



NORTHERN  
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HUMAN  
RIGHTS  
COMMISSION

Definition of Affordable Housing Consultation  
Department for Communities  
Housing Division  
Level 3, Causeway Exchange  
1-7 Bedford Street  
Belfast  
BT2 7EG

[HSconsultation@communities-ni.gov.uk](mailto:HSconsultation@communities-ni.gov.uk)

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Dear Housing Division,

**Re: Consultation on draft Definition of Affordable Housing**

We welcome the Department's publication of the draft Definition of Affordable Housing and the opportunity to provide our views.

The Commission recognises that to provide affordable housing to meet current demands requires significant investment in the social housing sector, in particular, alongside other provision. The need to build sufficient homes to meet the needs of those on the waiting list remains paramount. The current public housing stock, for example, clearly mitigates against social sector size criteria approaches to providing housing benefit support. The need to amend the definition, which we support, must be allied to wider policies designed to tackle housing difficulties facing people on low incomes.

## **Human rights based approach**

The Commission agrees that the current definition needs amending. The Commission recommends that the new definition should be grounded in human rights. The United Nations International Covenant on Economic, Social and Cultural Rights (UN ICESCR), Article 11, provides “the States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate... housing, and to the continuous improvement of living conditions”. The United Nations Committee on Social, Economic and Cultural Rights (UN ICESCR Committee) has elaborated that ensuring the right to adequate housing is respected, protected and fulfilled requires a number of elements, including that housing is affordable.

The UN ICESCR Committee confirmed that affordability in the context of adequate housing means:

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 the availability of such materials.<sup>i</sup>

The Commission recommends that the proposed overarching principles and objectives are amended to include reference to the principle of affordability, as contained within the UN ICESCR Committee’s General Comment No 4. In particular, an objective should be added as follows – ‘to meet the international human rights standards of a right to adequate housing contained within the UN ICESCR’.

## **Targeted groups**

In terms of identifying target groups, the Commission agrees that such an approach is required to ensure adequate support for those that have the most difficulty obtaining affordable housing. For example, the United Nations

Convention on the Rights of Persons with Disabilities, Article 28(2)(d) specifically states:

States 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.

However, the UN ICESCR Committee is clear that “the right to adequate housing applies to everyone”. The UN ICESCR Committee continues:

individuals, as well as families, are entitled to adequate housing regardless of age, economic status, group or other affiliation or status and other such factors. In particular, enjoyment of this right must, in accordance with Article 2(2) of the Covenant, not be subject to any form of discrimination.<sup>ii</sup>

The UN ICESCR, Article 2(2), provides:

the States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The Commission supports a targeted approach, as long as it is in line with the principles of non-discrimination and equality.

### **Reasonable accommodation**

The Commission also recommends that the discussion on persons with disabilities includes specific reference to the requirement to make reasonable accommodation.

UN CRPD, Article 5(3), provides “in order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided”. As set out in UN CRPD, Article 2:

'reasonable accommodation' means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.

The UN Committee on the Rights of Persons with Disabilities (UN CRPD Committee) further elaborates within its General Comment No 2 that:

reasonable accommodation can be used as a means of ensuring accessibility for an individual with a disability in a particular situation. Reasonable accommodation seeks to achieve individual justice in the sense that non-discrimination or equality is assured, taking the dignity, autonomy and choices of the individual into account. Thus, a person with a rare impairment might ask for accommodation that falls outside the scope of any accessibility standard.<sup>iii</sup>

Consideration should also be given to what reasonable accommodation is required in providing affordable housing for other individuals or groups with specific needs, such as children, women, migrants, carers, rural persons, lesbian, gay and bisexual persons, and transgender and intersex persons.

For example, in relation to children, the UN Convention on the Rights of the Child (UN CRC), Article 3(1), requires "in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration". UN CRC, Article 27 also provides:

- 1) States Parties recognise the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development;
- 2) The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development;
- 3) 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.

Concerning rural women, UN Convention on the Elimination of All Forms of Discrimination against Women (UN CEDAW), Article 14(2)(h), requires:

States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right... to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Additionally, UN Convention on the Elimination of All Forms of Racial Discrimination (UN CERD), Article 5(e)(iii), provides:

in compliance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the... right to housing.

## **Monitoring and evaluation**

The Commission recommends that the monitoring and evaluation section, which is currently focused on providers, includes specific reference to the requirement to involve users, those directly impacted by affordable housing policy and their representative organisations in the monitoring and evaluation process.

The UN CRPD has been guided by the motto “nothing about us, without us.” This, according to the Committee on the Rights of Persons with Disabilities, “resonates with the philosophy and history of the disability rights movement, which relies on the principle of meaningful participation”.<sup>iv</sup> This approach should not be limited to disability issues alone, but should be applied more generally to all human rights issues, including affordable housing. This is in line with the human rights principle of effective participation, which requires involving all

relevant stakeholders (including civil society and those directly impacted) at all stages of the process – design, implementation and evaluation.

As a result, we think a commitment should be made to consulting with tenants, tenants' organisations and housing advice and other voluntary sector advice organisations.

If the Commission can be of any further assistance, please do not hesitate to get in touch.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Les Allamby', with a small flourish at the end.

**Les Allamby**  
**Chief Commissioner**

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<sup>i</sup> E/1992/23, 'UN ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 8(c).

<sup>ii</sup> E/1992/23, 'UN ICESCR Committee General Comment No 4: The Right to Adequate Housing', 13 December 1991, at para 6.

<sup>iii</sup> CRPD/C/GC/2, 'UN Committee on the Rights of Persons with Disabilities, General Comment No.2', 22 May 2014, at para 26.

<sup>iv</sup> CRPD/C/GC/7, 'UN Committee on the Rights of Persons with Disabilities, General Comment No.7, 9 November 2018, at para 4.