



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

**Response to the Department for Communities
on Housing Supply Strategy – 2021**

July 2021

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Summary of Recommendations

- **The NIIHRC recommends that any reform of the NI Housing Executive is progressed on the basis of meaningful consultation with tenants and other stakeholders.**
- **The NIIHRC recommends a rebalancing of housing provision in NI an increased focus on provision of publicly owned, social housing and increased regulation of the private rented housing sector.**
- **The NIIHRC recommends that the ending of so called 'right to buy' for housing association tenants be extended to NI Housing Executive properties. We also recommend that any schemes for discretionary or voluntary sale for social housing be restricted to reflect the necessity of retaining public housing assets.**
- **The NIIHRC recommends, as a minimum, the permanent retention of the uplift to the Local Housing Allowance (LHA) rate to the bottom 30th percentile and suggest DfC seek additional funding to increase the LHA further.**
- **The NIIHRC recommends the introduction of legislation to prohibit the discriminatory practice of refusing tenancies to those in receipt of social security benefits.**
- **The NIIHRC recommends the supplementing of the DfC target of 10% of new build housing being disability accessible by making more new build houses easily adaptable to become disability accessible in the future.**
- **The NIIHRC recommends recognising the cultural rights of the Irish Traveller Community to live their traditional lifestyle and to provide appropriate sites for Traveller accommodation with sufficient access to essential utilities.**
- **NIIHRC recommends further regulation of Houses of Multiple Occupancy and giving tenants greater rights to security of tenure in private rental housing and protection from no fault eviction.**
- **The NIIHRC recommends more consideration be given at planning and design stage for provision of greater private outdoor and public communal areas for increased socialising.**

- **The NIHRC recommends the continuation and expansion of the 'Shared Housing Programme' whilst also ensuring that provision of house building and housing allocation being prioritised on need.**
- **The NIHRC recommends utilising a number of initiatives to ensure both public and private housing in NI is as carbon neutral as possible.**

1.0 Introduction

- 1.1 The Northern Ireland Human Rights Commission (NIHRC), pursuant to Section 69(1) of the Northern Ireland Act 1998, reviews the adequacy and effectiveness of law and practice relating to the protection of human rights in Northern Ireland (NI). In accordance with this function, the following advice is submitted to the Department for Communities (DfC) in respect of its call for evidence on its Housing Supply Strategy of May 2021.
- 1.2 The NIHRC bases its advice on the full range of internationally accepted human rights standards, including the European Convention on Human Rights, as incorporated by the Human Rights Act 1998, and the treaty obligations of the Council of Europe (CoE) and United Nations (UN). The relevant regional and international treaties in this context include:
- European Convention on Human Rights (ECHR);¹
 - UN Convention on Economic, Social and Cultural Rights (UN ICESCR);²
 - UN Convention on Elimination of Discrimination against Women (UN CEDAW);³
 - UN Convention on the Rights of the Child (UN CRC)⁴; and
 - UN Convention on the Rights of Persons with Disabilities (UN CRPD).⁵
- 1.3 In addition to these treaty standards, there exists a body of 'soft law' developed by the human rights bodies of the CoE and UN. These declarations and principles are non-binding but are intended to provide further guidance.⁶
- 1.4 The NIHRC welcomes the opportunity to respond to the DfC call for evidence and consultation on its housing supply strategy. The NIHRC will focus its submission on a number of key areas, highlighting the relevant international human rights standards.

¹ Ratified by the UK in 1951.

² Ratified by the UK in 1976.

³ Ratified by the UK in 1979.

⁴ Ratified by the UK in 1991.

⁵ Ratified by the UK in 2009.

⁶ This includes resolutions and recommendations of international bodies such as the UN General Assembly or the Council of Europe.

2.0 International Human Rights Standards

2.1 The right to adequate housing is derived from the right to an adequate standard of living⁷, enshrined in Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICECSR):

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

2.2 The Committee on Economic, Social and Cultural Rights has underlined that the right to adequate housing should not be interpreted narrowly. Rather, it should be seen as the right to live somewhere in security, peace and dignity.⁸ The Committee identified certain aspects that should be included in this right. They include; security of tenure, availability of services and infrastructure, affordability, habitability, accessibility, location, and cultural adequacy.⁹

2.3 A number of the other UN treaties also protect the right to adequate housing; for example, the Convention on the Elimination of All Forms of Racial Discrimination (CERD);¹⁰ the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);¹¹ the Convention on the Rights of the Child (CRC);¹² and the Convention on the Rights of Persons with Disabilities (CRPD).¹³

2.4 The UN Committee on the Rights of Persons with Disabilities has also issued a general comment on the right to live independently which confirms that this right is tied to the obligations on accessibility under Article 9 CRPD, which requires the establishment of accessibility standards for housing.¹⁴

2.5 It is recognised that fulfilment of social, economic and cultural rights, can only be achieved over time in a process of 'progressive realisation'.¹⁵ The Committee on Economic Social and Cultural Rights has confirmed that States are expected to "move as expeditiously and effectively as possible"¹⁶ and

⁷ Committee on Economic Social and Cultural Rights general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997).

⁸ Ibid, para 8.

⁹ Ibid.

¹⁰ Article 5(e)(iii), Convention on the Elimination of Racial Discrimination 1965.

¹¹ Article 14(2)(h), Convention on the Elimination of Discrimination against Women 1979.

¹² Article 27(3), Convention on the Rights of the Child 1989.

¹³ Articles 9, 28(1) and 28(2)(d), Convention on the Rights of Persons with Disabilities 2006.

¹⁴ CRPD/C/18/1, UNCRPD General comment on article 19: Living independently and being included in the community (29 August 2017), at para 79. See also CRPD/C/GC/2, UNCRPD, General Comment No 2 (22 May 2014).

¹⁵ Office of the United Nations High Commissioner for Human Rights, Questions on Economic, Social and Cultural Rights (Factsheet 33), at 13.

¹⁶ E/1991/23, UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 3: The Nature of States Parties' Obligations', (CESCR, 1990), at para 9.

take “deliberate, concrete and targeted” steps towards the realisation of the right in question.¹⁷

- 2.6 Alongside the principle of progressive realisation is that of ‘non retrogression’ on rights. Regressive steps in the fulfilment of rights are in contradiction to the progressive realisation principle and constitute a violation of these rights. Regressive steps include acts of omission or of commission on the part of the state, which deprive people of existing rights. Any retrogressive measures “would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources”.¹⁸

European Convention on Human Rights

- 2.7 The Human Rights Act 1998 (HRA) and the fact that the provision and regulation of housing is a devolved matter within the competency of the NI Assembly and Executive means that the ECHR and associated jurisprudence is directly applicable in NI. Established public authorities such as the Housing Executive are bound by these rules but also independent housing associations. Under Section 6(3)(b) of the HRA, 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*¹⁹ confirmed that a private authority that exercises both public and private functions is a public authority of the purposes of the HRA and so must act in accordance with ECHR rights.
- 2.8 There is no explicit right to housing or indeed public housing in the European Convention on Human Rights (ECHR). However, the European Court of Human Rights (ECtHR) has considered applications seeking to secure this right using the right to private and family life (Articles 8), the right to peaceful enjoyment of possessions (Article 1 of Protocol 1) and non-discrimination (Article 14). The ECtHR however has chosen to tread lightly in this area, finding that Article 8 cannot be construed as recognising a right to be provided with a home²⁰ or as conferring a right to live in a particular location.²¹ Moreover, the scope of any positive obligation on the state to provide housing is limited.²² Recent tentative steps the ECtHR has made in the area of housing include that restitution by the public authorities of a flat in a condition unfit for human habitation was held to infringe the Article 8 right to respect for the home.²³ It has also found that the criteria by which social housing can be allocated should not be arbitrary or discriminatory.²⁴

¹⁷ Ibid, at para 2.

¹⁸ E/1991/23, UN Committee on Economic, Social and Cultural Rights, ‘General Comment No. 3: The Nature of States Parties’ Obligations’, (CESCR, 1990), at para 9.

¹⁹ *Weaver v London and Quadrant Housing Trust* [2009] EWCA Civ 587

²⁰ *Chapman v United Kingdom*, no. 27238/95, 2001, at para 99.

²¹ *Garib v Netherlands*, no 43494/09, 2017, at para 141.

²² *Hudorovič and Others v Slovenia*, nos. 24816/14 and 25140/14, 2020, at para 114.

²³ *Novoseletskiy v. Ukraine*, 47148/99, 2005, at paras 84-88.

²⁴ *Bah v United Kingdom*, no. 56328/07, 2011, at para 49; *Paulić v Croatia*, no. 3572/06, 2009; *Kay and Others v United Kingdom*, no. 37341/06, 2010.

The ECtHR may develop a more active interpretation of these rights to housing in the future.

3.0 Substantive response to Housing Strategy

Sustainable Communities and Homes

- 3.1 Housing is a significantly important and multifaceted issue and one where government policy can have wide ranging effect on the social and financial prospects of individuals and of society as a whole. It is for this reason that The NIHRC welcomes that DfC have opted for a long-term housing strategy and that their proposed 15 year time period offers potential for a long-term vision and a level of stability that will hopefully provide positive outcomes.
- 3.2 The NIHRC notes the reference to the 'revitalisation of the Housing Executive'²⁵ and the recent statement from the DfC concerning the reform of the NI Housing Executive's status and ownership structure.²⁶ The NIHRC welcomes the proposed reform of the Housing Executive, insofar as it seeks to finance the much needed building, renovation and maintenance of social housing in NI. In light of this significant change it is important that existing tenants and others are fully consulted on and kept informed of the proposals.
- 3.3 The NIHRC recommends that any reform of the NI Housing Executive is progressed on the basis of meaningful consultation with tenants and other stakeholders.**
- 3.4 The NIHRC welcomes that a major focus of DfC's attention in the housing strategy is on provision of social housing. The NIHRC notes that there is a place for a strong private rented sector in any housing strategy in NI and we would recommend that the private rented sector be subject to regulation that secures the rights of tenants as well as the property rights of landlords. However, NIHRC considers that housing provision is in need of a significant rebalancing so that social housing is more of a priority, which may produce not just socially positive outcomes but long-term financial rewards too. This will mean an increase in housing supply and we welcome action on the part of the DfC that will make the sourcing of areas for public house building and the construction of that housing easier.
- 3.5 A robust social housing sector can have a positive effect even on the wider housing market. Across the developed world social housing in the past few decades has increasingly been run on a residual model.²⁷ In nearly all countries, the social housing stock has become home to an increasing share of low-income and vulnerable tenants²⁸. There has been a move away from

²⁵ DfC, 'Housing Supply Strategy: Call for Evidence' (May 2021) at 9.

²⁶ <https://www.communities-ni.gov.uk/news/housing-statement-communities-minister-caral-ni-chuilin-3-november-2020>

²⁷ Hoekstra, J. (2017), 'Reregulation and Residualization in Dutch social Housing: a critical Evaluation of new Policies', *Critical Housing Analysis*, Vol. 4/1, at pp. 31-39.

²⁸ The Organisation for Economic Co-operation and Development (OECD) report - *Social housing: A key part of past and future housing policy* OECD 2020, p.15.

social housing being run on an 'institutional model'²⁹ with a purpose of improving housing quality throughout society. In improving standards and securing the right to adequate housing, often the most efficient mechanism in achieving this is for government bodies and public housing associations to provide affordable, good quality and secure accommodation, as envisaged in CESCR General Comment No. 4,³⁰ to those across a wide range of incomes. Rental proceeds from publicly owned properties can also be channelled into the building of even more publicly owned homes. This would reduce general housing costs for renters and owner occupiers whilst also creating a greater incentive for private sector landlords to be competitive with the prices and conditions of public sector housing.

3.6 Over the past four decades, there has been a shift from renting in public sector housing to renting in the private rented sector.³¹ Part of this shift has involved changes in public policy around the responsibilities of government vis a vis the individual and private enterprise and has been reflected in societal norms and changed public attitudes towards home ownership. The proportion of housing stock in public ownership has dramatically decreased whilst private ownership, including owner occupier and private let has increased. The long-term historic trend has been a decrease in the size of the social sector. In the late 1970s the social sector represented 33% of all housing across the UK. This figure now stands at around 18% across the UK and 15% in NI.³²

3.7 **The NIHRC recommends a rebalancing of housing provision in NI an increased focus on provision of publicly owned, social housing and increased regulation of the private rented housing sector.**

Housing Supply and Finance

3.8 The NIHRC notes that the general fulfilment of a right to housing relies upon a good and high-quality supply of housing, particularly publicly owned social housing. A serious analysis on the long-term supply of such housing must also address the issue of so called 'right to buy'. NI is the only devolved region in the UK that has not yet ended the mandatory sale of social housing to secure tenants that apply for it. The NIHRC is concerned that the positive effects of the DfC housing strategy, particularly attempts to increase supply of public housing, will be undermined whilst forced sale continues to take place. Social housing of particular benefit to disabled persons and the elderly such as bungalows, ground floor apartments and disability accessible homes are also at risk of being lost to forced sale. The ECtHR has found Article 1 of Protocol 1 rights to property do not encompass the right to acquire

²⁹ Developing and rehabilitating social housing from the perspective of institutional model: Structure of provision, Research Institute for the Built & Human Environment (BuHu), University of Salford.

³⁰ E/1992/23, Committee on Economic Social and Cultural Rights, 'General Comment No. 4' (1991) on the Right to Adequate Housing (13 December 1991); E/1998/22, Committee on Economic Social and Cultural Rights, 'General Comment No. 7 (20 May 1997).

³¹ The Organisation for Economic Co-operation and Development (OECD) report - Social housing: A key part of past and future housing policy © OECD 2020, pg 15.

³²<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/articles/comparingaffordablehousingintheuk/april2008tomarch2018>

property.³³ It has also found that a right to a lease did amount to a “possession” and that whilst an individual could have the right to use a property, there was no right to acquire one.³⁴

3.9 The Housing (Amendment) Act (NI) 2020 received Royal Assent on 28 August 2020. The intention of this act is to reverse the effect of the Office of National Statistics decision to classify housing associations as public bodies. One significant effect the Act will have is the removal of the statutory right for housing association tenants to purchase their home from 28 August 2022. The Act includes provisions which will allow housing associations to choose to provide a voluntary house sales scheme and to avail of grants from the DfC to provide tenants with discounts on such purchases. DfC will decide appropriate terms and conditions for any such grant. This legislation does not affect NI Housing Executive tenants, however, during NI Assembly debates on the passage of this legislation, the Minister for Communities confirmed the intention to “address the Housing Executive sales scheme... with all urgency”.

3.10 The NIHRC agrees with the removal of the statutory obligation to sell properties on request of tenants in housing associations given it reduces the overall public housing stock and would recommend this also be extended to NI Housing Executive properties.³⁵ We also advise against allowing housing associations or any future organisation in charge of NI Housing Executive properties to produce their own voluntary purchase schemes. Any voluntary purchase scheme and grants made available under any voluntary scheme should meet strict terms and conditions set out by the DfC and any purchase scheme should align with and supplement the goals set out in this DfC Housing Strategy.

3.11 DfC may draw on the experiences of the devolved regions of Scotland and Wales.³⁶ Ending the ‘right to buy’ could have the effect that not only is housing stock retained, but social landlords and local authorities are more willing to build much needed social housing if they know that they are able to prevent it being sold off, particularly at discounted prices. Moreover, Social landlords will then know that the significant initial outlay in paying for the building of these properties will be retained and continue to generate both a financial and social good over the longer term.³⁷

3.12 The NIHRC recommends that the ending of so called ‘right to buy’ for housing association tenants be extended to NI Housing Executive

³³ Grishchenko v Russia, no. 75907/01, 2004; Denisov v Ukraine, no. 76639/11, 2018

³⁴ Stretch v United Kingdom, no. 44277/98, 2001; Tchokontio Happi v France, no. 65829/12, 2015

³⁵ As previously mentioned, whilst there is a right in ECtHR jurisprudence to the use of a property, there is no right for an individual to acquire it. There would also be a wider public interest not having to allow a tenant to purchase their home.

³⁶ The End of the Right to Buy and the Future of Social Housing in Scotland - Kim McKee Centre for Housing Research. School of Geography and Geosciences, University of St. Andrews. <https://core.ac.uk/download/pdf/9821221.pdf>

³⁷ The Impact of the Existing Right to Buy and the Implications for the Proposed Extension of Right to Buy to Housing Associations - Headline Findings from the Evidence Review - Ian Cole, Stephen Green, Lindsey McCarthy, Ben Pattison Centre for Regional Economic and Social Research, Sheffield Hallam University, 2015.

<https://www.parliament.uk/globalassets/documents/commons-committees/communities-and-local-government/Full-Report-for-Select-Committee-141015final.pdf>

properties. We also recommend that any schemes for discretionary or voluntary sale for social housing be restricted to reflect the necessity of retaining public housing assets.

Housing and Poverty

3.13 A lack of supply in both the public and private sector has been a contributing factor in the cost of renting in the private sector increasing.³⁸ This increase is often beyond what a tenant dependent on social security would receive from housing assistance.³⁹ The deficit between what a tenant receives under Local Housing Allowance (LHA) and their rent is subsequently topped up⁴⁰, often out of a tenant's other social security benefits.⁴¹ Means tested benefits are supposed to cover other essential living expenses such as food or fuel. The NIHRC would therefore be concerned that some tenants are at risk of being pushed further into poverty in order to avoid becoming homeless.

3.14 Local Housing Allowance rates in previous years had been set at the 50th percentile (median) of market rents for an area.⁴² This has subsequently been lowered substantially over a number of years. In 2020/21, in part due to the crisis caused by the COVID 19 pandemic and associated lockdown, the Local Housing Allowance (LHA) rates in NI were increased to provide additional financial support for private tenants in receipt of Housing Benefit or the housing costs element of Universal Credit. LHA rates were uplifted to the bottom 30th percentile of market rents.⁴³ Whilst this was a welcome move, the NIHRC would like to see this temporary measure become permanent. We would also recommend that DfC seek funding from the Department of Finance in order to uplift the LHA further.

3.15 The NIHRC recommends, as a minimum, the permanent retention of the uplift to the Local Housing Allowance (LHA) rate to the bottom 30th percentile and suggest DfC seek additional funding to increase the LHA further.

Equality and Human Rights

3.16 The NIHRC note that the section of the DfC's strategy document concerning 'Equality and Human Rights' does not sufficiently identify the relevant rights framework for housing and focuses almost exclusively on the Section 75 obligations, as set out in the Northern Ireland Act 1998. The NIHRC recommends that DfC consider a Human Rights Based Approach (HRBA) in its proposed housing strategy. Such an approach is underpinned by five key

³⁸ [https://www.nihe.gov.uk/Documents/Research/Private-Rental-Market-CURRENT/performance-private-rental-market-NI-january-june.aspx?ext=.](https://www.nihe.gov.uk/Documents/Research/Private-Rental-Market-CURRENT/performance-private-rental-market-NI-january-june.aspx?ext=)

³⁹ <https://www.gov.uk/government/statistics/universal-credit-statistics-29-april-2013-to-14-january-2021>

⁴⁰ <https://www.opendemocracy.net/en/opendemocracyuk/number-private-tenants-facing-rent-shortfall-leaps-nearly-50-during-covid-19-pandemic/>

⁴¹ <https://www.crisis.org.uk/about-us/media-centre/families-forced-to-give-up-food-shopping-to-cover-rent-says-crisis/>

⁴² <https://www.gov.uk/government/publications/local-housing-allowance-uprating-equality-analysis-april-2020/equality-analysis-for-uprating-local-housing-allowance-rates-to-the-30th-percentile-of-local-rents>

⁴³ <https://www.nihe.gov.uk/Housing-Help/Local-Housing-Allowance/How-we-calculate-LHA-rent-levels>

human rights principles: participation, accountability, non-discrimination and equality, empowerment and legality.⁴⁴ This is a conceptual framework directed towards promoting and protecting human rights, based on international human rights standards. It puts human rights and state obligations at the heart of policy and can be used as a tool to empower even the most vulnerable people to participate in decision-making processes and to hold decision makers to account.

3.17 The NIHRC notes that there remains a further access to housing issue for those in receipt of Housing Benefit or Universal Credit. 'No DHSS' unfortunately remains a feature of the NI private rental market. As well as putting an additional barrier in the path of those on social security seeking somewhere to live, the practice itself is arguably discriminatory and an interference in the right to access a home. The County Court in England and Wales has found letting bans of this nature to be unlawful.⁴⁵ Although the court did not find that such practice was directly discriminatory against those on social security benefits, it did find that it caused indirect discrimination against women, as they were more likely to be denied a tenancy on this basis. Research showed that 53.1% of female single-adult households renting privately claim Housing Benefit compared to 34% of male single adult households.⁴⁶

3.18 This court's judgment in this instance was based on the Equality Act 2010, which does not extend to NI. However, NI has its own anti-discrimination legislation which should similarly make this kind of indirect discrimination unlawful. There are clear parallels between the Equality Act 2010 and the Sex Discrimination (NI) Order 1976.⁴⁷ Although the case is not legally binding, the arguments advanced in this case can apply equally to landlords and letting agents in NI and any court this issue would come before would likely to reach a similar decision. Rather than having to rely on potential tenants having to go to the courts to uphold their human rights against such discrimination here in NI, the NIHRC recommends that DfC consider introducing legislation that clearly bans such practices.

3.19 The NIHRC recommends the introduction of legislation to prohibit the discriminatory practice of refusing tenancies to those in receipt of social security benefits.

3.20 The NIHRC welcomes the DfC setting a target for the building of 10% of new housing that is disability accessible. This will help secure the rights of disabled persons and of older persons to accessible and suitable accommodation. However, given the long-term nature of this housing strategy, the NIHRC recommends that DfC could supplement this target by

⁴⁴ <http://ennhri.org/about-nhris/human-rights-based-approach/>

⁴⁵ http://nearlylegal.co.uk/wp-content/uploads/2020/07/20.07.02-Redacted-Court-Order.pdf?utm_source=mailpoet&utm_medium=email&utm_campaign=new-on-nearly-legal-newsletter-total-new-posts_1

⁴⁶ <https://nearlylegal.co.uk/2020/07/discrimination-and-no-dss/>

⁴⁷ Article 3A of the Sex Discrimination (Northern Ireland) Order 1976 forbids indirect discrimination on the ground of sex

ensuring that all new houses are easily adaptable to become accessible for person with disabilities.

3.21 Housing that can be more readily retrofitted into being disability accessible would have a number of benefits. It would help in ensuring rights to equal access and suitable provision for the disabled. It would also help future proof housing stock for a population that is increasingly ageing and so will require easily accessible housing as they age. It may also have long term financial benefits in not having to, at a later point, build specific disabled access housing for tenants. For example, adapting a typical home can cost five times more than making one adaptable at design stage.⁴⁸ It would also alleviate the upheaval and emotional stress caused when a tenant must move to more accessible accommodation from a home they may have lived in for a long time and feel comfortable in.

3.22 The NIHRC recommends the supplementing of the DfC target of 10% of new build housing being disability accessible by making more new build houses easily adaptable to become disability accessible in the future.

3.23 The DfC has correctly identified⁴⁹ that access to appropriate accommodation for Irish Travellers is limited. The NIHRC welcomes the acknowledgment of this issue in the strategy and would refer to our investigation report, and recommendations, into Traveller accommodation in NI.⁵⁰ In this, the NIHRC highlighted that there is no legislation or policy that specifically deals with homelessness within the Traveller communities in NI.⁵¹ The negative effect on health that the lack of culturally adequate options for homeless Travellers and the prolonged period of homelessness Travellers can experience engages the right to private and family life (Article 8 ECHR), and, in extreme cases, may engage a right against torture, inhuman and degrading treatment or punishment (Article 3 ECHR). The NIHRC also conducted interviews with Travellers who had experienced homelessness. Those interviewed felt there were a number of contributing factors to homelessness in the Traveller community; for example, a lack of support and guidance from the NI Housing Executive in accessing standard social housing and the unsuitable nature of alternative accommodation for their cultural needs regarding size or location.⁵² The limited provision of Traveller-specific accommodation and the existence of the Unauthorised Encampments (NI) Order 2005 also leaves Travellers vulnerable to homelessness.⁵³

3.24 The NIHRC recommends that any housing strategy includes ensuring sufficient sites for Travellers to set up accommodation and that these sites have sufficient access to essential utilities. Previous government policies have focused on provision of settled housing for Travellers. Some in the

⁴⁸ Equality and Human Rights Commission, *Housing and disabled people - Britain's hidden crisis*, May 2018.

⁴⁹ DfC, *'Housing Supply Strategy: Call for Evidence'*, May 2021, at 24.

⁵⁰ NIHRC, *'Out of Sight, Out of Mind: Travellers Accommodation in Northern Ireland'*, March 2018.

⁵¹ *Ibid* p.35.

⁵² *Ibid*, p.34.

⁵³ *Ibid*.

Travelling community are content to move into a more settled way of living but a focus on settled housing has led others in the Traveller community, who would prefer their traditional itinerant culture, to feel that they are being pushed or corralled into settled housing and a sedentary way of life not in keeping with their cultural heritage.⁵⁴ Providing suitable accommodation sites options for Travellers to continue their itinerant lifestyle would assist in preventing discrimination and in enshrining of the cultural rights of the Traveller community.⁵⁵ When considering the rights of the Traveller community DfC 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.⁵⁶

3.25 The NIHRC recommends recognising the cultural rights of the Irish Traveller Community to live their traditional lifestyle and to provide appropriate sites for Traveller accommodation with sufficient access to essential utilities.

3.26 The NIHRC recognises the longstanding issue of overcrowded and insecure housing and agrees with the DfC where it notes that migrant workers are particularly vulnerable to poor conditions and overcrowding.⁵⁷ We also recognise that the need to alleviate these issues has been given greater impetus by the effects of COVID 19 and the associated lockdown. To help alleviate this, DfC may consider further regulation to increase standards in Houses of Multiple Occupancy to assist in the prevention of exploitation of tenants, with particular regard to migrant workers. DfC could also consider giving tenants a greater right to security of tenure in private rental housing.

3.27 The NIHRC recommends further regulation of Houses of Multiple Occupancy and giving tenants greater rights to security of tenure in private rental housing and protection from no fault eviction.

3.28 Coming out of the COVID 19 pandemic may also require more of a focus on a right to enjoyment of outdoor spaces for tenants as part of their right to private and family life and also the rights of their children to rest and leisure, to engage in play and recreational activities.⁵⁸ This can be private spaces such as private gardens or balconies. It can also mean more provision of public communal areas for tenants to socialise. Any social housing project should take account of the human rights framework at the planning and design stage. Communal areas for tenants will also assist with a potential crisis of loneliness in our increasingly aging population.⁵⁹ In the future, as our population becomes more gerontic, it may be necessary to give more consideration to the particular rights of the elderly and part of this may

⁵⁴ Ibid, p.38.

⁵⁵ E/1992/23, Committee on Economic Social and Cultural Rights, 'General Comment No. 4 on the Right to Adequate Housing (13 December 1991); E/1998/22, Committee on Economic Social and Cultural Rights, 'General Comment No. 7 (20 May 1997)

⁵⁶ NIHRC, 'Out of Sight, Out of Mind: Travellers Accommodation in Northern Ireland', March 2018, at 43.

⁵⁷ DfC, 'Housing Supply Strategy: Call for Evidence' (May 2021) at 24.

⁵⁸ Article 31 UN Convention on the Rights of the Child

⁵⁹<https://www.nisra.gov.uk/sites/nisra.gov.uk/files/publications/Loneliness%20in%20Northern%20Ireland%202018-19%20report.pdf>

require a strategy to help prevent loneliness and the development of opportunities to social interaction that build upon existing rights to create and maintain social relationships established in Article 8.⁶⁰ According to a report by Age UK⁶¹, the number of over-50s experiencing loneliness is set to reach two million by 2025/6. This compares to around 1.4 million in 2016/7 – a 49% increase in 10 years.

3.29 The NIHRC recommends more consideration be given at planning and design stage for provision of greater private outdoor and public communal areas for increased socialising.

3.30 The NIHRC recognises the divided and segregated nature of housing in NI and how this is particularly prevalent in social housing estates and in some densely populated urban areas. The Equality Commission for NI's report into key inequalities in housing, has identified that single, divorced, separated and older people are most likely to live in inadequate housing.⁶²

3.31 The NIHRC also recognises that Catholics are more vulnerable to facing inadequate access to affordable housing than Protestants and that this is particularly prevalent in North Belfast.⁶³ We recognise also the demographic changes and sensitivities this can cause in highly segregated communities and the effect demographic changes can have in electoral boundaries and the wider divided political system. The NIHRC would support the 'Shared Housing Programme' outlined by DfC in their strategy as a helpful method of trying to overcome this deep division in NI society. We understand the necessity of maintaining the desired (70/30) community mix of any such shared scheme. Nevertheless, to avoid possible discrimination and to ensure equal and fair housing policy, NIHRC would encourage, as far as is possible, house building and housing allocation being prioritised on need above other factors.

3.32 The NIHRC recommends the continuation and expansion of the 'Shared Housing Programme' whilst also ensuring that provision of house building and housing allocation being prioritised on need.

Climate Change / Net Zero

3.33 The NIHRC welcome DfC's recognition of the role housing will play in combating climate change and in meeting the overall target of net zero carbon emissions. The UN has cited climate change as "the defining issue of our time"⁶⁴ and threatens the enjoyment of all human rights, including the rights to health, water, food, housing, self-determination, and even the right to life for millions across the world. To this end The UK Climate Change Act

⁶⁰ X v Iceland, No. 6825/74, 1976 at paras 86-87; McFeeley et al v United Kingdom, No. 8317/78, 1980 at para 82.

⁶¹ Age UK, 'All the Lonely People - Loneliness in Later Life' (September 2018).

⁶² Allison Wallace, 'Housing and Communities Inequalities in NI' (University of York and ECNI, 2015), at 12-13. <https://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/HousingInequalities-FullReport.pdf>

⁶³ E/C.12/GBR/CO/5', 12 June 2009; UN Special Rapporteur Press Statement, 11 September 2013; Alison Wallace, 'Housing and Communities Inequalities in NI' (University of York, 2015), at 83.

⁶⁴ <https://www.un.org/en/sections/issues-depth/climate-change/index.html>

2008 sets a duty on government to ensure that net UK carbon emissions for greenhouse gases for the year 2050 is at least 80% (later amended to 100%)⁶⁵ lower than the 1990 baseline. The Act gave ministers powers to introduce the measures necessary to achieve a range of greenhouse gas reduction targets and an independent Committee on Climate Change has been created to monitor progress.

- 3.34 The Paris Agreement on climate change forms part of the United Nations Framework Convention on Climate Change (UNFCCC) and has set a long-term temperature goal to keep the rise in global average temperature to below 2 °C above pre-industrial levels. It was agreed that this should be done by reducing emissions as soon as possible and achieving a net-zero emissions by 2050. The NIHRC note with approval the commitment to introducing legislation in line with the Paris Agreement in the New Decade New Approach agreement and encourage the continued passage of this legislation through the NI Assembly.⁶⁶
- 3.35 The Committee on Climate Change states that 40% of UK carbon emissions come from households⁶⁷ so any meaningful attempt to meet climate change targets will require thought being given and effort being made to make both public and private housing in NI as carbon neutral as possible. The NIHRC also recognises the right to life and the right to an adequate standard of living that may be threatened if climate change and associated carbon emissions continue unchecked.
- 3.36 Many homes in NI rely on individual gas boilers for heating and it has been suggested that, in order to meet carbon emission targets, the UK government will need to ban the installation of new gas boilers from as early as 2025 and is already considering plans to do so.⁶⁸ The NIHRC is supportive of carbon reduction initiatives in housing such as the boiler replacement scheme and DfC may wish to consider expansion of similar schemes that would encourage homes to be as fully insulated as possible and for the installation of renewable and carbon neutral energy sources for homes. NI playing its part in meeting climate change obligations, whilst providing secure energy needs for households, will mean considering emerging renewable energy technologies such as solar and wind as well as other alternative formats of energy supply that will increase energy efficiency.⁶⁹
- 3.37 The NIHRC has observed that issues related to climate change are more frequently arising before national and international courts, and international legal jurisprudence is becoming more activist in holding states to account on their climate change obligations. For example, in 2019 a challenge was successfully brought against the Dutch government on the basis that, by not meeting a minimum carbon dioxide emission-reduction goal established by

⁶⁵ The Climate Change Act 2008 (2050 Target Amendment) Order 2019.

⁶⁶ New Decade, New Approach (January 2020), at 8.

⁶⁷ <https://www.theccc.org.uk/wp-content/uploads/2016/07/5CB-Infographic-FINAL-.pdf>

⁶⁸ <https://www.iea.org/reports/net-zero-by-2050>

⁶⁹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/424254/heat_networks.pdf

scientists to avert harmful climate change, the government was violating the human rights of Dutch citizens as set by national and European laws.⁷⁰

3.38 More recently, the Irish High Court accepted that the ability existed to challenge the Irish Government's climate change plan on human rights grounds and also accepted "for the purposes of the case" the existence of a constitutional right to an environment consistent with human dignity.⁷¹ The case was appealed and heard before the Supreme Court of Ireland⁷² which ruled that the Irish Government's climate change plan was subject to judicial review and quashed their climate change plan, finding it to be ultra vires because it did not conform with the requirements of the 2015 Climate Act as it did not provide specific details as to how the national transition objective would be achieved. The Court found that the Plan fell short of the level of detail required under the 2015 Climate Act. The UN Special Rapporteur on human rights and the environment, David R. Boyd, called the case "a landmark decision" which "sets a precedent for courts around the world to follow".⁷³ This may become more relevant in NI as the NI Assembly is in the process of producing its own climate change legislation.⁷⁴ The NI Executive may find itself subject to court interdict if it does not meet targets set in that legislation.

3.39 In the case of Duarte Agostinho and Others v Portugal and Others, six young people have filed a complaint before the ECtHR against 33 countries, alleging failure to take sufficient action against climate change in breach of the ECHR.⁷⁵ In December 2020, the ECtHR agreed to fast track the case and 33 European states, including the UK, now have to respond with information about how they will reduce the greenhouse gas emissions that are destabilising the climate.

3.40 The NIHRC recommends utilising a number of initiatives to ensure both public and private housing in NI is as carbon neutral as possible.

⁷⁰ State of the Netherlands v Urgenda Foundation, ECLI:NL:HR:2019:2006.

⁷¹ https://www.courts.ie/acc/alfresco/20562a43-5bed-4524-9b60-e18ef35aae44/2019_IEHC_747.pdf/pdf#view=fitH

⁷² Friends of the Irish Environment v The Government of Ireland & Ors [2020] IESC 49.

https://www.courts.ie/view/judgments/681b8633-3f57-41b5-9362-8cbc8e7d9215/981c098a-462b-4a9a-9941-5d601903c9af/2020_IESC_49.pdf/pdf.

⁷³ <https://www.climatecaseireland.ie/amidst-a-climate-and-biodiversity-crisis-hope-emerges-friends-of-the-irish-environment-win-historic-climate-case-ireland-in-the-irish-supreme-court/>

⁷⁴ <http://www.niassembly.gov.uk/assembly-business/legislation/2017-2022-mandate/non-executive-bill-proposals/climate-change-bill/>.

⁷⁵ Duarte Agostinho and Others v Portugal and Others, Application no 39371/20.

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