, 23 February 2017.

¹⁸⁰⁹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017; Interview with Council Officials at Belfast City Council, 6 February 2017; Interview with representatives of Apex Housing Association, 7 February 2017; Interview with a representative of the Police Service NI: Interview A, 14 February 2017; Interview with a representative of the Police Service NI: Interview D, 23 February 2017.

¹⁸¹⁰ Interview with Council Officials at Belfast City Council, 6 February 2017.

¹⁸¹¹ Individual interview with members of the Traveller communities in NI: Interview 23, 13 February 2017.

¹⁸¹² Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017.

¹⁸¹³ Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016.

¹⁸¹⁴ Ibid; Interview with a representative of the NI Housing Executive: Interview A, 25 January 2017.

¹⁸¹⁵ Interview with a representative of the Police Service NI: Interview D, 23 February 2017.

¹⁸¹⁶ Ibid.

¹⁸¹⁷ Ibid.

¹⁸¹⁸ Interview with a representative of the Police Service NI: Interview E, 22 February 2017.

¹⁸¹⁹ Interview with a representative of the Police Service NI: Interview D, 23 February 2017.

¹⁸²⁰ Interview with a representative of the Police Service NI: Interview E, 22 February 2017.

¹⁸²¹ Interview with a representative of the Police Service NI: Interview D, 23 February 2017.

¹⁸²² Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017; Interview with Council Officials at Belfast City Council, 6 February 2017.

¹⁸²³ Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016.

good focus group".¹⁸²⁴ The Equality Commission NI used to run a Traveller Awareness Week. The aim was to enhance relations with Travellers. A number of Council representatives felt this initiative was useful for public authorities and civil society organisations to learn more about Travellers, but believed it did not fulfil its intention of developing relations with Travellers.¹⁸²⁵ The Police Service NI is also involved in community events across NI aimed at improving relations with minority groups in NI, including Travellers.¹⁸²⁶ However, "you can't just force a project on someone and say here this is what you need. That doesn't work".¹⁸²⁷

The NI Housing Executive stressed public authorities can only do so much, Travellers need to take advantage of opportunities to engage:

I am trying to explain to [Travellers], [the NI Housing Executive are] going to put out a policy and need to get a budget for the next 10 or 15 years. If you don't respond [to the surveys], the figures are not going to stack up. They are going to say there is only two people that answered there and you are saying that there is nineteen? How am I going to find funding? How do I explain that?... I keep saying to [Travellers], 'I know you're sceptical of the agencies or government, but you have to engage'.¹⁸²⁸

Yet, in practice:

we spent two full days... knocking doors. We knocked the door of one Traveller who looks down and he says 'still in bed, come back in half an hour'... The next thing the van is away down the road [with the man inside] like a hare... [We went back to the house], knocked the door and no reply. In two full days we didn't get one person to engage... [We managed to get] one woman. While she was being interviewed... the vans were circling the property to put pressure on her not to answer... [It's also the case that] the husband answers the questions. When we went to do the stats at the end, he went 'but I'm not living here'.¹⁸²⁹

The NI Housing Executive's researchers also report that they face intimidation from Travellers.¹⁸³⁰

Perceptions and Political Will

The Armagh Travellers Support Group found good relations between public authorities and Travellers depends on the public authorities' employees' views of Travellers.¹⁸³¹ A Belfast City Councillor finds:

some Councillors dip in and out [of engaging with Travellers' issues]... Some Councillors react to Travellers' issues because of... the sort of narrow view of communities about Travellers. The interface they have with communities in some cases has been negative and then people make inappropriate... commentary about it.¹⁸³²

A Belfast City Councillor believes Travellers "are not the political priority" and "when you become more strategic about some of the specific interest or specific groupings you have to work within, it doesn't normally apply to Travellers".¹⁸³³ Travellers' accommodation only becomes "strategic" when there is "a media storm".¹⁸³⁴

¹⁸²⁴ Interview with a representative of the Police Service NI: Interview A, 14 February 2017.

¹⁸²⁵ Interview with Council Officials at Belfast City Council, 6 February 2017; 'Review of Traveller Focus Week in December 2007 including Police Service NI Input' in NI Local Government Partnership on Traveller Issues, 'Minutes of the Meeting Held on Friday 18 January 2008 at Bagenal's Castle, Newry, Newry and Mourne District Council', 18 January 2008.

¹⁸²⁶ Interview with a representative of the Police Service NI: Interview B, 23 February 2017.

¹⁸²⁷ Interview with a representative of the Police Service NI: Interview C, 21 February 2017.

¹⁸²⁸ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁸²⁹ Ibid.

¹⁸³⁰ Ibid.

¹⁸³¹ Interview with representative of Armagh Travellers Support Group, 25 January 2017.

¹⁸³² Interview with a Councillor from Belfast City Council, 10 March 2017.

¹⁸³³ Ibid.

¹⁸³⁴ Ibid.

A representative of the NI Housing Executive finds there is “no political goodwill” when it comes to providing Travellers’ accommodation. This is because there is:

no regional body for Travellers. Everybody fights their little pocket, but there is no one... in the middle of it all pulling it all together to say ‘this is how we should do it collectively’... There is no coordinated approach... We all come collectively and we do openly discuss... [but the] bottom line is [the NI Housing Executive is] only really concerned about [its] accommodation at that meeting. Why? Because there is no [one]... saying ‘I act on behalf of the Assembly or the Government. It is incumbent upon this State that we must do x, y and z’.¹⁸³⁵

The Department for Communities found this statement to be incorrect and that the NI Housing Executive had this responsibility as it had “the strategic role and responsibility for the provision of accommodation for Travellers in NI”.¹⁸³⁶

A Derry City and Strabane Councillor believed there is a lack of political will because Travellers are not registered to vote.¹⁸³⁷ Equally, “if... there is a community out there that is represented and they are making noise and they are challenging, people are then going to the front of the line to make sure that they are ok”.¹⁸³⁸ Yet:

the Travelling community is just enduring [the lack of representation]... There is nobody from the Traveller point of view saying ‘this is us, this is what we are suffering, this is what is happening to us’... [Travellers] don’t have that support, they don’t have that infrastructure, don’t have that capacity... [Travellers] are not having the capacity to develop themselves into their own committees.¹⁸³⁹

This is attributed to Travellers’ nomadic nature and the lack of consensus across the Traveller communities in NI.¹⁸⁴⁰

Information on Travellers’ Accommodation

The Department for Communities utilises ‘nidirect’ to provide a single point of access to public sector information and services related to Travellers’ accommodation in NI. This includes links to the NI Housing Executive’s website.¹⁸⁴¹ Any debates or Assembly questions concerning Travellers’ accommodation in NI are available on the NI Assembly’s website.¹⁸⁴²

The NI Housing Executive is committed to ensuring public access to information and services.¹⁸⁴³ This includes ensuring applicants are aware of their full accommodation choices.¹⁸⁴⁴ The NI Housing Executive’s website contains information on its accommodation, including Traveller-specific accommodation.¹⁸⁴⁵ This is across two webpages, ‘Accommodation for Travellers’¹⁸⁴⁶ and ‘Our Co-operation Policy for Travellers’.¹⁸⁴⁷ These provide basic information. They do not provide any indication of availability.¹⁸⁴⁸ They mention the NI Housing Executive’s Traveller Unit, but do not provide contact details. They do not provide clear directions on how to

¹⁸³⁵ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁸³⁶ Letter from Department for Communities to NIHRC, 7 November 2017.

¹⁸³⁷ Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

¹⁸³⁸ Ibid.

¹⁸³⁹ Ibid.

¹⁸⁴⁰ Ibid.

¹⁸⁴¹ Evidence from Department for Communities, Response to Question 9, 27 September 2016.

¹⁸⁴² Ibid.

¹⁸⁴³ NI Housing Executive, ‘Equality Scheme for the NI Housing Executive’ (NIHE, 2013), at paras 6.1-6.5.

¹⁸⁴⁴ Interview with representatives of Clanmil Housing Association, 8 March 2017.

¹⁸⁴⁵ Available at: <http://www.nihe.gov.uk/>

¹⁸⁴⁶ Available at: http://www.nihe.gov.uk/index/advice/advice_for_travellers/accommodation.htm

¹⁸⁴⁷ Available at: http://www.nihe.gov.uk/index/advice/advice_for_travellers/co-operation_policy.htm

¹⁸⁴⁸ Available at: http://www.nihe.gov.uk/index/advice/advice_for_travellers/accommodation.htm

apply for Traveller-specific accommodation.¹⁸⁴⁹ They also do not provide a copy of the co-operation policy in full.¹⁸⁵⁰ They do categorise the Traveller-specific accommodation by type and address, but the categorisation of the Travellers' sites does not necessarily reflect the actual use.¹⁸⁵¹ The list of Travellers' sites is outdated and includes sites that are not operational.¹⁸⁵² Additionally, the NI Housing Executive issues leaflets on the range of services it provides.¹⁸⁵³ A Travellers' accommodation leaflet has not been produced. The NI Housing Executive is reassessing its application and allocation processes for Travellers' accommodation to ensure Travellers are receiving sufficient information.¹⁸⁵⁴

All of the interviewed housing associations set out accommodation information, including Traveller-specific accommodation, on their websites.¹⁸⁵⁵ Clanmil and Radius housing associations do not list all of their grouped housing schemes on their websites.¹⁸⁵⁶ Of those listed, it is not clear which are grouped housing schemes. Clanmil Housing Association identify one of its schemes as grouped housing on its website.¹⁸⁵⁷ For the other five schemes across the three housing associations, cross-referencing with the NI Housing Executive's website is required.¹⁸⁵⁸ Apex and Radius Housing Associations provide up-to-date information on what accommodation is available.¹⁸⁵⁹ The application and allocation process for grouped housing schemes are the NI Housing Executive's responsibility.

The Traveller Action Group (West) newsletter is a source of written information about activities related to Traveller health and wellbeing within the Western Health and Social Care Trust Area. This includes accommodation. It is published four times a year, with the support of the Travellers Health and Wellbeing Programme.¹⁸⁶⁰ It is distributed to public authorities, civil society organisations and Travellers.¹⁸⁶¹

Adaptations

Public authorities are committed to ensuring communications with Travellers are accessible.¹⁸⁶² This is to ensure Travellers are informed and fully understand all the relevant information regarding their accommodation. This is key to ensuring Travellers can effectively participate. It should cover any queries, rights, obligations and issues regarding Travellers' accommodation.

The NI Housing Executive utilises its partnership networks, including Traveller support groups, to disseminate information on housing to Travellers.¹⁸⁶³ Travellers can obtain and discuss information from the NI Housing

¹⁸⁴⁹ Available at http://www.nihe.gov.uk/index/advice/advice_for_travellers/accommodation.htm; Available at http://www.nihe.gov.uk/index/advice/advice_for_travellers/co-operation_policy.htm.

¹⁸⁵⁰ Ibid.

¹⁸⁵¹ Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

¹⁸⁵² Ibid.

¹⁸⁵³ 'Answer to Question 8' in Letter from NI Housing Executive to NIHRC, 30 September 2016.

¹⁸⁵⁴ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁸⁵⁵ Available at: <http://www.apex.org.uk/>; Available at: <http://www.clanmil.org/>; Available at: <https://www.radiushousing.org/>.

¹⁸⁵⁶ Father Cullen Park (Clanmil) and Tattykeel (Radius) are not listed. See <http://www.apex.org.uk/>; <https://www.radiushousing.org/>.

¹⁸⁵⁷ Available at: http://www.clanmil.org/housing2/belfast_group.php

¹⁸⁵⁸ Available at: http://www.nihe.gov.uk/index/advice/advice_for_travellers/accommodation.htm

¹⁸⁵⁹ Available at: <https://www.radiushousing.org/housing/immediate/>; Available at: <http://www.apex.org.uk/types-of-accommodation/available-accommodation/>;

¹⁸⁶⁰ Travellers Health and Wellbeing Programme, 'Traveller Action Group Newsletter: Western Edition' (THWP, Autumn 2016).

¹⁸⁶¹ Ibid.

¹⁸⁶² Interview with Council Officials at Armagh, Banbridge and Craigavon Borough Council, 20 February 2017; Interview with Council Officials at Belfast City Council, 6 February 2017; Interview with Council Officials at Derry City and Strabane District Council, 15 February 2017; Interview with Council Officials at Mid Ulster District Council, 15 March 2017; Interview with representatives of Department for Communities, 1 February 2017; Interview with representatives of Department for Infrastructure, 7 February 2017; Interview with a representative of the Police Service NI: Interview A, 14 February 2017; Interview with a representative of the Police Service NI: Interview B, 23 February 2017; Interview with a representative of the Police Service NI: Interview C, 21 February 2017; Interview with a representative of the Police Service NI: Interview D, 23 February 2017; Interview with a representative of the Police Service NI: Interview E, 22 February 2017; Interview with a representative of the Police Service NI: Interview F, 15 February 2017; Interview with a representative of the Police Service NI: Interview G, 8 March 2017; Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017; Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017; Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017; Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017; Interview with representatives of the NI Housing Executive: Interview E, 13 February 2017; Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Radius Housing Association, 2 February 2017.

¹⁸⁶³ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

Executive through face-to-face meetings at a local office and via letter, email or telephone.¹⁸⁶⁴ The NI Housing Executive is aware it should refrain from using work-related jargon during consultations with Travellers.¹⁸⁶⁵

Apex Housing Association provides the option of face-to-face contact, letter, telephone and accommodation visits to Travellers to discuss their homes. Apex also writes to its applicants first and follows up by telephone, if it does not receive a response to the written communication.¹⁸⁶⁶ Apex liaises closely with Traveller support groups. It is exploring alternative options for engaging with Travellers and sharing learning across the sector.¹⁸⁶⁷

Clanmil Housing Association works with designated social workers, Traveller Support staff at the NI Housing Executive and Traveller support groups to ensure housing-related information is available to Travellers.¹⁸⁶⁸ Travellers can obtain accommodation information by contacting staff through visiting local offices, letter or telephone.¹⁸⁶⁹

Travellers can request information from Radius Housing Association by visiting local offices, filling out online forms, sending queries via letter or phoning for information.¹⁸⁷⁰ It is not common for Radius to rely on Traveller support groups,¹⁸⁷¹ as they “consult with... customers, rather than with organisations”.¹⁸⁷²

Community centres for Travellers or a Council hub used to exist on some Travellers' sites in NI.¹⁸⁷³ Derry City and Strabane Council and the NI Housing Executive are considering reintroducing a centre to that Council area.¹⁸⁷⁴ Clanmil Housing Association has community hubs. These include facilities for Travellers to seek advice.¹⁸⁷⁵

Information is not always communicated to Travellers in an accessible manner. This is a particular issue for Travellers in understanding their rights and responsibilities within their tenancy agreements. An Munia Tober stated some Travellers:

haven't understood the tenancy agreement in the beginning. [The housing providers] have said 'no we definitely have read it to them'. Travellers say 'no they didn't'. And you know that they've signed something that they haven't understood, which then leads to the issues.¹⁸⁷⁶

A Traveller who had experience of transitioning from sites to bricks and mortar accommodation felt they were not adequately informed of how to operate electricity and heating in the bricks and mortar accommodation. Such processes were completely new to them.¹⁸⁷⁷ A number of Travellers also felt dismissed by public authorities, particularly the NI Housing Executive, when seeking advice or reporting issues with their

¹⁸⁶⁴ Ibid.

¹⁸⁶⁵ NI Housing Executive, 'Evaluation of Traveller Grouped Housing' (NIHE, 2005), at Section C.

¹⁸⁶⁶ Interview with representatives of Apex Housing Association, 7 February 2017.

¹⁸⁶⁷ Ibid.

¹⁸⁶⁸ Written evidence from Clanmil Housing Association to NIHR, 30 September 2016.

¹⁸⁶⁹ Ibid.

¹⁸⁷⁰ Interview with representatives of Radius Housing Association, 2 February 2017.

¹⁸⁷¹ Ibid.

¹⁸⁷² Ibid.

¹⁸⁷³ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017; Interview with Council Officials at Belfast City Council, 6 February 2017.

¹⁸⁷⁴ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017.

¹⁸⁷⁵ Interview with representatives of Clanmil Housing Association, 8 March 2017.

¹⁸⁷⁶ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁸⁷⁷ Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

accommodation.¹⁸⁷⁸ Civil society organisations find they have to step in to provide the required support, which contributes to their resource issues.¹⁸⁷⁹

Empowerment

A Belfast City Councillor feels Travellers need guidance on how to deal with statutory bodies.¹⁸⁸⁰ There should be an appreciation that most public authorities “are not out to get [Travellers]... people are out to help them”.¹⁸⁸¹ Yet, the Craigavon Travellers Support Committee stresses any steps taken to enhance Travellers’ empowerment should not be tokenistic. It reports “we’re continually asked how many Travellers do you have sitting on your Board? We’re saying that tokenistic approach to participation isn’t working for us”.¹⁸⁸² A representative of the Police Service NI agreed that often Traveller-specific projects are:

for the sake of having a project. To be able to say ‘look at us... We’re holding hands with members of the Travelling community’... It’s not a case of we are building bridges... We are doing it because we think you should. The Travellers... are coming along because they think they have to. Nothing ever really gets achieved.¹⁸⁸³

The Armagh Travellers Support Group found a tokenistic approach has the opposite effect, “it’s disempowering people”.¹⁸⁸⁴

Education

Civil society organisations reported NI has a long way to go in empowering Travellers to represent themselves or to be a Director within NI’s Traveller support services.¹⁸⁸⁵ There are volunteer and facilitation programmes aimed at encouraging this, but these are in the early stages.¹⁸⁸⁶ Mentoring programmes in NI failed in the past due to a lack of will or ambition from the participants.¹⁸⁸⁷ Pavee Point believes NI is lacking the required community development approach, “it needs to start with children in school”.¹⁸⁸⁸ For Travellers “to be who they are without having to annoy [anyone]. Once you have the confidence to do that you can start speaking up for yourself”.¹⁸⁸⁹

A number of the Traveller support groups and housing associations run education programmes.¹⁸⁹⁰ The NI Housing Executive supports such initiatives.¹⁸⁹¹ Craigavon Travellers Support Committee stresses small organisations “don’t have the resources” to empower Travellers on their own.¹⁸⁹²

Employment Opportunities

The NI Housing Executive has an ‘Equality Opportunities Policy’ to safeguard all its employees, workers (permanent, temporary, or otherwise, and whether employed directly by the NI Housing Executive or

¹⁸⁷⁸ Individual interview with member of the Traveller communities in NI: Interview 5, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Individual interview with member of the Traveller communities in NI: Interview 20, 25 January 2017; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017; Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

¹⁸⁷⁹ Roundtable discussion with civil society organisations, 20 September 2016; Interview with representatives of Armagh Travellers Support Group, 25 January 2017.

¹⁸⁸⁰ Interview with a Councillor from Belfast City Council, 10 March 2017.

¹⁸⁸¹ Ibid.

¹⁸⁸² Roundtable discussion with civil society organisations, 20 September 2016.

¹⁸⁸³ Interview with a representative of the Police Service NI: Interview A, 14 February 2017.

¹⁸⁸⁴ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁸⁸⁵ Ibid.

¹⁸⁸⁶ Ibid.

¹⁸⁸⁷ Public Health Agency meeting with NIHRC, 24 April 2017.

¹⁸⁸⁸ Roundtable discussion with civil society organisations, 20 September 2016.

¹⁸⁸⁹ Ibid.

¹⁸⁹⁰ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017; Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017.

¹⁸⁹¹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

¹⁸⁹² Roundtable discussion with civil society organisations, 20 September 2016.

through an agency), potential job applicants and former employees from discrimination.¹⁸⁹³ This extends to discrimination on the grounds of being a member of a racial group, such as Irish Travellers.¹⁸⁹⁴ This policy's implementation follows advice from the Equality Commission NI.¹⁸⁹⁵ It is reflected in all stages of potential and actual employment – application forms, interviews, selection and in-house training.¹⁸⁹⁶ However, literacy issues and limited access to third-level education for Travellers in NI are barriers to employment. These make it difficult to meet essential criteria. For example, administrative posts at the NI Housing Executive require five GCSEs or equivalent, and professional posts require a professional qualification or relevant experience.¹⁸⁹⁷ Trade posts require a completed apprenticeship and labourer roles require relevant experience.¹⁸⁹⁸

Findings

The NIHRC's findings on effective participation and Travellers' accommodation in NI are:

i	It is rare for legislation, policies or guidance to require direct consultation with Travellers.
ii	Public authorities welcome feedback from Travellers, but often find it difficult to engage. Public authorities have not developed proactive strategies to overcome any obstacles to effective participation for Travellers.
iii	Public authorities limit their engagement with Traveller support groups, this fails to recognise their geographical scope.
iv	Travellers are rarely represented on public authorities' community representative committees.
v	The NI Housing Executive consults with Travellers and Traveller support groups when planning provision for new and developing existing Travellers' accommodation. It is reported that this is ineffective.
vi	Surveys conducted by housing associations on housing stock do not include Traveller-specific questions.
vii	Housing associations consult with Travellers from the design through to completion stages of their grouped housing schemes.

¹⁸⁹³ NI Housing Executive, 'Equal Opportunities Policy' (NIHE, 2015), at para 2.1.

¹⁸⁹⁴ Ibid, at para 1.1.

¹⁸⁹⁵ Equality Commission NI, 'A Unified Guide to Promoting Equal Opportunities in Employment' (ECNI, 2009); Equality Commission NI, 'Fair Employment in NI: Code of Practice' (ECNI, 2007); Equality Commission NI, 'Code of Practice for Employers: Code of Practice for the Elimination of Racial Discrimination and the Promotion of Equality of Opportunity in Employment' (ECNI, 2007).

¹⁸⁹⁶ NI Housing Executive, 'Equal Opportunities Policy' (NIHE, 2015); NI Housing Executive, 'Recruitment and Selection Presentation of Equal Opportunities Unit' (NIHE, Date Unknown); Equality Commission NI, 'Fair Employment in NI: Code of Practice' (ECNI, 2007).

¹⁸⁹⁷ Letter from NI Housing Executive to NIHRC, 20 March 2017.

¹⁸⁹⁸ Ibid.

viii	Generally, Travellers are satisfied with their relationships with housing associations in NI. Some Travellers feel more could be done regarding neighbour disputes.
ix	Local Councils in general only consult with Travellers when it is a statutory obligation.
x	It is unclear when pre-2003 policy (ie that inherited by the NI Housing Executive from the local Councils) applies to local Councils and when it applies to the NI Housing Executive.
xi	Only one Council in NI has a dedicated Traveller liaison officer.
xii	Ten of the eleven local Councils are members of the NI Local Government Partnership on Travellers Issues. Mid Ulster District Council is not a member.
xiii	The Executive Office has not yet established the Racial and Equality subgroup's Roma, Gypsies and Travellers thematic group.
xiv	There are reportedly no Traveller community groups in NI.
xv	There are five Traveller support groups in NI and their operations are limited to three Council areas. There is an overreliance by public authorities on these groups to represent Travellers in NI.
xvi	No Traveller-specific community centres exist within NI.

10 Monitoring

The duty to provide adequate housing, including Travellers' accommodation, requires adequate monitoring. This duty engages:

Treaty	Article
ICESCR	11
CERD	2(2)
CRC	3(1)
CRPD	33

The following soft law standards clarify what this requires:

UN ICESCR Committee
General Comment No 4: The Right to Adequate Housing ¹⁸⁹⁹
UN CERD Committee
General Recommendation No XXVII: On Discrimination against Roma ¹⁹⁰⁰
General Recommendation No 32: Meaning and Scope of Special Measures in the CERD ¹⁹⁰¹
Concluding Observations on the Twenty-first to Twenty-third Periodic Reports of the UK of Great Britain and NI ¹⁹⁰²
UN CRC Committee
General Comment No 5: General Measures of Implementation of the Convention on the Rights of the Child ¹⁹⁰³
UN CEDAW Committee
General Comment No 6: Effective National Machinery and Publicity ¹⁹⁰⁴
UN General Assembly
Report of the United Nations Conference on Human Settlements (Habitat II) ¹⁹⁰⁵
CoE Committee of Ministers
Recommendation on policies for Roma and Travellers in Europe ¹⁹⁰⁶

¹⁸⁹⁹ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991.

¹⁹⁰⁰ CERD Committee, 'General Recommendation XXVII: Discrimination against Roma', 16 August 2000.

¹⁹⁰¹ CERD/C/GC/32, 'CERD Committee General Recommendation No 32: Meaning and Scope of Special Measures in the ICERD', 24 September 2009.

¹⁹⁰² CERD/C/GBR/CO/21-23, 'CERD Committee Concluding Observations on the Twenty-first to Twenty-Third Periodic Reports of UK of Great Britain and NI', 26 August 2016.

¹⁹⁰³ CRC/GC/2003/5, 'CRC Committee General Comment No 5: General Measures of Implementation of the Convention on the Rights of the Child', 27 November 2003.

¹⁹⁰⁴ CEDAW Committee, 'General Recommendation No 6: Effective National Machinery and Publicity', 16 February-4 March 1988.

¹⁹⁰⁵ A/Conf.165/14, 'UN Conference on Human Settlements (Habitat II)', 14 June 1996.

¹⁹⁰⁶ CoE, 'Recommendation Rec(2008)5 of the Committee of Ministers to Members States on Policies for Roma and/or Travellers in Europe', 20 February 2008.

CoE Commissioner for Human Rights, Alvaro Gil-Robles
Final Report on the Human Rights Situation of the Roma, Sinti and Travellers in Europe ¹⁹⁰⁷
CoE Commissioner for Human Rights, Thomas Hammarberg
Positions on the Human Rights of Roma ¹⁹⁰⁸
Viewpoint: Serious Implementation of Human Rights Standards Requires that Benchmarking Indicators are Defined ¹⁹⁰⁹
Recommendation on the Implementation of the Right to Adequate Housing ¹⁹¹⁰

Human Rights Laws and Standards

United Nations

The effective monitoring of adequate housing is an “obligation of immediate effect”.¹⁹¹¹ The State “must demonstrate, inter alia, that it has taken whatever steps necessary, either alone or on the basis of international cooperation, to ascertain the full extent of homelessness and inadequate housing within its jurisdiction”.¹⁹¹² This requires providing “detailed information about those groups within... society that are vulnerable and disadvantaged with regard to housing”.¹⁹¹³ These include, “in particular, homeless persons and families, those inadequately housed and without ready access to basic amenities, those living in ‘illegal’ settlements, those subject to forced evictions and low-income groups”.¹⁹¹⁴ The ICESCR Committee identifies “monitoring should assess both steps taken and the results achieved”.¹⁹¹⁵ It follows that “national strategies, policies and plans should use appropriate indicators and benchmarks”.¹⁹¹⁶ This should be “disaggregated on the basis of the prohibited grounds of discrimination”.¹⁹¹⁷

The CRPD, Article 33(2), requires legal and administrative systems have “one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation” of the Convention. Article 33(3) requires “civil society, in particular persons with disabilities and their representative organisations, shall be involved and participate fully in the monitoring process”.

The CERD Committee recommends a “system of monitoring” the application and results regarding the CERD, Article 2(2).¹⁹¹⁸ This includes “quantitative and qualitative measures of appraisal”.¹⁹¹⁹ Specific to the UK, the CERD Committee recommends a comprehensive housing strategy and action plan is effectively implemented, “by adopting specific action plans and effective oversight and monitoring mechanisms to track progress,

¹⁹⁰⁷ CommDH(2006)1, ‘Final Report by Mr Alvaro Gil-Robles, CoE Commissioner for Human Rights, on the Human Rights Situation of the Roma, Sinti and Travellers in Europe’, 15 February 2006.

¹⁹⁰⁸ CommDH/PositionPaper (2010)3, ‘Commissioner for Human Rights Positions on the Human Rights of Roma’, 30 May 2010.

¹⁹⁰⁹ Thomas Hammarberg, ‘Serious Implementation of Human Rights Standards Requires that Benchmarking Indicators are Defined’ in Council of Europe, ‘Human Rights in Europe: Growing Gaps – Viewpoints by Thomas Hammarberg CoE Commissioner for Human Rights’ (CoE, 2010), at 75-80.

¹⁹¹⁰ CommDH(2009)5, ‘Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing’, 30 June 2009.

¹⁹¹¹ E/1992/23, ‘ICESCR Committee General Comment No 4: The Right to Adequate Housing’, 13 December 1991, at para 13.

¹⁹¹² Ibid.

¹⁹¹³ Ibid.

¹⁹¹⁴ Ibid.

¹⁹¹⁵ E/C.12/GC/20, ‘ICESCR Committee General Comment No 20: Non-discrimination in Economic, Social and Cultural Rights’, 2 July 2009, at para 41.

¹⁹¹⁶ Ibid.

¹⁹¹⁷ Ibid.

¹⁹¹⁸ CERD/C/GC/32, ‘CERD Committee General Recommendation No 32: Meaning and Scope of Special Measures in the ICERD’, 24 September 2009, at para 35.

¹⁹¹⁹ Ibid.

with adequate human and financial resources".¹⁹²⁰ The UK should also "regularly publish the net increase of pitches" created.¹⁹²¹ The CRC Committee notes that:

delivery at all levels of government demands a continuous process of child impact assessment (predicting the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights) and child impact evaluation (evaluating the actual impact of implementation).¹⁹²²

This process should be "built into government at all levels and as early as possible in the development of policy".¹⁹²³ This includes self-monitoring and independent monitoring.¹⁹²⁴ Monitoring should be set out in legislation and implemented in practice.¹⁹²⁵

The CEDAW Committee recommends States "establish and/or strengthen effective national machinery, institutions and procedures at a high level of government, and with adequate resources, commitment and authority to... monitor the situation of women comprehensively".¹⁹²⁶

The UN Habitat Agenda notes that:

quantitative and qualitative indicators at the national and local levels, which are disaggregated to reflect the diversity of our societies, are essential for planning, monitoring and evaluating progress towards the achievement of adequate shelter for all and sustainable human settlements.¹⁹²⁷

It calls for "age and gender-sensitive indicators, disaggregated data and appropriate data-collection methods" to "be developed and used to monitor the impact of human settlements policies and practices on cities and communities, with special and continuous attention to the situation of those belonging to disadvantaged and vulnerable groups".¹⁹²⁸

Council of Europe

The Committee of Ministers recommends States "monitor and publish regular evaluation reports on the state of the implementation and impact of strategies and policies to improve the situation of Roma and/or Travellers".¹⁹²⁹ Monitoring is "the systematic and continuous assessment of the progress of a piece of work over time, enabling actors to verify that things are going to plan and make adjustments in a methodical way".¹⁹³⁰ There should be "a clear definition of the indicators used for monitoring".¹⁹³¹ The monitoring ought to be "continuous, independent, participative, co-ordinated and transparent" and "sufficiently funded".¹⁹³² Civil society organisations should be encouraged to take part, "so that the process may benefit from their valuable experience and expertise".¹⁹³³ The Traveller communities should also select their representatives.¹⁹³⁴ Senior officials should be involved and there needs to be a gender balance.¹⁹³⁵

¹⁹²⁰ CERD/C/GBR/CO/21-23, 'Concluding Observations of the CERD Committee on the Twenty-first to Twenty-third Periodic Reports to the UK of Great Britain and NI', 3 October 2016, at para 25(a).

¹⁹²¹ *Ibid.*, at para 25(b).

¹⁹²² CRC/GC/2003/5, 'CRC Committee General Comment No 5: General Measures of Implementation of the Convention on the Rights of the Child', 27 November 2003, at para 45.

¹⁹²³ *Ibid.*

¹⁹²⁴ *Ibid.*, at para 46.

¹⁹²⁵ *Ibid.*, at para 47.

¹⁹²⁶ CEDAW Committee, 'General Recommendation No 6: Effective National Machinery and Publicity', 16 February-4 March 1988, at para 1(b).

¹⁹²⁷ A/Conf.165/14, 'Report of the United Nations Conference on Human Settlements (Habitat II)', 14 June 1996, at para 51.

¹⁹²⁸ *Ibid.*

¹⁹²⁹ CoE, 'Recommendation Rec(2008)5 of the Committee of Ministers to Members States on Policies for Roma and/or Travellers in Europe', 20 February 2008.

¹⁹³⁰ *Ibid.*, at Appendix, section I.

¹⁹³¹ *Ibid.*, at Appendix, section 5(1)(ii).

¹⁹³² *Ibid.*, at Appendix, sections 6 and VIII(1)(i).

¹⁹³³ *Ibid.*, at Appendix, section 5(i).

¹⁹³⁴ *Ibid.*, at Appendix, section VIII(1)(i).

¹⁹³⁵ *Ibid.*

The Committee of Ministers recommends legislative and administrative texts establishing monitoring and structural processes containing clear provisions. These should establish the:

- mandate, competence, composition, frequency of monitoring and funding;
- indicators and benchmarks linked to the overall objective;
- measures agreed through consultation with those concerned;
- coordination procedures;
- responsibility of public authorities to provide monitoring reports; and
- independence safeguards, notably freedom to appoint staff and express views publicly, protection against arbitrary dismissal or non-renewal of the mandate.¹⁹³⁶

Monitoring needs to be published and involve an evaluation process, which includes civil society participation. The publication of monitoring reports should be “periodic, public, translated into languages used by the communities concerned... and made widely available through accessible formats and Internet to provide an opportunity for good, reliable, public information on... Traveller issues”.¹⁹³⁷ The evaluation process ought to be a “periodic assessment of the relevant, performance, efficiency and rate of achievement of the general objective”.¹⁹³⁸ It should consider cost effectiveness and be aimed at ensuring accountability and transparency for the purposes of promoting confidence.¹⁹³⁹ A competent independent body should conduct it.¹⁹⁴⁰ It should also be evidence-based drawing on the results of the monitoring.¹⁹⁴¹ It needs to involve “wide representation of interested parties” and be used as “tools for learning and for use in strengthening future programmes and strategies for... Travellers in similar areas at national, regional and/or local level”.¹⁹⁴²

The former CoE Commissioner, Alvaro Gil-Robles, advocated “monitoring systematically the manner in which housing strategies are implemented at a local level”.¹⁹⁴³ This includes “rigorous monitoring” of the relevant legislation,¹⁹⁴⁴ and ensuring action plans are “adequately resourced in the long-term and regularly monitored for progress achieved bearing in mind their sustainability”.¹⁹⁴⁵ It may require central authorities to “intervene more actively in situations where implementation of housing projects for [Travellers] is hampered by local authorities and local majority populations”.¹⁹⁴⁶ The European Committee of Social Rights supports this.¹⁹⁴⁷

The former CoE Commissioner also stressed “the long-term enhancement of the right to participate, on terms of equality, in the general conduct of public affairs, be it in elected bodies or positions within the administration” is of “critical importance”.¹⁹⁴⁸ This includes paying “special attention” to “promoting the participation of [Traveller] women and... youth in decision-making processes”.¹⁹⁴⁹ It requires “non-[Traveller] politicians and authorities recognise that the situation of [Travellers], like that of any other individuals, is a

¹⁹³⁶ Ibid, at Appendix, section VIII(1)(ii).

¹⁹³⁷ Ibid, at Appendix, section VIII(2)(i).

¹⁹³⁸ Ibid, at Appendix, section I.

¹⁹³⁹ Ibid, at Appendix, section VIII(3)(ii).

¹⁹⁴⁰ Ibid, at Appendix, section VIII(3)(ii).

¹⁹⁴¹ Ibid.

¹⁹⁴² Ibid.

¹⁹⁴³ CommDH(2006)1, ‘Final Report by Mr Alvaro Gil-Robles, CoE Commissioner for Human Rights, on the Human Rights Situation of the Roma, Sinti and Travellers in Europe’, 15 February 2006, at para 32.

¹⁹⁴⁴ Ibid, at para 35.

¹⁹⁴⁵ Ibid, at para 109.

¹⁹⁴⁶ Ibid, at 19.

¹⁹⁴⁷ *European Roma Rights Centre v Greece*, Complaint No 15/2003, 8 December 2004, at paras 29 and 42.

¹⁹⁴⁸ CommDH(2006)1, ‘Final Report by Mr Alvaro Gil-Robles, CoE Commissioner for Human Rights, on the Human Rights Situation of the Roma, Sinti and Travellers in Europe’, 15 February 2006, at para 21.

¹⁹⁴⁹ Ibid.

cause for the whole society".¹⁹⁵⁰ The former Commissioner highlighted "ensuring effective participation of [Travellers] at the European level is equally important".¹⁹⁵¹

An effective implementation of human rights treaties requires "a systematic approach, including effective collection of relevant data and comprehensive planning through a participatory process".¹⁹⁵² This collation of data should be ongoing and details of any violations taking place should be recorded.¹⁹⁵³ It needs to involve defining "meaningful indicators which can be used to assess progress"¹⁹⁵⁴ and to promote efficiency, transparency and accountability in planning and implementation.¹⁹⁵⁵ These should include structural, process and outcome indicators,¹⁹⁵⁶ defined in a way that is "relevant to the context in which they are applied".¹⁹⁵⁷ Those "directly concerned"¹⁹⁵⁸ need to be involved, as well as the relevant public authorities, local government, national human rights structures and civil society organisations.¹⁹⁵⁹ The "full use of human rights indicators as an assessment tool depends largely on relevant and reliable data".¹⁹⁶⁰ This data should be drawn from a variety of sources including official statistical systems, civil society organisations, national human rights structures and the media.¹⁹⁶¹ The implementation of strategies also "needs to be regularly monitored and evaluated".¹⁹⁶²

Monitoring Public Authorities

Domestic Laws and Policies

The Housing Council has the role of consulting with and monitoring the NI Housing Executive.¹⁹⁶³ It consists of a representative from each of the local Councils in NI.¹⁹⁶⁴

Domestic Practice

NI Housing Executive

The Department for Communities conducts "in the rounds monitoring of all the NI Housing Executive's business. That monitoring takes place monthly and quarterly at an official level and quarterly and annually at a ministerial level".¹⁹⁶⁵ A representative of the Department for Communities explained:

there is a standard model that is used in terms of the NI Housing Executive report and performance across all of their business functions into the department in a formalised meeting every month. . . They look at the detail of that performance. . . at a more strategic level. The Department receives that information from the NI Housing Executive in terms of performance and that is the subject of the discussions as those meetings.¹⁹⁶⁶

¹⁹⁵⁰ Ibid, at para 22.

¹⁹⁵¹ Ibid, at para 23.

¹⁹⁵² Thomas Hammarberg, 'Serious Implementation of Human Rights Standards Requires that Benchmarking Indicators are Defined' in Council of Europe, 'Human Rights in Europe: Growing Gaps – Viewpoints by Thomas Hammarberg CoE Commissioner for Human Rights' (CoE, 2010), at 76.

¹⁹⁵³ Ibid.

¹⁹⁵⁴ Ibid.

¹⁹⁵⁵ Ibid.

¹⁹⁵⁶ Ibid, at 77.

¹⁹⁵⁷ Ibid, at 79.

¹⁹⁵⁸ Ibid, at 80.

¹⁹⁵⁹ Ibid.

¹⁹⁶⁰ Ibid, at 79.

¹⁹⁶¹ Ibid, at 80.

¹⁹⁶² CommDH(2009)5, 'Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing', 30 June 2009. CommDH/PositionPaper (2010)3, 'Commissioner for Human Rights Positions on the Human Rights of Roma', 30 May 2010, at 3.

¹⁹⁶³ Section 2, Housing Executive Act (NI) 1971; Article 4, Housing (NI) Order 1981.

¹⁹⁶⁴ Schedule 2, Housing Executive Act (NI) 1971.

¹⁹⁶⁵ Interview with representatives of Department for Communities, 1 February 2017.

¹⁹⁶⁶ Ibid.

The Housing Council advises the Minister for Communities on housing matters and examines housing matters from a strategic perspective, including those related to the NI Housing Executive. It is also a monitoring body. It requires "progress reports and monitors on performance against key performance indicators and objectives are brought regularly to the Housing Council or its Committees by those responsible for ensuring the delivery of housing services".¹⁹⁶⁷ It "meets regularly with the Minister for Social Development [now Minister for Communities] making representations to the Minister on the Housing Council's concerns or views on current housing matters".¹⁹⁶⁸ Four members of the Housing Council also sit on the NI Housing Executive's board.¹⁹⁶⁹

From its minutes, it is clear that the NI Local Government Partnership on Traveller Issues "hoped that the Housing Council would take the view that the NI Housing Executive was negligent on Traveller issues", but the Partnership was concerned about the Housing Council's impartiality¹⁹⁷⁰ given that members of the Housing Council are on the board of the NI Housing Executive.¹⁹⁷¹ A member of the Partnership believes the NI Housing Executive "were misleading the Housing Council".¹⁹⁷² The Partnership initiated a visit to Travellers' sites in NI for the Housing Council, but it was organised by the NI Housing Executive. The Partnership felt the NI Housing Executive "were being selective" and "using the trip for their own strategic interest".¹⁹⁷³

The NI Housing Executive internally monitors its services across all of its accommodation, including Travellers' accommodation, with an annual continuous tenant omnibus survey.¹⁹⁷⁴ Since 2002, it has conducted a five-yearly survey of Travellers' accommodation needs.¹⁹⁷⁵

Housing Associations

The housing associations interviewed conduct internal customer satisfaction surveys. Within Apex Housing Association, there is an annual supported living survey and a survey of tenants' general needs every three years. External organisations facilitate the latter.¹⁹⁷⁶ Clanmil Housing Association assesses 30 percent of its housing stock per annum using a rolling programme. The process for these surveys is to visit tenants, have a discussion around set questions and record the answers on a computer system via a tablet.¹⁹⁷⁷ The set questions are not Traveller-specific.¹⁹⁷⁸ Radius Housing Association conducts a major customer satisfaction survey every three years through face-to-face interviews.¹⁹⁷⁹

Local Councils

The Department for Infrastructure has a governance and oversight role in relation to planning decisions, including those concerning Travellers' accommodation.¹⁹⁸⁰ However, since the introduction of the two-tiered planning system in April 2015 this role has been limited. The Department has three planning statutory indicators and standards for local Councils, which set out expected processing times for major and local applications and enforcement cases.¹⁹⁸¹ The Department supports the local Councils, as the new planning

¹⁹⁶⁷ Available at: <http://www.nihousingcouncil.org/About-the-NIHC/Our-vision.aspx>

¹⁹⁶⁸ Ibid.

¹⁹⁶⁹ Ibid.

¹⁹⁷⁰ 'Meeting with the Housing Council' in NI Local Government Partnership on Travellers Issues, 'Minutes of the Local Government Partnership on Travellers', Former Offices of Castlereagh Borough Council, 1 April 2016.

¹⁹⁷¹ Ibid.

¹⁹⁷² 'Matters Arising' in NI Local Government Partnership on Travellers Issues, 'Minutes of the Local Government Partnership on Traveller Issues', Londonderry Park Newtownards, 30 September 2016.

¹⁹⁷³ Ibid.

¹⁹⁷⁴ Available at: http://www.nihe.gov.uk/index/corporate/housing_research/completed/attitudes_to_landlord_services.htm

¹⁹⁷⁵ Available at: <http://www.nihe.gov.uk/travellers>

¹⁹⁷⁶ Interview with representatives of Apex Housing Association, 7 February 2017.

¹⁹⁷⁷ Interview with representatives of Clanmil Housing Association, 8 March 2017.

¹⁹⁷⁸ Ibid.

¹⁹⁷⁹ Interview with representatives of Radius Housing Association, 2 February 2017.

¹⁹⁸⁰ Response from Department for Infrastructure to NIHRC, 13 November 2017.

¹⁹⁸¹ Response received from Department for Infrastructure to Additional Questions from the NIHRC, 3 March 2017.

authorities, to assist them in settling into their new roles.¹⁹⁸² In practice, a representative of the Department for Infrastructure stated:

in planning there are lots of issues always, people complaining [that they are] not happy with decisions... It's not that we would completely ignore [any issues] but, our approach is if lots of people complain about [the same issue] all the time... the proper way to deal with that is through the Council and then the [Public Services] Ombudsman.¹⁹⁸³

The Minister for Infrastructure can call-in planning applications.¹⁹⁸⁴ This is rarely used and has not been utilised regarding Travellers' accommodation applications. A representative of the Department for Infrastructure set out that:

the purpose of calling-in is to focus on applications where the right person to make the decision is the Minister as opposed to local Council... it is really [only used for] a national, regional decision. It would be very, very hard to argue that [was the case] with a Traveller application... [The purpose of calling in an application] is not really to look at what is the right decision or have the proper procedures been followed in relation to an application. It's purely about where is the right place to make the decision.¹⁹⁸⁵

There is precedent within England where the Minister for Communities and Local Government calls in Traveller applications. These applications were called in because it was "felt there was a national issue, or... a regional issue around the Travellers' accommodation".¹⁹⁸⁶ A representative of the Department for Infrastructure advised:

we are still finding our feet... sometimes Councils are pushing... and we are pushing back. There is that sort of learning as we go forward in the evolution of the [new two-tiered planning system]. We haven't done any of these things yet, but I am not saying they are impossible... We want to encourage Councils to deal with [planning] right... We will work with them closely and encourage them with the code of conduct and talk to them about doing it right and assessing all applications, whether they are for Travellers or for anybody.¹⁹⁸⁷

The Department for Infrastructure is working with the local Councils on a performance management framework, drawing from the practice in Wales.¹⁹⁸⁸ It plans to introduce an administrative practice, not a statutory obligation, for local Councils to provide the Department with "more detailed fine grain information about how the planning systems working".¹⁹⁸⁹

A representative of the Department for Infrastructure is confident in the Department's assessment of and consultation on the development of policy. It finds monitoring the implementation of policies "challenging".¹⁹⁹⁰ The representative believes this is a resource issue, "we tend to be more focused on producing the policy and then moving along".¹⁹⁹¹ It is also attributed to the new two-tiered system. The Department is now "more divorced from the implementation of the policy".¹⁹⁹² The Councils "are closer to how something is working on the ground".¹⁹⁹³ In addition to other material (including Planning Appeals Commission decisions, case law,

¹⁹⁸² Ibid.

¹⁹⁸³ Interview with representatives of Department for Infrastructure, 7 February 2017.

¹⁹⁸⁴ Section 29, Planning Act (NI) 2011.

¹⁹⁸⁵ Interview with representatives of Department for Infrastructure, 7 February 2017.

¹⁹⁸⁶ Ibid.

¹⁹⁸⁷ Ibid.

¹⁹⁸⁸ Response from Department for Infrastructure to NIHRC, 13 November 2017.

¹⁹⁸⁹ Interview with representatives of Department for Infrastructure, 7 February 2017.

¹⁹⁹⁰ Ibid.

¹⁹⁹¹ Ibid.

¹⁹⁹² Ibid.

¹⁹⁹³ Ibid.

correspondence, wider legislative change or political direction to review policy),¹⁹⁹⁴ the Department relies on local Councils to highlight when a policy is ineffective and change should be considered.¹⁹⁹⁵

The Department for Infrastructure have a monitoring role in the development of each Council's 'Local Development Plan'. At key stages, the Department conducts an assessment. It will consider, for example, "have [the Councils] looked at Travellers' needs and accommodation? What is it [the Councils] are saying on that? Do we feel [the Councils] have met the policy? Then if we felt that was the case or wasn't the case, we can feedback comments and highlight that to them".¹⁹⁹⁶ The Planning Appeals Commission or a person appointed by the Department for Infrastructure holds an independent examination to determine whether a proposed plan satisfies legal requirements and is sound. The Planning Appeals Commission or the appointed person produces a report to the Department for Infrastructure, which then decides whether to direct the relevant Council to adopt the plan as submitted, adopt it with modifications, or withdraw it.¹⁹⁹⁷

The Department for Infrastructure maintains it does not have responsibility for monitoring the site licencing process.¹⁹⁹⁸ A representative of the Department for Infrastructure suggested this was the responsibility of the Department for Communities.¹⁹⁹⁹ The Department for Communities stated it was the Department for Infrastructure's responsibility as it was responsible for the Caravans Act (NI) 1963, which imposes the site licencing process.²⁰⁰⁰ The Department for Infrastructure accepts it has responsibility for issuing exemption certificates and producing the Model Conditions, but views issuing, administering and monitoring site licencing as the responsibility of the local Councils.²⁰⁰¹

At a local Council level, staff deal with planning applications. Their manager supervises them and ensures they are taking into account certain factors. The Head of Planning carries out checks on at least 10 percent of all delegated planning decisions and some may be subject to the Planning Committee. Human rights are reportedly "fundamental" during this process.²⁰⁰²

Findings

The NIHRC's findings on monitoring public authorities and Travellers' accommodation in NI are:

i	Only the Housing Council has a statutory obligation to monitor housing providers in NI. This is limited to monitoring the NI Housing Executive. The Housing Council is not sufficiently independent from the NI Housing Executive.
ii	The Department for Communities monitors the NI Housing Executive's performance and budget on a quarterly basis. This is limited to the information the NI Housing Executive provides. The onus is on the NI Housing Executive to alert the Department to any issues.

¹⁹⁹⁴ Response from Department for Infrastructure to NIHRC, 13 November 2017.

¹⁹⁹⁵ Interview with representatives of Department for Infrastructure, 7 February 2017.

¹⁹⁹⁶ Ibid.

¹⁹⁹⁷ Letter from Planning Appeals Commission to NIHRC, 17 October 2017.

¹⁹⁹⁸ Interview with representatives of Department for Communities, 1 February 2017; Response received from Department for Infrastructure to Additional Questions from the NIHRC, 3 March 2017.

¹⁹⁹⁹ Interview with representatives of Department for Communities, 1 February 2017.

²⁰⁰⁰ Letter from Department for Communities to NIHRC, 7 November 2017.

²⁰⁰¹ Response received from Department for Infrastructure to Additional Questions from the NIHRC, 3 March 2017.

²⁰⁰² Interview with Council Officials at Mid Ulster District Council, 15 March 2017.

iii	The Department for Infrastructure has limited its monitoring role regarding planning decisions since the two-tiered planning system was introduced. It focuses on strategic issues and legacy decisions (pre-April 2015). It is considering expanding this to include a regular monitoring of local Council's planning decisions, similar to the practice in Wales.
iv	No Department appears to accept or have responsibility for monitoring the site licencing process.
v	Local Councils internally monitor their planning decisions. Human rights are considered in this process.

Monitoring Need for Travellers' Accommodation

Domestic Laws and Policies

The NI Housing Executive is required to provide a housing needs assessment to assist the local Councils' planning authorities in their preparation of development plans.²⁰⁰³ It includes analysing data and trends.²⁰⁰⁴ The assessment should be updated at regular intervals.²⁰⁰⁵ The primary objective is to identify future land-use requirements.²⁰⁰⁶ One of the housing categories to be considered by the assessment is Travellers' accommodation.²⁰⁰⁷ This complements the NI Housing Executive's strategic role regarding the provision of accommodation to meet the needs of the Traveller communities.²⁰⁰⁸

Domestic Practice

The NI Housing Executive's operational responsibility for Travellers' accommodation includes gathering statistics, reviewing and inspecting such accommodation.²⁰⁰⁹ Yet, civil society organisations report little change, even when monitoring occurs. The South Tyrone Empowerment Programme stated "we have read reports from 1999 that are as relevant today, as they were in 1999. It has not moved on".²⁰¹⁰ For example, the NI Housing Executive's 'Travellers' Accommodation Needs Assessment' contained almost the same five-year plan each time.²⁰¹¹

Travellers' Accommodation Needs Assessments

The NI Housing Executive conducts a general annual housing need assessment for each Council area in NI.²⁰¹² Reflective of the particular needs identified, a Travellers' Unit was established within the NI Housing Executive and Travellers' accommodation is independently assessed.²⁰¹³ The Traveller-specific assessment informs the general housing need assessments.

²⁰⁰³ Department for Regional Development, 'Planning Policy Statement 12 (PPS 12): Housing Settlements' (DRD, 2005), at para 37.

²⁰⁰⁴ *Ibid.*, at para 40.

²⁰⁰⁵ *Ibid.*, at para 37.

²⁰⁰⁶ *Ibid.*, at 57.

²⁰⁰⁷ *Ibid.*, at para 40.

²⁰⁰⁸ *Ibid.*, at para 59.

²⁰⁰⁹ Evidence from Department for Communities, Response to Questions 6 and 7, 27 September 2016.

²⁰¹⁰ Roundtable discussion with civil society organisations, 20 September 2016.

²⁰¹¹ *Ibid.*

²⁰¹² Interview with Council Officials at Mid Ulster District Council, 15 March 2017.

²⁰¹³ Department for Regional Development, 'Planning Policy Statement 12 (PPS 12): Housing Settlements' (DRD, 2005), at 66.

The NI Housing Executive has committed to publish a 'Travellers' Accommodation Needs Assessment for NI' every five years.²⁰¹⁴ The assessment examines the population and household characteristics, available accommodation and issues affecting Travellers.²⁰¹⁵ It aims to establish the accommodation needs of Travellers in NI. Each assessment offers recommendations and a five-year rolling programme of schemes required to meet the accommodation needs of Travellers in NI.²⁰¹⁶

Civil society organisations are concerned about the methodology and context of the 'Travellers' Accommodation Needs Assessments', which they consider may lead to discrepancies.²⁰¹⁷ On occasions where an interviewed Traveller was asked as part of a piece of research whether their accommodation met their needs, they felt their views were not reflected in the research's findings.²⁰¹⁸ For example, staff from Armagh Travellers Support Group accompanied the NI Housing Executive's researchers over a three-day period and reported that the Travellers' interviewed "spoke at length about social housing and grouped housing and about being close to each other and not spread out. None of that was in the [assessment's] recommendations".²⁰¹⁹ South Tyrone Empowerment Programme further reported:

the NI Housing Executive would go to specific heads of families or specific people who are more vocal and get their information from them, but they have their own vested interests... For example, how representative or aware are they of the needs of someone with a disability on site, of women on site, of children on site?... Other people's needs are totally being ignored.²⁰²⁰

The majority of Travellers interviewed stated that in general the NI Housing Executive did not ask whether their accommodation met their needs.²⁰²¹ Furthermore, the majority of Travellers interviewed are unaware of any research conducted regarding their accommodation.²⁰²² An Munia Tober believe the Travellers' Accommodation Needs Assessment is a "tick-box exercise".²⁰²³ The Craigavon Travellers Support Committee stated it requested the NI Housing Executive did not only speak to the heads of families and that it spoke to the husband and wife in each household, to ensure all perspectives were represented. However, it was reported that the NI Housing Executive refused due to time constraints.²⁰²⁴ Craigavon Travellers Support Committee no longer assists with such data collection²⁰²⁵ and finds the assessments are "hugely different

²⁰¹⁴ Ibid, at para 59.

²⁰¹⁵ Ibid, at para 60.

²⁰¹⁶ Ibid, at para 60; Department of the Environment, 'Planning Policy Statement 12: Housing in Settlements – Policy HS 3 (Amended) Travellers Accommodation' (DoE, 2013).

²⁰¹⁷ Roundtable discussion with civil society organisations, 20 September 2016.

²⁰¹⁸ Individual interview with member of the Traveller communities in NI: Interview 18, 25 January 2017.

²⁰¹⁹ Roundtable discussion with civil society organisations, 20 September 2016.

²⁰²⁰ Ibid.

²⁰²¹ Individual Interview with a member of the Traveller communities in NI: Interview 1, 7 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 2, 11 November 2016; Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Group interview with member of the Traveller communities in NI: Interview 5, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 6, 29, November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 9, 30 November 2016; Group interview with members of the Traveller communities in NI: Interview 13, 14 December 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 24, 9 March 2017; Individual interview with member of the Traveller communities in NI: Interview 26, 5 April 2017.

²⁰²² Individual Interview with a member of the Traveller communities in NI: Interview 1, 7 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 2, 11 November 2016; Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Group interview with member of the Traveller communities in NI: Interview 5, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 6, 29, November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 9, 30 November 2016; Group interview with members of the Traveller communities in NI: Interview 13, 14 December 2016; Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016; Individual interview with member of the Traveller communities in NI: Interview 16, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 20, 25 January 2017; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with members of the Traveller communities in NI: Interview 23, 13 February 2017; Individual interview with members of the Traveller communities in NI: Interview 23, 13 February 2017; Individual interview with member of the Traveller communities in NI: Interview 24, 9 March 2017; Individual interview with member of the Traveller communities in NI: Interview 26, 5 April 2017.

²⁰²³ Roundtable discussion with civil society organisations, 20 September 2016.

²⁰²⁴ Ibid.

²⁰²⁵ Ibid.

to the information" it would "hold regarding the preferences and needs of Travellers".²⁰²⁶ The NI Housing Executive countered this stating it is prepared to add any suggested Travellers to its list of proposed interviewees.²⁰²⁷

Craigavon Travellers Support Committee calls for more accountability to combat inaccuracies and misrepresentations.²⁰²⁸ South Tyrone Empowerment Programme suggests an independent agency should conduct any Travellers' accommodation needs analysis, as "you can always get [the answer] you want, if you ask the right question".²⁰²⁹ The consultants should have experience working with Travellers.²⁰³⁰ The NI Housing Executive conducted the 2002 'Travellers' Accommodation Needs Assessment'. Different independent consultants with the relevant experience were contracted to conduct the 2008 and 2014 assessments to promote transparency.²⁰³¹ However, using different consultants appears to have led to inconsistencies in the questions posed and the data.²⁰³² The Equality Commission NI found this made it "difficult to compare".²⁰³³ The NI Housing Executive does not accept these criticisms.²⁰³⁴ It offers departments, the health trusts, the Traveller support groups and the Local Government Partnership for Travellers Issues opportunities to review and comment on its Traveller-specific questionnaires. It will amend questionnaires accordingly if required.²⁰³⁵

The NI Housing Executive is aware of the limitations of its 'Travellers' Accommodation Needs Assessments' and seeks to improve with each new piece of research.²⁰³⁶ For example, it felt the 2014 assessment did not adequately reflect the views of Travellers in standard social housing or private rented accommodation.²⁰³⁷ The NI Housing Executive plans "more detailed consultation and analysis" in the forthcoming 2019 'Travellers' Accommodation Needs Assessment' "to properly inform a new development programme".²⁰³⁸

Other Mechanisms

The NI Housing Executive does not solely rely on its 'Travellers' Accommodation Needs Assessments' to establish Travellers' accommodation needs because:

research at any given time is sometimes not worth the paper it is written on within about two weeks... We could do a whole survey of NI. There could be five families [in a particular area]. We decide we are going to build houses... A year-and-a-half later with your contractors and everybody on site, then families are not there... It is very, very hard sometimes to future plan for Travellers because it is a fluid situation and nobody really knows... [Travellers] do have certain hot points within NI, but as a rule they can turn up anywhere... To actually plan towards that is nearly impossible.²⁰³⁹

²⁰²⁶ Ibid.

²⁰²⁷ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²⁰²⁸ Roundtable discussion with civil society organisations, 20 September 2016.

²⁰²⁹ Ibid.

²⁰³⁰ NI Housing Executive, 'Evaluation of Traveller Grouped Housing' (NIHE, 2005), at Section C.

²⁰³¹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²⁰³² Comparison of NI Housing Executive, 'Travellers Accommodation Needs Assessment in NI 2002' (NIHE, 2002); NI Housing Executive, 'Traveller Accommodation Needs Assessment in NI 2008' (NIHE, 2008); NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014).

²⁰³³ Interview with representatives of the Equality Commission NI, 8 February 2017.

²⁰³⁴ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²⁰³⁵ Ibid.

²⁰³⁶ Ibid.

²⁰³⁷ Ibid.

²⁰³⁸ NI Housing Executive, 'Performance Review Group Meeting: Housing Services', 17 June 2016, at 151-152.

²⁰³⁹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017. *See also* Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017.

The NI Housing Executive regularly collects information about its existing or prospective Traveller tenants through its “waiting list, local office registers, liaison with representative groups and direct contact with Traveller families”.²⁰⁴⁰ It also considers the occupancy levels on existing sites, the incidences of unauthorised encampments and feedback from the local offices responsible for managing Travellers’ sites.²⁰⁴¹ Combined with the ‘Travellers’ Accommodation Needs Assessments’, this information develops its annual housing needs assessments and housing investment plans.²⁰⁴²

Yet, Travellers “are not aware of the fact that they can go to the NI Housing Executive to record their need for a site”.²⁰⁴³ The application process does not accommodate this in terms of the existing application form and the dissemination of information regarding all housing options.²⁰⁴⁴ The Belfast Travellers Forum calls for a clear mechanism and process to clarify how to record the preference of accommodation for Travellers.²⁰⁴⁵ The Equality Commission NI recommends the development of a culturally sensitive mechanism to assess housing stress in the Traveller communities.²⁰⁴⁶ To ensure Travellers are fully aware of their options, the NI Housing Executive is amending its application form to include express references to Traveller-specific accommodation.²⁰⁴⁷ It also introduced a live system that records and tracks prospective tenants’ preferences, to ensure an accurate record.²⁰⁴⁸ These steps will also assist to identify Travellers’ households for future ‘Travellers’ Accommodation Needs Assessments’.²⁰⁴⁹

Findings

The NIHRC’s findings on monitoring need for Travellers’ accommodation in NI are:

i	The NI Housing Executive has responsibility for monitoring accommodation need in NI, including Travellers’ accommodation. It assesses general housing need annually and Travellers’ accommodation needs every five years.
ii	Some civil society organisations find the ‘Travellers’ Accommodation Needs Assessments’ are inaccurate and inadequate. They had concerns about the methodology, which led to discrepancies in the findings. The NI Housing Executive rejects these criticisms.
iii	The NI Housing Executive assesses Travellers’ accommodation need through its ‘Travellers’ Accommodation Needs Assessments’, waiting lists, occupancy levels, incidences of unauthorised encampments, local office registers, liaising with civil society organisations, liaising with local offices responsible for Travellers’ sites, and direct contact with Travellers’ families. This information informs its general annual housing needs assessments and Housing Investment Plans.

²⁰⁴⁰ Letter from NI Housing Executive to NIHRC, 30 September 2016.

²⁰⁴¹ Interview with representatives of the NI Housing Executive: Interview E, 13 February 2017.

²⁰⁴² Letter from NI Housing Executive to NIHRC, 30 September 2016.

²⁰⁴³ ‘Newry, Mourne and Down Traveller Forum: Minutes of Meeting’, Sean Hollywood Arts Centre, Sean Hollywood Arts Centre, 12 May 2016, at para 3.

²⁰⁴⁴ ‘Report of Out-going Executive Committee’ in NI Local Government Partnership on Travellers’ Issues, ‘Minutes of the Local Government Partnership on Traveller Issues’, Former Moyle District Council Offices, 29 July 2016; Roundtable discussion with civil society organisations, 20 September 2016.

²⁰⁴⁵ Travellers Questionnaire, Written evidence from Belfast Travellers Forum, 3 October 2016.

²⁰⁴⁶ Equality Commission NI, ‘Facing the Future: NI Housing Strategy 2012-2017 (DSD): Consultation Response’ (ECNI, 2012), at 2; Equality Commission NI, ‘NI Housing Strategy 2012-2017 (DSD): Briefing to Assembly Committee for Social Development’ (ECN, 2013), at 2.

²⁰⁴⁷ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²⁰⁴⁸ Ibid.

²⁰⁴⁹ Ibid.

iv	There is a lack of consistency in approach across the 2002, 2008 and 2014 'Travellers' Accommodation Needs Assessments'. The NI Housing Executive is aware of the limitations and seeks to improve with each assessment.
v	There is no clear mechanism and process for recording the preference of accommodation for Travellers. The NI Housing Executive is reforming its housing application and assessment process to address this.
vi	The NI Housing Executive cannot identify all Travellers' households in NI.
vii	There is a lack of pro-active engagement with Travellers to disseminate research relevant to them. Consequently, Travellers are unaware of the research that exists regarding Travellers' accommodation in NI.

Management of Travellers' Accommodation

Domestic Laws and Policies

The NI Housing Executive has a statutory obligation to "manage any houses provided by it or otherwise under its control and promote the welfare and comfort of the tenants or occupiers".²⁰⁵⁰ The Department for Communities sets the minimum standards required.²⁰⁵¹ It exercises "supervision and control over registered housing associations".²⁰⁵² This includes issuing guidance regarding management.²⁰⁵³ This takes the form of the Regulatory Framework for Registered Housing Associations in NI.²⁰⁵⁴ The then Department for Social Development consulted on introducing a new regulatory framework for all social housing providers in 2015.²⁰⁵⁵ The consultation took place, but no new framework was introduced.

The 'Design Guide for Travellers' Sites in NI' states "good management is an essential part of any provision".²⁰⁵⁶ This includes ensuring there is "adequate staff to manage and supervise" Travellers' sites.²⁰⁵⁷ The appointment of a site manager or caretaker is a prerequisite for grant aid.²⁰⁵⁸ The NI Housing Executive's 'Traveller Transit and Emergency Sites Management Guidance Manual' requires a designated officer monitors sites that are transient in nature daily.²⁰⁵⁹

²⁰⁵⁰ Article 28(1)(b), Housing (NI) Order 1981.

²⁰⁵¹ Department for Communities, 'Management Statement: Financial Memorandum (MSFM) and Dossier of Controls' (DfC, 2016).

²⁰⁵² Article 4(1)(c), Housing (NI) Order 1992.

²⁰⁵³ Article 11(1), Housing (NI) Order 1992.

²⁰⁵⁴ Department for Social Development, 'The Regulatory Framework for Registered Housing Associations in NI' (DSD, 2006).

²⁰⁵⁵ Department for Social Development, 'A New Regulatory Framework for Social Housing Providers in NI' (DSD, 2015).

²⁰⁵⁶ Department of the Environment, 'Design Guide for Travellers' Sites in NI' (DoE, 1997), at 5.18.

²⁰⁵⁷ *Ibid.*, at para 5.19.

²⁰⁵⁸ *Ibid.*

²⁰⁵⁹ 'HRAN/HSG/01/07: Traveller Transit and Emergency Sites Management Guidance Manual (Pilot)', November 2006 at Appendix A, para 6.1.

Domestic Practice

NI Housing Executive

The NI Housing Executive's "key landlord function" is to ensure there are regular inspections of its accommodation.²⁰⁶⁰ The NI Housing Executive has housing officers and warden support that manage its standard social housing occupied by Travellers and grouped housing scheme. Each housing officer and warden is assigned specific accommodation. Their role includes regularly visiting and acting as a point of contact for their assigned accommodation.²⁰⁶¹ The relevant maintenance manager and the NI Housing Executive's Traveller liaison officer manage the Travellers' sites.²⁰⁶² The relevant maintenance manager regularly attends the Travellers' sites, "sometimes weekly, fortnightly, monthly. It depends on the situation on the sites at the time".²⁰⁶³

Travellers registered to the sites also have the relevant maintenance manager and Traveller liaison officer's phone number to report issues.²⁰⁶⁴ The NI Housing Executive instils within its staff:

no matter what their role is, any of our staff who go out on site are the eyes and ears of the NI Housing Executive. It doesn't matter if they are a housing officer, or neighbourhood officer, or maintenance officer, or area manager. If I happen to be out and driving by and I see something, it is incumbent on me... to bring it back.²⁰⁶⁵

The NI Housing Executive finds on certain Travellers' sites the safety of the site can change "on a daily basis. It can change overnight".²⁰⁶⁶ With this knowledge, it is not the NI Housing Executive's policy to visit the affected site on a daily basis to manage the situation. Instead the NI Housing Executive "deals with [any safety issues] as they come... to us".²⁰⁶⁷ As "these are small sites", it is "very difficult" for the NI Housing Executive to put "more resources into" the Travellers' sites.²⁰⁶⁸ There is precedent within the NI Housing Executive for daily visits. On one Travellers' site a neighbourhood officer visits "a minimum of three times a week, but sometimes it can be daily".²⁰⁶⁹ This is not common practice. A representative of the NI Housing Executive suggests "a Traveller Support Worker would be an immense step forward. Somebody who is there constantly".²⁰⁷⁰ However, management of Travellers' sites is not the Traveller Support Groups' responsibility; it is the responsibility of the NI Housing Executive.²⁰⁷¹ Traveller support groups also do not have the resources to adopt such a role.²⁰⁷²

The NI Housing Executive maintains it is in ongoing discussions with Traveller Support Groups and conducts weekly Travellers' site visits.²⁰⁷³ Yet, interviewed Travellers and civil society organisations report the NI Housing Executive is not visiting Travellers' sites on a weekly basis.²⁰⁷⁴ Craigavon Travellers Support Committee finds for Travellers' sites in NI "the big issue... is the lack of management... You could move on to [a site] and live there for months and never sign a paper for the NI Housing Executive or meet a NI

²⁰⁶⁰ Interview with representatives of the NI Housing Executive: Interview E, 13 February 2017.

²⁰⁶¹ Ibid.

²⁰⁶² Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

²⁰⁶³ Ibid.

²⁰⁶⁴ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²⁰⁶⁵ Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

²⁰⁶⁶ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

²⁰⁶⁷ Ibid.

²⁰⁶⁸ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017.

²⁰⁶⁹ Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

²⁰⁷⁰ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017.

²⁰⁷¹ Roundtable discussion with civil society organisations, 20 September 2016.

²⁰⁷² Ibid.

²⁰⁷³ NI Housing Executive, 'HRC-Q10-2: Minutes of Trust Traveller Action Group', Craigavon Travellers Support Committee Conference Room, Moylinn, Craigavon, 25 March 2016.

²⁰⁷⁴ Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Roundtable discussion with civil society organisations, 20 September 2016.

Housing Executive member of staff".²⁰⁷⁵ A Derry City and Strabane District Councillor felt Travellers' sites are neglected.²⁰⁷⁶ It is a case of "out of sight, out of mind".²⁰⁷⁷ A representative of the Police Service NI agreed Travellers' sites are "not being particularly well managed" by the NI Housing Executive.²⁰⁷⁸ They do not believe the NI Housing Executive is fully aware of who is on the Travellers' sites.²⁰⁷⁹

A representative of the NI Housing Executive admitted that pitches on a Travellers' site could be inhabited by a new family of Travellers for a period before it is aware.²⁰⁸⁰ The NI Housing Executive "don't... have waiting lists for [Travellers'] sites. Almost exclusively Traveller families appear on a site before we're made aware of it. That just seems to be the way".²⁰⁸¹ Another representative of the NI Housing Executive elaborated "it could be a week before you actually know somebody has arrived".²⁰⁸² Another colleague agreed "no Traveller in my time... has rung the office and said 'can I access your pitch?' Everything works in reverse. The Traveller arrives, they could be there for two or three days".²⁰⁸³ Belfast City Council attributes this lack of planning and management to persisting issues on Travellers' sites.²⁰⁸⁴

Enabling Travellers to occupy pitches without prior authorisation affects the standard of fitness and available services on Travellers' sites.²⁰⁸⁵ For the period the NI Housing Executive is not aware of their presence, the affected Travellers do not receive the required provision. It then takes time for the required provision to be installed, which causes a further delay.²⁰⁸⁶ A representative of the NI Housing Executive stated, "if the family went through the proper channels and applied, we could have the pod waiting on them coming... If the families move on without our knowledge, this is going to slow the process indeterminately".²⁰⁸⁷ The NI Housing Executive also insisted that "access to and from the sites are open to enable Travellers free movement. Therefore, it is not possible to prevent other Travellers from coming onto the site".²⁰⁸⁸

Lack of management contributes to the issue where the official categorisation of the Travellers' sites and the actual use do not match.²⁰⁸⁹ For example, a Traveller family moves on to a transit site with the intention of staying on a permanent basis. A transit site is not equipped to provide the same provision as a serviced site, which leaves the affected Travellers living in inadequate conditions. It is also contributing to the lack of transient sites in NI. The NI Housing Executive acknowledges if it opens an emergency halting site, "it is going to become a serviced site... That is not the reason [we are] not building it... They do become serviced sites".²⁰⁹⁰ A representative of the NI Housing Executive raised "it's important that we manage the sites in a common sense way. We would not want to... force a family to move just for administrative or bureaucratic reasons".²⁰⁹¹

²⁰⁷⁵ Roundtable discussion with civil society organisations, 20 September 2016.

²⁰⁷⁶ Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

²⁰⁷⁷ Ibid.

²⁰⁷⁸ Interview with a representative of the Police Service NI: Interview B, 23 February 2017.

²⁰⁷⁹ Ibid.

²⁰⁸⁰ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

²⁰⁸¹ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017.

²⁰⁸² Ibid.

²⁰⁸³ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²⁰⁸⁴ Interview with Council Officials at Belfast City Council, 6 February 2017.

²⁰⁸⁵ Roundtable discussion with civil society organisations, 20 September 2016.

²⁰⁸⁶ Ibid.

²⁰⁸⁷ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²⁰⁸⁸ Letter from NI Housing Executive to NIHR, 3 November 2017.

²⁰⁸⁹ Roundtable discussion with civil society organisations, 20 September 2016; Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

²⁰⁹⁰ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²⁰⁹¹ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017.

Lack of management on Travellers' sites also gives the impression that the inhabitants have ownership over the site, which can cause territorial claims to arise.²⁰⁹² This is preventing available pitches from being utilised by those that require accommodation on a Travellers' site.²⁰⁹³ The NI Housing Executive's policy is that all of its Travellers' sites are "for general use"; they are "not for individual families".²⁰⁹⁴ Yet, it accepts this as an issue, even after the family exercising a territorial claim leaves the site permanently. Travellers have refused to move on to available pitches because of compatibility issues or fear of causing a feud either with a family that inhabits the site, or a family that used to live on the site.²⁰⁹⁵ The presence of empty pitches creates the impression "there is capacity in existing" Travellers' sites to accommodate demand.²⁰⁹⁶

An interviewed Traveller who used Travellers' sites across Europe finds:

if Travellers' sites are not wardened, they don't work. It is down to control and proper management. In Dumfries [Scotland], you have to ring the manager of the site and apply for a pitch one week before. You have to get a reference and are allowed on for 12 weeks. After 12 weeks you have to move off and reapply for a pitch. It costs £65 per week. It makes Travellers respect the site and want to treat it right.²⁰⁹⁷

An interviewed Traveller stressed management of Travellers' accommodation should not be the responsibility of the occupants. It should be the responsibility of an independent body.²⁰⁹⁸ However, this does not mean Travellers should escape accountability for their actions. A representative of the Police Service NI feels accountability encourages Travellers to take pride in and responsibility for their accommodation.²⁰⁹⁹ A structure of effective rules and regulations for Travellers should be established and implemented, particularly those on Travellers' sites.²¹⁰⁰ It was suggested that compliance with these rules could be encouraged through the NI Housing Executive running a competition for the best-kept site.²¹⁰¹

A Derry City and Strabane District Councillor believes increasing the "connection" with Travellers' sites would eradicate all the common issues.²¹⁰² They suggest establishing an inter-agency group that regularly meets. Similarly, the Equality Commission NI recommends a multi-agency Taskforce on Travellers' accommodation is established to "direct and co-ordinate the various authorities/agencies involved in all aspects of the development and maintenance of sites".²¹⁰³ An increase in the NI Housing Executive's presence on Travellers' sites is also suggested.²¹⁰⁴ The Belfast City Council agrees the supply of Travellers' accommodation should be closely monitored, sustainable and well managed.²¹⁰⁵ Prior to 2003, the Council had a portakabin on its main Travellers' site, which placed the Council's Traveller liaison officer and two other staff members within close proximity.²¹⁰⁶ This increased the accessibility of the housing provider and created a "more efficient" management process.²¹⁰⁷ In Wales, a representative of the housing provider is on Travellers' sites 24/7 to offer support to the tenants.²¹⁰⁸ A representative of the Police Service NI highlighted that in England,

²⁰⁹² Interview with a representative of the Police Service NI: Interview B, 23 February 2017.

²⁰⁹³ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²⁰⁹⁴ Ibid.

²⁰⁹⁵ Ibid.

²⁰⁹⁶ Interview with representatives of the NI Housing Executive: Interview E, 13 February 2017.

²⁰⁹⁷ Individual interview with member of the Traveller communities in NI: Interview 17, 14 December 2016.

²⁰⁹⁸ Individual interview with members of the Traveller communities in NI: Interview 14, 10 December 2016.

²⁰⁹⁹ Interview with a representative of the Police Service NI: Interview A, 14 February 2017.

²¹⁰⁰ Ibid.

²¹⁰¹ Email from Police Service NI to NIHR, 7 November 2017.

²¹⁰² Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

²¹⁰³ Equality Commission NI, 'Shadow Report from the Equality Commission Northern Ireland to the Advisory Committee for the Framework Convention for the Protection of National Minorities on the Fourth Monitoring Report of the United Kingdom' (ECNI, 2016), at para 4.12.

²¹⁰⁴ Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

²¹⁰⁵ Travellers Questionnaire, Written evidence from Belfast City Council, 3 October 2016.

²¹⁰⁶ Interview with Council Officials at Belfast City Council, 6 February 2017.

²¹⁰⁷ Ibid.

²¹⁰⁸ Ibid.

Travellers' site providers employ a warden from the Traveller communities to assist with looking after sites. The warden has responsibility for ensuring their designated site is clean and tidy. They also assist with recording occupancy of the site and are a point of contact for the public authorities.²¹⁰⁹

Interviewed Derry City and Strabane Councillors are concerned that the accommodation needs of Travellers are not reflected in the established policies regarding Travellers' accommodation. They suggested that the relevant policies are reviewed to reflect reality.²¹¹⁰

The NI Housing Executive is reviewing its management of Travellers' sites. In early 2017, it created a template checklist for on-the-ground staff with responsibility for Travellers' sites to complete and log with NI Housing Executive management once a week. This checklist provides a guide to staff as to what they should be doing during visits. It also aims to ensure that weekly visits to Travellers' sites are happening and that any issues are logged, tracked and addressed.²¹¹¹

Housing Associations

The accommodation stock of the interviewed housing associations' (including Traveller-specific accommodation) is divided into patches. A housing officer manages and a maintenance officer maintains the accommodation within their specific patch. This involves conducting regular visits to the accommodation within their patch.²¹¹² Such visits are more regular for Traveller-specific accommodation, than standard social housing occupied by Travellers.²¹¹³ All tenants, including Travellers, also have a phone number for their assigned housing officer to report any issues.²¹¹⁴

Apex Housing Association conducts monthly visits to its grouped housing schemes, where a housing officer consults the tenants about any issues.²¹¹⁵ Clanmil Housing Association visits its grouped housing schemes a minimum of twice per annum, with additional visits as required. It found regular visits were important to "keep those relationships" between staff and the tenants "alive and developing".²¹¹⁶ Radius Housing Association does not conduct regular scheduled visits to its grouped housing schemes; the Travellers dictate how often its staff visits through liaising with the relevant housing officer.²¹¹⁷

Apex Housing Association and Clanmil Housing Association are confident tenants in their Travellers' accommodation are satisfied that their accommodation is adequately managed.²¹¹⁸ The satisfaction of the tenants in Radius Housing Association's Travellers' accommodation differs depending on the family.²¹¹⁹ Certain Traveller families are not interested in engaging with their assigned housing officer. This includes either refusing to meet with their housing officer or missing prearranged meetings.²¹²⁰ Radius finds this "a very difficult process", but they "do not shy away from it" and "continue to try to make contact and build that relationship".²¹²¹

²¹⁰⁹ Email from Police Service NI to NIHRC, 7 November 2017.

²¹¹⁰ Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

²¹¹¹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²¹¹² Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Radius Housing Association, 2 February 2017.

²¹¹³ Ibid.

²¹¹⁴ Ibid.

²¹¹⁵ Interview with representatives of Apex Housing Association, 7 February 2017.

²¹¹⁶ Interview with representatives of Clanmil Housing Association, 8 March 2017.

²¹¹⁷ Interview with representatives of Radius Housing Association, 2 February 2017.

²¹¹⁸ Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017.

²¹¹⁹ Interview with representatives of Radius Housing Association, 2 February 2017.

²¹²⁰ Ibid.

²¹²¹ Ibid.

Findings

The NIHRC's findings on the management of Travellers' accommodation in NI are:

i	The 'Design Guide for Travellers' Sites in NI' and the 'Traveller Transit and Emergency Sites Management Guidance' are outdated and not sufficiently prescriptive.
ii	The NI Housing Executive and relevant housing associations have management mechanisms in place across all of their accommodation stock.
iii	The NI Housing Executive is committed to visit emergency halting and transit Travellers' sites on a daily basis. Yet, it appears to be failing to meet this commitment.
iv	The NI Housing Executive asserts it is visiting its Travellers' sites at least once a week and is in the process of introducing a check-list for the responsible staff. The weekly visits are reportedly not taking place.
v	Some local Councils believe the NI Housing Executive should have a 24/7 presence on Travellers' sites, similar to the approach used in Wales.
vi	The NI Housing Executive is failing to address territorial claims over Travellers' sites. This means pitches are not being utilised and actual demand is impossible to measure.
vii	Tenants in Travellers' accommodation are generally satisfied with how the relevant housing associations manage their accommodation.

11 Resources

The duty to provide adequate housing, including Travellers' accommodation, requires adequate resources. This duty engages:

Treaty	Article
ICESCR	2
UNCRC	4
UNCRPD	4(2)

The following soft law standards clarify what this requires:

UN ICESCR Committee
General Comment No 3: The Nature of State Parties Obligations ²¹²²
General Comment No 4: The Right to Adequate Housing ²¹²³
General Comment No 20: Non-discrimination in Economic, Social and Cultural Rights ²¹²⁴
Statement of the Committee on Economic, Social and Cultural Rights on Maximum Available Resources ²¹²⁵
Letter from the Chair of the Committee of Economic Social and Cultural Rights ²¹²⁶
UN Committee on the Rights of the Child
General Comment No 5: General Implementation Measures on the Implementation of the Convention on the Rights of the Child ²¹²⁷
UN High Commissioner for Human Rights, Navanethem Pillay
Report Implementation of Economic, Social and Cultural Rights ²¹²⁸
Others
Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights ²¹²⁹
Maastricht Guidelines on Violations of Economic, Social and Cultural Rights ²¹³⁰

²¹²² E/1991/23, 'ICESCR Committee General Comment No 3: The Nature of States Parties' Obligations', 14 December 1999.

²¹²³ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991.

²¹²⁴ E/C.12/GC/20, 'ICESCR Committee General Comment No 20: Non Discrimination in Economic, Social and Cultural Rights', 2 July 2009.

²¹²⁵ E/C.12/2007/1, 'An Evaluation of the Obligation to Take Steps to the "Maximum Available Resources" under an Optional Protocol to the Covenant', 30 April-18 May 2007.

²¹²⁶ Ariranga Pillay, 'Letter from the Chairperson of the Committee on Economic, Social and Cultural Rights to States parties to the International Covenant on Economic, Social and Cultural Rights', 16 May 2012.

²¹²⁷ CRC/GC/2003/5, 'CRC Committee General Comment No 5: General Measures of Implementation of the Convention on the Rights of the Child', 27 November 2003.

²¹²⁸ E/2009/90, 'Report of the High Commissioner for Human Rights on Implementation of Economic, Social and Cultural Rights', 8 June 2009.

²¹²⁹ E/CN.4/1987/17, 'Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights', 8 January 1987.

²¹³⁰ MCHR 97-124, 'Maastricht Guidelines on Violations of Economic, Social and Cultural Rights', 22-26 January 1997.

Human Rights Laws and Standards

United Nations

The ICESCR, Article 2(1), requires:

each State Party to the [ICESCR] undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the [ICESCR] by all appropriate means, including particularly the adoption of legislative measures.

Under the Maastricht Guidelines, full realisation of the ICESCR rights depends on the availability of adequate financial and material resources. However, "resource scarcity does not relieve States of certain minimum obligations in respect of the implementation of economic, social and cultural rights."²¹³¹

The duties contained within the ICESCR rights are categorised as immediate obligations (including minimum core obligations) or obligations to be progressively realised.²¹³²

Immediate and Minimum Core Obligations

Some obligations should have immediate effect.²¹³³ States must "begin immediately the obligation to take steps towards full realisation of the rights contained within the [ICESCR]".²¹³⁴ Non-discrimination and protection from forced evictions are categorised as immediate obligations.²¹³⁵ The obligation to respect "frequently requires States to refrain from interfering directly or indirectly with the enjoyment of [ICESCR] rights and does not require significant resource allocations".²¹³⁶

Minimum core obligations are priorities. If a State does not have the resources to fulfil a minimum core obligation, it must demonstrate it made every effort to use all available resources to satisfy such obligations.²¹³⁷

The obligation to protect and, to a greater extent, the obligation to fulfil "often require positive budgetary measures in order to prevent third parties from interfering with the rights recognised in the [ICESCR] (obligation to protect) or to facilitate, provide and promote the enjoyment of these rights (obligation to fulfil)".²¹³⁸

Progressive Realisation

Progressive realisation requires States to continuously improve conditions to ensure the vindication of economic, social and cultural rights.²¹³⁹ This concept recognises that the "full realisation of all economic, social and cultural rights will generally not be able to be achieved in a short period of time".²¹⁴⁰ However, States must "move as expeditiously and effectively as possible towards that goal".²¹⁴¹ This means "year by

²¹³¹ Ibid, at Guideline 10.

²¹³² E/1991/23, 'ICESCR Committee General Comment No 3: The Nature of States Parties' Obligations', 14 December 1999, at para 1.

²¹³³ Ibid.

²¹³⁴ E/CN.4/1987/17, 'Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights', 8 January 1987, at Principle 16.

²¹³⁵ Ibid, at Principle 22; E/1998/22, 'ICESCR Committee General Comment No 7: Forced Evictions', 20 May 1997, at para 8.

²¹³⁶ E/C.12/2007/1, 'An Evaluation of the Obligation to Take Steps to the "Maximum Available Resources" under an Optional Protocol to the Covenant', 30 April-18 May 2007, at para 7.

²¹³⁷ E/1991/23, 'ICESCR Committee General Comment No 3: The Nature of States Parties' Obligations', 14 December 1999, at para 10.

²¹³⁸ E/C.12/2007/1, 'An Evaluation of the Obligation to Take Steps to the "Maximum Available Resources" under an Optional Protocol to the Covenant', 30 April-18 May 2007, at para 7.

²¹³⁹ Ann Blyberg and Helena Hofbauer, 'Article 2 and Governments' Budgets' (Open Budget Partnership, 2014).

²¹⁴⁰ E/1991/23, 'ICESCR Committee General Comment No 3: The Nature of States Parties' Obligations', 14 December 1999, at para 9.

²¹⁴¹ Ibid.

year an increasing number of people should be able to enjoy their rights and enjoy them more fully".²¹⁴² States are not required to continually increase budgets, but "an increasing budget is normally necessary to extend and deepen benefits for the enjoyment of rights and cuts to budgets typically result in diminished access to such benefits, particularly access by the most vulnerable in society".²¹⁴³

The Limburg Principles provide "the obligation of progressive achievement exists independently of the increase in resources; it requires effective use of resources available".²¹⁴⁴ The progressive implementation "can be effected not only by increasing resources, but also by the development of societal resources necessary for the realisation by everyone of the rights recognised in the [ICESCR]... to the maximum of its available resources".²¹⁴⁵

Maximum Available Resources

According to the Limburg Principles, the use of maximum available resources necessitates resources to be mobilised domestically and through international co-operation and assistance.²¹⁴⁶ The State should also accord a degree of priority to the implementation of the rights contained within the ICESCR.²¹⁴⁷ The former UN Special Rapporteur on Human Rights and Extreme Poverty, Maria Sepulveda, identified a number of indicators to consider when assessing whether States have devoted maximum available resources.²¹⁴⁸ For example, a comparative analysis of financial resources allocated to ICESCR rights and non-ICESCR rights might indicate a priority given to the latter. The allocation of significant additional funds to non-ICESCR rights, but not ICESCR rights, indicates non-compliance.²¹⁴⁹ A comparison of the resources spent by a State allocated to certain ICESCR rights, with resources spent by other States on the same area with similar levels of development might also indicate a failure to use maximum available resources.²¹⁵⁰ If a State has not spent funds allocated to certain ICESCR-related activities due to inefficient administration or corruption, this may be an additional indicator of non-compliance.²¹⁵¹

Non-Retrogression

The ICESCR Committee recommends non-retrogression regarding the ICESCR rights, including the right to adequate housing.²¹⁵² Any deliberately retrogressive measures require "the most careful consideration and [need] to be fully justified by reference to the totality of the rights provided... and in the context of the full use of the maximum available resources".²¹⁵³ The States should ensure "consideration of all alternatives".²¹⁵⁴

²¹⁴² Ann Blyberg and Helena Hofbauer, 'Article 2 and Governments' Budgets' (Open Budget Partnership, 2014).

²¹⁴³ *Ibid.*

²¹⁴⁴ E/CN.4/1987/17, 'Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights', 8 January 1987, at Principle 23.

²¹⁴⁵ *Ibid.*, at Principles 23 and 24.

²¹⁴⁶ *Ibid.*, at Principle 28 and 29.

²¹⁴⁷ *Ibid.*, at Principle 28.

²¹⁴⁸ Maria Sepulveda, *The Nature of Obligations under the International Covenant on Economic, Social and Cultural Rights* (Intersentia, 2003), at 317.

²¹⁴⁹ *Ibid.*

²¹⁵⁰ *Ibid.*

²¹⁵¹ *Ibid.*

²¹⁵² E/1991/23, 'ICESCR Committee General Comment No 3: The Nature of States Parties' Obligations', 14 December 1999, at para 9.

²¹⁵³ *Ibid.*

²¹⁵⁴ E/C.12/GC/21, 'ICESCR Committee General Comment No 21: Right of Everyone to Take Part in Cultural Life', 21 December 2009, at para 65; E/C.12/GC/19, 'ICESCR Committee General Comment No 19: The Right to Social Security', 4 February 2008, at para 42; E/C.12/GC/18, 'ICESCR Committee General Comment No 18: The Right to Work', 6 February 2006, at para 21; E/C.12/GC/17, 'ICESCR Committee General Comment No 17: The Right of Everyone to Benefit from the Protection of the Moral and Material Interests Resulting from Any Scientific, Literary or Artistic Production of which He or She is the Author', 12 January 2006.

Any policy changes or adjustments due to austerity must:

- be temporary measures covering only the period of crisis;
- be necessary and proportionate;
- not be discriminatory;
- comprise all possible measures, including tax measures to support social transfers to mitigate inequalities that can grow in times of crisis; and
- identify the minimum core content of rights or a social protection floor and ensure the protection of this core content at all times.²¹⁵⁵

In the context of Travellers' accommodation, the State may consider whether a mix of public or private housing is appropriate to meet its obligations.²¹⁵⁶ However, "the obligation is to demonstrate that, in aggregate, the measures being taken are sufficient to realise the right for every individual in the shortest possible time in accordance with the maximum of available resources".²¹⁵⁷ Such measures include resource allocations, policy initiatives, and administrative and legislative measures.²¹⁵⁸

Governance and Accountability

The former UN High Commissioner for Human Rights, Navanethem Pillay, explicitly stated that the institutional framework and procedures to implement ICESCR rights must be transparent and promote accountability.²¹⁵⁹ These include "mechanisms for the participation of the relevant stakeholders, ensure access to information and transparency, establish accountability mechanisms, respect due process in decision-making, and provide remedies in case of violations".²¹⁶⁰ A "failure to duly include mechanisms to satisfy these procedural requirements may also amount to violations of international obligations".²¹⁶¹

Non-discrimination

According to the ICESCR Committee, General Comment No 20, economic policies such as budgetary allocations must pay attention to the need to secure ICESCR rights without discrimination.²¹⁶² The ICESCR Committee notes that differential treatment does not amount to discrimination, if there is a reasonable and objective justification.²¹⁶³ However, a:

failure to remove differential treatment on the basis of a lack of available resources is not an objective and reasonable justification, unless every effort has been made to use all resources that are at the State Party's imposition in an effort to address and eliminate discrimination as a matter of priority.²¹⁶⁴

The ICESCR Committee highlights eliminating systemic discrimination "will frequently require devoting resources to traditionally neglected groups".²¹⁶⁵ The Limburg Principles require "attention shall be paid to the

²¹⁵⁵ Ariranga Pillay, 'Letter from the Chairperson of the Committee on Economic, Social and Cultural Rights to States parties to the International Covenant on Economic, Social and Cultural Rights', 16 May 2012.

²¹⁵⁶ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 14.

²¹⁵⁷ Ibid.

²¹⁵⁸ Ibid, at para 15.

²¹⁵⁹ E/2009/90, 'Report of the High Commissioner for Human Rights on Implementation of Economic, Social and Cultural Rights', 8 June 2009, at para 33.

²¹⁶⁰ Ibid.

²¹⁶¹ Ibid.

²¹⁶² E/C.12/GC/20, 'ICESCR Committee General Comment No 20: Non Discrimination in Economic, Social and Cultural Rights', 2 July 2009, at para 38.

²¹⁶³ Ibid, at para 13.

²¹⁶⁴ Ibid.

²¹⁶⁵ Ibid, at para 39.

equitable and effective use of and access to the available resources".²¹⁶⁶ Additionally, discrimination in the enjoyment of ICESCR rights due to a lack of resources "should be brought to an end as speedily as possible".²¹⁶⁷

Adequate Resources

Domestic Laws and Policies

The Department for Communities has policy and funding responsibility for Travellers' accommodation in NI. The NI Housing Executive has operational responsibility.²¹⁶⁸ The Housing (NI) Order 1981 requires the NI Housing Executive to seek departmental approval for its annual estimated income and expenditure.²¹⁶⁹

The 'Social Housing Development Programme' is a three-year rolling programme of planned social housing and construction. The Minister for Communities must approve this programme. The NI Housing Executive's Development Working Group manages this programme and provides grants to housing associations to build social housing.²¹⁷⁰

The NI Housing Executive produces a 'Commissioning Prospectus' to provide housing associations and developers with detailed information about the requirements for provision of new social housing in NI.²¹⁷¹ This prospectus refers to the 2014 Travellers' Accommodation Needs Assessment and details the NI Housing Executive's work and schemes over a three-year period.²¹⁷² The NI Housing Executive's 'Travellers' Accommodation Needs Assessment' surveys the accommodation needs of Travellers in NI. This assessment has been conducted every five years since 2002. It informs the development of the NI Housing Executive's 'Travellers' Accommodation Programme'. The NI Housing Executive reviews the programme on an annual basis in an effort to reflect the changing needs and aspirations of Irish Travellers in NI.²¹⁷³

The NI Housing Executive's 'Regional Corporate Services Plan' sets out its regional service's expenditure for 2015/2016. The NI Housing Executive's 'Corporate Plan' set out a total expenditure of £278.8m for 2015/2016.²¹⁷⁴ There is no reference to Travellers' accommodation in the figures. The spend of £13.2m on "miscellaneous functions" in 2015/2016 covers a range of items, including Travellers' sites.²¹⁷⁵ It does not provide an exact figure for the spend on Travellers' sites. There is no indication of the expenditure on standard social housing occupied by Travellers or grouped housing schemes.

The NI Housing Executive publishes 'Housing Investment Plans' for each local Council area. These four-year plans assist the Councils' community planning processes. They set out the projected and actual spend for each Council area. Each of these plans reference the NI Housing Executive's Travellers' Accommodation

²¹⁶⁶ E/CN.4/1987/17, 'Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights', 8 January 1987, at Principle 26.

²¹⁶⁷ *Ibid.*, at Principle 38.

²¹⁶⁸ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 10.

²¹⁶⁹ Section 19(1), Housing (NI) Order 1981.

²¹⁷⁰ Available at: http://www.nihe.gov.uk/index/www_home/development_programme_group.htm

²¹⁷¹ Available at: https://www.nihe.gov.uk/index/corporate/services_commissioning_prospectus.htm

²¹⁷² NI Housing Executive, 'Commissioning Prospectus: Affordable Social and Immediate Housing for Social Housing Development Programme Period 2017/18-2019/20', Date Unknown, at 14-15.

²¹⁷³ Available at: <http://www.nihe.gov.uk/index/corporate/strategies/travellers.htm>.

²¹⁷⁴ NI Housing Executive, 'Corporate and Business Plans: Regional Services 2015/16-2017/18', Date Unknown, at 7.

²¹⁷⁵ *Ibid.*

Needs Assessment. However, the relevant plans do not detail the projected or actual spend on Travellers' accommodation where a need is identified within a Council area.²¹⁷⁶

Domestic Practice

Traveller Population in NI

Oxford Economics, the NI Local Government Partnership on Travellers Issues and civil society organisations are concerned about the accuracy of Traveller population records and the negative impact this has on the provision of Travellers' accommodation.²¹⁷⁷

The 2011 UK census suggests there are 1,301 Irish Travellers in NI, representing a decline of 24 percent from 1,701 in 2001.²¹⁷⁸ For this same period, the overall population of NI increased by 7 percent from 1,688,800 to 1,814,300.²¹⁷⁹ These figures are out of step with Ireland. The 2011 Irish census suggests there are 29,495 Irish Travellers in Ireland, representing an increase of 25 percent from 23,681 in 2001.²¹⁸⁰

The NI Housing Executive recorded that from 2002 to 2014, the Traveller population in NI fluctuated between 1,220 and 1,480 individuals and 452 and 531 families.²¹⁸¹ The census figures do not include non-Irish Travellers. The NI Local Government Partnership on Travellers' Issues suspect these figures also do not include the Irish Traveller population in standard social housing.²¹⁸² The Partnership estimates a more accurate approximation for the population of all Traveller communities in NI across all types of Travellers' accommodation is between 3,400 and 4,000 persons.²¹⁸³ This reflects the All Ireland Traveller Health Study's estimation that there are 3,905 Travellers in NI, across 1,562 families.²¹⁸⁴

The NI Housing Executive draws from the NI census, education records and the Travellers support groups to identify the Irish Traveller population in NI.²¹⁸⁵ A representative of the NI Housing Executive explains any record of the Traveller population can only ever be an estimate:

in 2011 you do the census. Not every Traveller family ticks the box to say they are Irish Traveller and not every one of them too in the settled community. A lot of [Travellers] don't take part. So there is no particular mechanism at this moment in time to gauge how many Irish Travellers is in NI, nobody knows. You might get people coming and saying 'I think there is 5,000 Irish Travellers [in NI]'... I genuinely honestly do not know how many there is, but I can tell you 394 families filled in the form [for the Travellers' Accommodation Needs Assessment 2014] out of the 466 in the census. Is there more families than that? Most likely, but you can only do so much.²¹⁸⁶

²¹⁷⁶ NI Housing Executive 'Armagh City, Banbridge and Craigavon Housing Investment Plan, 2015-2019' (NIHE, 2015), at 12 and 33; NI Housing Executive 'Antrim and Newtownabbey Housing Investment Plan 2015-2019' (NIHE, 2015), at 12 and 33; NI Housing Executive 'Belfast Housing Investment Plan 2015-2019' (NIHE, 2015), at 12 and 33.

²¹⁷⁷ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 5; NI Local Government Partnership on Travellers Issues meeting with NIHRC, 4 October 2016; Roundtable discussion with civil society organisations, 20 September 2016.

²¹⁷⁸ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 5.

²¹⁷⁹ Ibid.

²¹⁸⁰ Ibid.

²¹⁸¹ NI Housing Executive, 'Traveller Accommodation Needs Assessment 2002' (NIHE, 2002), at 8 and 10; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2008' (NIHE, 2008), at 8 and 10; NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at 7 and 9.

²¹⁸² 'Report of Executive Committee on Meeting with Housing Council' in NI Local Government Partnership on Travellers Issues, 'Minutes of the Local Government Partnership on Traveller Issues', Downpatrick, 27 May 2016.

²¹⁸³ 'Minutes of the 429th Meeting of the NI Housing Council', Armagh City Hotel, 14 April 2016, at 3; 'Report of Executive Committee on Meeting with Housing Council' in NI Local Government Partnership on Travellers Issues, 'Minutes of the Local Government Partnership on Traveller Issues', Downpatrick, 27 May 2016.

²¹⁸⁴ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 7.

²¹⁸⁵ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²¹⁸⁶ Ibid.

A member of the Partnership highlighted “decisions cannot be made if the information on Traveller numbers is not correct” or at least a close estimate.²¹⁸⁷ The Partnership is considering conducting its own research on the Traveller population in NI.²¹⁸⁸ The Regional Traveller Forum raised concerns on the use of the Traveller Accommodation Needs Assessment in planning future Travellers’ accommodation.²¹⁸⁹ This is because “Travellers have reported that they do not have confidence in this report as they feel that it does not reflect an accurate picture of their accommodation needs”.²¹⁹⁰

The NI Housing Executive has plans to introduce a live system that records the preferred accommodation of all prospective tenants, including members of all Traveller communities in NI, at the application stage.²¹⁹¹

Data Collection

The Commission engaged Oxford Economics to examine data provided by the NI Housing Executive on Travellers’ accommodation in NI. However, the data provided by the NI Housing Executive was incomplete and inconsistent, making it difficult to track and analyse the resources devoted to Travellers’ accommodation in NI. The NI Housing Executive initially provided data on its Travellers’ accommodation for only three years (from 2014/2015 to 2016/2017). Following a further request, the NI Housing Executive provided data for earlier years.²¹⁹² However, the data pre-2014 is not directly comparable to figures from 2014 onwards, as the NI Housing Executive changed its data-gathering method to “a less structured cost centre coding”.²¹⁹³

Oxford Economics reported that data inconsistency and unavailability added complexity to the analysis on Travellers’ accommodation.²¹⁹⁴ It finds the data collection concerning Travellers has “been poor over the years and is often held at local governmental level”.²¹⁹⁵ Civil society organisations raised that this makes it difficult for public authorities to effectively strategically plan for Travellers’ accommodation.²¹⁹⁶

Resources for Travellers’ Accommodation

Oxford Economics reports that standard social housing stock and spend has decreased, even though there is an increase in the number (including Travellers) requiring such accommodation.²¹⁹⁷ In 2002/2003, there were 26,248 applicants on the waiting list for standard social housing.²¹⁹⁸ In 2016/2017, the number of applicants on the standard social housing waiting list had increased to 37,611.²¹⁹⁹ Between 2005 and 2016, there was a 58 percent increase in the number of Traveller-specific accommodation stock (grouped housing and Travellers’ sites) in NI.²²⁰⁰ This was largely driven by a significant increase in grouped housing units; these rose from eleven units in 2006 to 65 in November 2017.²²⁰¹ It should also be noted that the grouped housing units developed during this period were for specific Traveller families and it has proved challenging

²¹⁸⁷ ‘Study Visit to South Dublin and Financial Matters’ in NI Local Government Partnership on Travellers Issues, ‘Minutes of the Local Government Partnership on Traveller Issues’, Downpatrick, 27 May 2016.

²¹⁸⁸ ‘Report of Executive Committee on Meeting with Housing Council’ in NI Local Government Partnership on Travellers Issues, ‘Minutes of the Local Government Partnership on Traveller Issues’, Downpatrick, 27 May 2016.

²¹⁸⁹ Information obtained from the Public Health Agency Regional Traveller Forum, received 21 April 2017.

²¹⁹⁰ *Ibid.*

²¹⁹¹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²¹⁹² Oxford Economics, ‘NI Irish Traveller Accommodation Analysis: A Report for NIHRC’ (Oxford Economics, 2017), at 3.

²¹⁹³ *Ibid.*

²¹⁹⁴ *Ibid.*, at 1.

²¹⁹⁵ *Ibid.*

²¹⁹⁶ Roundtable discussion with civil society organisations, 20 September 2016.

²¹⁹⁷ Oxford Economics, ‘NI Irish Traveller Accommodation Analysis: A Report for NIHRC’ (Oxford Economics, 2017), at 11-12.

²¹⁹⁸ NISRA, ‘NI Housing Statistics 2015-16’ (NISRA, 2016), at Section 3.5.

²¹⁹⁹ NISRA, ‘NI Housing Statistics 2016-17’ (NISRA, 2017), at 5.

²²⁰⁰ Oxford Economics, ‘NI Irish Traveller Accommodation Analysis: A Report for NIHRC’ (Oxford Economics, 2017), at 18.

²²⁰¹ The numbers of grouped housing units provided by the NI Housing Executive to Oxford Economics stated there were 48 grouped housing units available in NI. However, further investigation found that these figures omitted one housing association grouped housing scheme of 11 units and the six unit grouped housing scheme the NI Housing Executive inherited from the Councils in 2003. The figure quoted includes the 17 units originally omitted. See Oxford Economics, ‘NI Irish Traveller Accommodation Analysis: A Report for NIHRC’ (Oxford Economics, 2017), at 14, 18; Observational visits to Travellers’ accommodation across NI between November 2016 and April 2017.

(even where there is a vacancy) for these units to be transferred to members of other Traveller families, due to compatibility issues.²²⁰² The Radius Housing Association indicated that it is unlikely that additional grouped housing will be developed in the future, due to the costs of developing such accommodation and the compatibility issues;²²⁰³ that is despite there being a demand for additional grouped housing schemes.²²⁰⁴ Furthermore, of the Travellers' sites developed in NI, not all of the Travellers' pitches contained within are available for use in practice.²²⁰⁵

Standard Social Housing

There are no complete statistics available for Travellers in standard social housing. The Traveller Needs Assessment 2002 indicates that of the 316 Traveller households interviewed, 132 (42 percent) lived in standard social housing.²²⁰⁶ Of the 384 Traveller households interviewed in 2014, this increased to 188 (49 percent).²²⁰⁷ These statistics do not provide a complete figure for the number of individuals represented. There are concerns that external factors make living in standard social housing the only option for some Travellers; in other words, that they are not living in such accommodation by choice. Reported factors have been a reduction in Travellers' site availability; an increase in inadequacy of Travellers' sites versus adequacy of bricks and mortar housing; and the NI Housing Executive not clearly offering Traveller-specific accommodation as an option in the early stages of housing assessment.²²⁰⁸

Social housing supply as a whole is in decline in NI. It fell by 2 percent between 2014 and 2016.²²⁰⁹ The NI Housing Executive's housing spend decreased by £15 million (7 percent) between 2014 and 2016. Yet, NI's population increased by almost 23,000 people (1.3 percent).²²¹⁰ The NI Housing Executive does not disaggregate its spending figures in a way that provides a figure for the proportion of the standard social housing budget spent on Travellers' accommodation. Figure 1 shows, the decline in spend on all standard social housing is attributed to declining improvement maintenance investment, which decreased by almost 10 percent between 2014 and 2016.²²¹¹ Figure 1 also shows employee/administration represented 29 percent of the total spend in 2014, 30 percent in 2015 and 31 percent in 2016.²²¹² Oxford Economics believes "to an extent this decline in spend is partially consistent with reduction in the number of NI Housing Executive managed stock", particularly due to the withdrawal of older properties from its portfolio.²²¹³

²²⁰² Interview with representatives of Radius Housing Association, 2 February 2017; Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²²⁰³ Interview with representatives of Radius Housing Association, 2 February 2017.

²²⁰⁴ Group interview with members of the Traveller communities in NI: Interview 7, 29 November 2016; Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016; Roundtable discussion with civil society organisations, 20 September 2016; NI Housing Executive, 'Armagh City, Banbridge and Craigavon: Housing Investment Plan' (NIHE, 2015), at 36; NI Housing Executive, 'Derry City and Strabane: Housing Investment Plan' (NIHE, 2015), at 38; NI Housing Executive, 'Fermanagh and Omagh: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Ards and North Down: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Antrim and Newtownabbey: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Belfast: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; Planning Decision, 'Z/2007/2445/F', 6 March 2009; Response received from Planning Department Representatives at Belfast City Council to Additional Questions from the NIHRC, 17 March 2017; NI Housing Executive, 'Causeway Coast and Glens: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Lisburn and Castlereagh: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Mid and East Antrim: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; NI Housing Executive, 'Mid Ulster: Housing Investment Plan 2015-2019' (NIHE, 2015), at 33; NI Housing Executive, 'Newry, Mourne and Down: Housing Investment Plan 2015-2019' (NIHE, 2015), at 36; A breakdown by Council area of the need for additional grouped housing identified in the Area Plans is provided in Appendix II. Available at: <http://www.nihrc.org/>.

²²⁰⁵ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 19; Letter from NI Housing Executive to NIHRC, 20 March 2017; Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

²²⁰⁶ NI Housing Executive, 'Travellers Accommodation Needs Assessment in NI 2002' (NIHE, 2002), at 44.

²²⁰⁷ NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at 10.

²²⁰⁸ Roundtable discussion with civil society organisations, 20 September 2016; NI Local Government Partnership on Travellers Issues meeting with NIHRC, 4 October 2016.

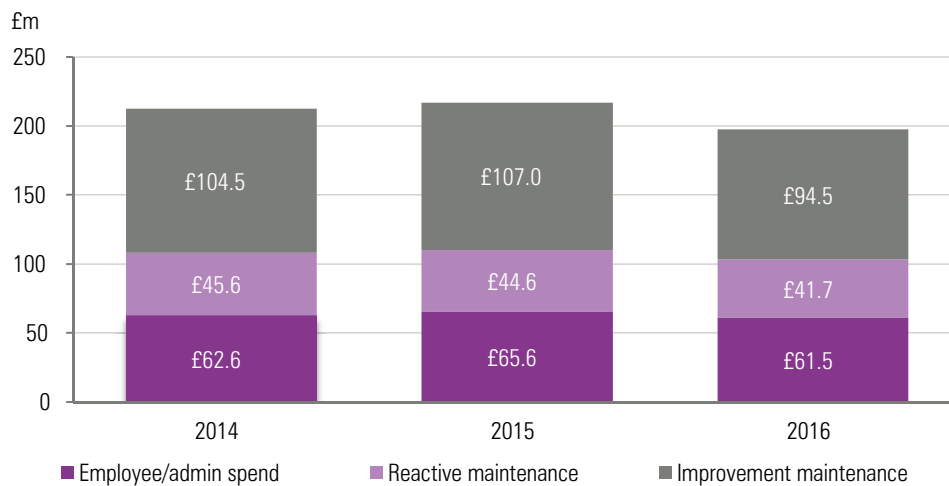
²²⁰⁹ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 11.

²²¹⁰ *Ibid.*, at 11-12.

²²¹¹ *Ibid.*, at 11.

²²¹² *Ibid.*

²²¹³ *Ibid.*

Figure 1 - Support for NI Housing Executive's Standard Social Housing: 2014-2016

Source: Oxford Economics, NI Housing Executive
 Note: 2016 figure grossed to equivalent full accounting year

Oxford Economics suggests the combination of increasing demand and diminishing resources for social housing will impact disadvantaged groups (for example Travellers) most strongly, noting 49 percent of Travellers in NI are accommodated in social housing. While not all 49 percent live in standard social housing by choice,²²¹⁴ the traditional habits of many Traveller households have changed and some do choose such accommodation.²²¹⁵

Grouped Housing

Grouped housing is a relatively new type of Travellers' accommodation. It is distinct to NI and not offered in the comparator regions within the UK, namely Scotland and Wales. Pre-2001, only one Council-owned grouped housing scheme of six units existed. This transferred to the NI Housing Executive in 2003. The NI Housing Executive has made a capital investment of £9 million in grouped housing since 2001.²²¹⁶ This has seen the total number of grouped housing units available in NI grow to 65 in November 2017.²²¹⁷ However, there are indications that the number of units will not increase further.²²¹⁸

Figure 2 shows annual running-costs of the housing associations' grouped housing fluctuated between 2014 and 2016. The lowest was £68,236 in 2014 and the highest £107,629 in 2015. This is a difference of £39,393 (37 percent). Between 2015 and 2016 the difference was £12,282 (11 percent).²²¹⁹ There was no significant

²²¹⁴ Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016; Roundtable discussion with civil society organisations, 20 September 2016.

²²¹⁵ Individual interview with a member of the Traveller communities in NI: Interview 2, 11 November 2016; Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016; Group interview with members of the Traveller communities in NI: Interview 13, 14 December 2016; Individual interview with member of the Traveller communities in NI: Interview 18, 25 January 2017; Individual interview with member of the Traveller communities in NI: Interview 24, 9 March 2017; Roundtable discussion with civil society organisations, 20 September 2016; NI Local Government Partnership on Travellers Issues meeting with NIHR, 4 October 2016.

²²¹⁶ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHR' (Oxford Economics, 2017), at 14.

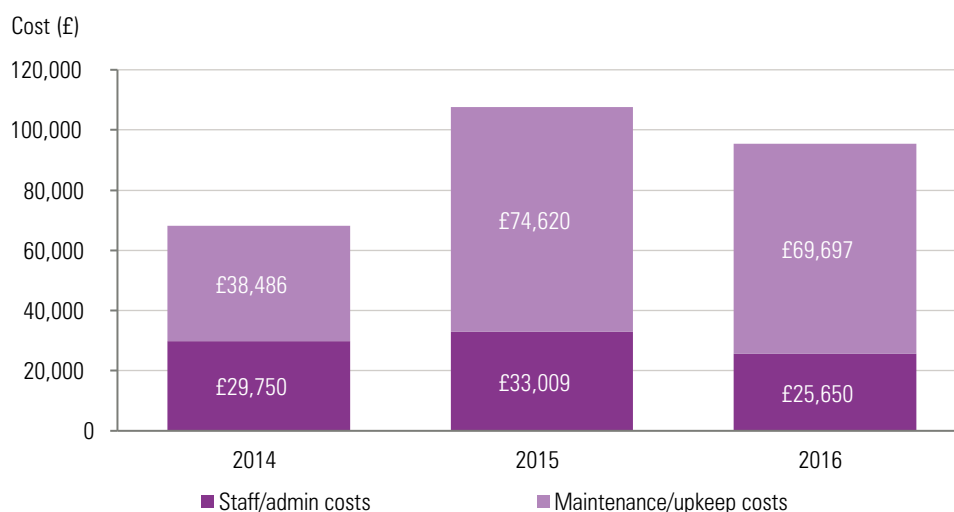
²²¹⁷ The numbers of grouped housing units provided by the NI Housing Executive to Oxford Economics stated there were 48 grouped housing units available in NI. However, further investigation found that these figures omitted one housing association grouped housing scheme of 11 units and the six unit grouped housing scheme the NI Housing Executive inherited from the Councils in 2003. The figure quoted includes the 17 units originally omitted. See Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHR' (Oxford Economics, 2017), at 14, 18; Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

²²¹⁸ Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Radius Housing Association, 2 February 2017.

²²¹⁹ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHR' (Oxford Economics, 2017), at Figure 10.

change in stock or vacancies over this three-year period. The employment/administration costs were 44 percent of the total spend in 2014, 31 percent in 2015 and 27 percent in 2016.²²²⁰

Figure 2 - Support for Housing Association Grouped Housing in NI: 2014-2016



Source: NI housing associations

Travellers' Sites

Seven Travellers' sites were available in NI in November 2017. Six of the sites are on NI Housing Executive owned land and one is on land owned by Clanmil Housing Association. The NI Housing Executive maintains all seven sites.

In 2006, the NI Housing Executive reported there were 73 Travellers' pitches available.²²²¹ In 2016, the NI Housing Executive reported that the number of Travellers' pitches in NI had increased to 84.²²²² However, in July 2016, twelve of these pitches were unavailable for use in practice. The NI Housing Executive had planning permission to develop three pitches on an existing site, but these remained undeveloped, as the NI Housing Executive was not satisfied that there was a need.²²²³ A further nine pitches were on a serviced Travellers' site that had been derelict for years and was only reopened in March 2017.²²²⁴ In August 2016, the number of practically available pitches reduced further when an additional six pitches were closed for renovations.²²²⁵ These pitches remained closed in March 2017. Therefore, by the end of 2016, of the 84 potential Travellers' pitches, only 66 were available for use in practice. This rose to 72 practically available Travellers' pitches in March 2017, with the reopening of the previously derelict nine pitch serviced site and the closure of the

²²²⁰ Ibid.

²²²¹ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 18.

²²²² Oxford Economics was informed by the NI Housing Executive that there were 85 Travellers' pitches in NI. The NIHRC was able to confirm 84 of these pitches. See Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 19; Letter from NI Housing Executive to NIHRC, 20 March 2017; Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

²²²³ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 19; Letter from NI Housing Executive to NIHRC, 20 March 2017; Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

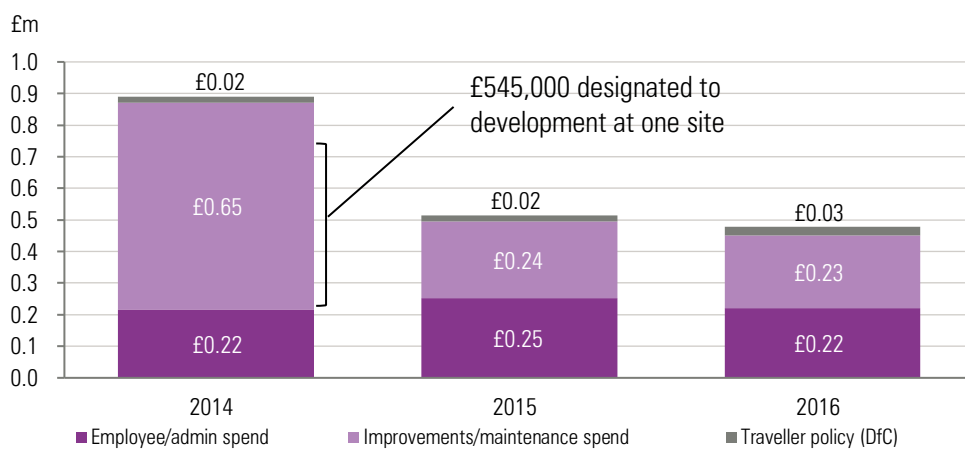
²²²⁴ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 19; Letter from NI Housing Executive to NIHRC, 20 March 2017; Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

²²²⁵ Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

adjacent three-pitch transit site.²²²⁶ In March 2017, of the 72 available Travellers' pitches provided by the NI Housing Executive, 40 pitches were occupied (56 percent).²²²⁷ There is no figure for the number of individuals this represents.

Regarding spend on Travellers' sites in NI, Oxford Economics was only able to obtain spending figures for 2014 to 2016 from the NI Housing Executive. Figure 3 demonstrates that total spend on Travellers' sites in 2014 was £895,652.²²²⁸ This fell to £483,652 in 2016, a reduction of 46 percent.²²²⁹ This was due to a large fall in site development-related spend after 2014. In 2014, £545,000 was designated to the development of one Travellers' site; similar projects were not undertaken thereafter.²²³⁰ Following this significant capital expenditure, support for Travellers' sites averaged at £496,500 per year across 2015 and 2016.²²³¹ Over the three years, spend on employee/administration and Traveller policy remained relatively consistent. Spend on employee/administration represented 49 percent of the total spend on Travellers' accommodation in 2015 and 46 percent in 2014.²²³²

Figure 3 - Travellers' Site Support in NI: 2014-2016



Source: Oxford Economics, NI Housing Executive
 Note: 2016 figures grossed to equivalent full accounting year

²²²⁶ In March 2017, the derelict nine pitch serviced site was reopened and the adjacent transit site with three pitches was subsequently closed, though the NI Housing Executive retains the land that these pitches were located on for the purposes of a Travellers' site. This meant that there was an increase of six practically available pitches. Therefore, the number of potential Travellers' pitches remained 84, but only 72 were practically available. See Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017; Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.
²²²⁷ Letter from NI Housing Executive to NIHRC, 20 March 2017; Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.
²²²⁸ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 12-13.
²²²⁹ Ibid.
²²³⁰ Ibid.
²²³¹ Ibid.
²²³² Ibid.

Comparison of Expenditure on Travellers' Accommodation in NI

On running-costs, Traveller-specific accommodation within NI requires significant resources.²²³³ This includes employment/administration and maintenance. Yet support for such accommodation fell strongly between 2006 and 2013. Oxford Economics found total annual spend contracted by 0.17 million (38 percent) over this period.²²³⁴ Oxford Economics believes the main contributor to the decline is the fall in the level of support dedicated to Travellers' sites. Expenditure more than halved, despite pitch numbers increasing by over 10 percent during this time.²²³⁵ Oxford Economics attributes this to the fall in staffing and administrative related spend.

Figure 4 shows, in comparison, spend on grouped housing represented a much smaller proportion of the annual total. This spend has decreased slightly, but Oxford Economics reports that the number of units has increased significantly between 2006-2013.²²³⁶ The overall spend on supporting Travellers' sites has decreased substantially.

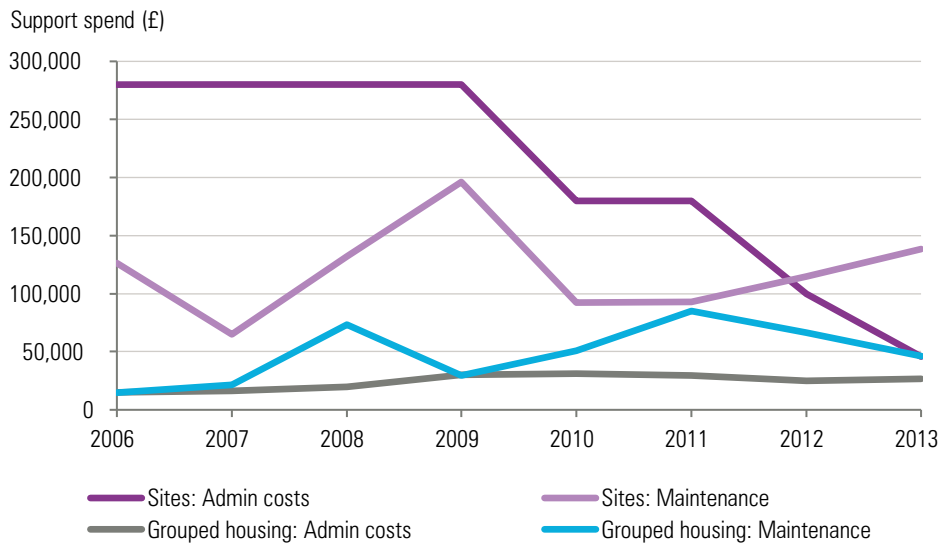
Figure 4 - Traveller-specific Support in NI: 2006-2013



Source: NI Housing Executive, NI housing associations

2233 Ibid, at 22.
 2234 Ibid.
 2235 Ibid.
 2236 Ibid.

Figure 5 - Traveller-specific Provision in NI Support Breakdown: 2006-2013



Source: NI Housing Executive, NI housing associations

Oxford Economics reports the average support spend per unit of Traveller-specific accommodation between 2006 and 2013 declined.²²³⁷ During this period, the number of units covered within the same budget increased. The average spend per unit (pitch/grouped housing unit) fell from £5,396 in 2006 to £2,273 in 2013.²²³⁸ This represented a 58 percent decline over seven years.²²³⁹ Oxford Economics found the additional 39 units of Traveller-specific accommodation created during this period spread “out an increasingly shallow resource pool”.²²⁴⁰

Figure 6 shows the average support spend per Travellers’ pitch in 2013 almost converged to that of grouped housing.²²⁴¹ In 2006, the average pitch on a Travellers’ site received over £5,500 in staffing and upkeep support – almost twice that of a grouped housing allocation.²²⁴²

²²³⁷ Ibid, at Figure 20.

²²³⁸ Ibid, at Figure 20.

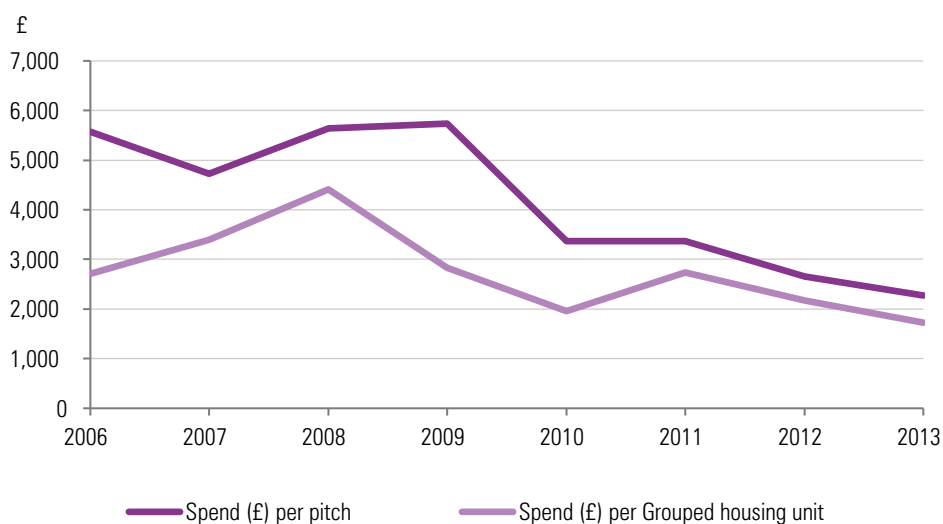
²²³⁹ Ibid, at 23.

²²⁴⁰ Ibid.

²²⁴¹ Ibid, at 23 and Figure 21.

²²⁴² Ibid.

Figure 6 - Average Annual Spend Per Unit of Traveller-specific Provision in NI: 2006-2013



Source: NI Housing Executive, NI housing associations

Oxford Economics requested data relating to how the social housing budget changed between 2006 and 2013. This data was not provided by the NI Housing Executive, preventing Oxford Economics from being able to form an opinion on the equitable reallocation of budgetary pressures.²²⁴³

Comparing the NI Housing Executive's spend between 2014 and 2016 in Figure 7, the support per unit of available Travellers' site accommodation is significantly higher than in standard social housing.²²⁴⁴ It should be noted that the significantly higher cost per unit of Travellers' sites in 2014 reflected the development of one particular Travellers' site in that year. Omitting the capital/development spend, the average annual cost per unit for Travellers' sites remained over twice that of the NI Housing Executive's standard social housing stock (£2,961 and £1,231 respectively). Oxford Economics reports "the lack of additional years of consistent data make it difficult to ascertain whether this has been a trend".²²⁴⁵

²²⁴³ *Ibid*, at 24.

²²⁴⁴ *Ibid*, at 13.

²²⁴⁵ *Ibid*, at 13.

Figure 7 - Comparison of Standard Social Housing and Travellers' Sites in NI: 2014-2016

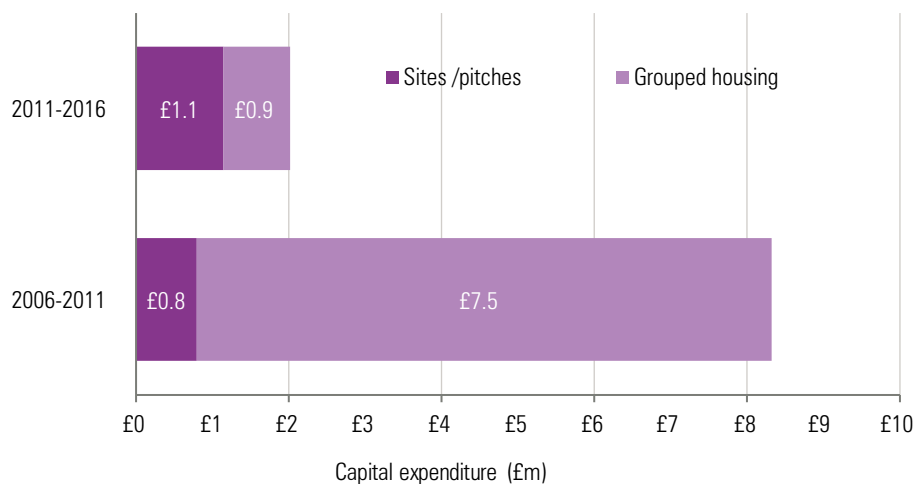
NI Housing Executive Support	Cost per unit of accommodation		
	2014	2015	2016
Standard social housing	£2,422	£2,492	£2,294
Travellers' sites	£10,468	£6,060	£5,622

Source: Oxford Economics, NI Housing Executive

Note: Cost represents admin, maintenance and development spend. 2016 figures grossed to the equivalent full accounting year.

Concerning investment, Figure 8 shows that from 2006-2016 over £10 million was spent on additional or developing existing Traveller-specific accommodation in NI.²²⁴⁶ Almost 80 percent of this investment took place between 2006 and 2011, with a much smaller level of capital expenditure realised in the following five years. The difference in investment over the decade was due to significant levels of grouped housing development between 2006 and 2011. Grouped housing investment represented 90 percent of total development spend in Traveller-specific accommodation provision during 2006 and 2011 and 44 percent between 2011 and 2016.²²⁴⁷

Figure 8 - Investment in Traveller-specific Accommodation in NI: 2006-2016 (total spend)



Source: NI Housing Executive, NI housing associations
 Note: 2011 is inclusive of both periods

²²⁴⁶ Ibid, at 20.

²²⁴⁷ Ibid, at 21. NI Traveller Group Housing schemes were managed by Radius, Clanmil and Apex Housing Associations.

Comparison of Travellers' Accommodation in NI with Scotland and Wales

As in NI, the 2011 UK census is the only official population estimate of the Traveller population for Scotland and Wales. Similar to NI, it is believed these figures are an underestimate.²²⁴⁸ The census figures for NI are limited to Irish Travellers, but the figures for Scotland and Wales include Romany, Gypsies, Scottish and Irish Travellers.²²⁴⁹

Figure 9 - Traveller-specific 2011 UK Census Figures

	Gypsy / Travellers	% share of total population
England	54,895	0.10%
Scotland	4,212	0.08%
Wales	2,785	0.09%
NI	1,301	0.07%
UK	63,193	0.10%

Figure 10 shows both Scotland and Wales record significantly higher numbers of Travellers' site pitches (serviced, transit and emergency halting) than NI.²²⁵⁰ This may be expected given the difference in population size. However, NI has experienced a greater increase in the number of Travellers' site pitches than Scotland since 2006. Scottish local authorities and the registered social landlord supported 424 pitches in 2015 and Welsh local authorities provided 487 pitches in 2016. These levels represent a 15 percent decrease and 41 percent increase in pitch provision since 2006 in Scotland and Wales respectively.²²⁵¹ Oxford Economics found, despite the expansion of grouped housing and improved pitch availability, the available evidence indicates that the provision of Traveller-specific accommodation in NI per head of Traveller population has some way to go to reach parity with other regions within the UK.²²⁵² This is shown in Figures 11 and 12.

Figure 10 - Travellers' Sites Pitch Provision 2006-2016

	2006	2016	Change	Growth
NI	73	84 ²²⁵³	11	15%
Scotland	500	424	-76	-15%
Wales	345	487	142	41%

Source: Scottish Government, Scottish Housing Regulator, Welsh Government, NI Housing Executive

Note: Scottish and Welsh observations made in July 2016. The latest available Scottish pitch observation was in 2015.

²²⁴⁸ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 17-18.

²²⁴⁹ *Ibid.*, at 18.

²²⁵⁰ *Ibid.*, at 19 and Figure 14.

²²⁵¹ *Ibid.*, at 18.

²²⁵² *Ibid.*, at 19.

²²⁵³ Oxford Economics was informed by the NI Housing Executive that there were 85 Travellers' pitches in NI. The NIHRC was able to confirm 84 of these pitches. It should also be noted that eighteen of the Travellers' pitches were not available for use in practice in September 2016. Three sites had planning permission on an existing site, but were not developed. In August 2016, the NI Housing Executive closed six Travellers' pitches for renovations. The additional nine pitches were for a serviced site that was derelict for a number of years and only reopened in March 2017. See Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 19; Letter from NI Housing Executive to NIHRC, 20 March 2017; Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

In Figure 11, NI includes all Travellers' pitch types (serviced, transit and emergency halting) and grouped housing units. Scotland and Wales are limited to all Travellers' pitch types, as they do not have grouped housing schemes.²²⁵⁴ By factoring the relative size of the Traveller communities within each region, the provision per Irish Traveller in NI was marginally higher than that per member of the Traveller communities in Scotland, but significantly weaker than that of Wales.

Figure 11 - Traveller-specific Accommodation in NI, Scotland and Wales

	Traveller units	Units per 000 Travellers
NI	149 ²²⁵⁵	114
Scotland	424	101
Wales	487	175

Source: Scottish Government, Scottish Housing Regulator, Welsh Government, NI Housing Executive

Note: Traveller numbers as per the 2011 census

However, as shown in Figure 12, Travellers' household surveys and count analysis carried out on the behalf of the NI Housing Executive and the Scottish Government Social Research suggest that NI's pitches and grouped housing provision could be comparatively weaker than that of Scotland.²²⁵⁶ In 2008, the NI Housing Executive's 'Traveller Accommodation Needs Assessment' found that 189 Irish Travellers' households had indicated that their accommodation type was either a NI Housing Executive-run Travellers' site, grouped housing or an unauthorised encampment.²²⁵⁷ The Scottish government conducted a count of all Travellers' households living on Travellers' sites that same year. This recorded 582 households as living on Council-run Travellers' sites or in unauthorised encampments.²²⁵⁸ These findings suggest the relative provision of Traveller-specific accommodation in NI is weaker than that of Scotland. They indicate in 2008, there were 94 Travellers' authorised²²⁵⁹ and unauthorised²²⁶⁰ pitches and grouped housing units available in NI for 189 Traveller households. This equated to 0.5 units of available provision for every identified Irish Travellers' household in NI. In comparison, there were 499 authorised and unauthorised Travellers' pitches available in Scotland for 582 Travellers' households.²²⁶¹ This equated to 0.9 units of available provision for every identified Travellers' household in Scotland.²²⁶²

²²⁵⁴ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 19.

²²⁵⁵ From the figures Oxford Economics was provided by NI Housing Executive it recorded that there were 133 Traveller units, which represented 102 units per 1,000 Travellers. However, these figures excluded two grouped housing schemes of 17 units. Oxford Economics was also informed by the NI Housing Executive that there were 85 Travellers' pitches in NI. The NIHRC was able to confirm 84 of these pitches. These differences of an additional 17 grouped housing units and an additional one Travellers' pitch raised the number of Traveller units to 149. However, it should be noted that eighteen of the Travellers' pitches were not available for use in practice in September 2016. Three sites had planning permission on an existing site, but were not developed. In August 2016, the NI Housing Executive closed six Travellers' pitches for renovations. The additional nine pitches were for a serviced site that had been derelict for a number of years and was only reopened in March 2017. See Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 19; Letter from NI Housing Executive to NIHRC, 20 March 2017; Observational visits to Travellers' accommodation across NI between November 2016 and April 2017.

²²⁵⁶ Scottish Government Social Research, 'Gypsies/ Travellers in Scotland: The Twice-yearly Count - No. 14' (Scottish Government Social Research, 2008); NI Housing Executive, 'Travellers' Accommodation Needs Assessment in NI' (NIHE, 2008).

²²⁵⁷ NI Housing Executive, 'Traveller Accommodation Needs Assessment 2008' (NIHE, 2008), at 10.

²²⁵⁸ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 20 and Figure 15.

²²⁵⁹ Authorised Travellers' pitches are those provided on a Travellers' site that has been developed with the required planning permission and is managed by a public authority.

²²⁶⁰ Unauthorised Travellers' pitches are those on unauthorised encampments. An unauthorised encampment is where an individual has pitched up on public or private land without permission.

²²⁶¹ Scotland does not have grouped housing schemes.

²²⁶² Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 20 and Figure 15.

Figure 12 - Traveller Households and Provision in NI and Scotland: 2008

	NI	Scotland
Traveller households	189	582
Pitches / grouped housing units ²²⁶³	94	499
Units per household	0.5	0.9

Source: Scottish Government Social Research, NI Housing Executive

Note: Traveller households relate to those identified with tenures within NI Housing Executive/housing association/Council sites or unauthorised encampments.

When making comparisons regarding investment, Oxford Economics highlighted it is important to appreciate the differences in Traveller-specific provision across the UK.²²⁶⁴ Unlike NI, both Scotland and Wales do not offer grouped housing schemes. Such schemes are relatively expensive to develop in comparison to traditional Travellers' sites and arguably inflate NI's development spend. A judgement regarding investment depends on the level of existing provision and the size of the host Travellers' population representing demand for this provision.²²⁶⁵

NI's development spend per head of the Travellers' population is larger than that of Scotland between 2006 and 2011, but lower than Wales between 2011 and 2016.²²⁶⁶ However, when grouped housing is removed NI's spend per head on the Travellers' sites falls below Scotland and Wales throughout 2006 to 2016.²²⁶⁷

²²⁶³ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 21-22.

²²⁶⁴ Ibid.

²²⁶⁵ Ibid.

²²⁶⁶ Ibid, at 21-22 and Figure 18.

²²⁶⁷ Ibid.

Figure 13 - Capital Expenditure on Traveller-specific Accommodation in NI, Scotland and Wales: 2006-2016

	2006-2011		
	Total development (£m)	Total Exp. per 000 Travellers (£m)	Total Exp. per 000 Travellers (excluding Group housing schemes) (£m)
Scotland ²²⁶⁸	£4.9	£1.2	£1.2
NI	£8.3	£6.4	£0.6
	2011-2016		
	Total development (£m)	Total Exp. per 000 Travellers (£m)	Total Exp. per 000 Travellers (excluding Group housing schemes) (£m)
Wales ²²⁶⁹	£12.5	£4.5	£4.5
NI	£2.0	£1.6	£0.9

Source: Scottish Government, Welsh Government, NI Housing Executive, NI housing associations

Note: Traveller populations as of the 2011 census

Financial Assistance for Support Groups

The Supporting People Programme equips and supports vulnerable people in NI to live independently. People can receive support in a hostel, in sheltered housing or in other types of supported housing accommodation. Support can also be provided to people in their own homes.²²⁷⁰ The Department for Communities manages NI's share of the programme. It designates funds to NI housing associations and Traveller support groups, who then allocate the support within the Traveller communities in NI.²²⁷¹

Oxford Economics reported the allocated total support available to the Traveller communities in NI remained relatively constant between 2011 and 2014, with just over £79,000 of total support available to Traveller communities each year.²²⁷² Funding increased in 2015/2016 and 2016/2017 by 1.3 percent and 0.8 percent respectively. Almost 55 percent of the total was designated as floating support in 2016/2017 to An Munia Tober, a Traveller support group based in the Belfast City Council area. The remaining funds were allocated to two specific housing association grouped housing schemes, one located in the Fermanagh and Omagh District Council area and one located in the Mid Ulster District Council area.²²⁷³

²²⁶⁸ According to Oxford Economics, prior to devolution this was under the supervision of the Scottish office. Since 2011, the Scottish government provides a 'General Capital Grant' to fund general capital expenditure. Local authorities then decide how these resources should be allocated. Therefore, the Scottish government was unable to pinpoint more recent Traveller capital expenditure funding. There was not the necessary data to provide a comparator for Wales for this time period. See Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at footnote 30.

²²⁶⁹ There was not the available data to provide a Scottish Comparator for this time period.

²²⁷⁰ Letter from Department for Communities to NIHRC, 7 November 2017.

²²⁷¹ Oxford Economics, 'NI Irish Traveller Accommodation Analysis: A Report for NIHRC' (Oxford Economics, 2017), at 15.

²²⁷² Ibid.

²²⁷³ Ibid.

The NI Housing Executive notified accommodation-based Supporting People providers of a five percent reduction during 2017/2018.²²⁷⁴ Subsequently, additional funding was sourced and the NI Housing Executive wrote to the Supporting People providers offering the reinstatement of the five percent reduction.²²⁷⁵

Civil society representatives do not feel there are adequate resources available to aid the work of Traveller support groups.²²⁷⁶ Armagh Travellers Support Group pointed out there is no floating support services in the Southern Trust area.²²⁷⁷ There are a number of Council areas without Traveller-specific floating support services and increasingly civil society organisations have to rely on support from charitable funds, such as the Big Lottery.²²⁷⁸ An Munia Tober reported that, despite applying, “over the last couple of years” no Traveller support group has received money from the Executive Office or its predecessor.²²⁷⁹ Similarly, no Traveller-specific group received any funding ring-fenced by the Racial Equality Strategy,²²⁸⁰ even though one of the Racial Equality Sub-group’s thematic groups relates to Travellers.

Civil society organisations report feeling that they are increasingly relied on by the NI Housing Executive to assist with any issues related to Travellers’ accommodation. Such support is not part of civil society organisations’ core functions and depletes their core resources. Yet the NI Housing Executive does not offer additional resources, in staffing or funding, for such additional work.²²⁸¹ A Derry City and Strabane District Councillor maintained that funding Traveller support groups is not a priority.²²⁸² This is affecting the sustainability of Traveller support groups. The few that exist are having to reduce their operations or close due to inadequate funding.²²⁸³

Accountability

While the NI Housing Executive manages and disperses budgets at a regional level, the Department for Communities is responsible for oversight and ultimate accountability of any budget.²²⁸⁴ To access funding, the NI Housing Executive must submit bids to the Department for Communities. These bids identify amounts that the NI Housing Executive requires to fulfil its statutory duties. Each department within the NI Housing Executive calculates its bids by projecting what their individual schemes are for the forthcoming year. These are submitted to the NI Housing Executive’s finance department, who liaises with the Department for Communities. The Department assesses and prioritises each of the NI Housing Executive’s bids. If a bid is successful, in whole or in part, the agreed sum of money is transferred to the relevant department within the NI Housing Executive, for example its regional services.

Once transferred, the relevant NI Housing Executive department has “discretion” for how the funds are spent.²²⁸⁵ The Department for Communities does not proactively monitor how the NI Housing Executive allocates its resources for Travellers’ accommodation. The onus is on the NI Housing Executive to inform the Department if its resources are inadequate.²²⁸⁶ A representative of the Department for Communities explained:

²²⁷⁴ Letter from Department for Communities to NIHRC, 7 November 2017.

²²⁷⁵ *Ibid.*

²²⁷⁶ Roundtable discussion with civil society organisations, 20 September 2016.

²²⁷⁷ *Ibid.*

²²⁷⁸ *Ibid.*

²²⁷⁹ *Ibid.*

²²⁸⁰ *Ibid.*

²²⁸¹ *Ibid.*

²²⁸² Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

²²⁸³ Roundtable discussion with civil society organisations, 20 September 2016; Interview with representatives of the Equality Commission NI, 8 February 2017.

²²⁸⁴ Letter from Department for Communities and NIHRC, 7 November 2017.

²²⁸⁵ Interview with representatives from the Department for Communities, 1 February 2017.

²²⁸⁶ *Ibid.*

if [the NI Housing Executive] are not flagging it up we might ask some questions, but we might not necessarily go into great depth to say 'why are you not doing this as a priority?' We wouldn't necessarily be digging into every single budget line to ask very detailed questions.²²⁸⁷

Another representative from the Department for Communities continued:

if there was going to be an apportionment of funding restriction within the NI Housing Executive and that was going to create some issues within the provision for Travellers' facilities, then clearly the responsibility would be for the NI Housing Executive to flag that up to the Department [for Communities].²²⁸⁸

The Department for Communities has a quarterly monitoring process and meets with the NI Housing Executive, when the NI Housing Executive can report if it requires additional resources.²²⁸⁹ The NI Housing Executive has not reported any concerns regarding resources to funding for Travellers' issues to the Department since at least 2014.²²⁹⁰ A representative of the NI Housing Executive confirmed "to date I have never been turned down for anything [from the Department for Communities or the NI Housing Executive]. My trouble is getting the work done, as in getting on site to do it."²²⁹¹

Housing associations are funded through a variety of sources, including rents from property, the ability to borrow money and a State-provided 'Housing Association Grant'. Housing associations are regulated by the Department for Communities and work closely with the Department and the NI Housing Executive.²²⁹²

Findings

The NIHRC's findings on resources and Travellers' accommodation in NI are:

i	There is limited data available from public authorities on resources dedicated to Travellers' accommodation. Furthermore, the data that is available is inconsistent. In the absence of this data, it is not possible to assess whether Travellers' accommodation is sufficient and to strategically plan for the future.
ii	There are significant disparities between the number of Travellers in NI as recorded in the UK census 2011 and other sources, such as the All Ireland Traveller Health Study and the understanding of the NI Local Government Partnership on Travellers. The concerns about the population figures and inadequate methods of data collection make it difficult to ascertain whether the resources allocated to Travellers' accommodation in NI satisfy the principles of progressive realisation, the use of maximum available resources and non-retrogression.
iii	The figures for standard social housing are not disaggregated to reflect spend on the Traveller population. The figures for the NI Housing Executive's grouped housing scheme in one area are not identifiable because they are subsumed into standard social housing.

²²⁸⁷ Ibid.

²²⁸⁸ Ibid.

²²⁸⁹ Interview with representatives of the NI Housing Executive: Interview E, 13 February 2017.

²²⁹⁰ Interview with representatives from the Department for Communities, 1 February 2017.

²²⁹¹ Interview with representatives from the NI Housing Executive: Interview C, 30 January 2017.

²²⁹² Available at: <http://www.nifha.org/about/faqs/>

iv	From the limited data available, the NI Housing Executive's spend on Travellers' sites appears to be relatively consistent. However, nearly 50 percent of this spend is on employee/administration.
v	The limited data available indicates that admin, maintenance and development spend per unit of Travellers' sites is higher than per unit of standard social housing. This does not reflect the living conditions, with standards significantly lower on Travellers' sites. The analysis indicates that NI has not reached parity with Scotland and Wales in terms of units of pitches for Travellers. The majority of investment into Traveller-specific accommodation in NI since 2006 has been into grouped housing.
vi	The Supporting People Programme is available to NI housing associations and Traveller support groups. The Traveller-specific support allocated has remained relatively constant. However, the funding has only been granted to one Traveller support group with a limited geographical remit and two specific grouped housing schemes.
vii	Increasingly Traveller support groups are unable to access government funding and have to rely on charitable funds to continue operating. Consequently, some have had to reduce their operations or close.
viii	The Department for Communities is not sufficiently proactive or thorough in its monitoring of how the NI Housing Executive spends its resources as regards Travellers' accommodation.

12 Non-Discrimination and Equality

The duty to provide adequate housing, including Travellers' accommodation, requires non-discrimination, equality before the law and equal protection. This duty engages:

Treaty	Article
ICCPR	2
	26
ICESCR	2
UNCPRD	5
	6
ECHR	8
	14
FCNM	4(2)
CRFEU	21

The following soft law standards clarify what this requires:

UN ICESCR Committee
General Comment No 20: Non-discrimination in the Enjoyment of Economic, Social and Cultural Rights ²²⁹³
Concluding Observations on the Sixth Periodic Report of the UK and NI ²²⁹⁴
UN Human Rights Committee
General Comment No 18: Non-discrimination ²²⁹⁵
UN CERD Committee
General Recommendation XXXII: The Meaning and the Scope of Special Measures in the International Covenant on the Elimination of All Forms of Racial Discrimination ²²⁹⁶
Concluding observations on the twenty-first to twenty-third periodic reports of UK and NI ²²⁹⁷
United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance
Durban Declaration and Programme of Action ²²⁹⁸
UN Human Rights Council
Report on Mission to the UK ²²⁹⁹

²²⁹³ E/C.12/GC/20, 'ICESCR Committee General Comment No 20: Non-discrimination in Economic, Social and Cultural Rights', 2 July 2009.

²²⁹⁴ E/C.12/GBR/CO/6, 'ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 14 July 2016.

²²⁹⁵ Human Rights Committee, 'General Comment No 18: Non-discrimination', 10 November 1989.

²²⁹⁶ CERD/C/GC/32, 'General Recommendation XXXII: The Meaning and the Scope of Special Measures in the International Covenant on the Elimination of All Forms of Racial Discrimination', 24 September 2009.

²²⁹⁷ CERD/C/GBR/CO/21-23, 'CERD Committee Concluding Observations on the Twenty-first to Twenty-third Periodic Reports of the UK of Great Britain and NI', 26 August 2016.

²²⁹⁸ A/CONF.189/12, 'Durban Declaration', 8 September 2001.

²²⁹⁹ A/HRC/25/54/ADD.2, 'Report of the Special Rapporteur on the Right to Housing as a Component of the Right to an Adequate Standard of Living and on the Right to Non-discrimination in this Context on Her Mission to the UK of Great Britain and NI', 30 December 2013.

CoE Committee of Ministers
Recommendation on improving the housing conditions of Roma and Travellers in Europe ²³⁰⁰
CoE European Commission against Racism and Intolerance
Recommendation No 1: Combating Racism, Xenophobia, Anti-semitism and Intolerance ²³⁰¹
Recommendation No 3: Combating Racism and Intolerance against Roma/Gypsies ²³⁰²
Recommendation No 7: National Legislation to Combat Racism and Discrimination ²³⁰³
CoE Advisory Committee on the FCNM
Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs ²³⁰⁴
Council of the EU
Conclusions on an EU Framework for National Roma Integration Strategies up to 2020 ²³⁰⁵
Recommendation on Effective Roma Integration Measures ²³⁰⁶

Human Rights Laws and Standards

United Nations

The ICESCR, Article 2(2), contains a general prohibition on discrimination in the enjoyment of rights set out in this treaty.²³⁰⁷ The ICESCR Committee, General Comment No 20, elaborates further that States are required to ensure that laws and policies do not discriminate on prohibited grounds. They must also ensure that their practices do not result in substantive discrimination and must immediately adopt the necessary measures to eliminate conditions and attitudes that lead to discrimination.²³⁰⁸ The ICESCR Committee also notes that States must adopt measures including legislation to ensure individuals in the private sphere do not discriminate.²³⁰⁹

The ICESCR Committee emphasises that States must adopt an active approach to eliminating systemic discrimination and segregation in practice. Tackling discrimination will usually require a comprehensive approach with a range of laws, policies and programmes, including temporary special measures.²³¹⁰

²³⁰⁰ CoE, 'Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe', 25 February 2005

²³⁰¹ CRI(96)43 rev, 'ECRI General Policy Recommendation No 1: Combating Racism, Xenophobia, Antisemitism and Intolerance', 4 October 1996.

²³⁰² CRI(98)29 rev, 'ECRI General Policy Recommendation No 3: Combating Racism and Intolerance against Roma/Gypsies', 6 March 1998.

²³⁰³ CRI(2003)8, 'ECRI General Policy Recommendation No 7: National Legislation to Combat Racism and Racial Discrimination', 13 December 2002

²³⁰⁴ ACFC/311Doc(2008)001, 'CoE Advisory Committee on the FCNM: Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs', 5 May 2008.

²³⁰⁵ EU Council, 'Council Conclusions on an EU Framework for National Roma Integration Strategies up to 2020', 19 May 2011.

²³⁰⁶ EU Council, 'Council Recommendation on Effective Roma Integration Measures in the Member States', 9 and 10 December 2013, at paras 2.4(a)-2.4(b).

²³⁰⁷ See also ICCPR Article 2, which contains a similar provision.

²³⁰⁸ E/C.12/GC/20, 'ICESCR Committee General Comment No 20: Non-discrimination in Economic, Social and Cultural Rights', 2 July 2009, at paras 8 and 9.

²³⁰⁹ Ibid, at para 11.

²³¹⁰ Ibid, at paras 38 and 39.

The ICCPR, Article 26, is a freestanding right on non-discrimination in that it is not confined to the rights contained within this treaty. This means that when the State adopts legislation, its content must not be discriminatory.²³¹¹

The CERD, Article 2(1), requires States to prohibit by all appropriate means, including by legislation, racial discrimination by any person, group or organization. The CERD, Article 2(2), also encourages the use of special concrete measures to promote racial equality. The CERD, Article 5(c), requires the prohibition and elimination of discrimination in the enjoyment of the right to housing. The CERD Committee, General Recommendation XXXII, emphasises that:

*the principle of equality underpinned by the [CERD] combines formal equality before the law with equal protection of the law, with substantive or de facto equality in the enjoyment and exercise of human rights as the aim to be achieved by the faithful implementation of its principles.*²³¹²

The CERD Committee highlights that there may be a need for temporary and special measures and that the term 'non-discrimination' does not signify the necessity of uniform treatment when there are significant differences in the situation between one person or group and another, or, in other words, if there is an objective and reasonable justification for differential treatment.²³¹³ In addition, to treat in an equal manner persons or groups whose situations are objectively different will constitute discrimination in effect, as will the unequal treatment of persons whose situations are objectively the same.²³¹⁴

The CERD Committee calls on the authorities of NI to act without further delay to adopt comprehensive legislation prohibiting racial discrimination in accordance with the provisions of the CERD.²³¹⁵

The UNCRPD, Article 5(2) provides "States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds". Article 5(3) also states "in order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided".

The former UN Special Rapporteur on the Right to Adequate Housing, Raquel Rolnik, noted that "the lack of culturally adequate residential and transit accommodation is often at the root of stigma and discrimination".²³¹⁶

The Durban Declaration records that the obstacles to overcoming racial discrimination and achieving racial equality mainly lie in the lack of political will, weak legislation and lack of implementation strategies and concrete action by States.²³¹⁷ States are urged to develop and strengthen anti-racist human rights training for public officials (including personnel in the administration of justice), particularly in law enforcement, correctional and security services, as well as among healthcare, schools and migration authorities.²³¹⁸

²³¹¹ Human Rights Committee, 'General Comment No 18: Non-discrimination', 10 November 1989, at para 12.

²³¹² CERD/C/GC/32, 'General Recommendation XXXII: The Meaning and the Scope of Special Measures in the International Covenant on the Elimination of All Forms of Racial Discrimination', 24 September 2009, at para 6.

²³¹³ *Ibid.*, at para 8.

²³¹⁴ *Ibid.*, at para 8.

²³¹⁵ CERD/C/GBR/CO/21-23, 'CERD Committee Concluding Observations on the Twenty-first to Twenty-third Periodic Reports of the UK of Great Britain and NI', 26 August 2016, at para 8(c).

²³¹⁶ A/HRC/25/54/ADD.2, 'Report of the Special Rapporteur on the Right to Housing as a Component of the Right to an Adequate Standard of Living and on the Right to Non-discrimination in this Context on Her Mission to the UK of Great Britain and NI', 30 December 2013, at para 69.

²³¹⁷ A/CONF.189/12, 'Durban Declaration', 8 September 2001, at para 76.

²³¹⁸ *Ibid.*, at para 133.

Council of Europe

The right not to be discriminated against in the enjoyment of ECHR rights is safeguarded by the ECHR, Article 14. This is not a stand-alone right and must be pleaded in conjunction with another right set out in the ECHR. Not every difference in treatment will amount to discrimination. Discrimination occurs when a public authority, for no objective or reasonable justification, treats someone less favourably than others in similar situations on the basis of a particular characteristic, or fails to treat differently persons whose situations are significantly different.²³¹⁹ For a difference in treatment to be objective and reasonable, it must pursue a legitimate aim and there must be a proportionate relationship between the means employed and the aim to be realised.²³²⁰ The government must advance “very weighty reasons” for a difference in treatment on the grounds of race and ethnicity to be compatible with the ECHR.²³²¹ The ECtHR has considered non-discrimination in the context of the right to adequate housing under Article 14 in conjunction with Articles 6 (right to a fair trial) and 8 (right to respect for private and family life).²³²²

The FCNM provides that States shall undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. Discrimination based on belonging to a national minority shall be prohibited.²³²³ The FCNM, Article 4(2), requires States:

undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.

The FCNM explicitly provides that measures undertaken to promote full and effective equality would not be considered an act of discrimination. The Advisory Committee of the FCNM calls specifically for the development and full implementation of legislation to eliminate discrimination in housing.²³²⁴

The ECRI calls on States to enact legislation to prohibit direct and indirect racial discrimination, if legislation does not exist or is incomplete.²³²⁵ It further recommends that domestic laws place public authorities under a duty to promote equality of opportunity and prevent discrimination in the carrying out of their functions.²³²⁶ This recommendation is understood to require that public authorities be placed under the obligation to create and implement “equality programmes”.²³²⁷

The ECRI commented on the need for States to prohibit discrimination in respect of housing.²³²⁸ It recommended that discrimination as well as discriminatory practices are combated through adequate legislation, including in the housing sphere.²³²⁹ The ECRI highlights that the obligation to promote equality and prevent discrimination is on public authorities. However, it would be desirable to replicate this in the private

²³¹⁹ *Thlimmenos v Greece* (2000) ECHR 162, at para 44.

²³²⁰ *Stec and Others v UK* (2006) ECHR 393, at para 5.

²³²¹ *Timishev v Russia* (2005) ECHR 858, at para 56; *Oršuš v Croatia* (2010) ECHR 337, at para 149.

²³²² *Moldovan v Romania (No 2)* (2005) ECHR 473, at para 140.

²³²³ Article 4(1), Framework Convention for the Protection of National Minorities 1998.

²³²⁴ ACFC/311Doc(2008)001, ‘CoE Advisory Committee on the FCNM: Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs’, 5 May 2008, at para 34.

²³²⁵ CRI(2003)8, ‘ECRI General Policy Recommendation No 7: National Legislation to Combat Racism and Racial Discrimination’, 13 December 2002, at 4. *See also* CoE, ‘Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe’, 25 February 2005, at para 18.

²³²⁶ CRI(2003)8, ‘ECRI General Policy Recommendation No 7: National Legislation to Combat Racism and Racial Discrimination’, 13 December 2002, at para 8.

²³²⁷ *Ibid.*, at Explanatory Memorandum.

²³²⁸ CRI(98)29 rev, ‘ECRI General Policy Recommendation No 3: Combating Racism and Intolerance against Roma/Gypsies’, 6 March 1998.

²³²⁹ *Ibid.*

sector.²³³⁰ States should initiate research into discriminatory practices or barriers in housing.²³³¹ Training courses should be set up and supported to promote cultural sensitivity and increase knowledge of the legal aspects of discrimination for those who have direct contact with the public and for those responsible for ensuring that persons in the organisation comply with standards and policies of non-discrimination and equal opportunity.²³³²

Discrimination and social exclusion of Roma, Gypsies and Travellers have resulted in poverty and unemployment and are closely connected to problems in accommodation, education, training and health.²³³³ The CoE Committee of Ministers calls on States to improve Roma and Travellers' housing and living conditions.²³³⁴ It recommends that a national or regional strategy should aim at ensuring the equality and integration of Travellers.²³³⁵ The strategy should promote community empowerment and capacity building; increase awareness and understanding of Travellers' culture and lifestyle among the rest of society; and ensure respect for Travellers' identity and effective protection from direct and indirect discrimination and segregation and from racism.²³³⁶ The needs of the Traveller communities should be incorporated into broader national strategies. Access to and participation in society at large are essential goals, but targeted measures for Travellers should also be pursued where necessary. Public officials should be made aware of direct and indirect racism and anti-gypsyism in the course of their general training.²³³⁷

European Union

The CFREU prohibits discrimination based on any ground, including race.²³³⁸ EU law requires States to adopt national legislation protecting against discrimination in access to supply of goods or services which are available to the public, including housing on the grounds of racial or ethnic origin. Legislation should prohibit both direct and indirect discrimination.²³³⁹

The term Roma adopted by the EU includes Travellers.²³⁴⁰ The Council of the EU stresses that Roma inclusion policies in housing should be designed in line with the common basic principle of "explicit but not exclusive" targeting and in accordance with human rights. In addition, specific measures to prevent or compensate disadvantages in line with ethnic origin can also be taken.²³⁴¹ The Council of the EU also emphasises that policies and measures to combat segregation should be accompanied by appropriate training and information programmes.²³⁴²

²³³⁰ CRI(2003)8, 'ECRI General Policy Recommendation No 7: National Legislation to Combat Racism and Racial Discrimination', 13 December 2002, at para 27.

²³³¹ CRI(96)43 rev., 'ECRI General Policy Recommendation No 1: Combating Racism, Xenophobia, Antisemitism and Intolerance', 4 October 1996, at Section B.

²³³² Ibid.

²³³³ CoE Committee of Ministers 'Recommendation Rec (2001) 17 on improving the economic and employment situation of Roma/Gypsies and Travellers in Europe' (2001).

²³³⁴ CoE, 'Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe', 25 February 2005, at para 28.

²³³⁵ CoE, 'Recommendation CM/Rec(2008)5 of the Committee of Ministers to Members States on Policies for Roma and/or Travellers in Europe', 20 February 2008, at Section II.

²³³⁶ Ibid.

²³³⁷ Ibid, at Section VII.

²³³⁸ Article 21, Charter of Fundamental Rights of the EU 2000.

²³³⁹ EU Council Directive 2000/43/EC, 'Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin', 29 June 2000, at Articles 1 and 3.

²³⁴⁰ COM(2011) 173 final, 'An EU Framework for National Roma Integration Strategies up to 2020', 5 March 2011, at footnote 1.

²³⁴¹ EU Council, 'Council Conclusions on an EU Framework for National Roma Integration Strategies up to 2020', 19 May 2011.

²³⁴² EU Council, 'Council Recommendation on Effective Roma Integration Measures in the Member States', 9 and 10 December 2013, at para 2.2.

Prohibition on Racial Discrimination

Domestic Laws and Policies

The Race Relations (NI) Order 1997 prohibits discrimination.²³⁴³ There is also a requirement on designated public authorities to have due regard to the need to promote equality of opportunity in the NI Act 1998.²³⁴⁴ This is in addition to the obligations under the Human Rights Act 1998, which incorporates the ECHR.²³⁴⁵

The Race Relations (NI) Order 1997 provides that the Irish Traveller community form a 'racial group' and discriminating on the basis that someone belongs to the Irish Traveller community is a 'racial ground'.²³⁴⁶ It defines Irish Travellers as "people with a shared history, culture and traditions, including historically a nomadic way of life in the island of Ireland".²³⁴⁷ The 1997 Order makes it unlawful to discriminate in the areas of:

- employment and training;²³⁴⁸
- education;²³⁴⁹
- the disposal or management of premises and the provision of goods, facilities and services;²³⁵⁰ and
- the conferral of a social advantage, social protection, social security or healthcare by a public authority.²³⁵¹

The Race Relations Order, Articles 3(1) and 3(1A), outline the prohibition of direct and indirect racial discrimination and prohibit both direct and indirect discrimination.

The Equality Act 2010, Section 29(6), contains a prohibition on discrimination by public authorities in the discharge of all their functions. The 2010 Act applies elsewhere in the UK, but not in NI. The Race Relations (NI) Order 1997 only extends this prohibition to public authorities discharging their functions regarding social advantage, social protection, social security or healthcare. The NI Act 1998, Section 76(1), prohibits discrimination by public authorities, but only on the grounds of religious belief or political opinion.

In December 2015, the then Office of First Minister and the Deputy First Minister (now the Executive Office) published the 'Racial Equality Strategy 2015-2025'. The strategy sets out the framework for government departments to "tackle racial inequalities and to open up opportunities to all; to eradicate racism and hate crime; and along with 'Together Building a United Community' policy to promote good relations and social cohesion".²³⁵² The strategy recognises the need for public bodies and others to ensure they take steps to identify institutional racism and to tackle it as a matter of urgency.²³⁵³ It emphasises that institutional racism and the failure to accommodate diversity may be unintentional and can come about through lack of thought, understanding or inadequate planning or the persistence of "a one size fits all approach".²³⁵⁴

²³⁴³ Parts I-IV, Race Relations (NI) Order 1997.

²³⁴⁴ Section 75, NI Act 1998.

²³⁴⁵ Schedule 1, Human Rights Act 1998.

²³⁴⁶ Article 5(2)(a) and 5(3)(a), Race Relations (NI) Order 1997.

²³⁴⁷ Article 5(2)(a), Race Relations (NI) Order 1997.

²³⁴⁸ Part II, Race Relations (NI) Order 1997.

²³⁴⁹ Articles 18-20, Race Relations (NI) Order 1997.

²³⁵⁰ Articles 21 and 22, Race Relations (NI) Order 1997.

²³⁵¹ Article 20A, Race Relations (NI) Order 1997.

²³⁵² OFMDFM, 'Racial Equality Strategy 2015-2025' (OFMDFM, 2015), at 6.

²³⁵³ *Ibid.*, at 20.

²³⁵⁴ *Ibid.*

The Racial Equality Strategy refers to the Macpherson definition of institutional racism, which is:

the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.²³⁵⁵

According to the Racial Equality Strategy, the outcome of institutional racism can lead to weaker service provision to cultural or ethnic minorities.²³⁵⁶ Explicit reference is made to Irish Travellers and to the possible need to develop specific programmes of work to address particular challenges facing particular groups, such as Irish Travellers and Roma.²³⁵⁷ These issues are to be considered by the Racial Equality Sub Group.²³⁵⁸

Domestic Practice

NI Housing Executive

The NI Housing Executive's 'Code of Practice' references the Race Relations (NI) Order 1997. It states housing officers must treat customers fairly, respect diversity and work in an open and transparent way.²³⁵⁹ All members of the wider community and customers have a right to be treated with fairness and dignity. Officers must not take discriminatory action or decisions, or encourage fellow employees to take discriminatory action.

The issue of multiple discrimination is important given the higher prevalence of disabilities among Travellers.²³⁶⁰ Some civil society organisations reported problems faced by some Travellers in obtaining disability adaptations to their accommodation.²³⁶¹ South Tyrone Empowerment Programme reported one case where a Traveller was unable to get the required accessibility adaptations to their pitch on a Travellers' site:

we've been told point blank that they will not improve the living accommodation... on the site itself, as it would set a precedent... In actual fact, the words used were 'if you rock the boat, too much the whole site could get condemned'.²³⁶²

Craigavon Travellers Support Group reported a similar scenario highlighting that although plans were approved for disability adaptations, "it took so long, the family moved on".²³⁶³

The NI Housing Executive contested some of these views. One representative of the NI Housing Executive drew attention to a large disability adaptation to accommodation that is about to begin on a Travellers' site in their area. The representative insisted that no distinction would be made between Travellers and others.²³⁶⁴ In some instances, a person may be interviewed under the homelessness policy and may be offered temporary or permanent alternative accommodation.²³⁶⁵ According to the NI Housing Executive, adaptations take time due to planning permission and "Travellers would be fully aware of the timescales".²³⁶⁶ Another NI Housing

²³⁵⁵ Ibid.

²³⁵⁶ Ibid, at 21.

²³⁵⁷ Ibid, at 31.

²³⁵⁸ Ibid.

²³⁵⁹ NI Housing Executive 'Code of Conduct for Housing Executive Officers (The Staff Code)' (NIHE, 2015), at 6.

²³⁶⁰ NI Housing Executive, 'Traveller Accommodation Needs Assessment 2014' (NIHE, 2014), at 9.

²³⁶¹ Roundtable discussion with civil society organisations, 20 September 2016.

²³⁶² Ibid.

²³⁶³ Ibid.

²³⁶⁴ Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

²³⁶⁵ Ibid.

²³⁶⁶ Ibid.

Executive representative said “to my knowledge” refusals of adaptations “has never happened”.²³⁶⁷ The representative said that adaptations are made on recommendations by experts, therefore “who are we to question them? So they do get it”.²³⁶⁸

The NI Housing Executive is currently only accepting applications for mandatory ‘Disabled Facilities Grant’ and ‘Repair Grant’.²³⁶⁹ A grant application form includes an equality of opportunity section to be completed by applicants, but it is not mandatory.²³⁷⁰ The NI Housing Executive reported that there were two cases where applicants indicated they were Irish Travellers.²³⁷¹ In these cases, a ‘Disabled Facilities Grant’ application for adaptations was recommended by an Occupational Therapist and was subsequently approved.²³⁷² It is not clear whether, in these cases, the grant involved adaptations to accommodation on a Travellers’ site.²³⁷³ Disabled adaptations on an administration block on a Travellers’ site were carried out to meet the needs of another family.²³⁷⁴ The NI Housing Executive also approved a ‘Repairs Grant’ application for works to a house, which was paid to a landlord in 2012.²³⁷⁵

A number of Travellers interviewed highlighted perceptions of unfair or differential treatment. One Traveller residing in social housing felt that things had improved a little, but not for those living on the Travellers’ site in the area. They stated, “if you look across the road at what they have the Travellers in, there is nothing right out there for them... that’s definitely not right the way they have those people living out there”.²³⁷⁶

A Traveller living on a particular Travellers’ site reported having difficulties with accessing amenities and believed this was due to discrimination:

I had to get electricity on it because my child was nearly born... I had to ring [the NI Housing Executive who manage the site]. I was ringing every day for I would say... at least three weeks trying to get in contact... Every time I would ring that phone, every day, three to four times a day, trying to get in contact... [The response from the NI Housing Executive was] ‘[we] will ring you back, [we’ve] got your number, what’s your number?’ I actually had to go down to the office three to four occasions, down to the NI Housing Executive itself... I actually was escorted out of that building, because I never raised my voice, I was angry, obviously I was angry, there’s no electricity.²³⁷⁷

The NI Housing Executive does not provide electricity, but as manager of the site it has responsibility for ensuring occupied pitches are habitable, including ensuring that it has an adequate electricity supply. The NI Housing Executive acknowledged that there were delays and challenges in the provision of electricity. On occasion the electricity was cut off by the supplier due to tampering from Travellers on sites. Delays in providing electricity can occur “due to loopholes”.²³⁷⁸ However, a representative from the NI Housing Executive said that apart from a Travellers’ site that was closed for health and safety work, he was not aware of any other Travellers’ site that does not have electricity, heat or running water.²³⁷⁹

²³⁶⁷ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²³⁶⁸ Ibid.

²³⁶⁹ Letter from NI Housing Executive to NIHRC, 20 March 2017.

²³⁷⁰ Ibid.

²³⁷¹ Ibid.

²³⁷² Ibid.

²³⁷³ Ibid.

²³⁷⁴ Ibid.

²³⁷⁵ Ibid.

²³⁷⁶ Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016.

²³⁷⁷ Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017.

²³⁷⁸ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017; Interview with representatives of the NI Housing Executive: Interview C, 26 January 2017.

²³⁷⁹ Ibid.

One Traveller cited a lack of access to showers and fire safety measures as differential treatment. They stated, "where they accommodate settled people as well, you'd obviously get a shower. People's entitled to a shower. It's common sense, you are getting treated differently when you haven't got these essentials, these things you need".²³⁸⁰

The Equality Commission NI's 'Key Inequalities Statement on Housing and Communities 2017' reported that the NI Housing Executive confirmed that all the Travellers' sites it managed had electricity, water and waste removal.²³⁸¹ Additionally, there were inspection and maintenance regimes "that were akin to their services for mainstream social housing".²³⁸² The Equality Commission NI noted it was not "able to identify up-to-date information with regards to the general levels of adequacy of specific types of [Travellers'] sites".²³⁸³ It recommended "consideration should therefore be given to the extent to which such factors persist and any prevalence with certain types of accommodation and/or tenures etc".²³⁸⁴

Some representatives of the NI Housing Executive said that there were good relationships with the Traveller communities in NI.²³⁸⁵ However, it was clear from the evidence provided by some Travellers that there were issues of trust regarding the NI Housing Executive.²³⁸⁶ One Traveller reported that they felt ignored by the NI Housing Executive and the relevant local Council.²³⁸⁷ The Armagh Travellers Support Group relayed one Traveller's perception of the NI Housing Executive, "I can see their faces, they don't want me in through the door, it is basically I don't want to see you, I don't want you here, go away as quickly as possible".²³⁸⁸

A Traveller who was homeless and couch surfing reported that they had been treated differently by the NI Housing Executive. It was sent support letters on the Traveller's behalf by a Traveller support group, but "the NI [Housing Executive] claim they didn't receive them". The Traveller said "they were faxed. The NI [Housing Executive] is telling lies, but I can't prove it".²³⁸⁹

Another Traveller reported that they felt that as a Traveller they had to "fight extra" to get services. They found every time they went to the NI Housing Executive, the response was to "ring straight away for the police".²³⁹⁰ A representative of the NI Housing Executive reported that it has had "some issues with fraught, nearly confrontational situations at our local office counter[s]".²³⁹¹ A representative of the Police Service NI in one area said they were called by the NI Housing Executive to prevent a breach of the peace in episodes involving Travellers because they "were maybe getting a bit loud and boisterous and threatening to staff".²³⁹²

²³⁸⁰ Individual interview members of the Traveller communities in NI: Interview 16, 14 December 2016.

²³⁸¹ Equality Commission NI, 'Statement on Key Inequalities in Housing and Communities in NI: Full Statement' (ECNI, 2017), at para 8.5.

²³⁸² Ibid.

²³⁸³ Ibid.

²³⁸⁴ Ibid.

²³⁸⁵ Interview with representatives of the NI Housing Executive: Interview A, 26 January 2017.

²³⁸⁶ Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016; Group interview members of the Traveller communities in NI: Interview 8, 30 November 2016; Individual interview with member of the Traveller communities in NI: Interview 21, 10 February 2017; Group interview with members of the Traveller communities in NI: Interview 22, 10 February 2017; Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017; Individual interview with member of the Traveller communities in NI: Interview 26, 5 April 2017; Roundtable discussion with civil society organisations, 20 September 2017.

²³⁸⁷ Group interview members of the Traveller communities in NI: Interview 8, 30 November 2016.

²³⁸⁸ Interview with a representative from Armagh Travellers Support Group, 25 January 2017.

²³⁸⁹ Individual interview with member of the Traveller communities in NI: Interview 20, 25 January 2017.

²³⁹⁰ Group interview with members of the Traveller communities in NI, 29 November 2016.

²³⁹¹ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017.

²³⁹² Interview with a representative of the Police Service NI: Interview F, 15 February 2017. Article 23 of the Public Order (NI) Order 1987 enables a police officer to remove trespassers from public premises.

Housing Associations

Clanmil Housing Association's 'Customer Charter' states it will provide services "that are open to all and free from discrimination".²³⁹³ Radius Housing Association's 'Code of Conduct' provides that all members of the local community and tenants "have a right to be treated with fairness and equity".²³⁹⁴

An Munia Tober provided an example of a Traveller awaiting a housing association property for a lengthy period of time due to maintenance. It was reportedly hard to prove that this was the reason for the delays, but the Traveller "really felt that it was because [of being] a Traveller that they were trying to put them off." The Traveller "eventually gave up and said they didn't want the property".²³⁹⁵

Another Traveller reported a good experience with their housing association, stating the housing association was "very nice. When they were building these houses they wanted to know the way we wanted them or if we liked it. They'd put you first before they made the houses".²³⁹⁶

Local Councils

The 'Code of Conduct for Councillors' states there should be a balance of "the interests of developers and interest groups with taking planning decisions, by applying... local knowledge and the advice and guidance of planning officers, in a fair, impartial and transparent way, for the benefit of the whole community".²³⁹⁷ Councillors must "not apply undue pressure towards planning officers to provide a particular recommendation".²³⁹⁸

Local Councils receive representations from the public, which sometimes reflect anti-Traveller feeling. This can impact on planning decisions. A Belfast City Councillor said that "Council[s] had not served Travellers all that well over the years", acknowledging that sometimes Councillors react to "negative" and "inappropriate" commentary.²³⁹⁹ A Derry and Strabane District Councillor reported that Councillors might give the issues some "tokenism" but "there is no demand, there is no outcry".²⁴⁰⁰

In respect of services provided by Councils, a representative from Belfast City Council reported that Travellers are not viewed as a priority in respect of service provision.²⁴⁰¹ A representative of Belfast City Council highlighted that Travellers are perhaps a small part in relation to services (such as environmental health or cleansing services), but should be prioritised by everybody "because it is the most discriminated group that exists" and "they tend to be forgotten".²⁴⁰² One Traveller reported they felt that they were treated differently as a member of Traveller communities. The bins on their Travellers' site had not been emptied for three months, although they were supposed to be emptied every fortnight.²⁴⁰³

²³⁹³ Clanmil Housing Association, 'Customer Charter', Date Unknown.

²³⁹⁴ Fold Housing Association, 'Code of Conduct' (Fold, 2014), at 18.

²³⁹⁵ Roundtable discussion with civil society organisations, 20 September 2016.

²³⁹⁶ Individual interview with member of the Traveller communities in NI: Interview 23, 13 February 2017.

²³⁹⁷ Department of the Environment, 'The NI Local Government Code of Conduct for Councillors' (Department of the Environment, 2014), at para 9.3.

²³⁹⁸ *Ibid.*, at para 9.9.

²³⁹⁹ Interview with a Councillor from Belfast City Council, 10 March 2017.

²⁴⁰⁰ Interview with two Councillors from Derry and Strabane City Council, 29 November 2017.

²⁴⁰¹ Interview with a Councillor from Belfast City Council, 10 March 2017.

²⁴⁰² Interview with Council officials from Belfast City Council, 6 February 2017.

²⁴⁰³ Individual interview with member of the Traveller communities in NI: Interview 25, 9 March 2017.

Private Rented Sector

Travellers within the private rented sector raised issues including unaffordability,²⁴⁰⁴ insecurity (for example, having to move because the landlord decides to sell),²⁴⁰⁵ lack of access for persons with disabilities,²⁴⁰⁶ and poor quality accommodation leading to health issues.²⁴⁰⁷ Affordability, particularly rent levels, was identified by civil society organisations as a particular barrier to Travellers accessing private rented accommodation.²⁴⁰⁸ Armagh Travellers Support Group found private rents to be “extortionately expensive”.²⁴⁰⁹ A Derry City and Strabane District Councillor agreed private rents were unaffordable for those unemployed and on Housing Benefit, which is the experience of many Travellers.²⁴¹⁰

Some Travellers and civil society organisations reported prejudicial attitudes of landlords towards Travellers were posing a barrier to accessing private rented accommodation. South Tyrone Empowerment Programme reported “it’s very difficult to get a private tenancy because there is definitely a prejudice [against Travellers]”.²⁴¹¹ For example, it took a Traveller almost two years to access private rented accommodation.²⁴¹² One of the reported difficulties is that stricter criteria appears to be applied for Travellers, such as requiring three guarantors and a deposit equivalent to three month’s rent.²⁴¹³ Non-Travellers are typically only required to provide one guarantor and a deposit equivalent to one month’s deposit. Another difficulty is private landlords point-blank refusing to rent to Travellers. It was said that some of the responses from private landlords to Travellers enquiries included “sorry, don’t take [Travellers]”, “f*** off, I don’t take gypsies” and “no gypsies, bye”.²⁴¹⁴ Craigavon Travellers Support Committee found Travellers often will not identify their ethnicity, for fear it would hinder their access to private rented accommodation.²⁴¹⁵

The Equality Commission NI offered legal assistance in two cases relating to Travellers’ access to the private rented sector. In 2009, a Traveller indicated their intention to rent a private property, but they were told the property was removed from the market. The property was subsequently offered to the claimant’s friend, who was a non-Traveller. The case was settled out of court in favour of the claimant.²⁴¹⁶ In 2001, another Traveller alleged race discrimination against an estate agent for allegedly refusing to lease a property to them. The case did not proceed as the claimant did not attend the hearing.²⁴¹⁷

Scope of the Statutory Duty on Non-discrimination

The Equality Commission NI suggested further amendments to NI’s race relations legislation are necessary. Its recommendations include:

- increased protection against racial discrimination and harassment by public bodies when carrying out their public functions;
- the introduction of protection against intersectional multiple discrimination;

²⁴⁰⁴ Individual interview with member of the Traveller communities in NI: Interview 11, 10 December 2016.

²⁴⁰⁵ Individual interview with member of the Traveller communities in NI: Interview 2, 10 November 2016.

²⁴⁰⁶ Individual interview with member of the Traveller communities in NI: Interview 12, 10 December 2016; Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

²⁴⁰⁷ Ibid.

²⁴⁰⁸ Roundtable discussion with civil society organisations, 20 September 2016.

²⁴⁰⁹ Ibid.

²⁴¹⁰ Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

²⁴¹¹ Roundtable discussion with civil society organisations, 20 September 2016.

²⁴¹² Group interview with member of the Traveller communities in NI and advocate: Interview 26, 5 April 2017.

²⁴¹³ Ibid.

²⁴¹⁴ Ibid.

²⁴¹⁵ Roundtable discussion with civil society organisations, 20 September 2016.

²⁴¹⁶ Letter from the Equality Commission NI to the NIHRC, 31 March 2017.

²⁴¹⁷ Ibid.

- improving powers of the Equality Commission NI to issue additional Codes of Practice under the race equality legislation; and
- increasing the powers of the Equality Commission NI to effectively carry out investigations.²⁴¹⁸

The Equality Commission NI recommended that the prohibition on racial discrimination should apply to all public functions, except in clearly defined limited circumstances.²⁴¹⁹

The Equality Commission NI confirmed that current protection against discrimination by public authorities when exercising their public functions is limited to four areas: social security, health care, social protection and social advantage.²⁴²⁰ This is narrower than the equivalent provision elsewhere in the UK. The Equality Commission NI said this means that individuals who consider that they have been subjected to less favourable treatment (including harassment on racial grounds by a public body carrying out public functions), do not have protection under race equality legislation, if the public function falls outside one of the four specified areas.

According to the Equality Commission NI, public functions cover a wide range of functions, including the formulating or carrying out of public policy (such as devising policies and priorities in housing, planning control, licencing, and the investigation of complaints).²⁴²¹ The Equality Commission NI suggests that these changes would help to clarify, strengthen, harmonise and simplify the legislation.²⁴²²

The Equality Commission NI has the power to issue 'Codes of Practice' under the Race Relations (NI) Order 1997 in relation to employment and housing.²⁴²³ These must be considered by courts and tribunals.²⁴²⁴ The Equality Commission has for instance issued a 'Code of Practice for the Elimination of Racial Discrimination in Employment', but no equivalent code for housing.²⁴²⁵

The 'Racial Equality Strategy' proposes to review the Race Relations (NI) Order 1997 to ensure that it offers at least the same protection as Great Britain and Ireland. The Strategy said it would act on the outcome of the review with a view to new legislation being in place by the 2017/2018 session.²⁴²⁶ The review has yet to take place. In addition, the Strategy proposes to review those areas recommended for strengthening by the Equality Commission NI.²⁴²⁷

Findings

The NIHRC's findings on the prohibition on discrimination and Travellers' accommodation are:

i	Some Travellers have allegedly experienced poor service or differential treatment from the NI Housing Executive regarding their accommodation and ascribe this to negative attitudes.
ii	There is a high prevalence of disability within Traveller communities. Some Travellers have reportedly been unable to access disability adaptations for their accommodation. This has been contested by the NI Housing Executive.

²⁴¹⁸ Equality Commission NI, 'Race Equality Policy: Priorities and Recommendations' (ECNI, 2014), at 7; Equality Commission NI, 'Strengthening Protection against Racial Discrimination: Recommendations for Law Reform' (ECNI, 2015), at para 1.6.

²⁴¹⁹ Equality Commission NI, 'Strengthening Protection against Racial Discrimination: Recommendations for Law Reform' (ECNI, 2014), at 15.

²⁴²⁰ Letter from Equality Commission NI to NIHRC, 24 March 2017.

²⁴²¹ Ibid.

²⁴²² Ibid.

²⁴²³ Article 45, Race Relations (NI) Order 1997.

²⁴²⁴ Ibid.

²⁴²⁵ Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/RaceCodeofPracticeEmployment2007.pdf?ext=.pdf>.

²⁴²⁶ OFMDFM, 'Racial Equality Strategy 2015-2025' (OFMDFM, 2015), at 26.

²⁴²⁷ Ibid.

iii	Representatives from some local Councils commented that Travellers were not always seen as a priority, or were not well served.
iv	NI lags behind the rest of the UK, as the Race Relations (NI) Order 1997 does not contain a prohibition on discrimination by public authorities in the discharge of all their public functions.
v	The Equality Commission NI has recommended several changes to the race relations legislation, in particular on discrimination in the exercise of public functions; the need to address multiple discrimination; the power to issue codes of practice and to enhance enforcement powers. Several of these recommendations are especially urgent in relation to Travellers' accommodation: expanding the coverage of public functions and the issue of multiple discrimination; expanding the possibility to provide a Code of Practice in areas other than employment and housing.
vi	Progress on implementation of the Racial Equality Strategy has been slow. There is a commitment in the Racial Equality Strategy to review the current Race Relations (NI) Order 1997 with a view to legislation being in place in the 2017/18 Assembly session. This review had not taken place.
vii	The Equality Commission NI has not issued a code of practice on the elimination of racial discrimination in housing.
viii	Private landlords must adhere to the Race Relations (NI) Order 1997.
ix	Some Travellers reportedly have been refused access to private rented accommodation by landlords. Some landlords apply stricter criteria to members of the Traveller communities, including requiring higher deposits and additional guarantors.

Promotion of Equality of Opportunity

Domestic Laws and Policies

Public authorities are required under the NI Act 1998, Section 75(1), to:

have due regard to the need to promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation; between men and women generally; between persons with a disability and persons without; and between persons with dependants and persons without.

Public authorities designated under Section 75 relevant to this investigation include:

- NI government departments;
- NI Housing Executive;
- Chief Constable of the Police Service NI;
- local Councils; and
- housing associations.²⁴²⁸

The NI Act 1998, Schedule 9, requires public authorities to submit equality schemes to the Equality Commission NI. Such schemes must set out the public authorities' arrangements for assessing and consulting on the likely impact of policies adopted or proposed. They also must set out such arrangements for monitoring the impact of any adverse impact of policies.²⁴²⁹ The Equality Commission NI has the power to investigate complaints and to carry out investigations, where a public authority may not have complied with its equality scheme.²⁴³⁰

Domestic Practice

Section 75 Obligations

The Equality Commission NI has published guidance for public authorities on obligations under the NI Act 1998, Section 75. Designated authorities are required to submit an equality scheme which conforms to the Equality Commission's guidance.²⁴³¹ The equality scheme should set out how the public authority's arrangements for compliance with Section 75's statutory duties and for consultation.²⁴³² Public authorities should include commitments to developing action plans and measures detailing actions to promote equality of opportunity and good relations.²⁴³³ Public authorities are required to assess and consult on the likely impact of policies on the promotion of equality of opportunity.²⁴³⁴ Equality screening and equality impact assessments should be used as tools to assess the impact of a policy on the promotion of equality of opportunity.²⁴³⁵ Policies should be assessed at the start of the policy development process, rather than when the policy is established.²⁴³⁶ This includes the assessment of high-level policies, as well as those developed at other stages of implementation.²⁴³⁷ An equality scheme must include the arrangements of publishing the results of

²⁴²⁸ Equality Commission NI, 'List of Designated Public Authorities for the Purposes of Section 75 of the NI Act 1998' (ECNI, 2017).

²⁴²⁹ Schedule 9, NI Act 1998, at paras 4(2).

²⁴³⁰ Schedule 9, NI Act 1998, at paras 10 and 11.

²⁴³¹ Equality Commission NI 'Section 75 of the NI Act: A Guide for Public Authorities' (ECNI, 2010), at 7.

²⁴³² *Ibid.*, at 9.

²⁴³³ *Ibid.*

²⁴³⁴ *Ibid.*, at 10.

²⁴³⁵ *Ibid.*, at 11.

²⁴³⁶ *Ibid.*

²⁴³⁷ *Ibid.*

assessments of policies and arrangements for staff training on Section 75 issues.²⁴³⁸ It should also include arrangements for ensuring and assessing public access to information and to services provided by the authority.²⁴³⁹

The evidence shows that public authorities are generally adhering to their obligations as required by the NI Act 1998, Section 75, in that they have developed equality schemes.²⁴⁴⁰ At least some of them have carried out equality impact assessments or equality screening exercises on policies,²⁴⁴¹ or developed equality action plans.²⁴⁴²

Department for Communities

The Department for Communities' 'Equality Scheme' was an interim scheme in November 2017.²⁴⁴³ The Department for Communities explained in February 2017 that:

the finalisation of the 'Equality Scheme' was delayed as we awaited a final determination in relation to the time period for policy consultations. This has now been agreed with no additional amendments to the commitments made in the interim equality scheme.²⁴⁴⁴

However, the publication of the final scheme continued to be delayed due to the collapse of the NI Executive and NI Assembly.²⁴⁴⁵

The Department for Communities reported that equality impact assessments are conducted for new, and where appropriate, existing areas of policy.²⁴⁴⁶ However, the Department has not conducted an equality screening assessment or impact assessment on any area of Travellers' policy between 2015 and November 2017.²⁴⁴⁷ This is because there has not been any change to policy.²⁴⁴⁸

The then Department for Social Development's (now Department for Communities) 'Facing the Future: The Housing Strategy for NI, 2012-2017' is NI's first housing strategy.²⁴⁴⁹ It set out the Department's vision for housing between 2012 and 2017.²⁴⁵⁰ The strategy centres on a vision "that everyone should have access to good quality housing at a reasonable cost."²⁴⁵¹ A mid-term action plan update was published in September

²⁴³⁸ Ibid.

²⁴³⁹ Ibid.

²⁴⁴⁰ The NI Housing Executive's Equality Scheme was approved by the Equality Commission in April 2013. The Clannmil Housing Association has an Equality Scheme which commits the Association to carry out Equality Impact Assessments on each policy or group of related policies where screening has indicated issues. See Apex Housing Association, 'Equality Scheme for Apex Housing Association', Date Unknown; Letter from Clannmil Housing Association to the NIHRC, 30 September 2016; Fold Housing Association, 'Equality Scheme 2012' (Fold, 2012). See also for the local Councils: Antrim and Newtownabbey Borough Council, 'Equality Scheme for Antrim and Newtownabbey Borough Council' (ANC, 2015); Armagh City, Banbridge and Craigavon Borough Council 'Equality Scheme for Armagh City, Banbridge and Craigavon Borough Council' (Date Unknown); Ards and North Down Borough Council, 'Equality Scheme for the North Down and Ards District Council' (ANDC, 2015); Belfast City Council, 'Equality Scheme 2015' (BCC, 2015); Causeway Coast and Glens Borough Council, 'Equality Scheme for the Causeway Coast and Glens' (CCGC, 2015); Derry City and Strabane District Council, 'Equality Scheme for Derry City and Strabane District Council 2015-2019' (DCSD, 2015); Fermanagh and Omagh District Council, 'Equality Scheme' (FOC, 2017); Lisburn and Castlereagh City Council, 'Equality Scheme' (LCC, 2015); Mid and East Antrim Borough Council, 'Equality Scheme' (Date Unknown); Mid Ulster District Council, 'Equality Scheme for Mid Ulster District Council 2015-2020' (MUC, 2015); Newry Mourne and Down District Council, 'Equality Scheme' (NMDC, 2015).

²⁴⁴¹ Interview with representatives from the NI Housing Executive: Interview E, 13 February 2017; Letter from NI Housing Executive to NIHRC, 20 March 2017; NI Housing Executive, 'Sixteenth Annual Progress Report to the Equality Commission', 31 August 2016, at 56; Letter from the Department for Infrastructure to NIHRC, 22 September 2016; Letter from Clannmil Housing Association to NIHRC, 30 September 2016; Apex Housing Association, 'Equality Scheme for Apex Housing Association' (Date Unknown), at 20; Apex Housing Association, 'Public Authority Statutory Equality and Good Relations Duties Annual Progress Report 2015-2016' (Apex, 2015), at 14; Fold Housing Association, 'Fold Housing Association Equality Scheme' (Fold, 2012), at 18; Department for Social Development, 'Facing the Future: Housing Strategy Action Plan 2012-2017' (DSD, 2012), at 3.

²⁴⁴² Armagh City, Banbridge and Craigavon Borough Council, 'Public Authority Statutory Equality and Good Relations Duties Annual Progress Report 2015-2016' (ACBCC, 2015), at 11.

²⁴⁴³ Response received from Department for Communities to Additional Questions from the NIHRC, 23 February 2017; Letter from Department for Communities to NIHRC, 7 November 2017.

²⁴⁴⁴ Response received from Department for Communities to Additional Questions from the NIHRC, 23 February 2017.

²⁴⁴⁵ Letter from Department for Communities to NIHRC, 7 November 2017.

²⁴⁴⁶ Interview with representatives of Department for Communities, 1 February 2017; Letter from Department for Communities to NIHRC, 7 November 2017.

²⁴⁴⁷ Interview with representatives of Department for Communities, 1 February 2017.

²⁴⁴⁸ Interview with representatives of Department for Communities, 1 February 2017.

²⁴⁴⁹ Department for Social Development, 'Facing the Future: Housing Strategy Action Plan 2012-2017' (DSD, 2012), at 5.

²⁴⁵⁰ Ibid.

²⁴⁵¹ Department for Social Development, 'Facing the Future: Housing Strategy Action Plan 2012-2017' (DSD, 2012), at 3.

2015.²⁴⁵² The strategy makes reference to the Department's statutory duties under the NI Act 1998, Section 75.²⁴⁵³ The action plan refers to commitments to equality screen individual policies as they are developed.²⁴⁵⁴ The 'Facing the Future' strategy and accompanying documents, such as the action plan and equality screening document, make no reference to groups with specific housing needs, such as Travellers. This is despite responses to the consultation suggesting that measures for Travellers should be included under Theme Two of the strategy. This relates to meeting housing needs and supporting the most vulnerable.²⁴⁵⁵

The Equality Commission NI carried out an investigation under the NI Act 1998, Schedule 9, into the Department's compliance with its own equality scheme. The investigation did not explicitly address Traveller-related issues. It concluded that there was a failure to comply with the 'Equality Scheme' in equality screening and equality impact assessments in relation to the 'Facing the Future' strategy²⁴⁵⁶ and 'Building Successful Communities'.²⁴⁵⁷ However, the Department had not failed to comply with equality scheme commitments in relation to the 'Housing Strategy Action Plan'²⁴⁵⁸ or the 'Social Housing Reform Programme'.²⁴⁵⁹ The Department for Communities reported to the Equality Commission NI on actions taken in relation to the recommendations in the investigation report.²⁴⁶⁰ The Equality Commission NI concluded that the Department complied with the recommendations made in the report.²⁴⁶¹

Department for Infrastructure

The Department for Infrastructure has an equality scheme.²⁴⁶² It reported that it has a standard policy cycle in which policies are assessed for 'Equality Impacts'.²⁴⁶³ The 'Strategic Planning Policy Statement', 'Planning Policy Statement 12' and 'Planning Policy Statement 21' have been the subject of a Section 75 equality screening analysis. The outcome of the analysis indicated that the policies were unlikely to have any adverse impact for equality of opportunity or good relations.²⁴⁶⁴ The Department for Infrastructure also has a dedicated equality team, assisted by an 'Equality Working Group' with responsibility for enabling the Department to meet its statutory commitments under the NI Act 1998, Section 75.²⁴⁶⁵ The 'Equality Working Group' is comprised of staff across all business areas in the Department. It meets twice a year to discuss issues around Section 75 and action measures within the Department's 'Equality Scheme Action Plan' and 'Disability Action Plan'.²⁴⁶⁶

NI Housing Executive

The NI Housing Executive has published an equality scheme.²⁴⁶⁷ It produces a quarterly report on the implementation of its equality scheme, and provides an annual report on progress to the Equality Commission NI.²⁴⁶⁸ Its latest report outlines work relating to Traveller-specific accommodation, including grouped housing schemes, serviced sites and transit sites.²⁴⁶⁹ A representative highlighted that equality underpins everything

²⁴⁵² Ibid; Department for Social Development, 'Facing the Future: The Housing Strategy for NI Action Plan Update' (DSD, 2015).

²⁴⁵³ Ibid, at 10; Department for Social Development, 'Facing the Future: The Housing Strategy for NI Action Plan Update' (DSD, 2015), at 3.

²⁴⁵⁴ Ibid; Department for Social Development, 'Facing the Future: The Housing Strategy for NI Action Plan Update' (DSD, 2015), at 3.

²⁴⁵⁵ Department for Social Development, 'Facing the Future: Housing Strategy for NI 2012-2017: Summary of Responses to Consultation' (DSD, Date Unknown), at 17.

²⁴⁵⁶ Equality Commission NI, 'Department for Social Development: Housing Policy Proposals' (ECNI, 2015), at para 4.7.

²⁴⁵⁷ Ibid, at para 4.12.

²⁴⁵⁸ Ibid, at para 4.8.

²⁴⁵⁹ Ibid, at para 4.17.

²⁴⁶⁰ Letter from the Department for Communities to Equality Commission NI, 9 August 2016.

²⁴⁶¹ Letter from Equality Commission NI to the Department for Communities, 25 October 2016.

²⁴⁶² The Scheme was developed by the previous Department for Regional Development. See <https://www.infrastructure-ni.gov.uk/sites/default/files/publications/drd/equality-scheme-for-the-department-for-regional-development-august-2015.pdf>.

²⁴⁶³ Interview with representatives of Department for Infrastructure, 7 February 2017.

²⁴⁶⁴ Letter from the Department for Infrastructure to NIHRC, 22 September 2016.

²⁴⁶⁵ Ibid.

²⁴⁶⁶ Ibid.

²⁴⁶⁷ The NI Housing Executive's Equality Scheme was approved by the Equality Commission NI in April 2013.

²⁴⁶⁸ NI Housing Executive 'Sixteenth Annual Progress Report to the Equality Commission' (NIHE, 2016).

²⁴⁶⁹ Ibid, at 28.

the NI Housing Executive does.²⁴⁷⁰ The role of the equality manager is to ensure that staff, across all the levels of the organisation (including the board), are aware of the NI Housing Executive's equality duties and functions. The equality manager is also tasked with reinforcing issues relating to Travellers and reinforcing the legal obligations regarding cultural sensitivities.²⁴⁷¹ According to the NI Housing Executive, there are a wide range of policies, such as the 'Homelessness Strategy' and the 'Community Safety Strategy' that are not Traveller-specific policies, but can impact on any of the Section 75 groups, including Travellers.²⁴⁷²

A representative of the NI Housing Executive said that before decisions are made, the decision-makers should have equality advice.²⁴⁷³ That can be a screening document, or an equality impact assessment.²⁴⁷⁴ The latter is rarely used in practice.²⁴⁷⁵ The equality function has been audited three times between 2011 and November 2017, to determine whether it is fulfilling its role.²⁴⁷⁶ A Section 75 'Equality Consultative Forum' is held annually, following the publication of the NI Housing Executive's 'Annual Report to the Equality Commission NI'. The Consultative Forum brings together 150 civil society organisations from the voluntary and community sector to debate housing policy issues, with a focus on equality.²⁴⁷⁷ The Forum established a steering group, which meets three times a year to review progress in addressing housing inequality issues.²⁴⁷⁸ The Consultative Forum Steering Group is also comprised of Section 75 groups. South Tyrone Empowerment Programme is represented on the steering group.²⁴⁷⁹ This civil society organisation has a limited geographical remit and does not represent Traveller communities across NI. The Consultative Forum has asked that Traveller issues be added to the Forum's agenda as a standing item.²⁴⁸⁰

Housing Associations

Clanmil, Radius and Apex housing associations have equality schemes setting out how each will comply with the NI Act 1998, Section 75.²⁴⁸¹

Clanmil Housing Association provided evidence that its equality scheme, commits to carrying out equality impact assessments on each policy, or group of related policies, where screening has indicated significant issues in relation to one or more of the nine equality dimensions.²⁴⁸² A number of Clanmil's policies were subject to an equality impact assessment. These included policies on housing management, access and communication and complaints.²⁴⁸³ Apex, Clanmil and Radius's equality schemes contain action plans. These include specific actions to work with the NI Housing Executive to deliver housing schemes that meet the needs of Travellers,²⁴⁸⁴ to improve awareness and flexibility for Travellers to access services,²⁴⁸⁵ and to explore alternatives for engaging with Travellers due to low literacy levels.²⁴⁸⁶

²⁴⁷⁰ Interview with representatives of the NI Housing Executive: Interview E, 13 February 2017.

²⁴⁷¹ Ibid.

²⁴⁷² Ibid.

²⁴⁷³ Ibid.

²⁴⁷⁴ Ibid.

²⁴⁷⁵ Ibid.

²⁴⁷⁶ Ibid.

²⁴⁷⁷ NI Housing Executive, 'Sixteenth Annual Progress Report to the Equality Commission' (NIHE, 2016), at 6.

²⁴⁷⁸ Letter from the NI Housing Executive to the NIHRC, 20 March 2017.

²⁴⁷⁹ NI Housing Executive, 'Sixteenth Annual Progress Report to the Equality Commission' (NIHE, 2016), at 51.

²⁴⁸⁰ Letter from the NI Housing Executive to the NIHRC, 20 March 2017.

²⁴⁸¹ Clanmil Housing Association has an Equality Scheme which commits the Association to carry out Equality Impact Assessments on each policy or group of related policies where screening has indicated issues. See Apex Housing Association, 'Equality Scheme for Apex Housing Association' (Apex, Date Unknown); Clanmil Housing Association, 'Equality Scheme for Clanmil Housing Association' (Clanmil, 2012); Letter from Clanmil Housing Association to NIHRC, 30 September 2016; Fold Housing Association 'Equality Scheme 2012' (Fold, 2012).

²⁴⁸² Letter from Clanmil Housing Association to NIHRC, 30 September 2016.

²⁴⁸³ Letter from Clanmil Housing Association to NIHRC, 30 September 2016.

²⁴⁸⁴ Apex Housing Association, 'Equality Scheme for Apex Housing Association' (Apex, Unknown Date), at 82; Apex Housing Association, 'Public Authority Statutory Equality and Good Relations Duties Annual Progress Report 2014-15' (Apex, 2014), at 36; Clanmil Housing Association, 'Equality Scheme for Clanmil Housing' (Clanmil, 2012), at 89; Fold Housing Association, 'Equality Scheme 2012' (Fold, 2012), at 56.

²⁴⁸⁵ Clanmil Housing Association 'Equality Scheme for Clanmil Housing' (Clanmil, 2012), at 89.

²⁴⁸⁶ Apex Housing Association, 'Equality Scheme for Apex Housing Association' (Apex, Date Unknown), at 82; Fold Housing Association, 'Equality Scheme 2012' (Fold, 2012), at 56.

Radius Housing Association published a code of conduct. This applies to all staff, including temporary, agency or subcontractors. The code of conduct explicitly provides that employees and agents must comply with policies concerning equality issues “both in letter and the spirit”.²⁴⁸⁷ In addition, the complaints policy makes explicit reference to Section 75 duties.²⁴⁸⁸ The code of conduct and complaints policy have been screened in compliance with Section 75 duties.²⁴⁸⁹

Local Councils

All eleven local councils in NI have equality schemes.²⁴⁹⁰ A number have highlighted that they are consulting with Section 75 groups in the creation of Local Development Plans.²⁴⁹¹ Derry City and Strabane District Council provided evidence that it was in the process of developing an equality impact assessment for its ‘Local Development Plan’.²⁴⁹² The Council’s intention is to implement a ‘Local Development Programme/Equality Impact Assessment’ consultation that specifically focuses on Section 75 groups.²⁴⁹³ Mid Ulster District Council is developing an ‘Equality Action Plan’ that is being finalised for consultation.²⁴⁹⁴ Armagh City, Banbridge and Craigavon Borough Council reported that its policy relating to site licences is subject to equality screening.²⁴⁹⁵ Belfast City Council consulted on an ‘Equality Action Plan for 2017-2021’.²⁴⁹⁶

Effectiveness of Section 75

The Equality Commission NI recommended in its last review of statutory equality duties that there should be a greater emphasis on an outcomes based approach, “rather than what was deemed to be a process heavy approach to date”.²⁴⁹⁷ No change to legislation was recommended. Instead, a recommendation was made that public authorities should identify any inequalities experienced by Section 75 categories relevant to their work and devise action plans to address those inequalities.²⁴⁹⁸

The Equality Commission NI commissioned a number of pieces of research which reviewed Section 75 practice.²⁴⁹⁹ One revealed that the sectors with the highest level of Section 75 screening activity were government departments and the health sector, accounting for 78 percent of screenings between them. The sectors with the lowest levels of screening activity included local Councils (partly explained by restructuring of NI’s Councils), housing, policing and justice, and education.²⁵⁰⁰ Another revealed that there was a variation in the development and publication of equality documentation between authorities and that the majority of

²⁴⁸⁷ Fold Housing Association, ‘Standards of Conduct, Training and Practice’ (Fold, 2014), at 18.

²⁴⁸⁸ Fold Housing Association, ‘Complaints Policy’, 23 June 2015.

²⁴⁸⁹ Fold Housing Association, ‘Code of Conduct Policy’, 23 September 2014; Fold Housing Association, ‘Complaints Policy’, 23 June 2015.

²⁴⁹⁰ Antrim and Newtownabbey Borough Council, ‘Equality Scheme for Antrim and Newtownabbey Borough Council’ (ANC, 2015); Armagh City, Banbridge and Craigavon Borough Council ‘Equality Scheme for Armagh City, Banbridge and Craigavon Borough Council’ (Date Unknown); Ards and North Down Borough Council, ‘Equality Scheme for the North Down and Ards District Council’ (ANDC, 2015); Belfast City Council, ‘Equality Scheme 2015’ (BCC, 2015); Causeway Coast and Glens Borough Council, ‘Equality Scheme for the Causeway Coast and Glens’ (CCGC, 2015); Derry City and Strabane District Council, ‘Equality Scheme for Derry City and Strabane District Council 2015-2019’ (DCSD, 2015); Fermanagh and Omagh District Council, ‘Equality Scheme’ (FOC, 2017); Lisburn and Castlereagh City Council, ‘Equality Scheme’ (LCC, 2015); Mid and East Antrim Borough Council, ‘Equality Scheme’ (Date Unknown); Mid Ulster District Council, ‘Equality Scheme for Mid Ulster District Council 2015-2020’ (MUC, 2015); Newry Mourne and Down District Council, ‘Equality Scheme’ (NMDC, 2015).

²⁴⁹¹ Interview with Council officials from Mid Ulster District Council, 15 March 2017; Letter Armagh City, Banbridge and Craigavon Borough Council to NIHR, 30 August 2016; Letter from Derry City and Strabane District Council to NIHR, 5 October 2016.

²⁴⁹² Letter from Derry City and Strabane District Council to NIHR, 5 October 2016.

²⁴⁹³ *Ibid.*

²⁴⁹⁴ Mid Ulster District Council, ‘Public Authority Statutory Equality and Good Relations Duties Annual Progress Report 2016-2017’ (MDC, 2017), at 6; NI Housing Executive, ‘Sixteenth Annual Progress Report to the Equality Commission’, 31 August 2016, at 38.

²⁴⁹⁵ Interview with Council officials from Armagh City, Banbridge and Craigavon Borough Council, 20 February 2017.

²⁴⁹⁶ Belfast City Council, ‘Equality Action Plan April 2017-March 2021’ (BCC, 2017).

²⁴⁹⁷ Interview with representatives from the Equality Commission NI, 8 February 2017.

²⁴⁹⁸ *Ibid.*

²⁴⁹⁹ Policy Arc and Kremer Consultancy ‘Section 75 Screening and Equality Impact Assessment: A review of Recent Practice’ (ECNI, 2016); Hazel Conley and Stella Warren, ‘A Review of Action Plans Developed by Public Authorities in Relation to their Statutory Equality and Good Relations Duties: Summary Report for the Equality Commission NI’ (ECNI, 2017); Research Scotland, ‘Discussion Paper: Key Factors that Contribute to Better Equality Outcomes’ (ECNI, 2017); Hazel Conley, ‘A Review of Available Information on the Use of Impact Assessment in Public Policy Formulation and in Contributing to the Fulfilment of Statutory Duties’ (ECNI, 2016).

²⁵⁰⁰ Policy Arc and Kremer Consultancy ‘Section 75 Screening and Equality Impact Assessment: A review of Recent Practice’ (ECNI, 2016), at 6-7. The methodology for this report included interviews and focus groups with public authorities, but not Section 75 groups.

'Equality Action Plans' were due or overdue for renewal.²⁵⁰¹ The content of the Equality Action Plans was variable, with some more detailed than others, and there was a tendency for actions to be more process orientated than others.²⁵⁰² Furthermore, there was uneven coverage in the nine Section 75 categories in action measures.²⁵⁰³

The Equality Commission NI recently published guidance for public authorities on 'Effective Section 75 Equality Assessments; Screening and Assessments'.²⁵⁰⁴ The guidance suggested that there is evidence of good screening practice, but also that screening exercises are not meaningful and have become a "tick box" process.²⁵⁰⁵ Moreover, evidence suggests that the number of equality impact assessments conducted by public authorities is too low.²⁵⁰⁶

The Equality Commission NI has published guidance to provide clarity for policy makers on screening and equality impact assessment requirements.²⁵⁰⁷ The guidance indicates that screening will sometimes not be an adequate method to assess the equality implications of a policy.²⁵⁰⁸ In that circumstance, a more thorough equality impact assessment is appropriate. This is likely to be the case:

- where the policy is highly relevant to the promotion of equality of opportunity;
- where it affects a large number of people;
- where it affects fewer people, but where its impact on them is likely to be significant;
- where it is a strategic policy or has a significant budget attached; or
- where further assessment provides a valuable opportunity to examine evidence and develop recommendations.²⁵⁰⁹

Effective equality assessments should include:

- ensuring adequate data;
- assessing impacts;
- conducting an equality impact assessment;
- engaging with those directly affected;
- monitoring and publishing; and
- maintaining records.²⁵¹⁰

The Equality Commission NI emphasised the importance of strong leadership within public authorities to ensure Section 75 duties are integrated into core business activities. Furthermore, effective implementation should be assured by "top level commitment, allocation of necessary resources, establishment of clear lines of responsibility, effective communication, training and systems for monitoring progress".²⁵¹¹

²⁵⁰¹ Hazel Conley and Stella Warren, 'A Review of Action Plans Developed by Public Authorities in Relation to their Statutory Equality and Good Relations Duties: Summary Report for the Equality Commission NI' (ECNI, 2017), at 1.

²⁵⁰² Ibid.

²⁵⁰³ Ibid.

²⁵⁰⁴ Equality Commission NI, 'Effective Section 75 Equality Assessments: Screening and Equality Assessments' (ECNI, 2017).

²⁵⁰⁵ Ibid. See also Policy Arc and Kremer Consultancy 'Section 75 Screening and Equality Impact Assessment: A review of Recent Practice' (ECNI, 2016), at 23.

²⁵⁰⁶ Ibid; Policy Arc and Kremer Consultancy 'Section 75 Screening and Equality Impact Assessment: A review of Recent Practice' (ECNI, 2016), at 26.

²⁵⁰⁷ Ibid.

²⁵⁰⁸ Ibid.

²⁵⁰⁹ Ibid.

²⁵¹⁰ Ibid.

²⁵¹¹ Ibid.

Training

Equality and Human Rights Training

There was evidence that staff in most of the public authorities had been provided with some training on equality or human rights.²⁵¹² Not all staff are trained in the Department for Communities²⁵¹³ and Department for Infrastructure in human rights and equality.²⁵¹⁴ The Department for Communities reported that training was not compulsory and “it was a matter for line managers to discuss with staff and approve if the job role may have any significant impact on human rights issues”.²⁵¹⁵ It also highlighted that training does take place within government departments that covers equality and human rights, such as diversity training.²⁵¹⁶ The Department for Infrastructure reported that human rights training was available to any member of staff and those who attended did so because it was considered to be important to their role. Nevertheless, the Department for Infrastructure reported that a training need had been identified in the planning group for all staff members on human rights and efforts were being made to address this. In addition, those directly involved in the preparation of policy and legislation will include human rights training in their training needs plan.²⁵¹⁷

The NI Housing Executive reported having provided equality, human rights and disability training to a large number of staff members.²⁵¹⁸ All staff in the NI Housing Executive are trained in equality legislation.²⁵¹⁹ In addition, the NI Housing Executive’s legal advisor has attended a range of training courses, including courses specifically on Travellers’ law and Travellers’ rights.²⁵²⁰ It is the role of the equality unit manager to ensure that staff at all levels, including the board, are aware of equality functions and duties.²⁵²¹

Radius Housing Association reported that it implements a mandatory three years’ training programme for all staff, which includes equality training.²⁵²² Clanmil Housing Association reported that training was provided to staff in relation to Traveller-specific issues, equality and racism and discrimination in 2012. Since then such training has been facilitated in-house by way of refresher training.²⁵²³

Armagh City, Banbridge and Craigavon Borough Council deliver an equality screening and equality impact assessment training programme, as well as an equality and disability training programme for staff.²⁵²⁴ Its planning staff were unable to avail of the equality screening and equality impact training programme, which was delivered in 2015.²⁵²⁵ The Equality and Disability training programme is delivered across the Council and

²⁵¹² Letter from Department for Communities to NIHRC, 27 September 2016; Letter from the Department for Infrastructure to NIHRC, 22 September 2016; Letter from the NI Housing Executive to NIHRC, 30 September 2016; Interview with a representative of Police Service NI: Interview E, 22 February 2017; Letter from Clanmil Housing Association to NIHRC, 28 September 2016.

²⁵¹³ The Department for Communities reported that from November 2013 until March 2015, 55 staff attended the ‘Introduction to Human Rights’ and 19 staff attended the ‘Policy Making and Human Rights’ courses provided by the NIHRC. A further 10 staff have attended the ‘Policy Making and Human Rights’ course between March 2015 and November 2017. From September 2015 to November 2018, 61 have completed the ‘Introduction to Human Rights’ e-learning course. These figures are for current Department for Communities staff, irrespective of where they were at the time, which may explain the variance. This only relates to specific human rights training. There are other courses relating to equality, such as ‘Diversity Now’ and ‘Introduction to Section 75’, and other courses which touch on equality and/or human rights as it relates to the subject matter, for example, recruitment and selection. See Letter from Department for Communities to NIHRC, 7 November 2017.

²⁵¹⁴ The Department for Infrastructure reported that there are 74 staff within planning group but one staff member attended, 2 staff attended Policy Making and Human Rights and 7 staff attended an Equality Impact Assessment workshop. See Letter from Department for Infrastructure to NIHRC, 22 September 2016.

²⁵¹⁵ Letter from the Department for Communities to NIHRC, 23 February 2017.

²⁵¹⁶ Letter from Department for Communities to NIHRC, 7 November 2017.

²⁵¹⁷ Letter from Department for Infrastructure to NIHRC, 3 March 2017.

²⁵¹⁸ The NI Housing Executive reported that to March 2016, a total of 166 courses involving around 3,238 staff has been completed across all grades and locations. In addition, 364 staff were trained in race relations and intercultural awareness. See Letter from NI Housing Executive to NIHRC, 30 September 2016.

²⁵¹⁹ Interview with representatives of the NI Housing Executive: Interview E, 13 February 2017.

²⁵²⁰ Letter from NI Housing Executive to NIHRC, 30 September 2016.

²⁵²¹ Interview with representatives of the NI Housing Executive: Interview E, 13 February 2017.

²⁵²² Letter from Fold Housing Association (now Radius) to NIHRC, 21 September 2016.

²⁵²³ Letter from Clanmil Housing Association to NIHRC, 28 September 2016.

²⁵²⁴ Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHRC, 30 August 2016.

²⁵²⁵ Armagh City, Banbridge and Craigavon Borough Council reported that 17 staff attended the Equality Screening and Equality Impact Assessment workshop in November 2015. See Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHRC, 30 August 2016.

was delivered to Planning Department staff in 2017.²⁵²⁶ Representatives from Armagh City, Banbridge and Craigavon Borough Council provided evidence that staff were advised in their equality and disability training programme that Irish Travellers are an ethnic minority under the Race Relations (NI) Order 1997.²⁵²⁷

A representative from Belfast City Council said that “good relations will do diversity training”.²⁵²⁸ The Council’s Equality Scheme sets out the Council’s commitment to training and suggests that the Council has drawn up a detailed training plan for staff and elected representatives in relation to commitments under the NI Act 1998, Section 75.²⁵²⁹

Derry City and Strabane District Council and Mid Ulster District Council have not provided human rights training. Derry City and Strabane District Council said this “would have to be addressed in near future”.²⁵³⁰ A representative of Mid Ulster District Council reported that, prior to the establishment of the new Council, training was provided by the then Department for Environment to staff on the potential implications of the Human Rights Act 1998.²⁵³¹ A representative of the Mid Ulster District Council was unsure that Travellers were recognised as an ethnic minority group, indicating a need for training.²⁵³² However, another representative of the Council made it clear that Travellers were included as a Section 75 group in the Mid Ulster District Council’s statement of community involvement.²⁵³³

Cultural Awareness Training

Some of the public authorities have provided Travellers’ awareness training for their staff.²⁵³⁴ There was evidence of good practice by some of the public authorities, as some reported that training was provided by Traveller groups or by Travellers.²⁵³⁵ Some public authorities reported that cultural awareness training was provided as part of a wider programme of training or events on human rights, equality or diversity.²⁵³⁶ The NI Housing Executive’s staff have been provided with race relations and intercultural awareness training.²⁵³⁷ A representative for the NI Housing Executive reported in one area that staff received a half-day cultural awareness training.²⁵³⁸

Apex Housing Association provided evidence that a number of staff attended cultural awareness training. This training was held again in 2016/2017 and was conducted by a Traveller.²⁵³⁹ Clanmil Housing Association reported that Travellers’ awareness training was provided to staff in 2007/2008.²⁵⁴⁰ It reported difficulties with finding a training provider to offer similar training after this period.²⁵⁴¹ Radius Housing Association does not offer training that focuses specifically on Travellers.²⁵⁴²

²⁵²⁶ Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHR, 30 August 2016; Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHR, 2 November 2017.

²⁵²⁷ Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHR, 29 March 2017.

²⁵²⁸ Interview with Council officials from Belfast City Council, 6 February 2017.

²⁵²⁹ Belfast City Council, “Equality Scheme for Belfast City Council” (BCC, 2015), at 19.

²⁵³⁰ Letter from Derry City and Strabane District Council to the NIHR, 5 October 2017.

²⁵³¹ Interview with Council officials from Mid Ulster District Council, 15 March 2017.

²⁵³² Ibid.

²⁵³³ Interview with Council officials from Mid Ulster District Council, 15 March 2017.

²⁵³⁴ Letter from Apex Housing Association to NIHR, 4 October 2016; Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHR, 21 March 2017.

²⁵³⁵ Interview with representatives of NI Housing Executive: Interview A, 25 January 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Apex Housing Association, 7 February 2017; Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHR, 29 March 2017.

²⁵³⁶ Letter from the Department for Communities to the NIHR, 23 February 2017; Interview with Council officials from Belfast City Council, 6 February 2017.

²⁵³⁷ Letter from the NI Housing Executive to the NIHR, 30 September 2017.

²⁵³⁸ Interview with representatives from the NI Housing Executive: Interview A, 25 January 2017.

²⁵³⁹ Letter from Apex Housing Association to NIHR, 4 October 2016.

²⁵⁴⁰ Letter from Clanmil Housing Association to NIHR, 28 September 2016.

²⁵⁴¹ Letter from Clanmil Housing Association to NIHR, 29 March 2017.

²⁵⁴² Interview with representatives of Radius Housing Association, 2 February 2017.

The good relations department of Armagh City, Banbridge and Craigavon Borough Council organised Travellers' awareness training. This was delivered by An Múna Tober to Council staff, including staff operating on the front line, in community development and in good relations.²⁵⁴³ Belfast City Council said that it had, in the past, provided cultural awareness training, but it attracted staff who mainly had an interest in diversity issues.²⁵⁴⁴ The Council turned to focusing on disseminating information about Travellers during the Traveller Awareness Week and Traveller Pride Day.²⁵⁴⁵ The former is no longer running.²⁵⁴⁶ The Local Government Partnership on Travellers Issues intends to establish "an ongoing training scheme for all representatives on Traveller awareness and Council's statutory duties".²⁵⁴⁷

All early career officers in the Police Service NI receive cultural awareness training at Garnerville College.²⁵⁴⁸ Within the Police Service NI, there is no corporate approach in providing cultural awareness training after graduation from Garnerville College.²⁵⁴⁹ A representative of the Police Service NI said "for consistency purposes you might find the odd area might bring a good contact Traveller to speak to the local officers".²⁵⁵⁰

A representative of the Police Service NI said there was scope for such training "especially in those areas where you have [a] concentrated Traveller population".²⁵⁵¹ Another representative of the Police Service NI reported that they were invited to participate in a day of multi-agency Traveller awareness training.²⁵⁵² Some Police Service NI representatives reported gaining experience on Traveller awareness through informal methods, for example in meetings with Travellers, or "on the job" dialogue with Travellers.²⁵⁵³

Findings

The NIHRC's findings on the promotion of equality of opportunity and Travellers' accommodation are:

i	NI has a developed legislative scheme for the promotion of equality of opportunity, based on the NI Act 1998, Section 75.
ii	The Equality Commission NI reported that the number of Equality Impact Assessments conducted by the relevant public authorities is low and that there was evidence of a 'tick-box' approach to equality assessment.
iii	There is evidence from research commissioned by the Equality Commission NI that equality screenings are less frequent in the housing, local government, policing and justice sectors than in government departments or the health sector.

²⁵⁴³ Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHRC, 29 March 2017.

²⁵⁴⁴ Interview with Council officials from Belfast City Council, 6 February 2017.

²⁵⁴⁵ *Ibid.*

²⁵⁴⁶ *Ibid.*

²⁵⁴⁷ Letter from the NI Local Government Partnership on Traveller Issues to the Chief Executive of Banbridge District Council, 22 October 2014.

²⁵⁴⁸ Interview with a representative of the Police Service NI: Interview A, 14 February, 2017; Interview with a representative of the Police Service NI: Interview F, 15 February 2017; Interview with a representative of the Police Service NI: Interview B, 21 February 2017; Interview with a representative of the Police Service NI: Interview G, 8 March 2017.

²⁵⁴⁹ Interview with a representative of the Police Service NI: Interview D, 23 February 2017.

²⁵⁵⁰ *Ibid.*

²⁵⁵¹ Interview with a representative of the Police Service NI: Interview E, 22 February 2017.

²⁵⁵² Interview with a representative of the Police Service NI: Interview A, 14 February 2017.

²⁵⁵³ Interview with a representative of the Police Service NI: Interview B, 23 February 2017; Interview with a representative of the Police Service NI: 8 March 2017.

iv	Not all staff in the Department for Communities and the Department for Infrastructure receive human rights and equality training. The Department for Infrastructure is taking steps to address this training need.
v	The level of training in local Councils varies. Some local Councils have not provided human rights or equality training. This can lead to a misunderstanding of the status of Travellers as an ethnic minority.
vi	Some public authorities carry out cultural awareness training. Some examples of good practice include the involvement of Travellers or Traveller groups in the training.
vii	The Police Service NI provides Traveller awareness training as part of its training programme. However, it does not appear to provide a corporate approach to Traveller awareness training after graduation from Garnerville College.

13 Tolerance and Mutual Understanding

The duty to promote tolerance and mutual understanding between different groups (including between nomadic and non-nomadic populations) engages:

Treaty	Article
CERD	2
	3
	7
UNESCO Convention on the Protection and Promotion of Diversity of Cultural Expression	10
ECHR	8
	10
FCNM	6

The following soft law standards clarify what this requires:

UN CERD Committee
General Recommendation XIX: Article 3 of the Convention ²⁵⁵⁴
General recommendation XXXI: Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System ²⁵⁵⁵
General Recommendation XXXV: Combating Racist Hate Speech ²⁵⁵⁶
UN General Assembly
Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms ²⁵⁵⁷
Declaration on a Culture of Peace ²⁵⁵⁸
UN Educational, Scientific and Cultural Organisation (UNESCO)
Declaration on Principles of Tolerance ²⁵⁵⁹
CoE Committee of Ministers
Declaration on the Committee of Ministers on the Rise of Anti-Gypsyism and Roma and Racist Violence Against Roma in Europe ²⁵⁶⁰

²⁵⁵⁴ CERD Committee, 'General Recommendation XIX: Article 3 of the Convention', 18 August 1995.

²⁵⁵⁵ CERD Committee, 'General Recommendation XXXI: Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System', 20 August 2004.

²⁵⁵⁶ CERD/C/GC/35, 'CERD Committee General Recommendation XXXV: Combating Racist Hate Speech', 26 September 2013

²⁵⁵⁷ A/RES/53/144, 'Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms', 8 March 1999.

²⁵⁵⁸ A/RES/53/243 A, 'UN General Assembly Resolution: Declaration on a Culture of Peace', 13 September 1999.

²⁵⁵⁹ UNESCO Declaration on Principles of Tolerance, 16 November 1985

²⁵⁶⁰ CoE, 'Declaration on the Committee of Ministers on the Rise of Anti-Gypsyism and Roma and Racist Violence Against Roma in Europe', 1 February 2012

CoE European Commission against Racism and Intolerance
Recommendation No 1: Combating Racism, Xenophobia, Anti-semitism and Intolerance ²⁵⁶¹
Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma ²⁵⁶²
CoE Advisory Committee on the FCNM
Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs ²⁵⁶³
The Framework Convention: A Key Tool to Managing Diversity through Minority Rights ²⁵⁶⁴
ECRI
Recommendation No 1: Combating Racism, Xenophobia, Anti-semitism and Intolerance ²⁵⁶⁵
Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma ²⁵⁶⁶
CoE Ministerial Conference
Faro Declaration ²⁵⁶⁷
Council of the EU
Conclusions on an EU Framework for National Roma Integration Strategies up to 2020 ²⁵⁶⁸
Recommendation on Effective Roma Integration Measures ²⁵⁶⁹
Resolution on a European Agenda for Culture ²⁵⁷⁰

Human Rights Laws and Standards

United Nations

The CERD, Article 2(e), requires States to encourage “integrationist multi-racial organizations and movements”, to eliminate “barriers between races” and to discourage “racial division”. Article 3 of this treaty requires States “particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction”. The CERD, Article 7, comments on the need to promote understanding and tolerance. It requires:

²⁵⁶¹ CRI(96)43 Rev, ‘ECRI General Policy Recommendation No 1: Combating Racism, Xenophobia, Anti-semitism and Intolerance’, 4 October 1996.

²⁵⁶² CRI(2011)37, ‘ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma’, 24 June 2011

²⁵⁶³ ACFC/311Doc(2008)001, ‘CoE Advisory Committee on the FCNM: Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs’, 5 May 2008.

²⁵⁶⁴ ACFC/56DOC(2016)001, ‘The FCNM: A Key Tool to Managing Diversity through Minority Rights’, 27 May 2016.

²⁵⁶⁵ CRI(96)43 Rev, ‘ECRI General Policy Recommendation No 1: Combating Racism, Xenophobia, Anti-semitism and Intolerance’, 4 October 1996.

²⁵⁶⁶ CRI(2011)37, ‘ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma’, 24 June 2011.

²⁵⁶⁷ DGIV/DC-FARO(2005) 8 final, ‘Faro Declaration on the CoE’s Strategy for Developing Intercultural Dialogue’, 28 October 2005.

²⁵⁶⁸ EU Council, ‘Council Conclusions on an EU Framework for National Roma Integration Strategies up to 2020’, 19 May 2011.

²⁵⁶⁹ EU Council, ‘Council Recommendation on Effective Roma Integration Measures in the Member States’, 9 and 10 December 2013.

²⁵⁷⁰ 2007/C 287/01, ‘EU Council Resolution of the Council on a European Agenda for Culture’, 16 November 2007.

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups.

The CERD Committee recognises that residential patterns can be influenced by differences in income, combined with differences in race, colour, national or ethnic origin, which can result in stigma and discrimination.²⁵⁷¹ It recommends developing training (through appropriate education programmes) in respect for human rights, tolerance and friendship among racial or ethnic groups. It also recommends sensitisation to intercultural relations, for law enforcement officials.²⁵⁷²

The UNESCO Declaration of Principles on Tolerance defines tolerance as “respect, acceptance and appreciation of the rich diversity of our world’s cultures, our forms of expression and ways of being human”.²⁵⁷³ Tolerance is not “concession, condescension or indulgence”.²⁵⁷⁴ The Declaration notes that tolerance is essential at the family and community levels.²⁵⁷⁵ Tolerance promotion and shaping of attitudes should take place in schools, universities, through non-formal education, at home and in the work place.²⁵⁷⁶

The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression calls on governments to “encourage and promote understanding of the importance of the protection and promotion of the diversity of cultural expressions, inter alia, through educational and greater public awareness programmes.”²⁵⁷⁷

The UN General Assembly stresses the importance of education, training and research “to strengthen further, inter alia, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups”.²⁵⁷⁸

The UN Declaration on a Culture of Peace recognises the need to eliminate all forms of discrimination and intolerance, including those based on race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.²⁵⁷⁹ Article 3 provides that the development of a culture of peace is integrally linked to “enabling people at all levels to develop skills of dialogue, negotiation, consensus-building and peaceful resolution of differences”.²⁵⁸⁰

The Durban Declaration and Programme of Action emphasises that exchange and dialogue are “important and fundamental elements in building intercultural understanding and respect and will contribute to the elimination of racism, racial discrimination, xenophobia and intolerance”.²⁵⁸¹

Council of Europe

The ECHR, Article 10, provides that “everyone has the right to freedom of expression”. However, the right “may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society”, in the interests of the protection of the rights of others.²⁵⁸² The ECtHR has

²⁵⁷¹ CERD Committee, ‘General Recommendation XIX: Article 3 of the Convention’, 18 August 1995.

²⁵⁷² CERD Committee, ‘General Recommendation XXXI: Prevention of Racial Discrimination in the Administration and Functioning of the Criminal Justice System’, 20 August 2004, at para 5(b).

²⁵⁷³ Articles 1.1 and 1.2, UNESCO Declaration on Principles of Tolerance, 16 November 1985.

²⁵⁷⁴ Ibid.

²⁵⁷⁵ Article 3.2, UNESCO Declaration on Principles of Tolerance, 16 November 1985.

²⁵⁷⁶ Ibid.

²⁵⁷⁷ Article 10, UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expression 2005.

²⁵⁷⁸ A/RES/53/144, ‘Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms’, 8 March 1999, at Article 16.

²⁵⁷⁹ A/RES/53/243 A, ‘UN General Assembly Resolution: Declaration on a Culture of Peace’, 13 September 1999.

²⁵⁸⁰ Ibid.

²⁵⁸¹ A/CONF.189/12, ‘Durban Declaration’, 8 September 2001, at para 120.

²⁵⁸² Article 10(2), European Convention on Human Rights 1950.

emphasised that tolerance and respect for the equal dignity of human beings constitutes the foundations of a democratic and pluralist society.²⁵⁸³ Additionally, “any negative stereotyping of a group, when it reaches a certain level, is capable of impacting on the group’s sense of identity and the feelings of self-worth and self-confidence of members of the group”.²⁵⁸⁴ This may interfere with the ECHR, Article 8,²⁵⁸⁵ and the State may be obliged to take positive steps to protect victims of such stereotyping.²⁵⁸⁶

The FCNM sets out that States:

shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons’ ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.²⁵⁸⁷

It seeks to eliminate barriers between persons belonging to ethnic groups, through the encouragement of intercultural organisations and movement, which seek to promote mutual respect and understanding.²⁵⁸⁸ The Advisory Committee on the FCNM provides that promoting the effective participation of persons belonging to national minorities in society requires continuing, and substantive dialogue between persons belonging to national minorities, the majority population and also with public authorities.²⁵⁸⁹ The Advisory Committee on the FCNM stresses that the promotion of tolerance and openness towards diversity in society is essential for the development and implementation of integration strategies.²⁵⁹⁰ It is also a precondition for national minorities to self-identify as such without hesitation.²⁵⁹¹

The ECRI recommends States ensure that the national legal order enshrines the commitment of the equal treatment of all persons and to the fight against racism, xenophobia, anti-semitism and intolerance.²⁵⁹² States should:

- take measures in the fields of education and information to strengthen the fight against racism, xenophobia, anti-semitism and intolerance;
- adopt policies that enhance the awareness of the richness that cultural diversity brings to society;
- undertake research into the nature and causes of racism, xenophobia, anti-semitism and intolerance; and
- encourage public officials to bear in mind the desirability of promoting tolerance in their public comments; and
- ensure that police provide equal treatment to all members of the public and avoid any act of racism and intolerance.²⁵⁹³

The ECRI also recommends States take steps to promote co-existence and mutual understanding between persons from different cultures in neighbourhoods that Roma and non-Roma live. The ECRI’s definition of Roma includes Travellers.²⁵⁹⁴ It further recommends States take steps to combat prejudice and stereotypes concerning Roma and Travellers in housing.²⁵⁹⁵

²⁵⁸³ *Gunduz v Turkey*, (2003) ECHR 652, at para 40. See also *Handyside v UK* (1976) ECHR 5, at para 48.

²⁵⁸⁴ *Aksu v Turkey* (2012) ECHR 445, at para 58.

²⁵⁸⁵ *Ibid.*

²⁵⁸⁶ *Ibid.*, at para 59.

²⁵⁸⁷ Article 6, Framework Convention for the Protection of National Minorities 1998.

²⁵⁸⁸ H(95)10, ‘Explanatory Memorandum to the Framework Convention for the Protection of National Minorities’, February 2005, at para 49.

²⁵⁸⁹ ACFC/311Doc(2008)001, ‘CoE Advisory Committee on the FCNM: Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs’, 5 May 2008, at para 11.

²⁵⁹⁰ ACFC/56DOC(2016)001, ‘The FCNM: A Key Tool to Managing Diversity through Minority Rights’, 27 May 2016, at para 53.

²⁵⁹¹ *Ibid.*

²⁵⁹² CRI(96)43 Rev, ‘ECRI General Policy Recommendation No 1: Combating Racism, Xenophobia, Anti-semitism and Intolerance’, 4 October 1996, at Section A.

²⁵⁹³ *Ibid.*, at Section B.

²⁵⁹⁴ *Ibid.*, at 4.

²⁵⁹⁵ CRI(2011)37, ‘ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma’, 24 June 2011, at para 6(f) and (g).

The CoE Committee of Ministers calls on Member States to ensure that strategies, programmes or policies to improve the situation of Roma (including Travellers). These should include research on the phenomenon and awareness raising activities among the non-Traveller population, with a view to addressing prejudice and negative stereotypes.²⁵⁹⁶ The Committee of Ministers also recommended that a national or regional strategy aimed at ensuring equality and integration of Roma and Travellers in social, economic or political life should be accompanied by awareness raising campaigns aimed at promoting respect for nomadic communities' history and culture. Support and participation of other communities, particularly populations living close and interacting with Traveller communities should be encouraged. In addition, intercultural dialogue and understanding about cultural features of nomadic and semi-nomadic lifestyle and majority expectations should be promoted.²⁵⁹⁷

The Faro Declaration encourages "intercultural dialogue on the basis of universal human rights as a means of promoting awareness, understanding, reconciliation, tolerance and respect for the other, of preventing conflicts and of ensuring an integrated or cohesive society".²⁵⁹⁸ It stresses the importance of closely involving civil society in this dialogue and supports the active involvement of Parliaments, local and regional authorities.²⁵⁹⁹

European Union

At EU level, the promotion of culture and diversity has been identified as a strategic objective of the European Agenda for Culture.²⁶⁰⁰

The Council of the EU called on Member States to foster positive changes in attitudes towards Roma (including Travellers)²⁶⁰¹ by improving public awareness of Roma culture and identity and combating stereotypes, xenophobia and racism.²⁶⁰² The Council of the EU recommended that Member States implement measures to combat discrimination and prejudice against Roma including awareness raising about the benefits of Roma integration both in Roma communities and the general public. In addition, measures could include raising the general public's awareness of the diverse nature of societies, and sensitising public opinion to the inclusion problems Roma face, including, addressing those aspects in public education curricula and teaching materials where relevant.²⁶⁰³

Promotion of Tolerance and Mutual Understanding

Domestic Laws and Policies

The NI Act 1998, Section 75(2), requires public authorities to "have regard to the desirability to promote good relations between persons of different religious belief, political opinion or racial group". The wording "to have regard to the desirability to promote good relations" does not correspond to the requirement in the CERD, Article 7, to "undertake immediate and effective measures" to combat prejudices.

The Race Relations (NI) Order 1997 places a duty on local Councils to make appropriate arrangements with a view to securing its various functions are carried out with due regard to the need to eliminate racial

²⁵⁹⁶ CoE, 'Declaration on the Committee of Ministers on the Rise of Anti-Gypsyism and Roma and Racist Violence Against Roma in Europe', 1 February 2012, at para 6(vi).

²⁵⁹⁷ Ibid, at para VI.2.iv.

²⁵⁹⁸ DGIV/DC-FARO(2005) 8 final, 'Faro Declaration on the CoE's Strategy for Developing Intercultural Dialogue', 28 October 2005.

²⁵⁹⁹ Ibid.

²⁶⁰⁰ 2007/C 287/01, 'EU Council Resolution of the Council on a European Agenda for Culture', 16 November 2007, at Article 2(a).

²⁶⁰¹ The EU generally uses Roma as an umbrella term that includes Travellers. See COM(2011) 173 final, 'An EU Framework for National Roma Integration Strategies up to 2020', 5 March 2011, at footnote 1.

²⁶⁰² EU Council, 'Council Conclusions on an EU Framework for National Roma Integration Strategies up to 2020', 19 May 2011, at para 40.

²⁶⁰³ EU Council, 'Council Recommendation on Effective Roma Integration Measures in the Member States', 9 and 10 December 2013, at paras 2.4(a)-2.4(b).

discrimination and promote equality of opportunity and good relations between persons of different racial groups.²⁶⁰⁴ The language of “due regard to the need” is stronger than the language in the NI Act 1998, Section 75(2). Therefore, the duty in the Race Relations (NI) Order 1997 reflects those contained in the international standards to promote tolerance and understanding among racial or ethnic groups.

The ‘Together Building a United Community Strategy’ does not explicitly refer to Irish Travellers, but provides “the framework for government action in tackling sectarianism, racism and other forms of intolerance while seeking to address division, hate and separation”.²⁶⁰⁵ It stresses that “an approach based on inter-cultural dialogue can help facilitate greater integration and build a more united community”.²⁶⁰⁶ The strategy also cites positive work undertaken by organisations to facilitate inter-cultural dialogue and commits to building on these initiatives.²⁶⁰⁷

The NI good relations indicators are used to monitor progress against priorities in the ‘Together Building a United Community Strategy’. They do not contain any indicators to measure relations between the Traveller communities and the settled community in NI.²⁶⁰⁸ The indicators focus almost exclusively on issues of community relations in terms of religious division.

The ‘Racial Equality Strategy 2015-2025’ states that “the government has put on record its abhorrence of all forms of intolerance and has stressed its commitment to tackle racism in all its forms”.²⁶⁰⁹ The purpose of the strategy (along with ‘Together Building a United Community Strategy’) is to promote good relations.²⁶¹⁰ One of the aims is to “strengthen social relations and interactions between people of different faiths and different cultural backgrounds”.²⁶¹¹ The strategy establishes a framework for government action to tackle racial inequalities and promote and encourage good relations and social cohesion for Irish Travellers, minority ethnic people, asylum seekers and migrants.²⁶¹² The strategy is not accompanied by a detailed action plan.²⁶¹³ There is also “little detail as to who will lead on actions, timescales, progress indicators or outcomes”.²⁶¹⁴ However, the strategy recognises that there may be a need to develop and implement specific programmes of work to address the particular challenges facing Roma and Travellers. The Racial Equality Subgroup will consider these strands of work within its programme of activity.²⁶¹⁵ The Racial Equality Subgroup has the ability to establish a thematic group on Roma, Gypsies and Travellers.²⁶¹⁶ The Racial Equality Strategy contains a number of relevant indicators. These include measuring prejudice, racism and hate crime against minority ethnic groups and respecting cultural diversity.²⁶¹⁷ There is one indicator specific to Irish Travellers, namely the percentage of people who believe that the culture of Irish Travellers is more respected than it once was.²⁶¹⁸

The Department for Communities (previously Department for Social Development) ‘Facing the Future: Housing Strategy for NI 2012-2017’ states that one of the main roles for government is prompting equality of opportunity in housing and promoting good relations.²⁶¹⁹ In late 2017, the Department for Communities also

²⁶⁰⁴ Article 67, Race Relations (NI) Order 1997.

²⁶⁰⁵ OFMDFM, ‘Together Building a United Community Strategy’ (OFMDFM, 2013), at 2.

²⁶⁰⁶ *Ibid.*, at 79.

²⁶⁰⁷ *Ibid.*, at 80.

²⁶⁰⁸ NI Executive Office, ‘NI Good Relations Indicators Annual Update’, September 2016.

²⁶⁰⁹ OFMDFM, ‘Racial Equality Strategy 2015-2025’ (OFMDFM, 2015), at 17.

²⁶¹⁰ *Ibid.*, at 6.

²⁶¹¹ *Ibid.*, at 30.

²⁶¹² *Ibid.*, at 31.

²⁶¹³ Equality Commission NI, ‘Shadow Report to the Committee on the Elimination of all Forms of Racial Discrimination’ (ECNI, 2016), at 4; NIHRC ‘Submission to the United Nations Committee on the Elimination of Racial Discrimination: Parallel Report on the 21st to 23rd Periodic Reports of the UK under the International Convention on the Elimination of All forms of Racial Discrimination’ (NIHRC, 2016), at 3.

²⁶¹⁴ Response from Equality Commission NI to NIHRC, 10 November 2017.

²⁶¹⁵ OFMDFM, ‘Racial Equality Strategy 2015-2025’ (OFMDFM, 2015), at 31.

²⁶¹⁶ *Ibid.*, at 53.

²⁶¹⁷ *Ibid.*, at 50.

²⁶¹⁸ *Ibid.*, at 50.

²⁶¹⁹ Department for Social Development, ‘Facing the Future: Housing Strategy for NI 2012-2017’, 9 September 2015, at 4.

launched a public consultation on a 'Fundamental Review of Social Housing Allocations'. One of the proposals was the removal of intimidation points from the Common Selection Scheme.²⁶²⁰ Currently, the highest points are awarded for intimidation (200 points) and the next highest is statutory (full duty) homelessness (70 points).²⁶²¹ The motivation for the proposal is to "recognise the housing need of intimidated households in a fairer and more proportionate way", with the reasoning that it would ensure such applicants "would be treated similarly to other applicants who may have experienced equally traumatic circumstances".²⁶²² The consultation document assured that the:

proposed change would not affect the current practice regarding urgent treatment of those experiencing intimidation. Where a person is considered to be in serious and imminent danger the NI Housing Executive would remove them from that danger and offer alternative accommodation on an emergency basis.²⁶²³

This process would be in line with other homeless applicants also in serious emergency housing need.²⁶²⁴

The NI Housing Executive's 'Race Relations Policy' has a number of themes. These include:

- mainstreaming black and ethnic minority issues in policy development;
- tackling racial harassment and intimidation;
- promoting black and minority ethnic inclusion;
- enabling community participation and development; and
- tackling migrant worker issues.²⁶²⁵

The strategy makes explicit reference to Gypsies and Travellers in respect of consultation on key issues.²⁶²⁶ The strategy also commits to raising staff awareness on race relations legislation, concepts of discrimination and the range of diversity of ethnic groups, including Travellers in NI.²⁶²⁷

The NI Housing Executive's 'Community Cohesion Strategy 2015-2020' emphasises that good relations is a key aim. Its objectives include:

- contributing to the creation of more stable, safer and cohesive neighbourhoods;
- working in partnership with others to address the complex housing needs of a divided society;
- responding quickly to the needs of people in danger as a result of community conflict; and
- facilitating and encouraging mixed housing where this is practicable, desirable and safe.²⁶²⁸

The strategy has a race relations theme. However, it does not reference promoting dialogue or addressing relations between the Traveller communities and settled community in NI.²⁶²⁹ The NI Housing Executive has a 'Community Cohesion Unit' tasked with implementing the good relations duty.²⁶³⁰

The Equality Commission NI has responsibilities in respect of the statutory equality and good relations duties that apply to public authorities.²⁶³¹ It has published guidance on promoting good relations.²⁶³² The Commission

²⁶²⁰ Department for Communities, 'Public Consultation: Fundamental Review of Social Housing Allocations' (Department for Communities, 2017), at 54.

²⁶²¹ *Ibid.*, at 49.

²⁶²² *Ibid.*, at 54.

²⁶²³ *Ibid.*

²⁶²⁴ *Ibid.*

²⁶²⁵ NI Housing Executive, 'Race Relations Policy' (NIHE, 2006), at 15.

²⁶²⁶ *Ibid.*

²⁶²⁷ *Ibid.*, at 34.

²⁶²⁸ NI Housing Executive, 'Community Cohesion Strategy 2015-2020' (NIHE, 2015), at 11.

²⁶²⁹ *Ibid.*, at 17.

²⁶³⁰ NI Housing Executive, 'Community Cohesion Strategy 2015-2020' (NIHE, 2015), at 11; NI Housing Executive 'Sixteenth Annual Progress Report to the Equality Commission', 31 August 2016, at 36.

²⁶³¹ Schedule 9, NI Act 1998.

²⁶³² Equality Commission NI, 'Section 75 of the NI Act 1998: Promoting Good Relations- A Guide for Public Authorities' (ECNI, 2007).

noted that the NI Act 1998, Section 75(2) requires public authorities to take a proactive approach “to contributing to a shared society, rather than responding to the effects of a divided one”.²⁶³³ This obliges public authorities to proactively address good relations including addressing sectarianism and racism; acknowledging poor relations beyond interfaces; and recognising multiples identities.²⁶³⁴ The guidance noted that ‘good relations’ and ‘promoting good relations’ is not defined in legislation. The Equality Commission NI defines good relations as “the growth of relationships and structures for NI that acknowledge the religious, political and racial context of this society, and that seek to promote respect, equity and trust, and embrace diversity in all its forms”.²⁶³⁵

The guidance notes that promoting good relations can involve challenging misconceptions, stereotypes and prejudices against people perceived as outsiders, including Irish Travellers.²⁶³⁶ There are a number of key principles underpinning a public authority’s implementation of the good relations duty. Effective leadership across the political, public, private, voluntary and community sectors is essential to secure change.²⁶³⁷ Promotion of good relations requires commitment. This is demonstrated through the inclusion of objectives in corporate and business plans and by visible allocation of resources and commitment to ensure effective implementation of a good relations strategy.²⁶³⁸

In 2007, the Equality Commission NI stressed the interdependence of equality and good relations, stating that “a failure to achieve one impacts on the ability to achieve the other”.²⁶³⁹ It highlights that good relations requires “integration not segregation” and emphasises that “separate but equal is not an option”.²⁶⁴⁰ Public authorities are encouraged to collaborate and share information and good practice on promoting good relations.²⁶⁴¹ The Equality Commission NI’s guidance in 2008 emphasised that promoting good relations not only involves reacting swiftly to incidents and manifestations (such as graffiti or name-calling), but involves educating and training people to understand that prejudice is unacceptable.²⁶⁴²

The ‘Equality Commission’s Advice on Good Relations in Local Councils’ was published in 2015.²⁶⁴³ This proposes there should be a definition of good relations in statute, which includes references to dignity, respect and mutual understanding; an absence of prejudice, hatred, hostility or harassment and that there should be a fair level of participation in society.²⁶⁴⁴ The good relations duty implies local Councils should refrain from actions that damage good relations. They should also consider actions to improve good relations. The advice proposes some key features of good relations work. These include:

- leadership;
- good governance;
- published policy objectives;
- strategic consideration of policies and procedures;
- use of a sound evidence base;
- consideration of impacts;

²⁶³³ *Ibid.*, at 3.

²⁶³⁴ *Ibid.*, at 10.

²⁶³⁵ *Ibid.*

²⁶³⁶ *Ibid.*, at 15.

²⁶³⁷ *Ibid.*

²⁶³⁸ *Ibid.*, at 16.

²⁶³⁹ *Ibid.*, at 17.

²⁶⁴⁰ *Ibid.*, at 18.

²⁶⁴¹ *Ibid.*, at 19.

²⁶⁴² Equality Commission NI, ‘Promoting Good Relations: A Summary Guide for NI’ (ECNI, 2008), at 3.

²⁶⁴³ Equality Commission NI, ‘Equality Commission Advice on Good Relations in Local Councils’ (ECNI, 2015).

²⁶⁴⁴ *Ibid.*

- good relations should be central to policy development; and
- any policies should be lawful.²⁶⁴⁵

The Equality Commission NI recommended the NI Housing Executive took greater steps to adhere to the NI Act 1998, Section 75(2). This requires tackling “prejudicial attitudes towards Travellers and promote good relations between settled communities and Travellers”.²⁶⁴⁶

Domestic Practice

Intimidation

The ‘NI Life and Times Survey’ highlighted negative attitudes displayed towards Travellers in NI.²⁶⁴⁷ In 2015:

- 48 percent of respondents said they would be willing to accept an Irish Traveller as living in a house as a resident in their local area;
- 48 percent said they would be willing to accept an Irish Traveller as a colleague at their work;
- 35 percent said they would be willing to accept a Traveller as a close friend; and
- 30 percent said they would be willing to accept an Irish Traveller as a relative, by marriage.²⁶⁴⁸

These figures are lower than the figures for the same or comparable questions in respect of Eastern Europeans, other minority ethnic groups, or Muslims. In all categories, there is a lower acceptance of Travellers. Forty percent of respondents said they used derogatory language about Travellers.²⁶⁴⁹

Some of the Travellers, civil society organisations and public authorities interviewed reported that there were tensions between the Traveller communities and settled community in some parts of NI.²⁶⁵⁰ One Traveller reported that they had been subjected to racist name calling “they are saying we are ‘Pikey’. It’s [as if] we are not good enough to breed with or good enough to live, that’s what a Pikey is”.²⁶⁵¹ A Belfast City Councillor found that “there is ongoing prejudice from the settled community against the Traveller community”.²⁶⁵² However, “sometimes the Travelling community don’t help themselves, in terms of some of their actions. It’s about everybody accepting responsibilities and trying to understand”.²⁶⁵³

Some Travellers interviewed reported facing intimidation in their homes. When living in settled accommodation one Traveller had their windows broken. They also found if they moved into a house “settled people [within close proximity] would move out and complain”.²⁶⁵⁴ Another Traveller reported “there is lots of people who are nice” to Travellers, but others are disrespectful saying things like “you knacker”, “you gypno”, and “all you want is free this, that and the other”.²⁶⁵⁵ A representative from the NI Housing Executive reported that in one area private tenants were allegedly breaking windows in Traveller-specific accommodation.²⁶⁵⁶

²⁶⁴⁵ Ibid.

²⁶⁴⁶ Equality Commission NI, ‘Response to NIHE Draft Section 75 Audit of Inequalities and Action Plan’ (ECNI, 2012), at para 65.

²⁶⁴⁷ 1,202 adults participated in the survey. See Lucy Michael, ‘Racism and Intolerance Towards Minority Ethnic Groups in NI’ (NI Access Research Knowledge, 2017).

²⁶⁴⁸ Ibid.

²⁶⁴⁹ Ibid.

²⁶⁵⁰ Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016; Interview with a Councillor from Belfast City Council, 10 March 2017; Individual interview with a member of the Traveller communities in NI: Interview 20, 25 January 2017; Individual interview with a member of the Traveller communities in NI: Interview 12, 10 December 2016; Interview with representatives from the NI Housing Executive: Interview C, 30 January 2017; Interview with a representative of Armagh Travellers Support Group, 25 January 2017; Information obtained from the Public Health Agency Regional Traveller Forum, received 21 April 2017.

²⁶⁵¹ Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016.

²⁶⁵² Interview with a Councillor from Belfast City Council, 10 March 2017.

²⁶⁵³ Ibid.

²⁶⁵⁴ Individual interview with a member of the Traveller communities in NI: Interview 20, 25 January 2017.

²⁶⁵⁵ Individual interview with a member of the Traveller communities in NI: Interview 12, 10 December 2016.

²⁶⁵⁶ Interview with representatives from the NI Housing Executive: Interview C, 30 January 2017.

Some Traveller families reported the intimidation caused them to reassess their housing situation and, in some instances, to leave their homes.²⁶⁵⁷ One Traveller reported that neighbours intimidated their large, young family out of their home. The only alternative accommodation available was a bed and breakfast accommodation that was far from their children's schools and had too few rooms for their family size.²⁶⁵⁸ The family had experienced death threats, verbal abuse, and damage to property, including paint bombs and broken windows.²⁶⁵⁹ Another Traveller reported moving back to a Travellers' site from standard social housing because they were "always getting name calling, always getting hassle".²⁶⁶⁰ Similarly, one Traveller living in social housing felt their family would be better going back to a Travellers' site where they "would feel more safe and more relaxed".²⁶⁶¹ One Traveller, who had been forced from their home due to intimidation, believed housing providers and the police could do more to address acts of intimidation.²⁶⁶²

Intimidation was preventing Travellers from moving into standard social housing allocated to them.²⁶⁶³ A representative from Armagh Travellers Support Group said that when Travellers were being allocated houses "the houses were graffitied with 'no gypsies allowed' and the insides of the houses were wrecked, destroyed to keep them out".²⁶⁶⁴

The Regional Traveller Forum reported that there is an issue of harassment and discrimination from the wider community "who do not want Travellers living in their area".²⁶⁶⁵ The Regional Traveller Forum said that "leads to parents being afraid to let their children outdoors. Therefore, families become prisoners in their own home, leading to fear and depression".²⁶⁶⁶

Representatives of Traveller support groups also reported experiencing hostility and negative attitudes from the settled community because of the focus of their work. A representative of Armagh Travellers Support Group reported at the:

residents groups meetings [we would attend], there would be all sorts of agencies around the table with the [settled] residents, but the level of hatred [towards us] really and truly, [is] very frightening... We were seen to be... Traveller lovers or whatever they were calling us.²⁶⁶⁷

Relations between Travellers and Settled Communities

According to a representative of the Belfast City Council, tensions can arise due to cultural friction or prejudice. They stated "sometimes... [Travellers] are put into socially deprived areas with very little consideration for how the local community might react. The perception of the local community to what is Travellers and Traveller ethnicity... creates the tension".²⁶⁶⁸ A representative of the NI Housing Executive found tensions could arise because there may be a perception that "Travellers are taking our house".²⁶⁶⁹

²⁶⁵⁷ Interview with a representative of Armagh Travellers Support Group, 25 January 2017; Individual interview with a member of the Traveller communities in NI: Interview 23, 13 February 2017; Individual interview with a member of the Traveller communities in NI: Interview 24, 9 March 2017; Individual interview with a member of the Traveller communities in NI: Interview 25, 9 March 2017; Interview with representatives from Radius Housing Association, 2 February 2017.

²⁶⁵⁸ Individual interview with a member of the Traveller communities in NI: Interview 24, 9 March 2017.

²⁶⁵⁹ Ibid.

²⁶⁶⁰ Individual interview with a member of the Traveller communities in NI: Interview 14, 14 December 2016.

²⁶⁶¹ Group interview with members of the Traveller communities in NI: Interview 6, 29 November 2016.

²⁶⁶² Individual interview with a member of the Traveller communities in NI: Interview 24, 9 March 2017.

²⁶⁶³ Interview with a representative of Armagh Travellers Support Group, 25 January 2017.

²⁶⁶⁴ Ibid.

²⁶⁶⁵ Information obtained from the Public Health Agency Regional Traveller Forum, received 21 April 2017.

²⁶⁶⁶ Ibid.

²⁶⁶⁷ Interview with a representative of Armagh Travellers Support Group, 25 January 2017.

²⁶⁶⁸ Interview with Council officials from Belfast City Council, 6 February 2017.

²⁶⁶⁹ Interview with representatives from the NI Housing Executive: Interview C, 30 January 2017.

Some of the Travellers and the representatives of the Police Service NI interviewed indicated that there was little integration between Travellers and the settled community in some areas.²⁶⁷⁰ One Traveller felt it was best for Travellers to live a distance away from the settled community. They believed “half a mile out is enough... for any [Travellers’] site... then you won’t be smashing heads”.²⁶⁷¹ Another Traveller said the “Travelling community like to keep their own community in themselves... I don’t want to be ignorant, [but] we don’t like outsiders”.²⁶⁷²

Some interviewees relayed positive experiences of good relations between the Traveller communities and settled community in NI.²⁶⁷³ For example, an interviewed Traveller reported, “I’m treated better with the locals than by travelling people through my life”.²⁶⁷⁴ Another Traveller found Travellers and the settled community having “gotten to know more about each other” has assisted good relations.²⁶⁷⁵ However, tensions between the Traveller communities and settled community impacts the provision of housing for Travellers in NI. In addition, compatibility issues within the Traveller communities can create difficulties in the provision of their housing and can result in resources not being fully utilised.

Public Authorities’ Response

There was some evidence from the public authorities on proactive work to promote and encourage dialogue between the Traveller communities and the settled community. However, this appears to be piecemeal.

NI Housing Executive

The NI Housing Executive uses mediation or the processes set out in their anti-social behaviour policies to address tensions between members of the Traveller communities and settled community in NI.²⁶⁷⁶ In some cases, external organisations provide the mediation as the NI Housing Executive does not employ trained mediators.²⁶⁷⁷ This is the case for all anti-social behaviour cases, not only those concerning Travellers.²⁶⁷⁸ The Armagh Travellers Support Group found that, although mediation was funded by other agencies, the NI Housing Executive is reluctant to get involved in mediating conflicts involving its property.²⁶⁷⁹

The NI Housing Executive maintains it speaks to residents in standard social housing in the neighbourhood adjacent to their Travellers’ sites before they are opened.²⁶⁸⁰ It also reports any cases of intimidation and criminal damage to the police.²⁶⁸¹ Travellers tend to not report instances themselves because of fear of repercussions.²⁶⁸²

²⁶⁷⁰ Individual interview with a member of the Traveller communities in NI: Interview 22, 10 December 2017; Interview with a representative of the Police Service NI: Interview A, 14 February 2017; Interview with a representative of the Police Service NI: Interview B, 23 February 2017; Interview with a representative of the Police Service NI: Interview E, 22 February 2017; Individual interview with a member of the Traveller communities in NI: Interview 26, 5 April 2017.

²⁶⁷¹ Group Interview with members of the Traveller communities in NI: Interview 6, 29 November 2016.

²⁶⁷² Individual interview with a member of the Traveller communities in NI: Interview 22, 10 December 2017.

²⁶⁷³ Individual interview with a member of the Traveller communities in NI: Interview 2, 11 November 2016; Group Interview with members of the Traveller communities in NI: Interview 5, 29 November 2016; Individual interview with a member of the Traveller communities in NI: Interview 9, 30 November 2016; Interview with two Councillors from Derry City and Strabane District Council, 29 November 2016.

²⁶⁷⁴ Individual interview with a member of the Traveller communities in NI: Interview 2, 11 November 2016.

²⁶⁷⁵ Individual interview with a member of the Traveller communities in NI: Interview 11, 10 December 2016.

²⁶⁷⁶ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017; Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017; Interview with representatives of Radius Housing Association, 2 February 2017.

²⁶⁷⁷ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017; Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017; Interview with Council officials from Derry City and Strabane Council, 15 February 2017.

²⁶⁷⁸ Letter from NI Housing Executive to NIHR, 3 November 2017.

²⁶⁷⁹ Interview with a representative from Armagh Travellers Support Group, 25 January 2017.

²⁶⁸⁰ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017.

²⁶⁸¹ Interview with representatives of the NI Housing Executive: Interview C, 30 January 2017.

²⁶⁸² Ibid.

The NI Housing Executive has good relations funding, which supported an open day in 2016 in the North West for Travellers.²⁶⁸³ The open day enabled people from the local community to meet Travellers and raise cultural awareness.²⁶⁸⁴ The NI Housing Executive's 'Building Relationships in Communities' programme has an element centred on specific housing estates. This did not include Travellers' sites, but included Traveller families living in estates managed by the NI Housing Executive and community groups/residents groups providing services to those families.²⁶⁸⁵ It is unclear from the evidence whether this involved dialogue between the relevant Traveller communities and settled community. The 'Good Relations Policy', has a race relations aspect and is under review. Its 'Travellers' Accommodation Policy' is also under review. A representative of the NI Housing Executive suggested "in many ways we're waiting to see [the NIHRC's] report [on Travellers' accommodation] to help us finalise this review".²⁶⁸⁶

Housing Associations

The interviewed housing associations use mediation, or the processes set out in their anti-social behaviour policies, to address tensions between members of the Traveller communities and settled community in NI.²⁶⁸⁷ Clanmil Housing Association highlighted that for any issues with Travellers' accommodation that affected their general needs scheme, they would meet with the affected families and the Traveller families to try and agree a way forward that is in everybody's best interests.²⁶⁸⁸

The interviewed housing associations do not have good relations plans. Radius Housing Association is reviewing its good relations plans for areas they are developing under the 'Together Building United Communities' strategy.²⁶⁸⁹ Clanmil Housing Association have good relations plans for areas designated under the 'Shared Futures' housing schemes, included in the 'Together Building a United Community Strategy'. In November 2017, Clanmil were working on plans for three more similar schemes.²⁶⁹⁰ Apex Housing Association does not have a specific organisational strategy or action plan for good relations. It complies with the relevant statutory requirements and engages proactively in good relations work through:

- its corporate and business plans, in particular the 'Tenant Participation and Community Investment Strategies';
- participation in Traveller-specific inter-agency groups, including the Travellers Awareness Group and its housing sub-group;
- being part of the 'Housing Associations Integration Project' which received £1 million from the EU Peace IV programme to deliver 20 regional projects between 2017 and 2020 aimed at meaningful, purposeful and sustained contact between persons from different communities; and
- the scheme at Ballynafoy, Belfast as part of the 'Good Relations Plan for the Apex Together Building a United Community Strategy'. This was the first 'Shared Futures' scheme completed in NI.²⁶⁹¹

²⁶⁸³ Ibid.

²⁶⁸⁴ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017

²⁶⁸⁵ Letter from NI Housing Executive to NIHRC, 20 March 2017.

²⁶⁸⁶ Interview with representatives of the NI Housing Executive: Interview A, 25 January 2017.

²⁶⁸⁷ Interview with representatives of Radius Housing Association, 2 February 2017; Interview with representatives from Clanmil Housing Association, 8 March 2017; Interview with representatives from Apex Housing Association, 7 February 2017.

²⁶⁸⁸ Interview with representatives from Clanmil Housing Association, 8 March 2017

²⁶⁸⁹ Email from Radius Housing Association to NIHRC, 1 August 2017.

²⁶⁹⁰ Email from Clanmil Housing Association to NIHRC, 2 August 2017.

²⁶⁹¹ Email from Apex Housing Association to NIHRC, 1 August 2017.

Local Councils

Local Councils use mediation to minimise any local concerns between Travellers and the settled community in NI.²⁶⁹² Armagh City, Banbridge and Craigavon Borough Council also make available support for Traveller-to-Traveller differences of opinion.²⁶⁹³ Some civil society organisations believe local Councils can do more to promote good relations.²⁶⁹⁴ Craigavon Travellers Support Committee said local Councils engage on environmental health, but “there is very little linkage to community development or good relations”.²⁶⁹⁵ Armagh City, Banbridge and Craigavon Borough Council do not believe this is the case. It stated staff from within all sections of its Council’s services (including good relations and community development) regularly attend all meetings when requested.²⁶⁹⁶ Armagh City, Banbridge and Craigavon Borough Council also believes its community development and good relations staff have “an excellent working relationship” with the Traveller support groups in its area.²⁶⁹⁷ Yet, Armagh Travellers Support Group found engaging with the good relations departments of the relevant legacy Councils and Armagh City, Banbridge and Craigavon Borough Council challenging. Its experience was that this department was unresponsive when approached for dialogue or assistance.²⁶⁹⁸ Armagh Travellers Support Group did acknowledge that they were working more with the Council now that it “spread into Armagh, Banbridge and Craigavon”.²⁶⁹⁹

The legacy Craigavon Borough Council established an inter-agency group in 2007. Its terms of reference included identifying “ways to improve community relations and dialogue between and with Travellers and the settled community in Craigavon”.²⁷⁰⁰ Subsequently, the ‘Traveller and Settled Community Dialogue’ project was established. It aimed to facilitate discussion, increase awareness and deliver correct information to the settled community. The project lasted from November 2008 until January 2009.²⁷⁰¹ Armagh City, Banbridge and Craigavon Borough Council reported that since this project, additional work had been undertaken to strengthen the work and relationships of the Craigavon Interagency Forum on Travellers.²⁷⁰² It is maintained that Armagh City, Banbridge and Craigavon Borough Council’s representation on the Local Government Partnership on Travellers Issues has never engaged with Craigavon Travellers Support Committee or a Traveller based in the Council area.²⁷⁰³ However, the Armagh City, Banbridge and Craigavon Borough Council’s raised its ‘Good Relations Programme’ to show this is not the case. The programme, including its strategy and action plan:

recognises the importance of providing support to minority ethnic communities throughout the Borough. The programme’s action plan provides varied opportunities to support the Traveller communities and relevant associated support staff in achieving their aims and objectives through a partnership approach to ensure complementarity and success.²⁷⁰⁴

²⁶⁹² Interview with Council officials from Belfast City Council, 6 February 2017; Letter from Armagh City, Banbridge and Craigavon Borough Council to the NIHRC, March 2017.

²⁶⁹³ Letter from Armagh City, Banbridge and Craigavon Borough Council to the NIHRC, 2 November 2017.

²⁶⁹⁴ Roundtable discussion with civil society organisations, 20 September 2016.

²⁶⁹⁵ Ibid.

²⁶⁹⁶ Letter from Armagh City, Banbridge and Craigavon Borough Council, 7 November 2017.

²⁶⁹⁷ Ibid.

²⁶⁹⁸ Interview with a representative from Armagh Travellers Support Group, 25 January 2017.

²⁶⁹⁹ Ibid.

²⁷⁰⁰ Craigavon Inter-Agency Forum on Travellers, ‘Terms of Reference’, Date Unknown.

²⁷⁰¹ ‘Minutes from Craigavon Inter-agency Forum on Travellers’, 20 May 2008; ‘Minutes from Craigavon Inter-agency Forum on Travellers’, 11 August 2008; ‘Minutes from Craigavon Inter-agency Forum on Travellers’, 11 November 2008; ‘Minutes from Craigavon Inter-agency Forum on Travellers’, 13 January 2009.

²⁷⁰² Response received from Environmental Health Representatives at Armagh City, Banbridge and Craigavon Borough Council to Additional Questions from the NIHRC, 20 March 2017.

²⁷⁰³ Roundtable discussion with civil society organisations, 20 September 2016.

²⁷⁰⁴ Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHRC, 2 November 2017.

Furthermore, the ethos of good relations is incorporated into all of the Armagh City, Banbridge and Craigavon Borough Council's policies.²⁷⁰⁵

Mid Ulster District Council is aware that relationships within the Traveller communities are strained and there have been some issues between Travellers and the settled community within its Council area.²⁷⁰⁶ The Council was engaging with South Tyrone Empowerment Programme to undertake a piece of work on "how we can work to support and promote greater good relations".²⁷⁰⁷ The Council provides funding to South Tyrone Empowerment Programme and An Tearmann to assist both organisations to build capacity and continue to engage with the wider community and deliver small projects. An Tearmann's 'Good Relations Project' supports local Travellers to participate in key strategies and activities around leadership, equality, anti-racism, integration and good relations. The Mid Ulster District Council believes this has a significant impact in encouraging good relations and reducing tensions between Travellers and the settled community.²⁷⁰⁸ The Council's 'Good Relations Action Plan' includes a commitment to work with South Tyrone Empowerment Programme and An Tearmann to develop programmes and activities to promote and encourage respect for diversity, culture and integration for migrants and black and minority ethnic communities, including Travellers.²⁷⁰⁹ The Council's good relations department also works with the settled community, community forums and residents' forums to ensure good relations are maintained.

Fermanagh and Omagh District Council commissioned a review in 2015 of the Council's interaction with the black and minority ethnic communities and Travellers in NI. The aim of the review was to identify actions that need to be delivered to make its Council area an "even more integrated place to live, work and play".²⁷¹⁰ Although not specific to Travellers, one priority action was the promotion of an intergenerational and intercultural programme in local community settings. Another was building respect and tolerance and addressing harassment through a joint good relations programme for the period 2015-2018.²⁷¹¹ The action plan contains specific actions for Travellers in relation to capacity building. It aims to identify a community/voluntary mechanism for supporting the Traveller communities. In support of racial equality, the Fermanagh and Omagh District Council aims to bring together all Traveller support groups based in Belfast, Derry and elsewhere to see what services can be offered to the Traveller communities within this Council area.²⁷¹² The Council were implementing this action plan.²⁷¹³

Belfast City Council believes its appointment of a dedicated Traveller liaison officer demonstrates its commitment to addressing tensions between the Travellers and the settled community in NI.²⁷¹⁴ The Council previously had a 'Tension Monitoring Group'. This group folded due to loss of funding.²⁷¹⁵ The members of the group continue to meet informally, although not on a regular basis. Belfast City Council is developing a similar inter-agency group comprised of statutory agencies and civil society organisations to formulate an action plan that would implement recommendations made in the Council's Traveller Needs Assessment.²⁷¹⁶ The needs assessment recommended a commitment by parties to support Travellers' rights in a public campaign

²⁷⁰⁵ Letter from Armagh City, Banbridge and Craigavon Borough Council to NIHRC, 2 November 2017.

²⁷⁰⁶ Letter from Mid Ulster District Council to NIHRC, 27 April 2017.

²⁷⁰⁷ Ibid.

²⁷⁰⁸ Ibid.

²⁷⁰⁹ Mid Ulster District Council, 'District Council Good Relations Action Plan 2016-17' (Mid Ulster District Council, 2016), at 8.

²⁷¹⁰ Blu Zebra, 'Review of Council Interaction with the Black and Minority Ethnic and Travelling Communities in Fermanagh and Omagh Council Districts' (Fermanagh and Omagh District Council, 2015), at 121.

²⁷¹¹ Ibid, at 122.

²⁷¹² Ibid, at 131.

²⁷¹³ Fermanagh and Omagh District Council, 'Public Authority Statutory Equality and Good Relations Duties: Annual Progress Report 2015-16' (Fermanagh and Omagh District Council, 2015), at 12.

²⁷¹⁴ Interview with Council officials from Belfast City Council, 6 February 2017.

²⁷¹⁵ Ibid.

²⁷¹⁶ Belfast City Council, 'Traveller Needs Assessment: Report' (BCC, 2015).

or to sign up to a set of principles that could be coordinated by Belfast City Council's good relations or race relations team.²⁷¹⁷ A number of workshops and meetings have taken place to date.²⁷¹⁸ Belfast City Council's 'Good Relations Strategy' sets out a number of programmes to promote good relations in the area. There is no reference to programmes aimed at addressing relations between Travellers and the settled community in NI.²⁷¹⁹

The legacy Derry City Council's 'Good Relations Strategy 2014-2017' highlighted high levels of prejudice against Irish Travellers. The action plan includes a number of outcomes including a reduction in hate crime, prejudice and racist attitudes, and an increased recognition of a diverse society.²⁷²⁰ There is no explicit reference to addressing relations between the Travellers and the settled community in this Council area.²⁷²¹ The strategy makes reference to a wider dialogue, awareness and respect around cultural expression, but this is in the context of dealing with the legacy of the conflict in NI.²⁷²² The strategy did refer to previous initiatives to challenge prejudice against Irish Travellers.²⁷²³ Derry City and Strabane District Council reported that a Traveller needs analysis was being undertaken in relation to a site in the area and the outcomes would be addressed in its 'Action Plan 2017/2018'.²⁷²⁴

Police Service NI

The Police Service NI use mediation to address tensions between Travellers and the settled community in NI.²⁷²⁵ This could be an external mediator.²⁷²⁶

Concerned by the lack of integration in one area, the Police Service NI made an application and secured funding from the 'Children and Young People's Strategic Partnership' for a project to encourage interaction between young Travellers from a local boxing club and young settled males from a local Gaelic club. The project was on hold because the communities were not happy with the police's involvement.²⁷²⁷ Another representative of the Police Service NI reported limited interaction from local Travellers in an annual festival held in the area.²⁷²⁸

Equality Commission NI

The Equality Commission NI are aware of tensions between some Travellers and some members of the settled community in NI. For example, of those surveyed by the Equality Commission NI in 2016, 33 percent would mind having a Traveller as a neighbour.²⁷²⁹ The Equality Commission NI advise the public authorities, particularly local Councils, that they have a role to "promote good race relations... under the Race Relations Order".²⁷³⁰ The Equality Commission NI recommends that the Executive Office and government departments implement specific and long-term measures to eliminate racism and racial discrimination, tackle prejudicial attitudes, and promote values of acceptance and respect for difference.²⁷³¹

²⁷¹⁷ Ibid, at 5.

²⁷¹⁸ Interview with Council officials from Belfast City Council, 6 February 2017.

²⁷¹⁹ Belfast City Council, 'Building Good Relations' (BCC, 2017).

²⁷²⁰ Derry City Council, 'Good Relations Strategy 2014/15-2016/17' (DCC, 2014).

²⁷²¹ Ibid.

²⁷²² Ibid.

²⁷²³ Ibid.

²⁷²⁴ Interview with Council officials from Derry City and Strabane City Council, 15 February 2017; Email from Derry City and Strabane City Council to NIHR, 9 November 2017.

²⁷²⁵ Interview with a representative of the Police Service NI: Interview B, 23 February 2017.

²⁷²⁶ Interview with a representative of the Police Service NI: Interview G, 8 March 2017.

²⁷²⁷ Interview with a representative of the Police Service NI: Interview E, 22 February 2017.

²⁷²⁸ Interview with a representative of the Police Service NI: Interview B, 23 February 2017.

²⁷²⁹ Equality Commission NI, 'Equality Awareness Survey 2016' (ECNI, 2017).

²⁷³⁰ Interview with representatives of the Equality Commission NI, 8 February 2017.

²⁷³¹ Ibid. See also Equality Commission NI, 'Racial Equality Policy: Priorities and Recommendations' (ECNI, 2014), at 11.

Findings

The NIHRC's findings on the promotion of tolerance and mutual understanding in the context of Travellers' accommodation in NI are:

i	The requirement in the NI Act 1998, Section 75(2), for public authorities "to have regard to the desirability to promote good relations" does not correspond to the requirement set out in CERD, whereas the duty on local Councils "to have due regard" to the need promote good relations corresponds with human rights standards.
ii	The 'Together Building a United Community' strategy does not have good relations indicators to monitor relationships between Travellers and the settled community in NI.
iii	The Racial Equality Strategy has a number of indicators relating to combating prejudice, racism and hate crime and respecting cultural diversity in relation to minority ethnic groups. Only one indicator specifically relates to Travellers.
iv	Relations between Travellers and the settled community are poor in some areas in NI. Travellers experience the most negative attitudes of any ethnic group. Poor relations and intimidation has resulted in some Travellers leaving their homes.
v	There is no structured programme of work to promote tolerance and understanding between Travellers and the settled community in NI. There are varying practices and approaches throughout local Councils, but these are limited.
vi	Public authorities tend to focus resources on responding to incidents as they occur, rather than adopting proactive preventative approaches.

14 Effective Remedy

Where the right to adequate housing (including Travellers' accommodation) is not respected, protected or fulfilled, the right to an effective remedy is engaged. This duty engages:

Treaty	Article
ICCPR	14
CRPD	13
ECHR	6
	13

The following soft law standards clarify what this requires:

UN ICESCR Committee
General Comment No 4: The Right to Adequate Housing ²⁷³²
UN Human Rights Committee
General Comment No 32: Right to Equality before Courts and Tribunals to a Fair Trial ²⁷³³
CoE Committee of Ministers
Recommendation on improving the housing conditions of Roma and Travellers in Europe ²⁷³⁴
CoE Commissioner for Human Rights, Alvaro Gil-Robles
Final Report on the Human Rights Situation of the Roma, Sinti and Travellers in Europe ²⁷³⁵

Human Rights Law and Standards

United Nations

The ICCPR, Article 14, provides for the right to a fair and public hearing. This includes criminal and civil matters.²⁷³⁶ It requires a fair and public hearing is provided within a reasonable time by an independent and impartial tribunal established by law.²⁷³⁷ The ICCPR, Article 14,²⁷³⁸ and CRPD, Article 13, require consideration is given to the special needs of the parties.

²⁷³² E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991.

²⁷³³ CCPR/C/GC/32, 'Human Rights Committee, General Comment No 32: Right to Equality before Courts and Tribunals and to a Fair Trial', 9-27 July 2007.

²⁷³⁴ CoE, 'Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe', 25 February 2005.

²⁷³⁵ CommDH(2006)1, 'Final Report by Mr Alvaro Gil-Robles, CoE Commissioner for Human Rights, on the Human Rights Situation of the Roma, Sinti and Travellers in Europe', 15 February 2006.

²⁷³⁶ CCPR/C/GC/32, 'Human Rights Committee, General Comment No 32: Right to Equality before Courts and Tribunals and to a Fair Trial', 9-27 July 2007.

²⁷³⁷ Article 14, International Covenant on Civil and Political Rights 1966.

²⁷³⁸ CCPR/C/GC/32, 'Human Rights Committee, General Comment No 32: Right to Equality before Courts and Tribunals and to a Fair Trial', 9-27 July 2007.

The ICESCR Committee, General Comment No 4, recommends domestic legal remedies are available regarding the right to adequate housing.²⁷³⁹ This includes the domestic legal system offering, inter alia:

- legal appeals aimed at preventing planned evictions or demolitions through the issuance of court-ordered injunctions;
- legal procedures seeking compensation following an illegal eviction;
- complaints against illegal actions carried out or supported by landlords (whether public or private) in relation to rent levels, dwelling maintenance, and racial or other forms of discrimination;
- allegations of any form of discrimination in the allocation and availability of access to housing;
- complaints against landlords concerning unhealthy or inadequate housing conditions; and
- class suit actions in situations involving significantly increased levels of homelessness.²⁷⁴⁰

Council of Europe

The ECHR, Article 13, states for a remedy to be effective it must be accessible, capable of providing redress in respect of the complaint and offer a reasonable prospect of success.²⁷⁴¹ The ECHR, Article 6, provides for a right to a fair trial with similar requirements to the ICCPR, Article 14,²⁷⁴² and CRPD, Article 13.²⁷⁴³

The former CoE Commissioner for Human Rights, Alvaro Gil-Robles recommends effective remedies are recognised within domestic law and available to aggrieved individuals or groups. This includes “individual justiciability”.²⁷⁴⁴ Accountability is a key measure, which requires “national governments... [to] engage in oversight of the actions of regional or local authorities, or other agencies”.²⁷⁴⁵ Tenants should also have the “option of appealing to an independent legal body” and ensuring that the cost of the legal process does not “become an obstacle to the application of law”.²⁷⁴⁶ The former CoE Commissioner for Human Rights viewed court decisions as a form of remedy for the victim²⁷⁴⁷ and as “a preventative function, by way of indicating to the public that certain behaviour is illegal”.²⁷⁴⁸

Complaints Procedures

Domestic Laws and Policies

The Human Rights Act 1998 incorporates the ECHR, Article 6, into domestic law.²⁷⁴⁹ The ECHR, Article 13, is not listed as a Convention right incorporated into domestic law under the Human Rights Act 1998.²⁷⁵⁰ However, the Human Rights Act 1998, Section 8, identifies the right to an effective remedy as a key component for handling complaints. The NI Public Services Ombudsman is a statutory body legislated for under the Public Services (Ombudsman) Act (NI) 2016.

²⁷³⁹ E/1992/23, ‘ICESCR Committee General Comment No 4: The Right to Adequate Housing’, 13 December 1991, at para 17.

²⁷⁴⁰ *Ibid.*

²⁷⁴¹ *Bitiyeva and Others v Russia* (2009) ECHR 672, at para 121; *Akhmadova and Akhmadov v Russia* (2008) ECHR 869, at para 103.

²⁷⁴² Article 6, European Convention on Human Rights 1950; *Feldbrugge v Netherlands* (1986) 8 EHRR 245; *Tisayo v United Kingdom*, Application No 60860/00, Judgment of 14 November 2006, at paras 46-49.

²⁷⁴³ Article 6(3)(e), European Convention on Human Rights 1950.

²⁷⁴⁴ CoE, ‘Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe’, 25 February 2005, at 3.

²⁷⁴⁵ *Ibid.*

²⁷⁴⁶ *Ibid.*, at section 2.3.

²⁷⁴⁷ CommDH(2006)1, ‘Final Report by Mr Alvaro Gil-Robles, CoE Commissioner for Human Rights, on the Human Rights Situation of the Roma, Sinti and Travellers in Europe’, 15 February 2006, at para 16.

²⁷⁴⁸ *Ibid.*

²⁷⁴⁹ Schedule 1, Human Rights Act 1998.

²⁷⁵⁰ Section 1(1), Human Rights Act 1998.

Domestic Practice

Internal Mechanisms

Departments

The Department for Communities enables individuals who are unhappy with the Department's decision or service to make a formal complaint; this includes complaints related to Travellers' accommodation. The complaints procedure follows two stages. The individual must submit a written complaint to the office that made the decision or provided the service. This is passed to the relevant senior manager. Receipt of the complaint should be acknowledged in two working days and the complaint answered within ten working days of receipt. If the complainant is not satisfied with the response from Stage 1, a written request for the complaint to be re-examined can be submitted. Receipt for the request for re-examination should be given within two working days and addressed by the responsible director within ten working days. If there is a delay throughout this process, the complainant should be informed in writing of the reason and the expected date of reply. There is no time limit for lodging complaints with the Department for Communities.²⁷⁵¹

The Department for Infrastructure has a complaints procedure in place for complaints related to regional planning applications. This should be lodged with the Deputy Director of Strategic Planning within six months of when an individual first becomes aware of the matters they are complaining about. This timescale can be extended in exceptional circumstances. The Department enables informal verbal complaints to be made by telephone. Such a complaint should be responded to within three working days.²⁷⁵² Making a formal complaint follows two stages. A written complaint should be submitted to the Deputy Director of the Strategic Planning Division. If the complainant is unhappy with the Deputy Director's response, stage two can be utilised. A complainant should submit a written complaint to the Director of the Strategic Planning Division. For each stage, the complainant should receive a receipt of the complaint within three working days and a full reply within 15 working days. The individual should be informed of the reason for any delay and the estimated timeframe for a response.

Additionally, Travellers can report their experience of inadequate accommodation to their elected local Councillor or member of the NI Assembly, who in turn can raise the issue with departmental officials or the relevant Minister.²⁷⁵³

If a complainant remains dissatisfied with a Department's response, they can lodge a request for an investigation with the NI Public Services Ombudsman.²⁷⁵⁴ Information on the Department's complaints procedure and the option of escalating the issue to the NI Public Services Ombudsman is set out on the Departments' websites.²⁷⁵⁵

In September 2016, the Department for Communities had not received any complaints regarding Travellers' accommodation, directly or via elected representatives.²⁷⁵⁶ The Department for Infrastructure had not received any complaints regarding Travellers' accommodation and planning. The Department for Infrastructure acknowledged its powers to deal with complaints, but its "fundamental approach" is to refer complaints to the NI Public Services Ombudsman.²⁷⁵⁷

²⁷⁵¹ Response received from Department for Communities to Additional Questions from the NIHRC, 23 February 2017.

²⁷⁵² Department for Infrastructure, 'Making a Complaints about DFI Planning: A Guide to our Complaints Procedure' (DFI, 2015).

²⁷⁵³ Evidence from Department for Communities, Response to Question 11, 27 September 2016.

²⁷⁵⁴ Department for Infrastructure, 'Making a Complaints about DFI Planning: A Guide to our Complaints Procedure' (DFI, 2015).

²⁷⁵⁵ Available at: <https://www.communities-ni.gov.uk/dfc-complaints-procedure>; Available at <https://www.infrastructure-ni.gov.uk/dfi-complaints-procedure>

²⁷⁵⁶ Evidence from Department for Communities, Response to Question 11, 27 September 2016.

²⁷⁵⁷ Interview with representatives of Department for Infrastructure, 7 February 2017.

NI Housing Executive

The NI Housing Executive accepts complaints regarding its decisions, maintenance work or services. Complaints can be in writing, via the telephone or directly to a member of staff during property visits.²⁷⁵⁸ Civil society organisations maintain the NI Housing Executive's Travellers' accommodation, particularly Travellers' sites, is not regularly visited.²⁷⁵⁹

The NI Housing Executive's complaints procedure follows two stages. The first stage should be dealt with by the relevant manager within 15 working days. The complainant should be informed of any delay in writing. If the complainant remains dissatisfied, they can request that the Chief Executive conduct a thorough independent investigation. The Chief Executive should respond within 15 working days, or inform the complainant of a delay in writing. The NI Housing Executive commits itself to confidentially dealing with all complaints. When a complaint is lodged the NI Housing Executive establishes an action plan for dealing with the complaint. The NI Housing Executive offers alternative venues for any meetings concerning a complaint to ensure the location "best suits" the complainant.²⁷⁶⁰ If a complainant is dissatisfied with the NI Housing Executive's response, they can lodge a request for an investigation with the NI Public Services Ombudsman.

The NI Housing Executive issues a leaflet on how to make a complaint. This sets out the NI Housing Executive's complaints process, what to expect from the process, and the option of reporting the complaint to the NI Public Services Ombudsman. The leaflet is available in a variety of accessible formats, on request.²⁷⁶¹ The NI Housing Executive also provides similar information on its website.²⁷⁶²

The NI Housing Executive rarely receives any complaints from the Traveller communities in NI.²⁷⁶³ Since 2015, the NI Housing Executive dealt with one complaint, which reached the relevant regional manager.²⁷⁶⁴ The local officers deal with an unquantified number of informal complaints.²⁷⁶⁵ Craigavon Travellers Support Committee finds such informal complaints "are not dealt with".²⁷⁶⁶

Housing Associations

Apex, Clanmil and Radius housing associations all have robust and accessible complaints handling processes. These are multi-staged with set timeframes for a response.²⁷⁶⁷ If there are delays, a reason for the delay and an expected timeframe for a response must be provided to the complainant.²⁷⁶⁸ Complaints to Apex and Clanmil must be launched within six months of the source of the complaint.²⁷⁶⁹ Radius has no time limit for making a complaint.²⁷⁷⁰ Information on the complaints mechanism is available in the tenants' handbooks and

²⁷⁵⁸ Interview with representatives of the NI Housing Executive: Interview B, 26 January 2017.

²⁷⁵⁹ Roundtable discussion with civil society organisations, 20 September 2016.

²⁷⁶⁰ Interview with representatives of the NI Housing Executive: Interview D, 30 January 2017.

²⁷⁶¹ NI Housing Executive, 'HRC-Q10-1: How to Make a Complaint' (NIHE, 2014).

²⁷⁶² Available at: <http://www.nihe.gov.uk/index/rights/complaints.htm>

²⁷⁶³ Letter from NI Housing Executive to NIHRC, 20 March 2017.

²⁷⁶⁴ Ibid.

²⁷⁶⁵ Ibid.

²⁷⁶⁶ Roundtable discussion with civil society organisations, 20 September 2016.

²⁷⁶⁷ Available at: <http://www.apex.org.uk/how-can-we-help-you/make-a-formal-complaint/>; Apex Housing Association, 'Tenants Manual' (Apex, 2013), at Section 13; Clanmil Housing Association, 'Tenant Handbook' (Clamil, Date Unknown), at 8-9; Letter from Fold (now Radius) Housing Association to NIHRC, 21 September 2016; Fold Housing Association, 'HRP00004: Complaints Policy', 5 December 2012; Available at: <https://www.foldgroup.co.uk/pages/101/complaints-compliments>.

²⁷⁶⁸ Available at: <http://www.apex.org.uk/how-can-we-help-you/make-a-formal-complaint/>; Apex Housing Association, 'Tenants Manual' (Apex, 2013), at Section 13; Clanmil Housing Association, 'Tenant Handbook' (Clamil, Date Unknown), at 8-9; Letter from Fold (now Radius) Housing Association to NIHRC, 21 September 2016; Fold Housing Association, 'HRP00004: Complaints Policy', 5 December 2012; Available at: <https://www.foldgroup.co.uk/pages/101/complaints-compliments>.

²⁷⁶⁹ Apex Housing Association, 'Complaints and Compliments Policy and Procedure', May 2016, at para 6.3; Response received from Clanmil Housing Association to Additional Questions from the NIHRC, 29 March 2017.

²⁷⁷⁰ Interview with representatives of Radius Housing Association, 2 February 2017.

on the websites of the interviewed housing associations.²⁷⁷¹ If a complainant is dissatisfied with the housing association's response, they can lodge a request for an investigation with the NI Public Services Ombudsman.

No Travellers have lodged formal complaints with the three interviewed housing associations regarding their grouped housing schemes or standard social housing.²⁷⁷² A representative from Apex credited the lack of complaints to the success of its staff engaging with Travellers at a local level and dealing with issues before they can develop into complaints.²⁷⁷³ However, Apex warned the lack of complaints could indicate public authorities are not engaging "in the right way".²⁷⁷⁴

Local Councils

The local Councils' internal complaints procedures deal with complaints related to local or major planning applications.²⁷⁷⁵ This follows three stages. The first stage involves lodging a written complaint to the service manager. If unsatisfied, within ten working days of the completion of stage one, a complaint can be lodged with the director of the relevant department. If unsatisfied, within ten working days of the completion of stage two, a complaint can be lodged with the Chief Executive of the Council. At each stage, receipt of the complaint should be acknowledged within three working days and resolved within ten working days. If the complainant remains dissatisfied, a complaint can be lodged with the NI Public Services Ombudsman.²⁷⁷⁶

A representative from Belfast City Council explained due to resources the Council "only responds [to issues regarding Travellers' accommodation] if there is a complaint".²⁷⁷⁷ Information on how to lodge a complaint with a local Council is available on each individual local Council's website, with the exception of Newry, Mourne and Down District Council. Some Councils provide more information on the different stages of the process than others do.²⁷⁷⁸

Private Landlord or Letting Agency

A complainant must first lodge an official complaint with the relevant landlord or letting agency. This should be done within 12 months of the source of the complaint.²⁷⁷⁹ Typically, the complainant should receive a response within eight weeks.²⁷⁸⁰ If a complainant is unhappy with the response, they can seek legal advice from a range of private legal firms, statutory bodies or civil society organisations.

²⁷⁷¹ Available at: <http://www.apex.org.uk/how-can-we-help-you/make-a-formal-complaint/>; Apex Housing Association, 'Tenants Manual' (Apex, 2013), at Section 13; Clanmil Housing Association, 'Tenant Handbook' (Clamil, Date Unknown), at 8-9; Letter from Fold (now Radius) Housing Association to NIHR, 21 September 2016; Fold Housing Association, 'HRP00004: Complaints Policy', 5 December 2012; Available at: <https://www.foldgroup.co.uk/pages/101/complaints-compliments>.

²⁷⁷² Interview with representatives of Apex Housing Association, 7 February 2017; Interview with representatives of Clanmil Housing Association, 8 March 2017; Interview with representatives of Radius Housing Association, 2 February 2017.

²⁷⁷³ Interview with representatives of Apex Housing Association, 7 February 2017.

²⁷⁷⁴ Ibid.

²⁷⁷⁵ Available at: <https://www.nidirect.gov.uk/articles/making-a-planning-related-complaint>

²⁷⁷⁶ See <http://www.antrimandnewtownabbey.gov.uk/Residents/Customer-Service>.

²⁷⁷⁷ Interview with Council Officials at Belfast City Council, 6 February 2017.

²⁷⁷⁸ Available at: <https://www.armaghbanbridgecraigavon.gov.uk/contact-us/>; Available at: <http://www.antrimandnewtownabbey.gov.uk/Residents/Customer-Service>; Available at: <http://www.ardsandnorthdown.gov.uk/about-the-council/complaints-to-the-council/>; Available at: <http://www.belfastcity.gov.uk/contact/feedback.aspx>; Available at: <https://www.causewaycoastandglens.gov.uk/council/publications-policies/complaints-policy-and-procedures>; Available at: <http://www.derrystrobane.com/Council/Corporate-Documents-and-Publications/Guide-to-Making-Comments,-Compliments-and-Complain>; Available at: <http://www.fermanaghmagh.com/your-council/complaints/>; Available at: <https://www.lisburncastlereagh.gov.uk/information/comments-and-complaints>; Available at: <https://www.midandeantrim.gov.uk/council/about-us/complaints-comments-and-compliments>; Available at: <http://www.midulstercouncil.org/Council/Customer-Service-Complaints-Policy>; Available at: http://www.newrymournedown.org/contact_us

²⁷⁷⁹ Available at: <https://www.housingadviceni.org/complaining-about-your-estate-or-letting-agent>

²⁷⁸⁰ Ibid.

Appeals

Planning Appeals Commission

Appeals against the refusal of planning permission can be lodged with the Planning Appeals Commission in writing, by or on behalf of the person who made the application, within four months from the date of notification of the planning authority's decision. If a pending decision (non-determination appeal) is not given within the statutory period, the appeal must be lodged within four months from the date on which a decision should have been given, unless an extended date was agreed in writing between the applicant and the planning authority.²⁷⁸¹ Enforcement notice appeals must be lodged before the date on which the notice is to take effect. Appeals are determined by a hearing, written representations with an accompanied site visit by the Planning Appeals Commissioner, or by written representations with a Commissioner visiting the site unaccompanied. If requested by the authority or appellant, a hearing must take place.²⁷⁸² Planning appeal decisions are subject to judicial review.

If a party involved in an appeal is dissatisfied with the service provided by the Planning Appeals Commission, an internal complaint can be lodged in writing to the Chief Administrative Officer within six months of the decision. Receipt of the complaint is to be acknowledged within seven working days and a written reply is to be issued within four weeks of the receipt. The complainant should be informed of any delays and when to expect a full response. The Chief Commissioner, the Deputy Chief Commissioner or a senior administrative staff member not directly involved in the matter at issue, investigate the complaint. If the complainant remains dissatisfied, they can request a meeting with the investigator to discuss the response. A panel of two members appointed by the Royal Town Planning Institute and the Bar Council audits complaints. If legal proceedings and a complaint on the same issue are lodged at the same time, the matter is addressed through the former.²⁷⁸³ Information regarding the Planning Appeals Commission's complaints procedure is available on its website.²⁷⁸⁴

The Planning Appeals Commission has considered two appeals regarding Travellers' accommodation.²⁷⁸⁵ The first, concerning a single Traveller family in the Armagh City, Banbridge and Craigavon Council area, was dismissed.²⁷⁸⁶ The appeal decision was subject to judicial review.²⁷⁸⁷ The High Court found the Planning Appeals Commission considered the issue of availability of alternative accommodation, but this focused on non-Travellers' accommodation in or around a settlement. It did not adequately consider the availability of alternative accommodation suited to the particular needs of the appellant.²⁷⁸⁸ The matter was resubmitted to the Planning Appeals Commission. The re-appeal was granted with conditions.²⁷⁸⁹

The second appeal concerned a temporary NI Housing Executive facility for a particular Traveller family on land in the Antrim and Newtownabbey Borough Council area. The application site was intended as a temporary measure for two years to allow a permanent Travellers' site to be developed at a determined location. As the appeal was being processed, the family assigned to the site had moved to standard social housing.²⁷⁹⁰ Consequently, there was no longer a demonstrable need and the appeal was dismissed.²⁷⁹¹

²⁷⁸¹ Section 58(3), Planning Act (NI) 2011.

²⁷⁸² Available at: <https://www.pacni.gov.uk/make-appeal>

²⁷⁸³ Available at: <https://www.pacni.gov.uk/complaints-system>

²⁷⁸⁴ Available at: <https://www.pacni.gov.uk/make-appeal>

²⁷⁸⁵ Letter from the Planning Appeals Commission to the NIHRC, 13 September 2016.

²⁷⁸⁶ Planning Appeals Commission, '2006/A1986: Retention of Serviced Site for Single Traveller Family', 7 March 2011.

²⁷⁸⁷ *Boswell's Application* [2009] NIQB 95.

²⁷⁸⁸ *Ibid.*

²⁷⁸⁹ Planning Appeals Commission, '2006/A1986: Retention of Serviced Site for Single Traveller Family', 7 March 2011.

²⁷⁹⁰ Letter from NI Housing Executive to NIHRC, 20 March 2017.

²⁷⁹¹ Planning Appeals Commission, '2015/A0094: Appeal Decision', 4 October 2016, at para 9.

NI Public Services Ombudsman

The NI Public Services Ombudsman offers an independent review of complaints where a complainant believes they have sustained an injustice or hardship, due to the action or inaction of a public service provider.²⁷⁹² This includes services regarding Travellers' accommodation. Lodging a complaint with the Ombudsman is a last resort. Typically, the NI Public Services Ombudsman will only consider complaints after they are processed through the internal complaints procedures of the relevant public service provider.²⁷⁹³ A formal complaint can be submitted online, by phone, via email or in writing.²⁷⁹⁴ If the NI Public Services Ombudsman finds maladministration it makes recommendations for the purposes of providing a remedy and improving public services.²⁷⁹⁵

Information on the process is available on the NI Public Services Ombudsman's website.²⁷⁹⁶ The complaint should be lodged within six months of completion of the internal complaints process of the relevant public authority. However, a complaint can be investigated outside of this time limit, if there are special circumstances that would make it proper to do so.²⁷⁹⁷

Between its creation and October 2017, the NI Public Services Ombudsman had not received any enquiries or complaints regarding Travellers' accommodation.²⁷⁹⁸

Legal Action

A complainant can take a legal action to court regarding social housing and the private rented sector. The origin of the complaint will determine what type of legal action is available. Advice regarding this process is available through solicitors and a variety of public authorities (including the NIHRC, who provide human rights advice and signposting) and civil society organisations. Some of these services are free; others involve a fee. Legal aid may be available.

Evidence submitted to the Commission identified four legal actions regarding Travellers' accommodation – one judicial review and three discrimination cases. The judicial review of a Council's planning refusal regarding a Travellers' site was successful.²⁷⁹⁹ Two of the discrimination cases failed to due lack of engagement from the complainants and the third case was settled out of court. The Equality Commission NI supported all three cases.²⁸⁰⁰

Travellers

Members of the Traveller communities in NI and civil society organisations are not engaging with the available formal complaints mechanisms. A representative of the Department for Infrastructure speculates "there is maybe an issue of people perceiving that it is not worth the effort".²⁸⁰¹ A representative from the Equality Commission NI found the legal remedies exist, but "it is how you actually access" them.²⁸⁰² Certain groups are not comfortable engaging with the public authorities, or do not feel empowered to do so. There are also

²⁷⁹² Available at: <https://nipso.org.uk/nipso/about-us/who-we-are/>

²⁷⁹³ Ibid.

²⁷⁹⁴ Available at: <https://nipso.org.uk/nipso/making-a-complaint/how-do-i-make-a-complaint-to-nipso/>

²⁷⁹⁵ Ibid.

²⁷⁹⁶ Ibid.

²⁷⁹⁷ Response received from Department for Communities to Additional Questions from the NIHRC, 23 February 2017; Response received from Department for Infrastructure to Additional Questions from the NIHRC, 3 March 2017.

²⁷⁹⁸ Letter from NI Public Services Ombudsman to NIHRC, 16 October 2017.

²⁷⁹⁹ *Boswell's Application* [2009] NIQB 95.

²⁸⁰⁰ Letter from Equality Commission NI to NIHRC, 31 March 2017.

²⁸⁰¹ Interview with representatives of Department for Infrastructure, 7 February 2017.

²⁸⁰² Interview with representatives of the Equality Commission NI, 8 February 2017.

minority groups, “where there is acceptance that ‘this is our lot, because that is who we are’”.²⁸⁰³ A Traveller reported the lack of anonymity put them off lodging a formal complaint about their neighbour.²⁸⁰⁴ Another stated having gone into report the need for a repair three or four times to the NI Housing Executive’s local office, but after a lack of response “I couldn’t be bothered any more”.²⁸⁰⁵

A representative from the Equality Commission NI suggests Travellers could be encouraged to engage with complaint mechanisms by using “outreach through Traveller support groups”²⁸⁰⁶ and the Equality Commission NI²⁸⁰⁷ and also through public authorities tailoring their own outreach and complaints mechanisms to Travellers’ needs. This includes assisting with filling out forms or choosing locations where Travellers feel comfortable.²⁸⁰⁸

Since 2001, the Equality Commission NI received 12 enquiries from Travellers in NI concerning issues with property and property-related service provision.²⁸⁰⁹ The Equality Commission NI offered litigation assistance to three cases, which was accepted by the complainants. In two of the cases, the complainants disengaged with the process before it reached its conclusion.²⁸¹⁰ The remaining case was settled out of court.²⁸¹¹

Findings

The NIHRC’s findings on the complaints procedures available for Travellers’ accommodation in NI are:

i	Public authorities have multi-staged internal complaints mechanisms with set time limits for response. They also have requirements in place to ensure delays are reasonable and complainants are adequately informed. Public authorities’ decisions can be appealed to the Planning Appeals Commission, the NI Public Services Ombudsman and the courts, subject to criteria.
ii	Evidence suggests that private landlords and letting agencies do not always offer an effective internal complaints mechanism. Decisions of private landlords or letting agencies can be appealed to the courts.
iii	Travellers in NI are not using formal complaints and appeals mechanisms. Formal complaints assist with encouraging remedial steps and a reassessment of acts or omissions.

²⁸⁰³ Ibid.

²⁸⁰⁴ Group interview with members of the Traveller communities in NI: Interview 3, 10 November 2016.

²⁸⁰⁵ Group interview with members of the Traveller communities in NI: Interview 8, 30 November 2016.

²⁸⁰⁶ Interview with representatives of the Equality Commission NI, 8 February 2017.

²⁸⁰⁷ Response from Equality Commission NI to NIHRC, 10 November 2017.

²⁸⁰⁸ Interview with representatives of the Equality Commission NI, 8 February 2017.

²⁸⁰⁹ Letter from Equality Commission NI to NIHRC, 31 March 2017.

²⁸¹⁰ Ibid.

²⁸¹¹ Ibid.

15 Conclusions and Recommendations

The right to adequate housing requires that Travellers' accommodation is:

- culturally adequate;
- accessible;
- habitable;
- adequate in terms of services, facilities and infrastructure;
- subject to adequate security of tenure;
- adequately safeguarded from forced eviction;
- affordable;
- adequately located;
- subject to effective participation of Travellers;
- adequately monitored;
- adequately resourced;
- not subject to discrimination;
- promotes tolerance and mutual understanding; and
- subject to an effective remedy.

In the course of this investigation, the Commission identified some existing mechanisms that, if implemented in practice, assist with fulfilling a number of these requirements. For example, the NI Housing Executive and housing associations have mechanisms in place for reporting and tracking maintenance requirements to assist with ensuring Travellers' accommodation is habitable and adequately serviced. The Police Service NI introduced a number of initiatives that promote non-discrimination, tolerance and mutual understanding. All Police Service NI officers receive early career cultural awareness training, which includes Travellers' culture. In some areas, the Police Service NI has also set up temporary Traveller-specific community projects. Furthermore, all public authorities have complaint mechanisms in place and the Equality Commission for NI offers assistance to Travellers' wishing to exercise their right to an effective remedy.

In addition, some pending positive developments may, if implemented, further assist in fulfilling some of these requirements. In November 2017, the NI Housing Executive was:

- reviewing its housing application form to include a full range of options, including Traveller-specific accommodation;
- rolling out a new Housing Options Solution model;
- introducing a live system that records prospective tenants preferences to run in parallel with its five-yearly 'Traveller Accommodation Needs Assessment'; and
- reviewing its Travellers' policy.

This should help to address accessibility issues that Travellers are facing concerning their accommodation. Regarding the promotion of habitable and adequately serviced Travellers' sites, the Department for Communities, in November 2017, was reviewing the 'Design Guide for Traveller Sites in NI'.

Nevertheless, the Commission found there were inadequacies in some laws, public authorities' policies and public authorities' practices, in the context of Travellers' accommodation in NI. It confirmed that such inadequacies can dissuade and suppress a Traveller's culture, including the ability to exercise a nomadic lifestyle. Thus, the Commission concludes that public authorities must take reasonable and prompt steps

(in addition to the existing mechanisms and positive developments highlighted), to ensure Travellers' accommodation in NI is in line with the relevant human rights standards.

As per the ICESCR, Article 11, and the European Social Charter (Revised), Article 31, public authorities should take steps to the maximum available resources to ensure that Travellers' right to adequate housing is respected, protected and fulfilled. The core obligations contained within the right to adequate housing should have immediate effect and non-core obligations should be progressively realised. In human rights terms, retrogression of the right to adequate housing is prohibited, subject to exceptional justified circumstances.

The ECHR may also be relevant, in particular Articles 2 (right to life), 3 (prohibition of torture, inhuman and degrading treatment), 8 (right to respect for private and family life) and 14 (right to non-discrimination, when exercising other ECHR rights).

Based on the Commission's findings, this chapter identifies the inadequacies that require addressing to ensure any actual or potential violation of human rights standards in the context of Travellers' accommodation in NI are effectively remedied and their causes are addressed to prevent reoccurrence.

The first section of this chapter sets out thirteen systemic issues identified by the Commission. The second section sets out the key conclusions and corresponding recommendations.²⁸¹²

Systemic Issues

1 Domestic Legal Framework

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 detail and is not sufficiently prescriptive.

2 Domestic Practice

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.

3 Racial Discrimination

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

²⁸¹² A breakdown of these recommendations by the relevant public authority is provided in Appendix I.

opinions and bias towards Travellers also impacts negatively on Travellers, in particular concerning planning applications.

4 Race Legislation

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 systemic changes in attitude at all levels – grass roots, civil society and public authorities.

5 Resource Availability

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, spend per pitch has been reducing on an annual basis.

6 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.

7 Provision of Traveller-specific Accommodation

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.

8 Monitoring Needs for Travellers' Accommodation

There is evidence that the monitoring process for Travellers' accommodation needs in NI is inaccurate. The NI Housing Executive's 'Traveller Accommodation 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.

9 Inadequacy of Travellers' Sites

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

10 Participation

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.

11 Information on Travellers' Accommodation

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.

12 Data Collection

There is a general lack of data and disaggregation of data regarding the Traveller population in NI, their current tenure and desired accommodation. This makes it impossible to assess whether Travellers' accommodation is sufficient and to strategically plan for the future.

13 Complaints Mechanisms

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.

Recommendations

The findings of this investigation are set out in the substantive chapters. Drawing from these findings the Commission has a number of recommendations. These highlight areas where domestic laws and policies require amendments or clarifications. They also propose practical steps that public authorities should take to ensure the vindication of the accommodation rights of Travellers in NI. These recommendations are set out below.

Five recommendations are identified as requiring immediate action, these are highlighted in red. The Commission will review progress within six months (September 2018) to see whether these recommendations have been implemented. The Commission will review the implementation of the remaining recommendations, highlighted in purple, within 12 months (March 2019).

Cultural Adequacy

Type of Travellers' Accommodation

The domestic definition of housing generally meets the ICESCR Committee's recommendation that housing is diverse and reflects cultural adequacy.²⁸¹³ The statutory duty to provide Travellers' sites and the existing policy regarding grouped housing reflects the requirement that policies appropriately enable the expression of cultural identity and diversity of housing, as required by the ICESCR, Article 11.²⁸¹⁴ However, in practice there is inadequate provision of Travellers' site and grouped housing, as required by the ICESCR, Article 11, and the European Social Charter, Article 16.²⁸¹⁵

The criticisms of the NI Housing Executive's 'Traveller Accommodation Needs Assessments' raise a concern that there is a lack of accurate data available on existing tenure and accommodation preferences of Travellers in NI. Such data would assist with establishing need and satisfying the ICESCR, Article 11, and the European Social Charter, Article 16.

The NI Housing Executive does not provide caravans, trailers or chalets, therefore, restricting its ability to provide culturally adequate accommodation.

The NIHRC recommends:

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|---|---|
| i | The NI Housing Executive should ensure it offers the opportunity for Travellers to present their views on the cultural adequacy of their accommodation when conducting its Travellers' accommodation needs assessments. |
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Homelessness

The NI Housing Executive meets its obligation with respect to homelessness under the ICESCR, Article 11. Yet, no legislation or policy specifically deals with homelessness within the Traveller communities in NI. The negative affect on health that the lack of culturally adequate options for homeless Travellers and the prolonged period of homelessness Travellers can experience engages the ECHR, Article 8 and, in extreme cases, may engage Article 3. A violation can occur if the circumstances surrounding homelessness affecting a Traveller is severe, degrading and causes those affected to feel humiliated and debased.²⁸¹⁶ Alternatively, a violation can occur if the circumstances surrounding the homelessness affects the Traveller's physical and psychological integrity, as a direct consequence of the public authorities' unjustified action or inaction. This is particularly concerning if the family unit, including children, is affected.²⁸¹⁷

²⁸¹³ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 8(g).

²⁸¹⁴ Article 11, International Covenant on Economic, Social and Cultural Rights 1966; E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 8(g).

²⁸¹⁵ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 8(g); *European Roma Rights Centre v Greece*, Complaint No 15/2003, 8 December 2004, at paras 46 and 47.

²⁸¹⁶ *Moldovan v Romania (No 2)* (2007) 44 EHRR 16, at para 101.

²⁸¹⁷ *Storck v Germany* (2006) 43 EHRR 6, at para 149; *Connors v UK* (2004) ECHR 223, at para 82; *Botta v Italy* (1998) 26 EHRR 241, at para 34; *R (Bernard) v Enfield London Borough* [2002] EWHC 2282, at paras 33-34; *Anufrijeva v Southwark* [2003] EWCA Civ 1406, at para 43; Article 8(2), European Convention on Human Rights 1950.

The NIHRC recommends:

i	The NI Housing Executive should ensure the successor strategy to the 'Homelessness Strategy for NI: 2012-2017' makes specific provision for the cultural needs of Travellers.
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Cultural Adequacy of Travellers' Accommodation

The legislative framework on the control of unauthorised encampments has a detrimental effect on nomadism. This reflects the findings of the ICESCR Committee²⁸¹⁸ and was raised as a concern by the Commission during the enactment of the legislation.²⁸¹⁹

Where Travellers are living in social housing, measures are taken to allow for cultural sensitivity. However, standard social housing and hostel accommodation are not culturally appropriate, as required by the ICESCR, Article 11. The lack of culturally appropriate accommodation restricts individual's free choice and interferes with their right to preserve and develop their specific cultural identities, as recommended by the CoE Committee of Ministers.²⁸²⁰ Inadequate consideration of cultural adequacy within the application and allocation process for social housing further undermines individual choice.

The NIHRC recommends:

i	The NI Housing Executive and relevant housing associations should urgently review their existing practices and policies to ensure there is sufficient practical support for Travellers transitioning from Travellers' sites to bricks and mortar accommodation. For example, ensuring that Travellers transitioning know and understand the process for accessing electricity and heating, and the process for paying household bills.
ii	The NI Housing Executive should ensure that the application and allocation process for social housing requires sufficient consideration of the cultural adequacy of accommodation offered to Travellers, in particular its location, space, family groupings and available services.

Accessibility

Scope of Statutory Duty

The Housing (NI) Order 1981 helps to promote accessible housing for all who were entitled to it, as per the ICESCR, Article 11.²⁸²¹ However, there are concerns that some public authorities are unaware of the relevant legislation and are confused as to their obligations.

²⁸¹⁸ E/C.12/GBR/CO/5, 'ICESCR Committee Concluding Observations on the Fifth Periodic Report of the UK of Great Britain and NI', 22 May 2009, at para 30; E/C.12/GBR/CO/6, 'ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 14 July 2016, at para 50.

²⁸¹⁹ NIHRC, 'Response of the NIHRC to the Draft Unauthorised Encampments (NI) Order 2004' (NIHRC, 2004).

²⁸²⁰ CoE, 'Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe', 1 December 2004, at Preamble.

²⁸²¹ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 8(e).

The NIHRC recommends:

i	All public authorities should consider their obligations towards Travellers in the context of the Race Relations (NI) Order 1997 and the NI Act 1998, Section 75. All public authorities should ensure that all relevant staff members are educated on the existence, relevance and effective implementation of the Race Relations (NI) Order 1997 and the NI Act 1998, Section 75, as the legislation relate to Travellers and their accommodation.
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Provision of Travellers' Accommodation

There are a variety of strategies and policies in place promoting housing, including Travellers' accommodation. This reflects the ICESCR, Article 11 requirement.²⁸²² Some high-level strategy documents however, do not take fully into account the special needs of Travellers. This is contrary to the ICESCR Committee's recommendation.²⁸²³

The NIHRC recommends:

i	The NI Housing Executive, following a robust assessment of need, should critically assess if there are sufficient serviced, transit and emergency halting Travellers' sites in NI. The NI Housing Executive and relevant housing associations should ensure there are sufficient grouped housing schemes in NI.
ii	The NI Housing Executive should ensure the Travellers' accommodation needs assessments are sufficiently robust to provide a reliable assessment of the housing needs of Traveller communities. This includes providing all Travellers in NI with adequate and accessible opportunities to participate in the assessment. The questions posed should be thorough and impartial. The NI Housing Executive should ensure that the assessment is accurate.
iii	The NI Housing Executive should review its commitments to provide Travellers' site provision in NI (for example, any relevant development plans), to ensure that need is sufficiently met.

Assessment and Allocation Process

The assessment and allocation process for Travellers' accommodation is regulated for social housing, reflecting the ICESCR, Article 11.²⁸²⁴ There is evidence that Travellers continue to experience difficulties in accessing social housing, due to an inadequate allocation of housing points under the Common Selection Scheme.

²⁸²² Ibid.

²⁸²³ Ibid.

²⁸²⁴ Ibid.

There are concerns that some Travellers are unable to access private rented accommodation, due to reported racism by some landlords. This can hinder Travellers' ability to access housing to which they are entitled, as recommended by the ICESCR Committee and the ECRI.²⁸²⁵ It also suggests that public authorities are not promptly addressing the problems faced by Travellers in accessing accommodation, as recommended by the CoE Committee of Ministers.²⁸²⁶

The NIHRC recommends:

i	The NI Housing Executive should introduce a social housing application form that clearly sets out all accommodation options and offers applicants the express opportunity to specify their desire for Traveller-specific accommodation.
ii	The NI Housing Executive should introduce a waiting list for serviced Travellers' sites in NI. This waiting list should be used, in partnership with the Common Selection Scheme, to allocate pitches on serviced Travellers' sites in NI.
iii	The relevant housing associations should assess how accommodation in grouped housing schemes are allocated, to ensure they maximise the available resources. They should also review the utility of grouped housing schemes as an approach to addressing housing need within Traveller communities.
iv	The Department for Communities should ensure landlords in the private rented sector are aware of their legal obligations to ensure that accommodation is accessible to Travellers without discrimination.

Habitability

Standard of Fitness

A minimum standard of fitness is set out in legislation for public and private bricks and mortar Travellers' accommodation, in line with the ICESCR, Article 11, the European Social Charter, Article 16,²⁸²⁷ the European Social Charter (Revised), Article 31, and the recommendations of the former CoE Commissioner for Human Rights, Thomas Hammarberg.²⁸²⁸ The ICESCR Committee and the European Committee of Social Rights also recommended corrective measures to address poor housing or sub-standard housing conditions and inhabitability in general.²⁸²⁹ There are concerns that the minimum standards set out in legislation are inadequate and are not implemented in practice.²⁸³⁰ There are also concerns that the standard of fitness of private rented caravans, trailers or chalets is insufficiently regulated.

²⁸²⁵ CRI(96)43 rev, 'ECRI General Policy Recommendation No 1: Combating Racism, Xenophobia, Antisemitism and Intolerance', 4 October 1996.

²⁸²⁶ CoE, 'Recommendation Rec(2005)4 of the Committee of Ministers on Improving the Housing Conditions of Roma and Travellers in Europe', 25 February 2005, at para 2.

²⁸²⁷ *European Roma Rights Centre v Greece*, Complaint No 15/2003, 8 December 2004, at paras 46 and 47.

²⁸²⁸ CommDH(2009)5, 'Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing', 30 June 2009, at 3.2.1.

²⁸²⁹ E/C.12/GBR/CO/6, 'ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 14 July 2016, at para 50(c); *European Roma Rights Centre v Ireland*, Complaint No 100/2013, 1 December 2015, at paras 89-92.

²⁸³⁰ CommDH(2009)5, 'Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing', 30 June 2009, at 3.2.1; *European Roma Rights Centre v Ireland*, Complaint No 100/2013, 1 December 2015, at paras 54-80.

The NIHRC recommends:

i	The Department for Communities should promptly publish the findings of its review on the 'Housing Health and Safety Rating System' and set out a reasonable timeframe for implementing its recommendations.
ii	The Department for Communities should carry out a prompt and thorough review of the 'Design Guide for Travellers' Sites in NI' and ensure the minimum standards are sufficiently prescriptive and reflective of human rights. It should ensure the updated guide includes the requirements that accommodation is accessible to persons with disabilities; children's play areas are provided; facilities necessary for a nomadic way of life are available; and traffic safety measures are in place. The updated guide should be published and be subject to a commitment to further periodic reviews within a reasonable timescale.

Maintenance

Measures are in place across Travellers' accommodation to ensure that a minimum standard of living conditions are maintained. This is in line with the ICESCR, Article 11, the European Social Charter, Article 16, and the European Social Charter (Revised), Article 31. However, there is evidence of some delays in maintenance across all types of Travellers' accommodation; this undermines the public authorities' adherence to these provisions.

The NIHRC recommends:

i	The NI Housing Executive and relevant housing associations should ensure all required maintenance is carried out effectively within a reasonable timeframe.
ii	The NI Housing Executive should monitor the use of Housing Benefit and take steps to ensure that the accommodation it pays for in the private sector (including caravan, chalets and trailers) are fit for human habitation, adequate and maintained to a suitable standard. This includes supporting the tenant to find suitable alternative accommodation that is safe, affordable and satisfies their cultural needs.

Adaptations

The legislative and policy framework relating to accessibility is in line with the ICESCR, Article 11, the CRPD, Article 28(1), and the European Social Charter (Revised), Article 31. However, there are concerns regarding the lack of guidance for such adaptations on Travellers' sites and whether these provisions are implemented for all Travellers' accommodation.

The NIHRC recommends:

i	The NI Housing Executive and relevant housing associations should ensure that the accommodation needs of Travellers with disabilities are addressed in line with all legislative requirements, and that moving homes is a last resort. Travellers with disabilities should be made aware of their rights regarding accommodation adaptations. This information should be disseminated in an accessible and understandable format.
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Health and Safety: Hazards

A legislative and policy framework regulates health and safety standards for Travellers' accommodation. This is in line with the ICESCR, Article 11. There are concerns regarding Travellers' sites that these protections are insufficient and are not implemented in practice.²⁸³¹ This is contrary to the ICESCR, Article 11 and the CRC, Articles 3, 6(1) and 19.

Hazards on Travellers' sites can also engage the ECHR, Articles 2, 3 and 8. A violation of Article 2 can occur if the hazard poses a real and imminent threat to the life of a Traveller that the public authorities were aware of, but failed to take reasonable steps to address.²⁸³² Article 3 may be engaged if the hazardous effect on a Traveller was severe, degrading or caused those affected to feel humiliated and debased.²⁸³³ Article 8 applies if the hazard affected the Traveller's physical and psychological integrity, as a direct consequence of the public authorities' unjustified action or inaction. This is particularly the case if the family unit, including children, is affected.²⁸³⁴ There is evidence of hazards, such as overcrowding and inadequate washhouses, on some Travellers' sites in NI that potentially engage ECHR, Articles 2, 3 and 8.

The NIHRC recommends:

i	The NI Housing Executive should immediately carry out health and safety assessments of all Travellers' sites and address the hazards identified. In addressing these hazards, the NI Housing Executive should ensure that washhouses on Travellers' sites are safe, fit for purpose and appropriate for NI's climate. The NI Housing Executive should conduct regular health and safety assessments of all Travellers' sites and ensure any identified hazards are adequately and promptly addressed in the future.
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Health and Safety: Fire

The legislative and policy framework broadly reflects the ICESCR, Article 11. There are concerns that, regarding Travellers' sites, these protections are insufficient and are not implemented in practice. For example, concerns were raised over the accessibility of some Travellers' sites for emergency vehicles. A number of Travellers were also not aware if there were fire safety measures for their accommodation and what they were, particularly on Travellers' sites. This is contrary to the ICESCR, Article 11 and the CRC, Articles 3, 6(1) and 19. A violation of the ECHR can occur if the fire hazard poses a real and imminent threat to the life of a Traveller that the public authorities were aware of, but failed to take reasonable steps to address.²⁸³⁵ Fire hazards on Travellers' sites engage the ECHR, Articles 2, 3 and 8.

²⁸³¹ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 8(d); *European Roma Rights Centre v Ireland*, Complaint No 100/2013, 1 December 2015, at para 81.

²⁸³² *Öneriyildiz v Turkey* (2004) ECHR 657; *LCB v UK* (1999) 27 EHRR 212, at para 36; *Burke v UK*, Application No 19807/06, 11 July 2006, at para 1.

²⁸³³ *Moldovan v Romania (No 2)* (2007) 44 EHRR 16, at para 101.

²⁸³⁴ *Storck v Germany* (2006) 43 EHRR 6, at para 149; *Connors v UK* (2004) ECHR 223, at para 82; *Botta v Italy* (1998) 26 EHRR 241, at para 34; *R (Bernard) v Enfield London Borough* [2002] EWHC 2282, at paras 33-34; *Anufrijeva v Southwark* [2003] EWCA Civ 1406, at para 43; Article 8(2), European Convention on Human Rights 1950.

²⁸³⁵ *Öneriyildiz v Turkey* (2004) ECHR 657; *LCB v UK* (1999) 27 EHRR 212, at para 36; *Burke v UK*, Application No 19807/06, 11 July 2006, at para 1.

The NIHRC recommends:

i	The NI Housing Executive and relevant housing associations should ensure that adequate fire safety measures are in place and are adhered to within all Travellers' accommodation. This includes ensuring that all fire safety measures are functional, regularly checked and reviewed. In addition, they should ensure that all tenants within Travellers' accommodation are sufficiently aware of the fire safety measures in place and of actions to be taken in the event of a fire.
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Availability of Services, Facilities and Infrastructure

Availability of Services

There is a legislative and policy framework governing Travellers' accommodation in NI, as required by the ICESCR, Article 11, and the European Social Charter (Revised), Article 31(1).²⁸³⁶ The regulated provision of most services regarding Travellers' accommodation is in line with the former CoE Commissioner for Human Rights, Thomas Hammarberg's recommendation.²⁸³⁷ However, there are some omissions in relation to electrical and postal services. Also, the guidance for Travellers' sites is not sufficiently prescriptive. The recommendation, supported by the European Committee of Social Rights, states that these standards should be applied in practice.²⁸³⁸ This is generally honoured regarding bricks and mortar Travellers' accommodation. Concerns arose in relation to Travellers' sites in NI. This includes unavailability of services, or significant delays in providing and adequately maintaining services. This is a particular issue on Travellers' sites, where some Travellers' experienced unsanitary conditions and rodent infestations due to irregular refuse collections. This raises issues around health and safety, contrary to the ICESCR, Article 11, and the CRC, Articles 3, 6(1) and 19. In extreme cases, this engages the ECHR, Article 2, 3 and 8.²⁸³⁹ Some Travellers also experienced delays or lack of access to adequate electricity and issues with accessing their post, which is contrary to the ICESCR, Article 11.

The NIHRC recommends:

i	The NI Housing Executive, in conjunction with all relevant providers, should take steps to ensure that all required services are adequately available in practice within all Travellers' accommodation and that the provision of these services is sufficiently regulated. In particular, the NI Housing Executive should work with: the local Councils to ensure Travellers have regular refuse collections; with the electricity supplier to ensure Travellers have prompt and consistent access to electricity; and with Royal Mail to ensure Travellers have adequate access to adequate postal services.
ii	The NI Housing Executive should ensure that provision of services provided to Traveller's sites reflects the actual use of the site. The public authorities should re-categorise sites when there is a change of usage to ensure that all parties are aware of the provision that is required.

²⁸³⁶ *European Roma Rights Centre v Italy*, Complaint No 27/2004, 7 December 2005, at para 35.

²⁸³⁷ CommDH(2009)5, 'Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing', 30 June 2009, at 3.2.1.

²⁸³⁸ *Ibid*; *European Roma Rights Centre v Ireland*, Complaint No 100/2013, 1 December 2015, at paras 54-80.

²⁸³⁹ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 14.

Availability of Facilities

There is a policy framework governing the availability of facilities for Travellers' accommodation in NI, as required by the ICESCR, Article 11, and the European Social Charter (Revised), Article 31(1). The regulated provision of most facilities regarding Travellers' accommodation is in line with the former CoE Commissioner for Human Rights, Thomas Hammarberg's recommendation.²⁸⁴⁰ However, there are some omissions. The guidance for Travellers' sites is insufficiently prescriptive. The recommendation, supported by the European Committee of Social Rights, makes clear that these standards should be applied in practice.²⁸⁴¹ This is lacking regarding non-domestic animal facilities in standard social housing, the availability of grazing land for all Travellers' accommodation, and the provision of children's play areas in all Travellers' accommodation. This raises issues around personal safety, contrary to the ICESCR, Article 11, and the CRC, Articles 3, 6(1) and 19.

The NIHRC recommends:

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| i | The NI Housing Executive and relevant housing associations should make reasonable provision for children's play areas within Travellers' accommodation. They should also reasonably accommodate Travellers' non-domestic animals and equipment necessary for traditional trades, including through the provision of grazing land, within Travellers' accommodation. |
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Security of Tenure

Legal Security of Tenure

The domestic legal framework governing security of tenure broadly corresponds with the ICESCR, Article 11, in conferring legal security of tenure. However, there are concerns that some Travellers, particularly on transit sites, are not provided with agreements. The ICESCR, Article 11, requires public authorities to take "immediate measures aimed at conferring legal security of tenure".²⁸⁴² In the Commission's view, a failure to provide tenancy agreements may constitute a violation of ICESCR, Article 11.

A number of practical barriers can negatively affect a Traveller's security of tenure and result in them fleeing their homes. This includes intimidation of Travellers by members of the settled community, or an individual Traveller's perceived incompatibility with other Travellers. There is evidence that public authorities are hesitant to assist in some such cases. This potentially engages the ECHR, Articles 2, 3, 8 and 14. These provisions require public authorities to take reasonable steps to prevent or address an actual or threatened violation by their agents or third parties, if they had known or ought to have known of such a threat.²⁸⁴³

²⁸⁴⁰ CommDH(2009)5, 'Recommendation of the CoE Commissioner for Human Rights on the Implementation of the Right to Housing', 30 June 2009, at 3.2.1.

²⁸⁴¹ *Ibid*; *European Roma Rights Centre v Ireland*, Complaint No 100/2013, 1 December 2015, at paras 54-80.

²⁸⁴² E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at 8(a).

²⁸⁴³ *Moldovan v Romania (No 2)* (2007) 44 EHRR 16, at para 101; *PF and EF v UK* (2010) ECHR 2015 at paras 37 and 50.

The NIHRC recommends:

i	The NI Housing Executive and relevant housing associations should take immediate steps to ensure that Travellers on all types of Travellers' sites are provided with and sign an agreement attached to their pitch, clearly setting out their rights and responsibilities in an understandable language and format.
ii	The NI Housing Executive and relevant housing associations should take reasonable steps to ensure Travellers in standard social housing understand the tenancy agreement they are signing. This includes understanding their responsibilities as tenants and the landlord's responsibilities.
iii	The Department for Communities should promptly update, publish and adequately disseminate guidance on the security of tenure protections for Travellers living in caravans, as contained within the Caravans Act (NI) 2011.
iv	The NI Housing Executive and relevant housing associations should robustly implement processes that enable Travellers to live safely and securely in their homes without fear of intimidation. This includes conducting effective mediation and effectively implementing procedures set out in antisocial behaviour policies.
v	The Department for Communities should liaise with the Executive Office to propose an amendment of the Housing (NI) Order 2003, Article 125(6), to enable the NI Housing Executive to provide nomadic housing structures (such as caravans, trailers and chalets), if there is a need. The rents for these structures should be set at an appropriate and affordable level.

Forced Eviction

Eviction

The legislative framework provides procedural safeguards to be followed in eviction proceedings, as required by ICESCR, Article 11. The ICESCR Committee highlighted that the qualification of progressive achievement based on the availability of resources would "rarely" be relevant to forced evictions.²⁸⁴⁴ There is evidence that procedural safeguards are not followed in practice, for example in the provision of eviction notices; the weather conditions in which evictions take place; consultation with affected groups; and provision of alternative accommodation. In the Commission's view, not following procedural safeguards may constitute a violation of ICESCR, Article 11, and the European Social Charter, Article 16. The ECHR, Article 8, is also engaged, particularly if procedural safeguards are not in place to prevent unjustified evictions;²⁸⁴⁵ if public

²⁸⁴⁴ E/1998/22, 'ICESCR Committee General Comment No 7: Forced Evictions', 20 May 1997, at para 8.

²⁸⁴⁵ *Connors v UK* (2004) ECHR 223, at para 95.

authorities do not take into account the disadvantaged position of a social group (ie Travellers);²⁸⁴⁶ or if public authorities do not conduct a genuine consultation with the persons affected by an eviction on their rehousing options.²⁸⁴⁷ The Commission identified concerns relating to the robustness of procedural safeguards and the sufficiency of consultation regarding forced evictions.

Some Travellers had difficulty retrieving their property, including caravans, where evictions had taken place. This was a particular issue where certain documents were not accepted as proof of ownership. This engages the ECHR, Article 1, Protocol 1. Interference with the right to property is justified if it serves a legitimate objective in the public interest²⁸⁴⁸ and is proportionate in striking a fair balance between the protection of the person's right to property and the general interest of the public.²⁸⁴⁹

The NIHRC recommends:

i	The NI Housing Executive should take reasonable steps to ensure that adequate alternative accommodation is offered close to the original place of residence, when evictions occur or Travellers' sites are lawfully closed. Particular consideration should be given to distance from schools, doctors, family members and source of livelihood for those affected.
ii	The NI Housing Executive should ensure that reasonable steps are taken to return property promptly, when evictions take place or Travellers' sites are lawfully closed. The NI Housing Executive should ensure that onerous conditions to prove ownership (for example, a requirement to provide original receipts) are not applied, particularly if there is other suitable proof of ownership.

Unauthorised Encampments

The former CoE Commissioner for Human Rights Thomas Hammarberg and the former UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari recommended that criminal measures that thwart nomadism should be abolished.²⁸⁵⁰ The CoE Committee of Ministers also emphasised the importance of the use of proportionate responses to illegal encampments, including negotiations or the use of legal action.²⁸⁵¹ Evictions for unauthorised encampments should be kept under review.²⁸⁵² The ICESCR Committee recommended that the Unauthorised Encampments (NI) Order 2005 be repealed in 2016.²⁸⁵³ The retention of the Order is contrary to the Committee's recommendation.

The Unauthorised Encampments (NI) Order 2005 specifically provides for eviction and seizure of property that have a particular impact on Travellers. The evidence suggests that the powers under the 2005 Order are used sparingly. A number of police officers reported exercising caution when relying on the powers under the 2005 Order. One of the main challenges when using the 2005 Order is a lack of alternative culturally appropriate accommodation. The evidence also suggests that the threat or actual use of the powers under the 2005 Order, in particular seizure of caravans, negatively affects the nomadic lifestyle of Travellers.

²⁸⁴⁶ *Yordanova and Others v Bulgaria* (2012) ECHR 758, at para 127.

²⁸⁴⁷ *Bagdonavicius and Others v Russia* (2016) ECHR 871, at para 107.

²⁸⁴⁸ *James v UK* (1986) ECHR 2, at para 45.

²⁸⁴⁹ *Sporrong and Lönnroth v Sweden* (1982) ECHR 5, at para 69.

²⁸⁵⁰ CommDH/Speech(2007)16, 'Joint Statement by CoE Commissioner for Human Rights Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari: Governments Should Take Positive Steps to Protect the Housing Rights of Roma in Europe', 24 October 2007.

²⁸⁵¹ CRI(2011)37, 'ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma', 24 June 2011, at para 6 (d) and (e).

²⁸⁵² CommDH(2006)1, 'Final Report by Mr Alvaro Gil-Robles, CoE Commissioner for Human Rights, on the Human Rights Situation of the Roma, Sinti and Travellers in Europe', 15 February 2006, at 40.

²⁸⁵³ E/C.12/GBR/CO/6, 'ICESCR Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 14 July 2016, at para 50(d).

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. This position does not comply with the ICESCR Committee's recommendation in 2016.

The NIHRC recommends:

i The Department for Communities should repeal the Unauthorised Encampments (NI) Order 2005.

Location

Planning

There is a legal and policy framework regulating the planning process, which makes specific provision for applications for Traveller-specific accommodation, this reflects the ECRI's recommendation.²⁸⁵⁴ However, there are concerns in terms of the implementation of the planning policies. There is evidence that public perceptions and discriminatory views within local Councils are unduly influencing planning decisions. The process for applying for the approval of Traveller-specific accommodation is subject to significant delays. These delays are inhibiting the development of Travellers' accommodation, particularly Travellers' sites. This is contrary to the CoE Committee of Ministers' recommendation.²⁸⁵⁵

Additionally, there are concerns regarding the accessibility of the planning process. These concerns are contrary to the CoE Committee of Ministers' recommendation to enable Travellers to pursue their lifestyles.²⁸⁵⁶

The NIHRC recommends:

i Local Councils should take reasonable steps to prevent undue delays in the planning application process relating to Travellers' accommodation. They should also ensure that all planning decision-making processes are fair, impartial and transparent.

Site Licences

Reflecting the ICESCR, Article 11, and the CRC, Articles 3, 6 and 19, site licencing is a crucial safeguard for ensuring Travellers' sites in NI are adequately habitable and serviced. Yet, there is little evidence of good practice regarding licencing of Travellers' sites in NI. The regulation of this requirement is outdated and lacks clarity in terms of its applicability and scope. There is also inconsistency in terms of language and definitions between the legislation and its corresponding guidance. The statutory requirements that existed are not implemented in practice for Travellers' sites in NI. There appears to be a reluctance from the relevant public authorities to address the issue of site licences.

²⁸⁵⁴ CRI(2011)37, 'ECRI General Policy Recommendation No 13: Combating Anti-Gypsyism and Discrimination against Roma', 24 June 2011, at para 6(j).

²⁸⁵⁵ CoE, 'Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe', 1 December 2004, at para 23(ii).

²⁸⁵⁶ CoE, 'Recommendation Rec(2005)4 of the Committee of Minister to Member States on Improving the Housing Conditions of Roma and Travellers in Europe', 23 February 2005, at II(3); CoE, 'Recommendation Rec(2004)14 of the Committee of Ministers to Member States on the Movement and Encampment of Travellers in Europe', 1 December 2004, at Preamble.

The NIHRC recommends:

i	The NI Housing Executive should ensure that it submits a completed application for a site licence for all Travellers' sites currently operating unlicensed within six months of the publication of this report. The NI Housing Executive should continue to be required to obtain a site licence for Travellers' sites in NI.
ii	The Department for Infrastructure should review the legal and policy framework concerning site licences. This should include the development of a model site licence setting out the minimum standard of provision and safety requirements for each type of Travellers site in NI, along with enforcement powers for any breach.
iii	Local Councils should take proactive reasonable steps to ensure Travellers' sites are licenced when required. Local Councils should regularly monitor the licencing of Travellers' sites and be aware when sites require a licence, whether they are licenced and when the licence will expire. Local Councils should ensure all licences meet the minimum standard of provision and safety as required by the model licence, developed by the Department for Infrastructure.

Participation

The local Council's 'Local Development Plans' and the Department for Communities' 'Design Guide for Travellers' Sites' in NI' reflect the Advisory Committee on the FCNM and CERD Committee's recommendations.²⁸⁵⁷ The pending creation by the Executive Office of a thematic group on Roma, Gypsies and Travellers, when implemented, will adhere to the Advisory Committee on the FCNM's recommendation.²⁸⁵⁸ However, the legislative provision and policies of effective participation of Travellers is limited, at times outdated, and does not sufficiently require direct consultation.

Reflecting the Advisory Committee on FCNM's recommendation, public authorities have measures in place to ensure consultations and information on Travellers' accommodation are adapted to reflect Travellers' needs.²⁸⁵⁹ Yet, the information available can be inadequate and the measures taken are not always effectively implemented. This indicates public authorities are not adequately trained on effective engagement, as recommended by the CERD Committee.²⁸⁶⁰ Additionally, public authorities are not ensuring that the effective participation of Travellers is adequately resourced, as recommended by the CoE Committee of Ministers and Advisory Committee on FCNM.²⁸⁶¹

²⁸⁵⁷ ACFC/31DOC(2008)001, 'CoE Advisory Committee on the FCNM: Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs', 27 February 2008, at paras 32-36; CERD Committee, 'General Recommendation XXVII: Discrimination against Roma', 16 August 2000, at para 43.

²⁸⁵⁸ ACFC/31DOC(2008)001, 'CoE Advisory Committee on the FCNM: Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs', 27 February 2008, at paras 73 and 74.

²⁸⁵⁹ ACFC/31DOC(2008)001, 'CoE Advisory Committee on the FCNM: Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs', 27 February 2008, at paras 9, 21 and 72; P6_TA(2005)0151, 'European Parliament Resolution on the Situation of the Roma in the European Union', 28 April 2005, at paras 24 and 26.

²⁸⁶⁰ CERD Committee, 'General Recommendation XXVII: Discrimination against Roma', 16 August 2000, at para 45.

²⁸⁶¹ CoE, 'Recommendation CM/Rec(2008)5 of the Committee of Ministers to Members States on Policies for Roma and/or Travellers in Europe', 20 February 2008, at Appendix, section II, para 6; ACFC/31DOC(2008)001, 'CoE Advisory Committee on the FCNM: Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs', 27 February 2008, at para 21.

There are concerns that public authorities' consultations are ineffective. This is contrary to the recommendations from the UN and CoE that consultation with Travellers should be full and meaningful,²⁸⁶² with effective channels for communication aimed at providing continuing and substantive dialogue,²⁸⁶³ and that Travellers have a substantial influence on decisions.²⁸⁶⁴

The NIHRC recommends:

i	The NI Housing Executive should ensure Travellers are represented on its consultation forum and the Housing Community Network. It should also ensure consultations with Travellers are meaningful and effective when consulting on planning provision for new and when developing existing Travellers' accommodation.
ii	All local Councils should be active members of the NI Local Government Partnership on Travellers Issues and should give consideration to developing or strengthening Traveller Forums to consider issues relating to Travellers, including accommodation.
iii	The Department for Communities should liaise with the Executive Office on establishing the proposed thematic working group on Roma and Travellers. The work of this group should have sufficient focus on Travellers' accommodation.
iv	The Executive Office and all relevant public authorities should ensure Traveller support groups are adequately resourced for the work they carry out.

Monitoring

Management of Travellers' Accommodation

Legislation and guidance is in place to govern the management of Travellers' accommodation. Yet, there are concerns that these are not implemented in practice, particularly for Travellers' sites. This is contrary to the CERD Committee's recommendation that there is effective oversight of Travellers' accommodation and the ICESCR, Article 11, requirements that effective monitoring have immediate effect.²⁸⁶⁵

²⁸⁶² CommDH/Speech(2007)16, 'Joint Statement by CoE Commissioner for Human Rights Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari: Governments Should Take Positive Steps to Protect the Housing Rights of Roma in Europe', 24 October 2007.

²⁸⁶³ ACFC/31DOC(2008)001, 'CoE Advisory Committee on the FCNM: Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs', 27 February 2008, at para 11.

²⁸⁶⁴ *Ibid.*, at para 19.

²⁸⁶⁵ CERD/C/GBR/CO/21-23, 'CERD Committee Concluding Observations on the Twenty-first to Twenty-Third Periodic Reports of UK of Great Britain and NI', 26 August 2016, at para 25(a); E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 13.

The NIHRC recommends:

i	The NI Housing Executive should take reasonable steps to ensure its staff are accessible on a daily basis to Travellers, particularly regarding transit and emergency halting Travellers' sites.
ii	The NI Housing Executive should effectively manage Travellers' sites. Travellers should be required to sign a tenancy agreement before moving into Travellers' accommodation. This includes transit and emergency halting Travellers' sites. The NI Housing Executive should have mechanisms in place to ensure this is a speedy and efficient process. It should not subject Travellers to delays in accessing culturally adequate accommodation with adequate services and facilities.

Resources

There is no evidence that public authorities explicitly consider human rights standards when allocating financial resources to housing. The evidence does not clearly demonstrate compliance with ICESCR, Articles 2 and 11. The general depletion of social housing stock and increasing levels of need suggests retrogression.

Figures show an increase in the number of pitches on Travellers' sites, but these are not all available in practice. This suggests a failure to progressively realise the right to adequate housing. A risk of retrogression is indicated by the decrease in spend per unit on Travellers' accommodation, particularly where mitigation measures are not in place.

A comparison with Scotland and Wales indicates lower spending on Travellers' sites in NI. In Scotland's case, this presumes spending on grouped housing in NI is excluded from the figures. This suggests that it is possible to give a greater priority to Travellers' sites and implies a failure to use maximum available resources. The principle of progressive realisation requires that provision is extended. For example, an extension of the Supporting People Programme would be an indicator of progressive realisation. In contrast, the denial of funding to Traveller support groups may indicate retrogression, unless mitigating measures are in place.

The former UN High Commissioner for Human Rights, Navanethem Pillay, explicitly requires that the implementation of ICESCR rights must be transparent, should establish accountability mechanisms, and should ensure access to information.²⁸⁶⁶ However, the evidence suggests non-compliance with these requirements. Public authorities' data collection on population figures is inconsistent and inadequate. Financial data is inconsistently recorded, making it difficult to analyse trends over time. The Department for Communities allocates funding to the NI Housing Executive, but an effective mechanism that requires the Department to proactively monitor how funding is allocated to Travellers' accommodation does not exist in practice.

The NIHRC recommends:

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| i | The Department for Communities should ensure regular, independent, effective, thorough and proactive monitoring of public spending in relation to the provision of Travellers' accommodation. Data relating to the provision of all Travellers' accommodation and financial data should be consistent, centralised, and effectively disaggregated. Data should be publicly available. |
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Non-discrimination and Equality

Prohibition on Racial Discrimination

Human rights law requires public authorities to protect non-discrimination and equality.²⁸⁶⁷ This requires public authorities to tackle discrimination by both public²⁸⁶⁸ and private actors.²⁸⁶⁹ Human rights law prohibits both direct and indirect discrimination.²⁸⁷⁰ Standards from UN committees and the European Court of Human Rights make clear that not every differentiation is prohibited discrimination.²⁸⁷¹ If there is an objective and reasonable justification for the differentiation, then there is no breach of human rights law.²⁸⁷²

The Race Relations (NI) Order 1997 addresses the prohibition on discrimination in NI. This broadly complies with human rights standards.²⁸⁷³ In particular, the clear extension to cover all public functions meets the recommendations of the ECRI.²⁸⁷⁴ However, the Equality Commission NI has recommendations for ensuring better compliance with such standards.

The Race Relations (NI) Order 1997 enables the Equality Commission NI to issue codes of practice for employment and housing. Although a code in respect of the elimination of racial discrimination in employment was first issued in 1999, an equivalent has not been issued in respect of housing.

Despite the existing protections, some Travellers' in NI felt that they were regularly subjected to racial discrimination, in particular in the private rented sector.

The NIHRC recommends:

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| i | The Equality Commission NI should issue a code of practice on the elimination of discrimination in housing. This should include the private rented sector. |
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Tolerance and Mutual Understanding

Promotion of Tolerance and Mutual Understanding

Legislation and policies are in place to combat prejudice and to promote understanding, tolerance and friendship among different ethnic groups. This is required by the CERD, Article 7, and set out in the UNESCO Declaration of Principles on Tolerance.²⁸⁷⁵

²⁸⁶⁷ Article 2(1), International Covenant on Economic, Social and Cultural Rights 1966; Article 26, International Covenant on Civil and Political Rights 1966; Article 14, European Convention on Human Rights 1950; Human Rights Committee, 'General Comment No 18: Non-discrimination', 10 November 1989, at para 1.

²⁸⁶⁸ E/C.12/GC/20, 'ICESCR Committee General Comment No 20: Non-discrimination in Economic, Social and Cultural Rights', 2 July 2009, at paras 8 and 9.

²⁸⁶⁹ Ibid, at para 11; CERD Committee, 'General Recommendation XXVII: Discrimination against Roma', 16 August 2000, at para 31.

²⁸⁷⁰ *Timishev v Russia* (2005) ECHR 858, at para 56; *Oršuš v Croatia* (2010) ECHR 337, at para 149.

²⁸⁷¹ E/C.12/GC/20, 'ICESCR Committee General Comment No 20: Non-discrimination in Economic, Social and Cultural Rights', 2 July 2009, at para 11; CERD Committee, 'General Recommendation XXVII: Discrimination against Roma', 16 August 2000, at para 31; *Stec and Others v UK* (2006) ECHR 393, at para 5.

²⁸⁷² *Stec and Others v UK* (2006) ECHR 393, at para 5.

²⁸⁷³ Article 2, International Covenant on Economic, Social and Cultural Rights 1966; Article 2(1), Convention on the Elimination of All Forms of Racial Discrimination 1969; Article 5(2), Convention on the Rights of Persons with Disabilities 2006; Article 4, Framework Convention on the Protection of National Minorities 1998; E/C.12/GC/20, 'ICESCR Committee General Comment No 20: Non-discrimination in Economic, Social and Cultural Rights', 2 July 2009, at paras 38 and 39.

²⁸⁷⁴ CRI(2003)8, 'ECRI General Policy Recommendation No 7: National Legislation to Combat Racism and Racial Discrimination', 13 December 2002, at para 7.

²⁸⁷⁵ Article 1(1), UNESCO Declaration on Principles of Tolerance, 16 November 1985.

The NI Act 1998, Section 75(2), places a duty on public authorities to “have regard to the desirability of promoting good relations” between persons of different racial groups, which is weaker than the requirements in the human rights standards. The Race Relations (NI) Order 1997, Article 67, places a duty on local Councils to have due regard to the need to promote good relations. This language broadly corresponds to human rights standards.

There is some evidence of dialogue with Travellers, in line with the UN Declaration on the Culture of Peace and the Durban Declaration.²⁸⁷⁶ There are concerns that this dialogue is not sufficiently continuing, substantive or intercultural, as recommended by the Advisory Committee for the FCNM and the CoE Committee of Ministers.²⁸⁷⁷

The NIHRC recommends:

i	The Department for Communities should liaise with the Executive Office to propose an amendment of the Race Relations (NI) Order 1997, Article 67, to extend the duty contained within to all public authorities. This duty requires appropriate arrangements to be made with a view to securing that the various functions of the relevant public authority are carried out with due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity, and good relations, between persons of different racial groups.
ii	The Department for Communities and Department for Infrastructure should liaise with the Executive Office in implementing the Racial Equality Strategy. The strategy should consider how to adequately promote tolerance and understanding between Travellers and the settled community in NI. It should also require all the relevant public authorities to report on such actions.

Effective Remedy

Internal and independent effective remedies for public authorities regarding Travellers' accommodation are regulated and implemented. This reflects the ICESCR, Article 11; ICCPR, Article 14; CRPD, Article 13; and ECHR, Articles 6 and 13.²⁸⁷⁸ However, it appears that measures are required to ensure such remedies are accessible to Travellers in NI. For example, the Commission found that Travellers rarely utilised the Department for Communities', Department for Infrastructure's, NI Housing Executive's, the housing associations' or local Councils' internal complaints handling processes.

The NIHRC recommends:

i	All public authorities should take proactive reasonable steps to support Travellers through the complaints process. This includes ensuring Travellers are aware of the existence of such mechanisms, what their purposes are, how to make a complaint, and the different stages of the process.
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²⁸⁷⁶ A/RES/53/243 A, 'UN General Assembly Resolution: Declaration on a Culture of Peace', 13 September 1999; UN Declaration on a Culture of Peace; A/CONF.189/12, 'Durban Declaration', 8 September 2001.

²⁸⁷⁷ ACFC/311Doc(2008)001, 'CoE Advisory Committee on the FCNM: Commentary on the Effective Participation of Persons belonging to National Minorities in Cultural, Social and Economic Life in Public Affairs', 5 May 2008, at para 11; CoE, 'Declaration on the Committee of Ministers on the Rise of Anti-Gypsyism and Roma and Racist Violence Against Roma in Europe', 1 February 2012, at para VI.2.iv.

²⁸⁷⁸ E/1992/23, 'ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 17.

Appendix I – Recommendations by Public Authority

Below correlates the recommendations made in Chapter 15 with the relevant public authority. Those highlighted in red require immediate action. The NIHRC will review whether these required actions have been implemented within six months (September 2018) for those highlighted in red and within 12 months (March 2019) for those highlighted in purple.

All Public Authorities

i	All public authorities should consider their obligations towards Travellers in the context of the Race Relations (NI) Order 1997 and the NI Act 1998, Section 75. All public authorities should ensure that all relevant staff members are educated on the existence, relevance and effective implementation of the Race Relations (NI) Order 1997 and the NI Act 1998, Section 75, as the legislation relate to Travellers and their accommodation.
ii	The Executive Office and all relevant public authorities should ensure Traveller support groups are adequately resourced for the work they carry out.
iii	All public authorities should take proactive reasonable steps to support Travellers through the complaints process. This includes ensuring Travellers are aware of the existence of such mechanisms, what their purposes are, how to make a complaint, and the different stages of the process.

Executive Office

i	The Department for Communities should liaise with the Executive Office to propose an amendment of the Housing (NI) Order 2003, Article 125(6), to enable the NI Housing Executive to provide nomadic housing structures (such as caravans, trailers and chalets), if there is a need. The rents for these structures should be set at an appropriate and affordable level.
ii	The Department for Communities should liaise with the Executive Office on establishing the proposed thematic working group on Roma and Travellers. The work of this group should have sufficient focus on Travellers' accommodation.
iii	The Executive Office and all relevant public authorities should ensure Traveller support groups are adequately resourced for the work they carry out.

iv	The Department for Communities should liaise with the Executive Office to propose an amendment of the Race Relations (NI) Order 1997, Article 67, to extend the duty contained within to all public authorities. This duty requires appropriate arrangements to be made with a view to securing that the various functions of the relevant public authority are carried out with due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity, and good relations, between persons of different racial groups.
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Department for Communities

i	The Department for Communities should ensure landlords in the private rented sector are aware of their legal obligations to ensure that accommodation is accessible to Travellers without discrimination.
ii	The Department for Communities should promptly publish the findings of its review on the 'Housing Health and Safety Rating System' and set out a reasonable timeframe for implementing its recommendations.
iii	The Department for Communities should carry out a prompt and thorough review of the 'Design Guide for Travellers' Sites in NI' and ensure the minimum standards are sufficiently prescriptive and reflective of human rights. It should ensure the updated guide includes the requirements that accommodation is accessible to persons with disabilities; children's play areas are provided; facilities necessary for a nomadic way of life are available; and traffic safety measures are in place. The updated guide should be published and be subject to a commitment to further periodic reviews within a reasonable timescale.
iv	The Department for Communities should promptly update, publish and adequately disseminate guidance on the security of tenure protections for Travellers living in caravans, as contained within the Caravans Act (NI) 2011.
v	The Department for Communities should liaise with the Executive Office to propose an amendment of the Housing (NI) Order 2003, Article 125(6), to enable the NI Housing Executive to provide nomadic housing structures (such as caravans, trailers and chalets), if there is a need. The rents for these structures should be set at an appropriate and affordable level.
vi	The Department for Communities should repeal the Unauthorised Encampments (NI) Order 2005.
vii	The Department for Communities should liaise with the Executive Office on establishing the proposed thematic working group on Roma and Travellers. The work of this group should have sufficient focus on Travellers' accommodation.

viii	The Department for Communities should ensure regular, independent, effective, thorough and proactive monitoring of public spending in relation to the provision of Travellers' accommodation. Data relating to the provision of all Travellers' accommodation and financial data should be consistent, centralised, and effectively disaggregated. Data should be publicly available.
ix	The Department for Communities should liaise with the Executive Office to propose an amendment of the Race Relations (NI) Order 1997, Article 67, to extend the duty contained within to all public authorities. This duty requires appropriate arrangements to be made with a view to securing that the various functions of the relevant public authority are carried out with due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity, and good relations, between persons of different racial groups.
x	The Department for Communities and Department for Infrastructure should liaise with the Executive Office in implementing the Racial Equality Strategy. The strategy should consider how to adequately promote tolerance and understanding between Travellers and the settled community in NI. It should also require all the relevant public authorities to report on such actions.

Department for Infrastructure

i	The Department for Infrastructure should review the legal and policy framework concerning site licences. This should include the development of a model site licence setting out the minimum standard of provision and safety requirements for each type of Travellers site in NI, along with enforcement powers for any breach.
ii	The Department for Communities and Department for Infrastructure should liaise with the Executive Office in implementing the Racial Equality Strategy. The strategy should consider how to adequately promote tolerance and understanding between Travellers and the settled community in NI. It should also require all the relevant public authorities to report on such actions.

NI Housing Executive

i	The NI Housing Executive and relevant housing associations should urgently review their existing practices and policies to ensure there is sufficient practical support for Travellers transitioning from Travellers' sites to bricks and mortar accommodation. For example, ensuring that Travellers transitioning know and understand the process for accessing electricity and heating, and the process for paying household bills.
ii	The NI Housing Executive should immediately carry out health and safety assessments of all Travellers' sites and address the hazards identified. In addressing these hazards, the NI Housing Executive should ensure that washhouses on Travellers' sites are safe, fit for purpose and appropriate for NI's climate. The NI Housing Executive should conduct regular health and safety assessments of all Travellers' sites and ensure any identified hazards are adequately and promptly addressed in the future.

iii	The NI Housing Executive and relevant housing associations should ensure that adequate fire safety measures are in place and are adhered to within all Travellers' accommodation. This includes ensuring that all fire safety measures are functional, regularly checked and reviewed. In addition, they should ensure that all tenants within Travellers' accommodation are sufficiently aware of the fire safety measures in place and of actions to be taken in the event of a fire.
iv	The NI Housing Executive and relevant housing associations should take immediate steps to ensure that Travellers on all types of Travellers' sites are provided with and sign an agreement attached to their pitch, clearly setting out their rights and responsibilities in an understandable language and format.
v	The NI Housing Executive should ensure that it submits a completed application for a site licence for all Travellers' sites currently operating unlicensed within six months of the publication of this report. The NI Housing Executive should continue to be required to obtain a site licence for Travellers' sites in NI.
vi	The NI Housing Executive should ensure it offers the opportunity for Travellers to present their views on the cultural adequacy of their accommodation when conducting its Travellers' accommodation needs assessments.
vii	The NI Housing Executive should ensure the successor strategy to the 'Homelessness Strategy for NI: 2012-2017' makes specific provision for the cultural needs of Travellers.
viii	The NI Housing Executive should ensure that the application and allocation process for social housing requires sufficient consideration of the cultural adequacy of accommodation offered to Travellers, in particular its location, space, family groupings and available services.
ix	The NI Housing Executive, following a robust assessment of need, should critically assess if there are sufficient serviced, transit and emergency halting Travellers' sites in NI. The NI Housing Executive and relevant housing associations should ensure there are sufficient grouped housing schemes in NI.
x	The NI Housing Executive should ensure the Travellers' accommodation needs assessments are sufficiently robust to provide a reliable assessment of the housing needs of Traveller communities. This includes providing all Travellers in NI with adequate and accessible opportunities to participate in the assessment. The questions posed should be thorough and impartial. The NI Housing Executive should ensure that the assessment is accurate.
xi	The NI Housing Executive should review its commitments to provide Travellers' site provision in NI (for example, any relevant development plans), to ensure that need is sufficiently met.

xii	The NI Housing Executive should introduce a social housing application form that clearly sets out all accommodation options and offers applicants the express opportunity to specify their desire for Traveller-specific accommodation.
xiii	The NI Housing Executive should introduce a waiting list for serviced Travellers' sites in NI. This waiting list should be used, in partnership with the Common Selection Scheme, to allocate pitches on serviced Travellers' sites in NI.
xiv	The NI Housing Executive and relevant housing associations should ensure all required maintenance is carried out effectively within a reasonable timeframe.
xv	The NI Housing Executive should monitor the use of Housing Benefit and take steps to ensure that the accommodation it pays for in the private sector (including caravan, chalets and trailers) are fit for human habitation, adequate and maintained to a suitable standard. This includes supporting the tenant to find suitable alternative accommodation that is safe, affordable and satisfies their cultural needs.
xvi	The NI Housing Executive and relevant housing associations should ensure that the accommodation needs of Travellers with disabilities are addressed in line with all legislative requirements, and that moving homes is a last resort. Travellers with disabilities should be made aware of their rights regarding accommodation adaptations. This information should be disseminated in an accessible and understandable format.
xvii	The NI Housing Executive, in conjunction with all relevant providers, should take steps to ensure that all required services are adequately available in practice within all Travellers' accommodation and that the provision of these services is sufficiently regulated. In particular, the NI Housing Executive should work with: the local Councils to ensure Travellers have regular refuse collections; with the electricity supplier to ensure Travellers have prompt and consistent access to electricity; and with Royal Mail to ensure Travellers have adequate access to adequate postal services.
xviii	The NI Housing Executive should ensure that provision of services provided to Traveller's sites reflects the actual use of the site. The public authorities should re-categorise sites when there is a change of usage to ensure that all parties are aware of the provision that is required.
xix	The NI Housing Executive and relevant housing associations should make reasonable provision for children's play areas within Travellers' accommodation. They should also reasonably accommodate Travellers' non-domestic animals and equipment necessary for traditional trades, including through the provision of grazing land, within Travellers' accommodation.

xx	The NI Housing Executive and relevant housing associations should take reasonable steps to ensure Travellers in standard social housing understand the tenancy agreement they are signing. This includes understanding their responsibilities as tenants and the landlord's responsibilities.
xxi	The NI Housing Executive and relevant housing associations should robustly implement processes that enable Travellers to live safely and securely in their homes without fear of intimidation. This includes conducting effective mediation and effectively implementing procedures set out in antisocial behaviour policies.
xxii	The NI Housing Executive should take reasonable steps to ensure that adequate alternative accommodation is offered close to the original place of residence, when evictions occur or Travellers' sites are lawfully closed. Particular consideration should be given to distance from schools, doctors, family members and source of livelihood for those affected.
xxiii	The NI Housing Executive should ensure that reasonable steps are taken to return property promptly, when evictions take place or Travellers' sites are lawfully closed. The NI Housing Executive should ensure that onerous conditions to prove ownership (for example, a requirement to provide original receipts) are not applied, particularly if there is other suitable proof of ownership.
xxiv	The NI Housing Executive should ensure Travellers are represented on its consultation forum and the Housing Community Network. It should also ensure consultations with Travellers are meaningful and effective when consulting on planning provision for new and when developing existing Travellers' accommodation.
xxv	The NI Housing Executive should take reasonable steps to ensure its staff are accessible on a daily basis to Travellers, particularly regarding transit and emergency halting Travellers' sites.
xxvi	The NI Housing Executive should effectively manage Travellers' sites. Travellers should be required to sign a tenancy agreement before moving into Travellers' accommodation. This includes transit and emergency halting Travellers' sites. The NI Housing Executive should have mechanisms in place to ensure this is a speedy and efficient process. It should not subject Travellers to delays in accessing culturally adequate accommodation with adequate services and facilities.

Housing Associations

i	The NI Housing Executive and relevant housing associations should urgently review their existing practices and policies to ensure there is sufficient practical support for Travellers transitioning from Travellers' sites to bricks and mortar accommodation. For example, ensuring that Travellers transitioning know and understand the process for accessing electricity and heating, and the process for paying household bills.
ii	The NI Housing Executive and relevant housing associations should ensure that adequate fire safety measures are in place and are adhered to within all Travellers' accommodation. This includes ensuring that all fire safety measures are functional, regularly checked and reviewed. In addition, they should ensure that all tenants within Travellers' accommodation are sufficiently aware of the fire safety measures in place and of actions to be taken in the event of a fire.
iii	The NI Housing Executive and relevant housing associations should take immediate steps to ensure that Travellers on all types of Travellers' sites are provided with and sign an agreement attached to their pitch, clearly setting out their rights and responsibilities in an understandable language and format.
iv	The relevant housing associations should assess how accommodation in grouped housing schemes are allocated, to ensure they maximise the available resources. They should also review the utility of grouped housing schemes as an approach to addressing housing need within Traveller communities.
v	The NI Housing Executive and relevant housing associations should ensure all required maintenance is carried out effectively within a reasonable timeframe.
vi	The NI Housing Executive and relevant housing associations should ensure that the accommodation needs of Travellers with disabilities are addressed in line with all legislative requirements, and that moving homes is a last resort. Travellers with disabilities should be made aware of their rights regarding accommodation adaptations. This information should be disseminated in an accessible and understandable format.
vii	The NI Housing Executive and relevant housing associations should make reasonable provision for children's play areas within Travellers' accommodation. They should also reasonably accommodate Travellers' non-domestic animals and equipment necessary for traditional trades, including through the provision of grazing land, within Travellers' accommodation.

viii	The NI Housing Executive and relevant housing associations should take reasonable steps to ensure Travellers in standard social housing understand the tenancy agreement they are signing. This includes understanding their responsibilities as tenants and the landlord's responsibilities.
ix	The NI Housing Executive and relevant housing associations should robustly implement processes that enable Travellers to live safely and securely in their homes without fear of intimidation. This includes conducting effective mediation and effectively implementing procedures set out in antisocial behaviour policies.

Local Councils

i	The NI Housing Executive, in conjunction with all relevant providers, should take steps to ensure that all required services are adequately available in practice within all Travellers' accommodation and that the provision of these services is sufficiently regulated. In particular, the NI Housing Executive should work with: the local Councils to ensure Travellers have regular refuse collections; with the electricity supplier to ensure Travellers have prompt and consistent access to electricity; and with Royal Mail to ensure Travellers have adequate access to adequate postal services.
ii	Local Councils should take reasonable steps to prevent undue delays in the planning application process relating to Travellers' accommodation. They should also ensure that all planning decision-making processes are fair, impartial and transparent.
iii	Local Councils should take proactive reasonable steps to ensure Travellers' sites are licenced when required. Local Councils should regularly monitor the licencing of Travellers' sites and be aware when sites require a licence, whether they are licenced and when the licence will expire. Local Councils should ensure all licences meet the minimum standard of provision and safety as required by the model licence, developed by the Department for Infrastructure.
iv	All local Councils should be active members of the NI Local Government Partnership on Travellers Issues and should give consideration to developing or strengthening Traveller Forums to consider issues relating to Travellers, including accommodation.

Equality Commission NI

i	The Equality Commission NI should issue a code of practice on the elimination of discrimination in housing. This should include the private rented sector.
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Contact us

If you would like to know more about the work of the Commission, or any of the services we provide, please contact us.

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