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Comments by the Irish Human Rights and Equality
Commission on the 18th National Report on the
implementation of the European Social Charter

submitted by

THE GOVERNMENT OF IRELAND

Follow-up to Collective Complaints

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Comments on Ireland's 18th National Report on the implementation of the European Social Charter

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Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas

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Introduction

The Irish Human Rights and Equality Commission (“IHREC”) is both the national human rights institution and national equality body for Ireland, established under the *Irish Human Rights and Equality Commission Act 2014*. In its *Strategy Statement 2019-2021*,¹ IHREC has committed to prioritising a number of thematic areas including promoting access to justice to those who face the greatest barriers to justice and advancing socio-economic rights, in particular in the area of housing.

On 22 December 2020, the Government of Ireland submitted its 18th National Report to the European Committee of Social Rights (“the Committee”) on the implementation of *the European Social Charter* (“the Charter”).² IHREC notes that under the simplified reporting procedure, the State was required to provide an update on its response to four collective complaints:

- Collective Complaint 83/2012: European Confederation of Police (EuroCOP) v. Ireland
- Collective Complaint 100/2013: European Roma Rights Centre (ERRC) v. Ireland
- Collective Complaint 110/2014: International Federation for Human Rights (FIDH) v. Ireland
- Collective Complaint 112/2014: European Organisation of Military Associations (EUROMIL) v. Ireland

IHREC provided detailed comments to the Committee on the State’s implementation of the decisions in the above complaints in June 2020.³ The purpose of this submission is to provide the Committee with recent updates and information of relevance, to support its examination of Ireland’s 18th National Report.

With regard to the collective complaints procedure, IHREC notes the Committee’s previous call for the State to consider making a declaration under Article 2 of the *Additional Protocol 1995* in order to allow representative national non-governmental organisations the right to submit complaints under the Charter.⁴ Irish NGOs play a

¹ IHREC, [Strategy Statement 2019-2021](#) (January 2019).

² Government of Ireland, [18th National Report on the implementation of the European Social Charter](#) (22 December 2020).

³ IHREC, [Comments on Ireland’s 17th National Report on the Implementation of the European Social Charter](#) (June 2020).

⁴ European Committee of Social Rights, [Third Report on Non-Accepted Provisions of the European Social Charter: Ireland](#) (May 2016), p. 3.

crucial role in the area of economic and social rights through advocacy and policy work. Therefore, providing direct access to the collective complaints procedures for Irish NGOs could increase its accessibility and their capacity to engage in the mechanism, and support the implementation of the Charter at a national level.

IHREC reiterates its call on the State to make a declaration permitting national non-governmental organisations to submit collective complaints under the Charter.

IHREC recalls that the State has not accepted the following provisions of the Charter:

- Article 8(3) on the right of employed mothers who are nursing their children to be entitled to sufficient time off for the purpose;
- Article 21(a-b) on the right of workers to be informed about the economic and financial situation of their employer and to be consulted on decisions which could potentially affect the interests of workers, in particular decisions which could impact their employment;
- Article 27(1)(c) on the responsibility of the State to develop or promote services, public or private, in particular child day-care services and other childcare arrangements; and
- Article 31(1-3) on the responsibility of the State to promote access to housing of an adequate standard, to prevent and reduce homelessness with a view to its gradual elimination, and to make the price of housing accessible to those without adequate resources.

IHREC previously recommended in its comments on the 16th and 17th National Reports for the State to fully review the possibility of accepting all the provisions of the Charter.⁵ As noted in our 2020 submission, the selective acceptance of the provisions of the Charter was only intended to be a temporary option for states⁶ and the Irish State was asked to submit written information in 2020 on the non-accepted provisions.⁷ As highlighted by the Committee, the rights guaranteed by Article 31 of the Charter have become even more crucial to rights-holders during the pandemic, including to ensure prevention of, and protection from, transmission of the virus.⁸ A

⁵ IHREC, [Comments on 16th National Report on the Implementation of the European Social Charter](#) (May 2019), pp. 1-2 and IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020), pp. 2-3.

⁶ European Committee of Social Rights, [Third Report on Non-Accepted Provisions of the European Social Charter: Ireland](#) (May 2016), p. 3.

⁷ European Committee of Social Rights, [Third Report on Non-Accepted Provisions of the European Social Charter: Ireland](#) (May 2016), p. 3.

⁸ European Committee of Social Rights, [Statement on COVID-19 and social rights](#) (24 March 2021), p. 13.

nationally representative poll published by IHREC in December 2020 found that 82% of people in Ireland consider housing to be a basic human right and 64% of people believe that the right to housing should be enshrined in our Constitution.⁹

IHREC reiterates its call for the State to accept all the provisions under the Charter.

⁹ A total sample of 1,200 was achieved in this poll with quotas set on gender, age, social class and region to achieve a sample aligned with national population. IHREC, [*Overwhelming Public Support for Human Rights Protections as Ireland Marks Human Rights Day*](#) (10 December 2020).

Collective Complaint 83/2012: European Confederation of Police (EuroCOP) v. Ireland

IHREC recalls that in its 2013 decision, the Committee found that the current arrangements for industrial relations in An Garda Síochána, including the complete abolition of the right to strike, were not in compliance with Article 5 (the right to organise) and Articles 6(2) and (4) (the right to bargain collectively).

Taking note of the State's report on the measures adopted to implement this decision,¹⁰ IHREC has welcomed the reviews¹¹ into the operation of industrial relations within An Garda Síochána, which have led to the State permitting Garda Associations to take part in national public service pay negotiations. IHREC has also welcomed the State enshrining in legislation access to the Workplace Relations Commission and the Labour Court for Garda Associations.¹² Notwithstanding these developments, IHREC notes the Committee's findings in 2020 that the State had not brought the situation into conformity with Articles 5, 6(2), and 6(4) of the Charter due to its failure to address the abolition of the right to strike.¹³

IHREC reiterates its call on the State to remove the complete abolition of the An Garda Síochána members' right to strike, in order to bring the current legislative framework into conformity with Articles 5 (the right to organise), 6(2) and 6(4) (the right to bargain collectively) of the Charter.

¹⁰ Government of Ireland, [18th National Report on the implementation of the European Social Charter](#) (December 2020), p. 3.

¹¹ [Review of An Garda Síochána: Report by John Horgan](#) (12 December 2016); [First Report of the Working Group on Industrial Relations Structures for An Garda Síochána](#) (28 July 2017).

¹² See IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020), p. 4.

¹³ Council of Europe, [Follow-up to decisions on the merits of collective complaints: Findings 2020](#) (January 2021), pp. 151-153.

Collective Complaint 100/2013: European Roma Rights Centre (ERRC) v. Ireland

IHREC recalls that in its 2015 decision, the Committee found the State in violation of Article 16 (the right of the family to social, legal and economic protection) due to the failure to provide sufficient accommodation for Travellers, the inadequate conditions of existing Traveller sites, and the inadequate safeguards governing Traveller evictions.¹⁴ In its review of this collective complaint and Ireland's protection of Traveller families with respect to housing, the Committee found in 2018 and 2019 that the State had not brought the situation into conformity with Article 16.¹⁵ In 2020, the Committee noted that while Ireland has made progress in the provision of accommodation for Travellers, access to housing and refurbishment of Traveller accommodation, there is still a substantial shortfall in the provision of accommodation for Travellers. It concluded that the situation has still not been brought into conformity with Article 16 of the Charter.¹⁶ IHREC provided detailed information and commentary on the provision of Traveller-specific accommodation, the conditions of Traveller accommodation and the legislative and policy framework governing evictions to the Committee in 2018, 2019 and 2020.¹⁷ Since IHREC's last submission to the Committee, there are ongoing violations of Travellers' right to adequate housing.

Provision of Traveller accommodation

The legal and policy frameworks governing the provision of accommodation to Travellers require a complete 'overhaul'.¹⁸ As detailed in our 2020 submission to the Committee, this is evidenced by the inadequate conditions of existing Traveller sites,

¹⁴ European Roma Rights Centre (ERRC) v. Ireland, Complaint No. 100/2013.

¹⁵ European Committee of Social Rights, [Assessment of follow-up: European Roma Rights Centre \(ERRC\) v. Ireland, Complaint No. 100/2013](#) (2018) and European Committee of Social Rights, [Conclusions 2019: Ireland](#), p. 33.

¹⁶ European Committee of Social Rights, [Follow-up to decisions on the merits of collective complaints: Findings 2020](#) (2020), p. 154. See also, IHREC, [Human Rights and Equality Commission Challenges Government to Acknowledge Responsibility on Housing Rights](#) (24 March 2021).

¹⁷ IHREC, [Comments on Ireland's 15th National Report on the Implementation of the European Social Charter](#) (May 2018), pp. 4-10, IHREC, [Comments on Ireland's 16th National Report on the Implementation of the European Social Charter](#) (May 2019), pp. 17-18 and IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020), pp. 5-16.

¹⁸ Traveller Accommodation Expert Group, [Traveller Accommodation Expert Review](#) (July 2019), foreword. For further information on housing law and Traveller's rights see, IHREC, [Submission to the Joint Committee on Key Issues affecting the Traveller Community](#) (February 2021), p. 3.

the discrimination and deprivation faced by Travellers in the private rental market, the level of overcrowding in Traveller households, and the continued problem of Traveller family homelessness.¹⁹ IHREC remains concerned that the State is not currently meeting the needs of Travellers who would prefer to live in culturally appropriate Traveller-specific accommodation, nor is it meeting the needs of Travellers who would prefer to live in other types of housing.²⁰ Unsuitable accommodation can have a significant impact on Travellers mental health, particularly when the housing provided results in separation from networks of family and friends who provide social and practical support.²¹

In particular, IHREC is concerned that housing authorities continue to make offers of non-Traveller specific accommodation to families whose wish is for Traveller specific accommodation.²² As previously highlighted to the Committee, there is a lack of a strong evidence base for the current accommodation policies, and shortcomings in the system for assessing accommodation needs, due to poor quality data and information on the size, characteristics, and accommodation preferences of the Traveller population.²³ While the State report contends that Travellers express a preference for 'standard housing',²⁴ this does not reflect past analysis and the longstanding

¹⁹ IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020), pp. 5-16. See also, IHREC, [Submission to the Joint Committee on Key Issues affecting the Traveller Community](#) (February 2021).

²⁰ The National Traveller Women's Forum and Pavee Point Traveller and Roma Centre have also stated that current figures for Traveller accommodation continue to reflect that, despite Government policies, the State does not accommodate either a nomadic lifestyle or the preferred accommodation choices of Travellers. See National Traveller Women's Forum and Pavee Point Traveller and Roma Centre, [Traveller and Roma Women and Girls: COVID 19, Accommodation and Homelessness](#) (30 March 2021), p. 2.

²¹ Parents living on a local authority site have reported that their children's poor mental health is linked to their living conditions. See Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (May 2021), p. 16. See also, Travellers of North Cork, [Human Rights Monitoring](#) (2017), p. 2; Pavee Point Traveller and Roma Centre, [Young Pavees: Their Mental Health Needs A Research Report](#) (2015); and B. Keogh, AM. Brady, C. Downes, L. Doyle, A. Higgins & T. McCann, [An Evaluation of The Role of The Traveller Mental Health Liaison Nurse in Carlow and Kilkenny](#) (Trinity College Dublin, 2018).

²² This is a significant issue considering Regulation 12(2), Statutory Instrument 198/2011 which provides that where an applicant "...refuses 2 reasonable offers of the allocation of different dwellings" in any one year, they may be suspended from a local authority's housing list. See also, N. Murphy, [Travelling Through Homelessness: A Study of Traveller Homelessness in County Offaly](#), p. 25.

²³ See Traveller Accommodation Expert Group, [Traveller Accommodation Expert Review](#) (July 2019), pp. 17-18, 23-25.

²⁴ This is the term used in the State's report to the Committee. Government of Ireland, [18th National Report on the implementation of the European Social Charter](#) (December 2020), p. 9. According to the Minister of State at the Department of Housing, Local Government and Heritage, Deputy Peter Burke, only 1.7% of households had a requirement for Traveller-specific accommodation in 2020: Dáil Éireann Debate, [Traveller Accommodation: Statements](#) (3 June 2021).

commentary that Travellers feel pressured to apply for such housing.²⁵ Travellers feel that they will not be able to secure Traveller-specific accommodation such as shared housing, transient or permanent halting sites due its limited availability.²⁶ In a recent investigation, the Ombudsman for Children's Office ('OCO') found that the local authority failed to estimate and plan for the existing and future housing needs of Traveller families in its area across successive accommodation programmes, thereby falling short of the minimum requirements of the law.²⁷

The policy implementation gap between central Government and local authorities has been exacerbated by the failure to embed the meaningful participation of the Traveller community in the provision of Traveller-specific accommodation.²⁸ As previously highlighted by IHREC,²⁹ the local Traveller accommodation consultative committees have been criticised by Traveller projects for their 'tokenistic structure' and the lack of a partnership approach in practice.³⁰

According to Traveller representative organisations, the long-term lack of accommodation provision has pushed many Travellers into shared accommodation and overcrowding, unauthorised sites, the private rented sector and/or homelessness.³¹

²⁵ A local authority recently stated to the Ombudsman for Children's Office that its ability to meet the accommodation needs of Travellers living on a halting site is contingent on the 'willingness of the residents to be flexible'. Its Traveller Accommodation Programme also states that: "The Council will make every effort to deliver Traveller specific accommodation to families who have expressed an interest in this type of accommodation however the expectations of the families need to be realistic and alternative accommodation options need to be explored by families such as Private Rented Sector, Standard Housing etc." See Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (May 2021), pp. 8, 51.

²⁶ Traveller Accommodation Expert Group, [Traveller Accommodation Expert Review](#) (July 2019), pp. 16-19. See also Galway Traveller Movement, [First Monitoring Report: A survey of accommodation conditions on Traveller halting sites and group housing schemes in Galway City and County](#) (July 2018), p. 5.

²⁷ Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (May 2021), pp. 59-60.

²⁸ Pavee Point Traveller and Roma Centre recently recommended that full consultation take place with Travellers regarding the suitability of their accommodation during the design phase of the development in question. Pavee Point Traveller and Roma Centre, [Submission to the DCC Development Plan](#) (March 2021).

²⁹ IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (2020), p. 12.

³⁰ In particular, Traveller projects have noted that the agenda and information flow is tightly controlled by Local Authority officials, there is a culture of reluctant reporting by the officials to the committee, decisions are taken behind closed doors in an arbitrary manner, and submissions and recommendations from Traveller projects have been largely ignored. See Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (May 2021), pp. 32, 48.

³¹ National Traveller Women's Forum, [Opening Statement on Traveller Accommodation - Meeting of the Joint Committee on Key Issues affecting the Traveller Community](#) (1 June 2021).

This is reflected in the data demonstrating an increase in the number of Traveller families relying on private rented accommodation, an increase in the number of Traveller families sharing housing and, despite the general decline since 2002, a large number of Traveller families continuing to live on unauthorised sites:

- From 2007 to 2019, the number of Traveller families in the private rented sector increased from 1,143 to 1,919, representing 17.8% of the total number of Traveller families.
- The number of Traveller families sharing housing increased from 435 to 933 between 2007 and 2019, accounting for 8.7% of the total number of Traveller families as of 2019.
- There were 529 Traveller families living on unauthorised sites in 2019, representing 4.9% of the total number of Traveller families.³²

Increasing reliance on private rental accommodation through State supports presents particular difficulties, with research demonstrating that Travellers can experience compounded discrimination when trying to secure housing through the Housing Assistance Programme.³³ With regard to social housing provision, Travellers can typically wait up to seven years to be accommodated due to the lack of availability of housing stock.³⁴ There is also a shortage of social housing big enough to accommodate larger families. More than one in four Irish Traveller households has six or more persons, whereas only 4% of new social housing units in Dublin City Council and Cork City Council areas comprise four or more bedrooms.³⁵

In its recent investigation on Traveller accommodation, the OCO found that the local authority's record keeping in relation to offers of social housing, and refusals or

³² Based on the Department of Housing, Planning and Local Government's [Traveller Accommodation Statistics](#). See also, Department of Housing, Local Government and Heritage, [2019 Estimate - All Categories of Traveller Accommodation](#) (January 2021) and Department of Housing, Local Government and Heritage, [2019 Estimate - Annual Estimate of Traveller Families in LA and LA Assisted Accommodation and on Unauthorised Halting Sites](#) (January 2021).

³³ Hearne and Walsh, *Scoping Study on the 'Housing Assistance Ground' under the Equal Status Acts 2000-2018* (forthcoming). See also, Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (May 2021), p. 43 and Focus Ireland, [Submission to Joint Committee on Key Issues affecting the Traveller Community: Access to Housing and Accommodation](#) (February 2021), p. 3.

³⁴ Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (May 2021), p. 43.

³⁵ Focus Ireland, [Submission to Joint Committee on Key Issues affecting the Traveller Community: Access to Housing and Accommodation](#) (February 2021), pp. 4-5.

acceptance of same, lacked consistency, transparency and accountability.³⁶ As a result, families may have been denied access to a home and/or prioritisation on the social housing list.³⁷ Furthermore, there was a failure to account for the disadvantages experienced by Travellers in effectively securing accommodation through the social housing list.³⁸ A recent IHREC-supported report also highlights that the 'normal residency' requirement³⁹ continues to disproportionately affect Traveller applicants for social housing due to their nomadic culture.⁴⁰

Traveller organisations have reported a significant increase in the length of stay of young Traveller couples in homeless services in the last year.⁴¹ The Irish NGO, Focus Ireland, has highlighted the persistent lack of data in respect of the Traveller community's experience of homelessness, including the specific needs, accommodation patterns and pathways into homelessness of Travellers.⁴²

IHREC reiterates its concern that the current accommodation provisions do not fulfil the State's obligation to provide culturally appropriate accommodation to Travellers; reflect the preferences of the Traveller community; or respect the

³⁶ In light of the records it reviewed, the OCO did not accept the local authorities' position that the residents' refusal of 'reasonable' offers of social housing was a significant contributor to overcrowding on the halting site. See Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (May 2021), pp. 6, 43, 58.

³⁷ For example, there was no evidence that overcrowding was considered in rehousing Traveller families, despite this issue being prioritised in the allocations policy. See Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (May 2021), pp. 6, 44, 57.

³⁸ Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (May 2021), pp. 6, 57.

³⁹ Regulation 5 of the Social Housing Assessment Regulations 2011 stipulates that a household applying for social housing support shall either apply to the authority for the functional area in which the household normally resides, the authority in which the household has a local connection, or the authority that agrees at its discretion to assess the household's application.

⁴⁰ Mercy Law Resource Centre, [Minority Groups and Housing Services: Barriers to Access](#) (March 2021), pp. 9-12. See also, IHREC, [Comments on Ireland's 16th National Report on the implementation of the European Social Charter](#) (May 2019), p. 17.

⁴¹ National Traveller Women's Forum and Pavee Point Traveller and Roma Centre, [Traveller and Roma Women and Girls: COVID 19, Accommodation and Homelessness](#) (30 March 2021), p. 2.

⁴² Focus Ireland has stated that: "The monthly homeless reports published by the Department of Housing, Local Government and Heritage do not distinguish households from the Traveller Community. There is also a lack of qualitative research and information on the experiences and the impact inappropriate housing for their needs is having on the Traveller Community." See Focus Ireland, [Submission to Joint Committee on Key Issues affecting the Traveller Community: Access to Housing and Accommodation](#) (February 2021), pp. 2-3.

culture and identity of Travellers, including nomadism, living in extended family groups, keeping horses, and other social and economic activities.⁴³

Notwithstanding the evident discrimination, marginalisation and need faced by Travellers in respect of housing, there have been well-documented issues relating to the drawdown of Traveller-specific accommodation funding by local authorities.⁴⁴ As previously highlighted to the Committee, there has been ample evidence of a consistent underspend of the Traveller-specific accommodation budget and the failure to provide agreed units identified in Traveller Accommodation Programmes.⁴⁵ The recent interim report of the Anti-Racism Committee, established by the Government, recognises unequal access to accommodation as a form of structural racism.

It highlights that:

“In Ireland we see this impact particularly severely on members of the Traveller community where structural racism is evidenced by relevant agencies failure to draw down available funding to provide accommodation”.⁴⁶

Arrangements for the disbursement of funding for the provision of Traveller specific accommodation changed in 2020. The Department has ceased the practice of allocating specific budgets to individual local authorities and it is instead open to all local authorities to apply for and draw down funds at any time throughout the year.⁴⁷ IHREC

⁴³ See A. Visser, Oireachtas Library and Research Service, [Traveller Accommodation: The Challenges of Implementation](#) (October 2018), pp. 9, 40. See also, IHREC [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's combined 5th to 9th report](#) (October 2019), pp. 98-99.

⁴⁴ The term 'Traveller specific accommodation' is typically used to refer to group housing schemes, and transient and permanent halting sites (whether authorised or unauthorised). This is also commonly referred to as 'culturally appropriate' accommodation. Culturally appropriate accommodation is potentially compatible with a range of culturally specific needs, including nomadism, proximity to family, access to horses and other social and economic activities.

⁴⁵ IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020), p. 5. Pavee Point Traveller and Roma Centre also recently referenced that Traveller accommodation has been heavily politicised resulting in public representatives blocking the provision of Traveller accommodation: Pavee Point Traveller and Roma Centre, [Opening Statement to the Joint Committee on Key Issues affecting the Traveller Community: Accommodation](#) (1 June 2021).

⁴⁶ Anti-Racism Committee, [Interim Report to the Minister for Children, Equality, Disability, Integration and Youth](#) (30 November 2020), p. 17.

⁴⁷ The Minister for Housing, Local Government and Heritage recently stated: "Following a review of the arrangements for the disbursement of funding for the provision and related supports of Traveller specific accommodation a new allocation process was implemented for 2020. My Department has ceased the practice of allocating specific budgets to individual local authorities. Instead, it is open to all local authorities to apply for and drawdown funds at any time throughout the year and this is actively encouraged by my Department. My Department's capital budget of €14.5m for Traveller

notes that this change in process coincided with the Department's capital budget of €14.5m for Traveller Accommodation being drawn down in full in 2020 (in comparison, €8.65m of the €13m budget was drawn down in 2019, and €6.26m of the €12m budget was drawn down in 2018).⁴⁸ The 2021 Traveller accommodation budget is €15.5m and, as of 28 April 2021, €1.8m had been drawn down by local authorities.⁴⁹

IHREC welcomes the full drawdown of the Department's 2020 Traveller accommodation budget, but notes that of the 116 new accommodation units provided, 82 were 'Covid-19 mobile units', of which 43 were for 'self-isolation purposes', 16 were 'group housing units', 3 were 'mobiles' and 15 were 'acquisitions'.⁵⁰ This means that almost one third of new units provided in 2020 were mobiles for self-isolation purposes, rather than secure and adequate housing that will meet the accommodation needs of Traveller families in the medium to long term. Furthermore, a number of local authorities drew down relatively small amounts of funding.⁵¹ Pavee Point Traveller and Roma Centre recently confirmed that the 2020 budget was spent on upgrades, maintenance of existing Traveller accommodation, and Covid-19 mitigation measures, with no new Traveller-specific accommodation provided.⁵²

IHREC also notes that a revised Caravan Loan Scheme for Traveller families is being introduced on a 6-month pilot basis across four local authorities from May 2021, with the objective of rolling it out nationally if the pilot proves successful.⁵³ A recent IHREC-supported project highlighted a number of issues with the original scheme, including that the caravans provided by loans from local authorities were often unsafe year-round homes for high-occupancy Traveller households. Furthermore, the loan

Accommodation was drawn down in full in 2020." See Dáil Éireann Debate, [Traveller Accommodation](#) (27 January 2021).

⁴⁸ See Department of Housing, Planning and Local Government, [Traveller Accommodation](#) (28 April 2021).

⁴⁹ Department of Housing, Planning, and Local Government, [Traveller accommodation](#) (28 April 2021).

⁵⁰ As stated by the Minister for Housing, Local Government and Heritage in Dáil Éireann Debate, [Traveller Accommodation](#) (27 January 2021).

⁵¹ For example, in 2020 Cavan County Council drew down €13,114; Kerry County Council drew down €15,773; and Waterford County Council drew down €14,549. See Department of Housing, Planning, and Local Government, [Traveller Accommodation](#) (28 April 2021). See also, Dáil Éireann Debate, [Traveller Accommodation: Statements](#) (3 June 2021).

⁵² Pavee Point Traveller and Roma Centre, [Joint Submission to the Department of Children, Equality, Disability, Integration and Youth: Ireland's National Universal Periodic Report for the 39th Session \(1 – 12 November, 2021\)](#) (March 2021), pp. 5-6.

⁵³ Department of Housing, Planning, and Local Government, [European Convention on Human Rights](#) (1 April 2021).

amounts offered were not consistent across local authorities and were often too low for the purchase of a quality caravan or to make adequate repairs.⁵⁴

IHREC remains concerned about the poor and inconsistent record of local authorities to date in meeting the scale and nature of accommodation needed by the Traveller community and the structural racism that exists. IHREC is of the view that local authorities who fail to provide new Traveller-specific and culturally appropriate accommodation⁵⁵ in areas where there is a stated need should be subject to dissuasive sanctions as necessary.⁵⁶

As highlighted in our previous submission, the independent Traveller Accommodation Expert Group (the 'Expert Group') published its report in July 2019.⁵⁷ IHREC strongly supports the Expert Group's recommendation that the Department:

"Amend the regulations which govern the methodology local authorities use to conduct Social Housing Assessments in order to:

- (a) enable Travellers (and all other applicants for social housing) to specify their first, second and third preference in terms of accommodation type; and
- (b) introduce an 'ethnic identifier' so that Traveller applicants for mainstream social housing can be identified and progress in meeting their housing needs monitored effectively".⁵⁸

The Expert Group criticised the lack of coordination of local policies and objectives between local authorities, and recommended that Regional Assemblies are given a more formal coordination role and a National Traveller Accommodation Authority is

⁵⁴ Community Law & Mediation, [The Legal Implications and Lived Experiences of the Caravan Loan Scheme](#) (2020).

⁵⁵ The Housing (Traveller Accommodation) Act 1998 provides housing authorities with the powers to construct and provide halting sites, including sites that may not be permanent places of residence for those pursuing a nomadic lifestyle.

⁵⁶ IHREC also made this recommendation in our recent submission to the Universal Periodic Review Working Group. See IHREC, *Submission to the Third Universal Periodic Review Cycle for Ireland* (March 2021) (forthcoming publication), p. 12.

⁵⁷ Traveller Accommodation Expert Group, [Traveller Accommodation Expert Review](#) (July 2019).

⁵⁸ Traveller Accommodation Expert Group, [Traveller Accommodation Expert Review](#) (July 2019), pp. 23-24. According to the Minister of State at the Department of Housing, Local Government and Heritage, Deputy Peter Burke, the Department signed off on the submission to include a Traveller identifier on social housing forms in the week beginning 31 May 2021: Dáil Éireann Debate, [Traveller Accommodation: Statements](#) (3 June 2021).

established. It also recommended a new in-depth study into the characteristics of the Traveller population, to help assess their accommodation needs.⁵⁹

As noted by the Committee in its 2020 Findings, the Expert Group's recommendations have not yet been fully implemented.⁶⁰ In line with the 'phased approach' being adopted by the State,⁶¹ a Programme Board has been established to drive the implementation of the recommendations. However, its first meeting only took place on 24 March 2021.⁶²

IHREC recognises the ongoing efforts to consider and progress the Expert Group's recommendations but urges that there be no further delays in respect of this work.

Equality reviews

In June 2019, IHREC invited each of the 31 local authorities in the State to undertake a review of their provision of Traveller accommodation. The equality reviews focus on failures nationally to draw down the ring-fenced capital budget to meet obligations on Traveller-specific accommodation. The local authorities were invited to conduct a review of the practices, procedures and other relevant factors in relation to the drawdown of capital funding and the provision of Traveller-specific accommodation services. IHREC will publish accounts of these equality reviews in its 2020 Annual Report.

Adequacy of existing sites

Despite recent increases in the funding available to local authorities,⁶³ the Commission remains concerned about the chronically poor conditions in existing halting sites and group housing schemes, including: damp and mould; lack of cooking facilities; inadequate sanitation, rat and fly infestations; insecure electricity; and irregular or no

⁵⁹ Traveller Accommodation Expert Group, [Traveller Accommodation Expert Review](#) (July 2019), pp. 24-25.

⁶⁰ European Committee of Social Rights, [Follow-up to decisions on the merits of collective complaints: Findings 2020](#) (2020), p. 158.

⁶¹ Government of Ireland, [18th National Report on the implementation of the European Social Charter](#) (December 2020), p. 8.

⁶² Department of Housing, Planning, and Local Government, [European Convention on Human Rights](#) (1 April 2021). 11 projects have been established under the Board and it will consider 18 of the 32 recommendations contained in the report in 2021: Dáil Éireann Debate, [Traveller Accommodation: Statements](#) (3 June 2021).

⁶³ The funding available to local authorities for the management and maintenance of halting site bays was increased by 50% per bay per annum, with effect from January 2021. Dáil Éireann Debate, [Traveller Accommodation: Statements](#) (3 June 2021).

rubbish collections.⁶⁴ Although associated with Traveller's nomadic traditions, the Economic and Social Research Institute has highlighted that caravans and mobile homes are likely to be overcrowded (84%) and to lack internet access (91%).⁶⁵ One of the main pathways into homelessness reported to Focus Ireland is overcrowding in accommodation or the need for Traveller families to leave an un-serviced site or caravan on health and safety grounds.⁶⁶

Traveller representative organisations have highlighted that inadequate housing conditions have a particular effect on Traveller women as they spend more time in the home and are the primary carers.⁶⁷ Diversity within the Traveller population must also be considered in relation to Traveller accommodation issues. Travellers have significantly higher rates of disability than the general population, with almost 1 in 5 Travellers (19.2%) recorded as having a disability in Census 2016.⁶⁸ This has significant implications in terms of accessibility considerations arising in the provision of Traveller accommodation.

Since its establishment, IHREC has provided assistance to members of the Traveller community in cases that have related predominantly to access to housing/accommodation and discrimination.⁶⁹ Our work in this regard reveals issues of significant concern with Traveller families living in alarming levels of deprivation, for example:

- a family, including a new born baby, sleeping in the family car for months, including over the winter period;
- a family, including children with serious medical needs, living in a caravan without the most basic of facilities – including running water;

⁶⁴ IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020), pp. 11-12. See also, Dáil Éireann Debate, [Traveller Accommodation: Statements](#) (3 June 2021).

⁶⁵ Economic and Social Research Institute, [Oral Submission to the Joint Committee on Key Issues affecting the Traveller Community](#) (April 2021), p. 3.

⁶⁶ Focus Ireland, [Submission to Joint Committee on Key Issues affecting the Traveller Community: Access to Housing and Accommodation](#) (February 2021), p. 6.

⁶⁷ National Traveller Women's Forum, [Opening Statement on Traveller Accommodation - Meeting of the Joint Committee on Key Issues affecting the Traveller Community](#) (1 June 2021).

⁶⁸ CSO, [Census of Population 2016 – Profile 8 Irish Travellers, Ethnicity and Religion](#).

⁶⁹ Under Section 40 of the Irish Human Rights and Equality Commission Act 2014 (2014 Act), the Commission may provide legal assistance (i.e. advice and/or representation) to members of the public in relation to matters of human rights and/or equality law. The Commission has also been granted leave to intervene as a third party intervener before the European Court of Human Rights in the cases of *Faulkner v Ireland* and *McDonagh v. Ireland*, which relate to the right to accommodation for Travellers. Pursuant to Section 10(2) (h) of the 2014 Act, the Commission has now made submissions in these matters, which will be published once the matters have been heard.

- families (including members recovering from surgery for serious illnesses) living for protracted periods on so-called 'temporary' halting sites that are wholly unsuitable for human habitation due to a lack of basic facilities (e.g. electricity, running water, sanitation), as well as sub-standard environmental conditions (e.g. vermin, proximity to waste facilities, severe pollution); and
- a family living in 'settled' accommodation in seriously overcrowded conditions, impacting on the quality of life of all family members, and most notably on that of one child with a significant disability and complex medical needs.

IHREC highlighted to the Committee on the Rights of the Child in 2020 that severe deficiencies in Traveller accommodation impact on children's rights, including due to the lack of play areas for children and the existence of structural hazards.⁷⁰ The recent investigation by the OCO into the living conditions of children on a local authority halting site found that there was a failure to consider the best interests of children, including those with additional needs, and to ensure that children living on the site enjoy a safe, suitable standard of accommodation, clear passage to school and recreational spaces. In particular, carelessness and undesirable administrative practice on the part of local authorities has resulted in overcrowding and serious risks on the site for children.⁷¹ These living conditions, including the absence of consistent waste management and pest control, have also resulted in a violation of the right to health, with the child residents suffering skin conditions and respiratory problems at a much higher rate than the general population.⁷²

IHREC notes that more than 20 members of a Traveller family brought their case to the High Court in 2020 to challenge the alleged failure to provide them with long-term Traveller-appropriate accommodation. The family has been living in an unauthorised halting site for sixteen years without access to electricity or secure, permanent toilet

⁷⁰ IHREC, [Submission to the UN Committee on the Rights of the Child on the List of Issues Prior to Reporting for the fourth periodic examination of Ireland](#) (July 2020), p. 33. In November 2020, the Committee on the Rights of the Child requested that the Irish State provide updates on the measures it has taken to address the structural discrimination against Traveller children with regard to access to housing and an adequate standard of living. See Committee on the Rights of the Child, [List of issues prior to submission of the combined fifth and sixth reports of Ireland](#), CRC/C/IRL/QPR/5-6 (3 November 2020), p. 8.

⁷¹ Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (May 2021), pp. 6, 57.

⁷² Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (May 2021), pp. 4, 57.

amenities. They have described their living conditions as “thick with rats”.⁷³ In June 2021, the High Court ruled on an agreement between the family and the local authority that commits the local authority to making improvements to the site in the short term, including the provision of electricity and toilet facilities, and to applying for permission to build a new site nearby in the medium to long term.

The impact of COVID-19

The “persistent and deteriorating accommodation crisis” among Travellers has been greatly exacerbated by the current pandemic.⁷⁴ While the Traveller community accounts for 0.7% of the general population, the evidence indicates that from 1 March 2020 to 27 February 2021, 13% of all Travellers, and 15.8% of those aged 18-64 years, have been infected with Covid-19; this compares with 4.4% and 5.4%, respectively, of the general population.⁷⁵ Although there has been selective testing of Travellers resulting in persistently high positivity rates, IHREC notes concerns that this may be an underestimate of the true prevalence of Covid-19 infection in this community.⁷⁶ As highlighted by the Committee, access to dwellings that are not overcrowded and have all basic amenities is essential to the prevention of, and protection from, transmission of the virus.⁷⁷ From the outset of the pandemic, public health guidelines

⁷³ Irish Centre for Human Rights, NUIG, [Implications of Covid-19 pandemic on Roma and Travellers communities](#) (June 2020), p. 11 and Irish Times, [Travellers on halting site ‘thick with rats’ challenge Cork council housing plan](#) (3 June 2020).

⁷⁴ Pavee Point Traveller and Roma Centre, [Joint Submission to the Department of Children, Equality, Disability, Integration and Youth: Ireland’s National Universal Periodic Report for the 39th Session \(1 – 12 November, 2021\)](#) (March 2021), p. 5.

⁷⁵ HIQA, [Evidence synthesis for groups in vaccine allocation group nine - those aged 18-64 years living or working in crowded conditions](#) (31 March 2021), pp. 31, 41. In March 2021, both HIQA and the National Immunisation Advisory Committee recommended the prioritisation of Travellers and Roma aged 18-64 years for the COVID-19 vaccination given significant increased risk of hospitalisation, ICU admission and/or death compared to the general population. As a result of these recommendations, the HSE have confirmed that Travellers and Roma are included in the vaccination allocation Group 9 (‘people living/working in overcrowded settings’). See Pavee Point, [Traveller and Roma Covid-19 Vaccination Implementation Plans](#) (April 2021).

⁷⁶ HIQA, [Evidence synthesis for groups in vaccine allocation group nine - those aged 18-64 years living or working in crowded conditions](#) (31 March 2021), p. 41. Concerns have been raised that Covid-19 infection in the Traveller community is underreported due to ethnicity data not being routinely collected throughout the Covid-19 testing process, for example by GPs at the point of referral for tests, by the National Ambulance Service in its testing, nor by testing centres. In addition, the General Register Office does not record ethnicity on its death register. However, an ethnic identifier has been included on the HPSC’s CIDR system since May 2020, on foot of an instruction from the Department of Health after ongoing engagement by Traveller organisations. See Covid-19 NGO Group, [Marginalised Group – Promoting Equality, Inclusion and Human Rights in the COVID-19 Crisis: A Joint Submission](#) (April 2020) and IHREC, [Impact of Covid-19 on the Traveller Community: Equality and Human Rights Issues](#) (forthcoming publication).

⁷⁷ European Committee of Social Rights, [Statement on Covid-19 and social rights](#) (24 March 2021), p. 13.

have been dependent upon access to secure and adequate housing, including calls for self-isolation, physical distancing, and hand-washing and routine hygiene practices.⁷⁸ Long-standing Traveller accommodation issues identified above - including poor accommodation conditions, overcrowding and insufficient space, a lack of running water and inadequate sanitation facilities - have placed the Traveller community at greater risk of exposure to the virus.⁷⁹ According to the Irish Traveller Movement, 1,045 Traveller families live on official sites, but have to share basic facilities with members of extended family; 927 families share accommodation with siblings, parents and grandparents; and 174 families live with access to only portable water, toilet and sanitary facilities.⁸⁰

To mitigate potential impacts of the pandemic, the Minister for Housing, Planning and Local Government issued a circular on 18 March 2020 to advise local authorities of increased funding available for Traveller accommodation.⁸¹ This included additional mobile accommodation and space where there is overcrowding, as well as additional units (either mobile units on site, or houses elsewhere that allow for self-isolation or quarantine). The Department has also funded preventative measures such as extra temporary toilets, running water, hygiene packs for sites with limited facilities and extra refuse collection.⁸²

⁷⁸ The Irish Examiner (2020), [‘Concern Over Lack of Self-isolation facilities for Traveller and Roma Communities’](#), 18 April 2020.

⁷⁹ NESCC, [The Impacts of Covid-19 on Ethnic Minority and Migrant Groups in Ireland](#) (January 2021) and Irish Centre for Human Rights, NUIG, [Implications of Covid-19 pandemic on Roma and Travellers communities](#) (June 2020), pp. 5-11 and Dáil Éireann Debate, [Traveller Accommodation: Statements](#) (3 June 2021). The Irish Government has also recognised that the existing vulnerabilities of members of the Traveller and Roma communities in accommodation put them at particular risk of contracting the virus. See Government of Ireland, [Report on Social Implications of Covid-19 in Ireland: Preliminary Assessment](#) (May 2020), p. 26.

⁸⁰ Irish Centre for Human Rights, NUIG, [Implications of Covid-19 pandemic on Roma and Travellers communities](#) (June 2020), p. 9. The recent investigation by the OCO into the living conditions of children on a local authority halting site also found that there were approximately 140 people using the toilets and washing facilities designed for 40 people. See Ombudsman for Children, [No end in site: An investigation into the living conditions of children on a local authority halting site](#) (May 2021), p. 13.

⁸¹ The Circular covers Travellers living in both authorised and unauthorised accommodation. It was reiterated and clarified on 24 April 2020. See Department of Housing, Planning and Local Government, [Traveller Accommodation Support Unit Circular 06/2020](#) and Department of Planning, Housing and Local Government (2020), [‘Note for clarifications on Circular 06/2020 and examples of good practice’](#) (24 April 2020).

⁸² Department of Planning, Housing and Local Government (2020), [‘Note for clarifications on Circular 06/2020 and examples of good practice’](#) (24 April 2020), Dáil Éireann Debate, [Traveller Accommodation: Statements](#) (3 June 2021) and IHREC, [Impact of COVID-19 on the Traveller Community: Equality and Human Rights Issues](#) (forthcoming publication).

Furthermore, the Department has piloted a national COVID-19 preparedness checklist of Traveller-specific accommodation in the northwest of Ireland, to be used collaboratively between the HSE, local authorities, and Traveller advocacy groups. The checklist became available nationwide in October 2020 and is applicable to accommodation on both authorised and unauthorised sites.⁸³

While additional Covid-19 related funding aims to mitigate the effects of the pandemic, IHREC notes that it applies only to the emergency period and cannot be expected to address long-standing housing issues affecting the Traveller community. Local authorities are under no obligation to apply for Covid-19 related funding, and if they do, all requests are subject to final approval from the Department.⁸⁴ IHREC is concerned about the uneven implementation of Covid-19 measures across different local authority areas, and the reported lack of urgency given the gravity of the situation.⁸⁵ In particular, the ongoing need for basic services such as electricity, sanitation units and water for Traveller families has been highlighted, as well as the failure by local authorities to adequately address overcrowding and to facilitate self-isolation.⁸⁶

IHREC is concerned that long-standing violations of Travellers' right to access adequate housing have resulted in the disproportionate impact of Covid-19 on this community.

⁸³ Dáil Éireann Debate, [Traveller Accommodation: Statements](#) (3 June 2021) and IHREC, *Impact of COVID-19 on the Traveller Community: Equality and Human Rights Issues* (forthcoming publication).

⁸⁴ Department of Housing, Planning and Local Government, [Traveller Accommodation Support Unit Circular 06/2020](#).

⁸⁵ IHREC, *Impact of COVID-19 on the Traveller Community: Equality and Human Rights Issues* (forthcoming publication). The information available to IHREC indicates that as of the end of October 2020, six local authorities had not requested any additional allocation of COVID-19 emergency funding, and eleven local authorities had not drawn down any of their requested allocation. Significant numbers of Traveller families in vulnerable living situations are evident in the local authorities that had failed to draw down or request this funding. A portion of each local authority's Traveller Accommodation Programme (TAP) budget could also be allocated to addressing needs arising due to COVID-19. Again, by October 2020, nine local authorities had not drawn down any of their allocation: Cork County; South Dublin; Longford; Louth; Meath; Mayo; Waterford; Westmeath; and Wicklow.

⁸⁶ National Traveller Women's Forum, [Opening Statement on Traveller Accommodation - Meeting of the Joint Committee on Key Issues affecting the Traveller Community](#) (1 June 2021).. Senator Flynn has raised specific concerns about Traveller children living on the side of the road during the pandemic without basic facilities, including one family who were using a paddling pool to clean their caravan: Seanad Debates, [Traveller Accommodation: Statements](#) (17 November 2020). Pavee Point has also issued its regret that, despite the guidelines issued, the accommodation needs of Travellers have not been met by all local authorities before and during the pandemic. See Pavee Point, [Submission to the Human Rights Committee: Ireland's Examination in Relation to the International Covenant on Civil and Political Rights: Suggested List of Issues for Ireland](#) (2020), p. 3.

Eviction proceedings and access to legal aid

As highlighted in detail in our 2020 submission, the Expert Group made a number of recommendations for reform of the legislative and procedural framework governing the eviction of Travellers.⁸⁷ In particular, the Expert Group raised concerns about the criminalisation of nomadism under the law governing trespass; the unrestricted and unmonitored use of Section 10 of the Housing (Miscellaneous Provisions) Act 1992 (as amended); and the lack of restrictions on evictions without the requirement to provide alternative accommodation to Traveller families who have been assessed by a local authority as in need of such accommodation and are awaiting its provision.⁸⁸ The State report repeats its commitment to review the eviction process in light of the Expert Group recommendations, noting that a consultation is currently ongoing.⁸⁹

IHREC remains concerned about the ongoing treatment of Travellers through eviction proceedings and the delays in progressing the necessary legislative reform.

The observations of the Committee in its decision in *Medecins du Monde-International v. France*,⁹⁰ are of note. It said that in order for an eviction to comply with the Charter there must be *inter alia*, an obligation to consult affected parties, a reasonable notice period and access to legal aid. IHREC has previously highlighted the lack of legal advice and representation available to Travellers facing eviction, and that most eviction notices only give Travellers 24 hours to comply.⁹¹

The lack of a fast, effective legal aid system that meets Travellers' needs in eviction proceedings has a foreseeable consequence that they may not be represented at hearings which may result in them being directed to vacate a site that they treat as their home.

⁸⁷ IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020), pp. 13-15.

⁸⁸ For further detail, see IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020), pp. 13-15.

⁸⁹ Government of Ireland, [18th National Report on the implementation of the European Social Charter](#) (December 2020), pp. 9-10. See also, Dáil Éireann Debate, [Traveller Accommodation: Statements](#) (3 June 2021).

⁹⁰ Complaint no.67/2011, 11 September 2012, §75, available at: <https://tinyurl.com/1qirjzv>.

⁹¹ IHREC, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020), p. 15. See also, IHREC, [Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#) (October 2019), p. 142.

Given the speed at which these types of proceedings are disposed of before the Courts, IHREC considers that a tailored approach to the provision of legal aid for minority groups is desirable to redress systemic imbalance arising and a culture of discrimination.

IHREC is concerned that there is insufficient evidence in the decisions of the Irish Courts that the fact that, typically, the moving party in eviction proceedings is the same local authority with statutory responsibility to meet the assessed accommodation need of members of the Traveller community is fully weighed. This is so even in the absence of other accommodation being available despite a protracted period on the housing list.

Further, given the apparent lack of appreciation that what constitutes “reasonable” accommodation provision is different if you are a settled person or a member of the Traveller community who has sought Traveller specific accommodation, tailored measures directed to supporting the effective legal protection of Travellers through the justice system are required.

The European Court of Human Rights granted IHREC’s request to intervene as a third party intervener in the cases of *Faulkner v. Ireland* and *McDonagh v. Ireland* in December 2020.⁹² IHREC made written submissions in February 2021. The Applicants are challenging Circuit Court orders under Section 160 of the *Planning and Development Act 2000*. The Applicants claim that the court orders required them to leave an unauthorised site without due consideration of their right to respect for their home under Article 8(1) of the European Convention on Human Rights (‘ECHR’), and that neither the local authority nor the domestic courts carried out any examination of the proportionality of this interference with their rights, in accordance with the requirements of Article 8(2) ECHR. They further claim that the domestic proceedings breached Article 6 ECHR, as they were conducted in undue haste and they were not legally represented.

⁹² Application nos. 30391/18 and 30416/18.

As previously noted, ⁹³ IHREC welcomed that as part of the emergency legislative response to Covid-19, the *Emergency Measures in the Public Interest (Covid-19) Act 2020* prohibited the eviction of Travellers residing in authorised and unauthorised sites, except where such an eviction was to:

“ameliorate hardship and provide protection and subject to consultation with the Travellers concerned”.⁹⁴

However, this legislative protection was removed on the commencement of the *Residential Tenancies and Valuation Act 2020* on 1 August 2020.⁹⁵ Traveller representative organisations have raised their concerns about eviction notices that have been issued during the pandemic, requiring Traveller organisations, local councillors or legal interventions to stop or delay the process.⁹⁶

IHREC reiterates its call on the State to address the chronic failure to provide sufficient accommodation for Travellers, the inadequate conditions of existing Traveller sites, and the inadequate safeguards governing Traveller evictions in order to bring the situation into conformity with Article 16 of the Charter.

It is of significant concern to IHREC that despite repeated findings of non-conformity by the Committee, there continues to be an egregious violation of Travellers’ right to access adequate and culturally appropriate housing due to structural racism and discrimination, policy failures and inconsistencies, and a siloed approach by State actors.

⁹³ IHREC, [Comments on Ireland’s 17th National Report on the Implementation of the European Social Charter](#) (June 2020), p. 15.

⁹⁴ Section 5(7) (c).

⁹⁵ Section 13(b) of the [Residential Tenancies and Valuation Act 2020](#).

⁹⁶ National Traveller Women’s Forum and Pavee Point Traveller and Roma Centre, *Traveller and Roma Women and Girls: COVID 19, Accommodation and Homelessness* (30 March 2021), p. 2.

Collective Complaint 110/2014: International Federation for Human Rights (FIDH) v. Ireland

IHREC recalls the Committee's finding in 2017 that the State violated Article 16 of the Charter on the grounds that the Government failed to take sufficient and timely measures to ensure the right to housing of an adequate standard, with regard to habitability and access to essential services, for not an insignificant number of families living in local authority housing. IHREC further notes the Committee's finding in 2020 that the State is still not in conformity with Article 16 of the Charter and that, in the absence of a national timetable for the refurbishment of local authority housing stock, the State has not fulfilled its obligation to ensure community safety for local authority tenants.⁹⁷

IHREC refers the Committee to its 2020 comments, in which it highlighted the inadequate access to social housing in Ireland, as well as the State's slow progress in responding to the housing crisis, the lack of access to housing and housing support for minority and vulnerable groups, and the rise of family homelessness.⁹⁸ IHREC takes note of the State's report on its response to this collective complaint,⁹⁹ and welcomes the opportunity to provide further information of relevance to the Committee.

As stated in IHREC's 2020 comments,¹⁰⁰ human rights and equality considerations must be embedded in the State's delivery of adequate social housing to families.¹⁰¹ The Public Sector Duty, as set out in Section 42 of the *Irish Human Rights and Equality Commission Act 2014*,¹⁰² requires all public bodies in the performance of their functions to eliminate discrimination, promote equality of opportunity and treatment, and protect the human rights of its members, staff, and the persons to whom it provides

⁹⁷ Council of Europe, [Follow-up to decisions on the merits of collective complaints: Findings 2020](#) (January 2021), pp.160-168.

⁹⁸ IHREC, [Comments on 17th National Report on the Implementation of the European Social Charter](#) (June 2020), pp. 16-26.

⁹⁹ Government of Ireland, [18th National Report on the implementation of the European Social Charter](#) (22 December 2020), p. 11.

¹⁰⁰ IHREC, [Comments on 17th National Report on the Implementation of the European Social Charter](#) (June 2020), pp. 16-17.

¹⁰¹ A forthcoming, IHREC-funded report on monitoring adequate housing in Ireland proposes six dimensions of adequate housing: accessibility, affordability, security of tenure, cultural adequacy, housing quality, and location (including accessing to services and local environment). These dimensions are based on international standards and feedback from a consultation event with key stakeholders.

¹⁰² [Irish Human Rights and Equality Commission Act 2014](#).

services alike.¹⁰³ IHREC is of the view that the Department of Housing, Planning and Local Government, as part of its review of social housing policy,¹⁰⁴ should conduct an assessment of human rights and equality issues in line with its public sector duties under Section 42.¹⁰⁵

IHREC repeats its position that adequate social housing must be provided by a State to meet its human rights obligations.¹⁰⁶

Access to adequate social housing

Social housing is critical in providing housing to low income families, particularly in urban areas where housing supply is limited, rents are higher, and rent supplements are difficult to operate.¹⁰⁷ In 2020, the European Commission noted that housing affordability constraints are particularly acute for low-income households in Ireland, with increasing property prices and rental inflation.¹⁰⁸ Although the number of households on social housing waiting lists has reduced in the last few years, there is still a significant level of need for housing support.¹⁰⁹ Firstly, there are concerns about the

¹⁰³ In the context of the Covid-19 pandemic, IHREC has issued guidance on how the Duty provides an important framework to systematically consider and reflect the particular needs of staff and service users at risk of inequality, discrimination or disproportionate impact, and helps to mitigate and avoid unintended consequences, particularly as public bodies move towards recovery and longer term planning. See IHREC, [Guidance Note – Covid-19 and the Public Sector Equality and Human Rights Duty](#) (August 2020). Also, IHREC recently funded a project on using the Public Sector Duty to improve access to housing and homelessness supports for migrant households: Irish Homeless Policy Group, *Ensuring a home for all: Using the Public Sector Duty to Improve Access to Housing and Homelessness Supports for Migrant Households* (2021).

¹⁰⁴ The Government's six-year Social Housing Strategy lapsed in 2020. See Department of Housing, Local Government and Heritage, [Social Housing Strategy 2020](#) (2014).

¹⁰⁵ IHREC, [The provision of emergency accommodation to families experiencing homelessness](#) (July 2017).

¹⁰⁶ IHREC, [Ireland and the International Covenant on Economic, Social and Cultural Rights: Report to UN Committee on Economic, Social and Cultural Rights on Ireland's third periodic review](#) (May 2015) pp. 67-68.

¹⁰⁷ Michelle Norris and Aideen Hayden, [The Future of Council Housing: An analysis of the financial sustainability of local authority provided social housing](#) (2018), p. 5.

¹⁰⁸ European Commission, [Housing Affordability in Ireland](#) (December 2020), pp. 2-3, 10. According to Eurostat, rents increased in Ireland by 62% between 2010 and 2020, at the third highest rate in the EU. The lack of affordability of rents in the private sector has been described as constituting a "market failure". See P. Kenna, [Supporting the Irish housing system to address housing market failure – Cost Rental Housing and Services of General Economic Interest](#) (SGEI) (Dublin: Irish Council for Social Housing and Centre for Housing Law, Rights and Policy, NUI Galway, 2021), p. 48.

¹⁰⁹ Government of Ireland, [Spending Review 2020: Analysis of Social Housing Build Programme](#) (October 2020), p. 4.

low financial threshold for applicants to qualify for entry onto the housing list.¹¹⁰ The majority of applicants on the social housing waiting list across all local authorities are single people or lone parents.¹¹¹ People with disabilities are also over-represented in the social housing demographic, and make up approximately 8% of those on social housing waiting lists.¹¹² A recent report by the Ombudsman demonstrates that the lack of access to accessible and suitable social housing, including due to administrative issues with the application process, is a contributing factor to young people with disabilities moving to or staying in nursing homes.¹¹³

IHREC is also aware of the discriminatory barriers that minority groups can face in accessing the social housing list, and the frequent long delays in determining applications from such applicants.¹¹⁴ A recent IHREC-supported report demonstrates that the inflexible application of Departmental Housing Circular 41/2012¹¹⁵ has led to EU and EEA nationals being excluded from the social housing list without legal justification. The content of the Circular also fails to provide accurate and sufficient guidance to housing authorities on how to process social housing claims by non-Irish nationals because it is out of date and does not cover all immigration categories.¹¹⁶ As highlighted

¹¹⁰ The income bands are expressed in terms of a maximum net income threshold for a single person household of between €25,000 and €30,000, depending on the area, with additional allowances for further adults and children. Dáil Debates, [Priority Questions – Housing Policy](#) (5 May 2021). A recent publication by the Irish Council for Social Housing and Centre for Housing Law, Rights and Policy, NUI Galway highlights data on private sector rents which demonstrates that those in Income Deciles 1-8 cannot afford average rents in Dublin. However, the eligibility thresholds for social housing support in Ireland are confined largely to the lowest four Income Deciles. This leaves a great many people in an unaffordable 'rental trap' who are not eligible for social housing support. See P. Kenna, [Supporting the Irish housing system to address housing market failure – Cost Rental Housing and Services of General Economic Interest](#) (SGEI) (Dublin: Irish Council for Social Housing and Centre for Housing Law, Rights and Policy, NUI Galway, 2021), p. 7.

¹¹¹ Government of Ireland, [Spending Review 2020: Analysis of Social Housing Build Programme](#) (October 2020), p. 12.

¹¹² Department of Housing, Planning, and Local Government, [Housing for People with Disabilities](#) (5 May 2021).

¹¹³ Ombudsman, [Wasted Lives – Time for a better future for younger people in nursing homes: An investigation by the Ombudsman](#) (2021).

¹¹⁴ IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's combined 5th to 9th report](#) (October 2019), p. 94 and Mercy Law Resource Centre, [Minority Groups and Housing Services: Barriers to Access](#) (March 2021), p. 21.

¹¹⁵ This Circular was issued by the Department of Housing, Planning and Local Government in December 2012, to all housing authorities in the State, to provide 'advice when considering whether to accept an application for social housing support from a non-Irish national.'

¹¹⁶ Mercy Law Resource Centre, [Minority Groups and Housing Services: Barriers to Access](#) (March 2021), pp. 6-8. See also, IHREC, [Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#) (October 2019), pp. 93-94.

above, the requirement to show that an applicant for social housing 'normally resides' in a local authority area disproportionately affects minority groups, including Travellers. The 'alternative accommodation' requirement¹¹⁷ within social housing provision presents a further obstacle, and it has been reported that applicants from ethnic minority backgrounds are frequently required to provide evidence in relation to non-ownership of property abroad. In practice, this has created a financial and practical burden, and has resulted in an additional criterion that only non-Irish nationals are required to meet.¹¹⁸

IHREC is concerned about the discrimination and inequalities faced by minority ethnic groups in seeking to access social housing, and the failure of Government policy to address this issue.

Conditions within social housing

In relation to the conditions of social housing, IHREC refers the Committee to the comments of the Community Action Network ('CAN')¹¹⁹ and the Centre for Housing Law, Rights and Policy Research, NUI Galway on the State's 17th National Report in June 2020. Despite the Government's introduction of Regulation, S.I. No. 137 of 2019, which updated the minimum standards for rental accommodation that local authorities are required to adhere to in respect of social housing, CAN and NUI Galway reported ongoing problems with the conditions within local housing supply.¹²⁰ In particular, a 2020 monitoring survey found a significant number of local authority households continue to reside in poor housing conditions.¹²¹ As reflected in the survey, direct

¹¹⁷ Regulation 22 of the Social Housing Assessment Regulations 2011 provides that an applicant is ineligible for social housing support if they have alternative accommodation (other than accommodation currently occupied by the household) that could reasonably be expected to be used to meet the housing need, either through occupation or by selling the accommodation and using the proceeds to secure suitable accommodation for the applicant.

¹¹⁸ Mercy Law Resource Centre, [Minority Groups and Housing Services: Barriers to Access](#) (March 2021), pp. 13-16.

¹¹⁹ IHREC previously provided funding to CAN to support it to compile a response to this collective complaint. See CAN, [A Place Called Home: The Story of a Campaign for Housing Human Rights](#) (February 2017).

¹²⁰ Community Action Network and Centre for Housing Law, Rights and Policy Research, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020), pp. 12-13.

¹²¹ Community Action Network and Centre for Housing Law, Rights and Policy Research, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020), pp. 12-13.

evidence of tenants, architects and engineers identified persistent issues with mould, dampness and sewage invasions, indicating local housing conditions continue to be unsafe and unhealthy for many of the respondents.¹²² Raw sewage flooding, extreme mould and dampness, rat infestations, and dangerous electrics have also recently been reported in a public housing complex in Dublin.¹²³ Furthermore, unlike private renters who have access to low cost dispute resolution mechanisms, the majority of social housing tenants do not have any legally enforceable rights to ensure the enforcement of these standards, creating a significant gap in the legal framework and access to effective legal remedies.¹²⁴

IHREC remains concerned that the poor quality of social housing can have a negative physical and mental effect on families.¹²⁵

Maintenance and repair of the social housing stock

With regard to maintenance and repair work to address the inadequate conditions, respondents to the 2020 maintenance survey of social housing by CAN and NUI Galway largely expressed dissatisfaction with the level of response to maintenance requests and the standard of quality of the repair. 71% of respondents reported that maintenance and repairs are not carried out in reasonable timely manner according to their level of urgency.¹²⁶ IHREC remains concerned over the extent to which local authorities engage in preventative maintenance in practice, despite the State's commitment under the national plan, Rebuilding Ireland, for all local authorities to adopt a preventative maintenance approach to housing stock management by the end of 2016, including consistent standards and the adoption of a common national re-letting performance standard.¹²⁷ The Department of Housing, Planning, and Local

¹²² Community Action Network and Centre for Housing Law, Rights and Policy Research, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020), pp. 12-13.

¹²³ Dáil Debates, [Planning and Development \(Amendment\) \(Repeal of Part V Leasing\) Bill 2021: Second Stage \[Private Members\]](#) (6 May 2021).

¹²⁴ Community Action Network and Centre for Housing Law, Rights and Policy Research, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020), pp. 12-13.

¹²⁵ IHREC/ESRI, [Discrimination and Inequality in Housing in Ireland](#) (June 2018), p. 39.

¹²⁶ Community Action Network and Centre for Housing Law, Rights and Policy Research, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020), p. 12.

¹²⁷ Government of Ireland, [Action Plan for Housing and Homelessness: Rebuilding Ireland](#) (2016), p. 104.

Government recently stated that the transition to a planned maintenance approach will require the completion of stock condition surveys of approximately 140,000 social homes in local authority ownership. This is only scheduled to commence in late 2021 and the target is for it to be completed over a four to five year timespan.¹²⁸

International best practice suggests that 65% of the total housing maintenance budget should be devoted to planned maintenance.¹²⁹ Due to the underinvestment in planned maintenance, local authority officials have stated that housing standards are low in some council housing stock. Norris and Hayden note the concerns raised by an interviewee from the Housing Agency¹³⁰ that the standards of some social housing stock would breach the legislation on minimum standards of rented dwellings.¹³¹

Despite the State's commitment under *Rebuilding Ireland* to deliver high quality social housing, undertake regeneration projects, promote the preventative maintenance of social housing, and provide funding for stock improvement works, IHREC remains concerned over how these commitments are implemented in practice. While the State report acknowledges that an increasing number of local authorities are conducting stock conditions surveys,¹³² IHREC notes inconsistencies in the approaches adopted, meaning ultimately that inadequate conditions may be left unidentified and unaddressed.¹³³

The impact of Covid-19

The UN Special Rapporteur on the right to adequate housing has said that 'housing has become the front line defence' against Covid-19.¹³⁴ As recently underscored by the

¹²⁸ Department of Housing, Planning, and Local Government, [Local Authority Housing](#) (5 May 2021).

¹²⁹ Michelle Norris and Aideen Hayden, [The Future of Council Housing: An analysis of the financial sustainability of local authority provided social housing](#) (2018), p. 67.

¹³⁰ A Government body working with the Department of Housing, Planning and Local Government, local authorities, and approved housing bodies to deliver housing and housing services.

¹³¹ Michelle Norris and Aideen Hayden, [The Future of Council Housing: An analysis of the financial sustainability of local authority provided social housing](#) (2018), p. 93.

¹³² Government of Ireland, [18th National Report on the implementation of the European Social Charter](#) (December 2020).

¹³³ In 2020, CAN undertook a monitoring survey of local authority tenants across Ireland, in which 67% of respondents stated that the overall condition of their housing had not been assessed by the local authority in the last 5 years. See Community Action Network and Centre for Housing Law, Rights and Policy Research, [Comments on Ireland's 17th National Report on the Implementation of the European Social Charter](#) (June 2020), pp. 10-11.

¹³⁴ Office of the High Commissioner for Human Rights, ["Housing, the front line defence against the COVID-19 outbreak," says UN expert](#) (18 March 2020).

Committee, the Covid-19 pandemic has highlighted the importance of dwellings that are safe from a sanitary and health point of view and that are not overcrowded. These requirements are essential to prevention of, and protecting from, transmission of virus.¹³⁵ Mitigation measures were adopted by the State in response to the pandemic, including an enhanced rate of social housing allocations to households with child dependents in emergency accommodation and a legislative prohibition of evictions by local authorities during the first lockdown.¹³⁶

However, IHREC remains concerned that the low levels of social housing relative to need places people that are homeless, in emergency accommodation, and living in overcrowded accommodation at a higher risk of exposure to Covid-19.¹³⁷ IHREC also reiterates its concern that overcrowding and the lack of adequate sanitation and other essential facilities within a number of social housing units exposes people to a greater risk of contracting COVID-19, due to the difficulties of self-isolating and social distancing in these conditions.

Supply of social housing

A range of mechanisms are currently used to provide housing assistance in Ireland, including the construction and acquisition of units, long term leasing and supporting households to access the private rented market.¹³⁸

At the end of 2020, social housing delivery had reached just over 70% of the original target,¹³⁹ with the Minister for Housing, Local Government and Heritage referencing the public health restrictions as the reason for the delays.¹⁴⁰ However, the impact of Covid-

¹³⁵ Council of Europe, [Statement on Covid-19 and social rights](#) (24 March 2021), p. 14

¹³⁶ IHREC, *COVID-19, Congregate Emergency Facilities and Responses to Homelessness in Ireland* (forthcoming) and Focus Ireland, [Homeless Figures and the Impact of COVID-19](#) (October 2020). For the second lockdown, local authorities were asked by the Department of Housing, Local Government and Heritage 'not to terminate any of their tenancies for any reason, other than severe cases of anti-social behaviour engaged in by members of a household which necessitates action by the local authority'.

¹³⁷ See IHREC, [Comments on 17th National Report on the Implementation of the European Social Charter](#) (June 2020), pp. 20-21.

¹³⁸ Government of Ireland, [Spending Review 2020: Analysis of Social Housing Build Programme](#) (October 2020), p. 2.

¹³⁹ A total of 7,827 new homes, including 5,000 new builds, were delivered in 2020. See Dáil Debates, [Planning and Development \(Amendment\) \(Repeal of Part V Leasing\) Bill 2021: Second Stage \[Private Members\]](#) (6 May 2021).

¹⁴⁰ Rebuilding Ireland, [Minister O'Brien Publishes 2020 Social Housing Statistics](#) (9 March 2021). The Government has also stated that Covid-19 will have a much bigger impact on the housing supply in 2021.

19 measures on the supply of housing has been exacerbated by the long-standing failure of the State to address the significant gap between the demand for social housing and the available local authority housing stock.¹⁴¹ The State's persistent inability to deliver on social housing predates the pandemic as in 2019 the State also missed its original targets, having delivered on 5,771 of the agreed 6,242 new builds.¹⁴² The ongoing failure to deliver on social housing is particularly relevant given the emphasis on new builds in the recent Programme for Government, where the Government has committed to increase the social housing stock by more than 50,000 over the next five years.¹⁴³

While a small number of local authorities have delivered the majority of new units through direct builds on public land,¹⁴⁴ others have relied to a much greater extent on the private market to deliver social housing on private land. A recent Spending Review found that using the latter 'turnkey' mechanism is generally more expensive for the State.¹⁴⁵ Furthermore, there is an increase in social housing obligations being met through long-term leasing arrangements with developers and investment funds, at considerable cost.¹⁴⁶ Such leases incorporate four-yearly rent reviews and the property is returned to the private body after the term of the lease has expired, denying social housing tenants security of tenure.¹⁴⁷ Overall, the incorporation of international corporate investors into Government social housing policies to meet the demand via the private market has faced strong criticism by housing advocates.¹⁴⁸ While IHREC

See Dáil Debates, [Planning and Development \(Amendment\) \(Repeal of Part V Leasing\) Bill 2021: Second Stage \[Private Members\]](#) (6 May 2021).

¹⁴¹ European Commission, [Housing Affordability in Ireland](#) (December 2020), pp. 7, 10.

¹⁴² Rebuilding Ireland, [Details of social housing delivery on a local authority basis for 2019](#) (May 2020)

¹⁴³ Programme for Government, [Our Shared Future](#) (June 2020), p. 54

¹⁴⁴ Of the 31 local authorities, 26 have a proportion of direct build social housing amounting to less than 10% of all new dwelling completions over the last four years. Government of Ireland, [Spending Review 2020: Analysis of Social Housing Build Programme](#) (October 2020), p. 33.

¹⁴⁵ In the Dublin City Council area, the average cost of delivering 3 bed houses through the Turnkey Programme (newly built units on private land which are purchased for social housing purposes) from 2016-2019 was 79% higher than through direct builds by the local authority. Government of Ireland, [Spending Review 2020: Analysis of Social Housing Build Programme](#) (October 2020), p. 31.

¹⁴⁶ A Private Member's Bill, the [Planning and Development \(Amendment\) \(Repeal of Part V Leasing\) Bill 2021](#), was introduced to Dáil Éireann on 28 April 2021 in order to end the practice of the State entering long-term leases with developers and investment funds for the provision of social housing. Dáil Éireann, [Planning and Development \(Amendment\) \(Repeal of Part V Leasing\) Bill 2021: Second Stage \[Private Members\]](#) (6 May 2021).

¹⁴⁷ Dáil Debate, [Leaders' Questions](#) (24 March 2021).

¹⁴⁸ V. Lima, UCD Geary Institute, [Trends in Social Housing Supports: Housing Assistance Payment \(HAP\)](#) (2021), p. 6.

welcomes the subsection on Public and Social Housing within the Programme for Government, including the commitment to ensuring that procurement policy for social housing has strong social clauses, IHREC notes that there is no specific reference to human rights or equality.¹⁴⁹

IHREC is concerned that human rights accountability mechanisms can be weakened where the State delivers its public functions through non-State actors and is of the view that all policy choices should reflect that housing is a public good and not a commodity.¹⁵⁰

IHREC repeats its call for greater access to and availability of social housing for families, including low-income families and families with special housing needs such as people with disabilities.¹⁵¹

Housing supports

IHREC is particularly concerned with the shift in the State's policy focus from the provision of secure and high quality social housing to a greater reliance on housing supports. A consequence of the low supply of social housing is the increased reliance on the private rental market; this is apparent in the importance of housing subsidy schemes to the State's social housing strategy.¹⁵² In total, 61,880 households were assessed as qualifying for housing support as of 2 November 2020, of which 45.6% live in private rented housing.¹⁵³ From 2016-2019, 13% of all housing expenditure was

¹⁴⁹ Programme for Government, [Our Shared Future](#) (June 2020), p. 55

¹⁵⁰ See IHREC, [Human Rights and Equality Commission Challenges Government to Acknowledge Responsibility on Housing Rights](#) (23 March 2021) and IHREC, [Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#) (October 2019), p. 119.

¹⁵¹ IHREC, [Comments on Ireland's 14th National Report on the implementation of the European Social Charter](#) (April 2017) pp. 22-23; IHREC, [Ireland and the United Nations Convention on the Rights of the Child: Report to the UN Committee on the Rights of the Child on Ireland's combined third and fourth periodic reports](#) (December 2015) pp. 26-27; IHREC, [Ireland and the International Covenant on Economic, Social and Cultural Rights: Report to UN Committee on Economic, Social and Cultural Rights on Ireland's third periodic review](#) (May 2015) pp. 67-72.

¹⁵² See IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's combined 5th to 9th report](#) (October 2019) p. 95; Rory Hearne and Mary Murphy, [An absence of rights: homeless families and social housing marketisation in Ireland](#) (2018) 66 Administration 9, pp. 9-31; Michael Byrne and Michelle Norris, [Procyclical social housing and the crisis of Irish housing policy: marketization, social housing, and the property boom and bust](#) (2018) 28 Housing Policy Debate 50, pp. 50-63.

¹⁵³ The Housing Agency, [Summary of Social Housing Assessments 2020: Key findings](#) (March 2021) and P. Kenna, [Supporting the Irish housing system to address housing market failure – Cost Rental Housing and](#)

spent on the Housing Assistance Payment ('HAP')¹⁵⁴ and 8% on the Rental Accommodation Scheme.¹⁵⁵ Overall, one third of private sector tenancies receive State subsidies.¹⁵⁶

Escalating rents, the shortage of suitable private rented accommodation, and insecurity of tenure underpin concerns about HAP as a viable social housing alternative, particularly due to the stress on families trying to source HAP accommodation in such a tight and competitive rental market.¹⁵⁷ Those in receipt of housing supports are also more likely to face housing deprivation and overcrowding.¹⁵⁸

IHREC continues to support individuals who are experiencing discrimination accessing housing due to their receipt of housing assistance. Discrimination on the housing assistance ground is often combined with discrimination on the grounds of ethnic origin, disability, health status, age, family status, citizenship or gender, resulting in an intersectional impact in additional harm and social exclusion.¹⁵⁹ Forthcoming IHREC-funded research demonstrates that discrimination in this area is 'widespread' and can be direct, such as overt refusals to accept housing assistance payments, or indirect. For example, some landlords and estate agents are 'screening out' HAP eligible

[Services of General Economic Interest](#) (SGEI) (Dublin: Irish Council for Social Housing and Centre for Housing Law, Rights and Policy, NUI Galway, 2021), pp. 48, 57.

¹⁵⁴ HAP is a form of social housing support whereby the local authority pays rent to a private landlord on behalf of those households assessed as having a social housing need. HAP tenants pay weekly contributions towards the rent to the local authority based on household income. Once a household has secured accommodation with HAP, they are removed from the social housing waiting list as their social housing need is deemed to be met.

¹⁵⁵ Government of Ireland, [Spending Review 2020: Analysis of Social Housing Build Programme](#) (October 2020), p. 8.

¹⁵⁶ P. Kenna, [Supporting the Irish housing system to address housing market failure – Cost Rental Housing and Services of General Economic Interest](#) (SGEI) (Dublin: Irish Council for Social Housing and Centre for Housing Law, Rights and Policy, NUI Galway, 2021), pp. 48, 57.

¹⁵⁷ V. Lima, UCD Geary Institute, [Trends in Social Housing Supports: Housing Assistance Payment \(HAP\)](#) (2021), p. 1.

¹⁵⁸ IHREC/ESRI, [Discrimination and Inequality in Housing in Ireland](#) (June 2018), p. 57.

¹⁵⁹ In 2021, 19% or 118 of the 1,732 public queries to the IHREC's Your Rights Team concerned discrimination on the housing assistance ground under the *Equal Status Acts 2000-2018*. IHREC also provided legal advice in a case relating to access to HAP for a person with a disability. Furthermore, IHREC provided legal representation in a case where a man, following payment of a deposit and signing of a tenancy agreement, was informed by a letting agent that the landlord didn't like HAP and had rented the property to someone else. The Workplace Relations Commission found that the man had been discriminated against on the housing assistance ground. See also, IHREC, [Scoping Study on the 'Housing Assistance Ground' under the Equal Status Acts 2000-2018](#) (forthcoming).

prospective tenants by asking them about the source of income that will be used to pay the rent.¹⁶⁰

IHREC is concerned that the current housing policy, which relies heavily on the private rented sector to house low-income households, potentially exposes people to housing discrimination, housing instability and deprivation, and to a higher risk of homelessness.¹⁶¹

While individuals make up the majority of HAP landlords, the scheme also increasingly includes payments from State funds to private corporate landlords.¹⁶² A recent Spending Review published by the Department of Public Expenditure and Reform highlighted that housing supports such as HAP do not add to the overall stock of housing and any underlying imbalance in terms of overall housing supply and demand will continue to present a significant challenge to the housing delivery. It recommended that the Department of Housing, Local Government and Heritage engage in further analysis of the market impact of such housing supports.¹⁶³ The Government has recently committed to reducing the reliance on HAP for new social housing solutions, although such a commitment is entirely contingent upon an increase of social housing stock.¹⁶⁴

Family homelessness

As of March 2021, there were 913 families in homeless services in Ireland, including 1,334 adults and 2,166 dependents.¹⁶⁵ IHREC has repeatedly highlighted the disproportionate number of migrant families at risk of or experiencing homelessness¹⁶⁶ and the gendered nature of the homeless crisis with the majority of families presenting

¹⁶⁰ IHREC, *Scoping Study on the 'Housing Assistance Ground' under the Equal Status Acts 2000-2018* (forthcoming).

¹⁶¹ IHREC/ESRI, *Discrimination and Inequality in Housing in Ireland* (June 2018).

¹⁶² In relation to HAP payments, from 2014 to 2019, corporate landlords received over €261 million from the State. In 2019, €128 million was paid to institutional landlords, the equivalent of over 40% of the annual HAP budget for that year. See V. Lima, UCD Geary Institute, *Trends in Social Housing Supports: Housing Assistance Payment (HAP)* (2021), p. 6.

¹⁶³ Government of Ireland, *Spending Review 2020: Analysis of Social Housing Build Programme* (October 2020), p. 3, 35.

¹⁶⁴ Programme for Government, *Our Shared Future* (June 2020), p. 55

¹⁶⁵ Department of Housing, Planning & Local Government, *Monthly Homelessness Report: March 2021* (2021), p. 5.

¹⁶⁶ IHREC, *Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's combined 5th to 9th report* (October 2019), p. 96.

to homeless services being female-headed lone parent families.¹⁶⁷ Of the 913 families experiencing homelessness in March 2021, 492 or 54% were lone parent families.¹⁶⁸

Hidden homelessness – for example living in overcrowded conditions or ‘sofa surfing’ – is also found to be more prevalent among women.¹⁶⁹

The instability of HAP and lack of available social housing have resulted in families relying on emergency accommodation to meet their housing needs, such as hotels and family hubs.¹⁷⁰ As of February 2021, there were 35 operational family hubs nationally.¹⁷¹ Since IHREC’s latest comments to the Committee,¹⁷² ongoing concerns have been raised about the wide variation in standards of family hubs, the restrictions imposed on family life and the use of surveillance, the absence of appropriate facilities and space, limitations on cooking and laundry facilities, and the poor attitude and expertise of staff.¹⁷³ Recent research, supported by IHREC, has also demonstrated that families from minority groups are particularly disadvantaged in advocating for a placement within a family hub, and that such hubs are usually only configured for relatively small family sizes.¹⁷⁴ IHREC welcomes the recent commitment by Government to reducing the number of homeless families and to support them into “long-term sustainable accommodation”, as expressed in the Programme for Government.¹⁷⁵

IHREC has highlighted that family hubs are not suitable to meet the long-term housing needs of families as the use of family hubs could normalise homelessness

¹⁶⁷ IHREC, *Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women: Submission to the United Nations Committee on the Elimination of Discrimination Against Women on Ireland’s combined sixth and seventh periodic reports* (January 2017), pp. 96-97. See also IHREC, *Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland’s combined 5th to 9th report* (October 2019), pp. 96-97.

¹⁶⁸ Department of Housing, Planning & Local Government, *Monthly Homelessness Report: March 2021* (2021), p. 5.

¹⁶⁹ FEANTSA, *‘Women’s homelessness: European Evidence Review’* (April 2021)

¹⁷⁰ Focus Ireland, *Young Families in the Housing Crisis: Challenges and Solutions* (December 2018), p. 30.

¹⁷¹ Department of Housing, Planning, and Local Government, *Homeless Persons Data* (24 February 2021).

¹⁷² IHREC, *Comments on 17th National Report on the Implementation of the European Social Charter* (June 2020), p. 24.

¹⁷³ R. Keatinge, *“Family Hubs”: Lives on Hold* (October 2020).

¹⁷⁴ Mercy Law Resource Centre, *Minority Groups and Housing Services: Barriers to Access* (March 2021), p. 21.

¹⁷⁵ Programme for Government, *Our Shared Future* (June 2020), p. 54

and lead to families being institutionalised.¹⁷⁶ IHREC is of the view that emergency accommodation should only be used for the shortest period possible.¹⁷⁷

Despite welcome measures throughout the Covid-19 pandemic to reduce family homelessness,¹⁷⁸ including the ban on rental increases and eviction moratoriums, IHREC is concerned that these measures are temporary in nature and that all protections will be lifted as Ireland emerges from the pandemic.¹⁷⁹ Following the pandemic, there is an urgent need to increase expenditure on targeted homelessness prevention services to avoid families the distressing reality of family life in congregated settings.¹⁸⁰

In response to the recent magnification of our most fundamental societal challenges, an explicit human rights and equality-based approach must be taken to the transition from Covid-19 to support a more just and equal society. The emergency measures adopted in 2020 to prevent homelessness demonstrate that State action is both possible and effective. An inclusive post-pandemic recovery programme requires long-term lessons to be learned regarding the need for policy responses to focus on the delivery of long-term permanent housing solutions for families.¹⁸¹ IHREC believes that the provision of social and public housing is central to the solution to the homelessness and housing crisis.¹⁸²

IHREC reiterates its call on the State to take sufficient and timely measures to ensure the right to housing of an adequate standard, with regard to habitability and access to essential services, for families living in social housing; and to provide a

¹⁷⁶ IHREC, [The provision of emergency accommodation to families experiencing homelessness](#) (July 2017), p. 9.

¹⁷⁷ IHREC, [Comments on 17th National Report on the Implementation of the European Social Charter](#) (June 2020), p. 25

¹⁷⁸ Focus Ireland, [Homeless Figures and the Impact of Covid-19](#) (October 2020).

¹⁷⁹ The Children's Rights Alliance has also raised its concerns that some of these housing protections were lifted briefly in line with the opening of the economy, suggesting these measures are extraordinary and may be revisited once Ireland emerges from the pandemic. See Children's Rights Alliance, [Report Card 2021](#) (2021), p. 13.

¹⁸⁰ O'Sullivan, E. and Musafiri, [Focus on Homelessness: Public Expenditure on Services for Households Experiencing Homelessness](#) (2020)

¹⁸¹ IHREC, [The provision of emergency accommodation to families experiencing homelessness](#) (July 2017) pp. 7, 10.

¹⁸² IHREC, [Submission to the Department of the Taoiseach on the European Semester 2020 and the National Reform Programme](#) (March 2020) p. 4.

sufficient supply of adequate housing for vulnerable families in order to bring the situation into conformity with Article 16 of the Charter.

Collective Complaint 112/2014: European Organisation of Military Associations (EUROMIL) v. Ireland

IHREC notes the Committee's finding in 2020 that military representative organisations are able to meaningfully participate in national pay discussions, compliant with Article 6(2) of the Charter, due to the de facto inclusion of the Permanent Defence Force Representative Associations ("PDFORRA") in public service pay negotiations, alongside public sector trade unions, non-Irish Congress of Trade Unions (ICTU) affiliated unions and representative bodies. Despite this progress, however, IHREC notes the Committee's finding that the situation has not yet been brought into compliance with Article 5 (the right to organise) of the Charter, as military representative organisations are still completely prohibited from joining national employees' organisations.¹⁸³

PDFORRA, following its long-standing position of supporting an affiliation with ICTU, formally requested an associate membership with ICTU in July 2019,¹⁸⁴ and ICTU has subsequently agreed in principle to accept PDFORRA as an associate member.¹⁸⁵ PDFORRA has sought an association with ICTU to provide the best opportunity to secure advances in pay remuneration for its members as they will be collectively represented rather than excluded in national pay talks.¹⁸⁶ PDFORRA has since terminated initial discussions between Department of Defence management (civil and military), PDFORRA and ICTU over the practicalities of forming an affiliation, and initiated legal proceedings on 26 June 2020 in the High Court.¹⁸⁷ While no update on the legal proceedings is available at the time of submission, IHREC draws the Committee's attention to a written communication sent by the International Labour Organisation to the Government in January 2021 asserting that a blanket ban on affiliation with the ICTU was in breach of human rights.¹⁸⁸

¹⁸³ Council of Europe, [Follow-up to decisions on the merits of collective complaints: Findings 2020](#) (January 2021), pp. 169-172.

¹⁸⁴ Ingrid Miley, [Body representing soldiers applies for ICTU affiliation](#), *RTÉ News* (2 September 2019).

¹⁸⁵ Martin Wall, [ICTU backs bid by Defence Forces personnel to join union group](#), *Irish Times* (18 September 2019).

¹⁸⁶ [PDFORRA step closer to ICTU affiliation](#), *Irish Examiner* (19 September 2019); PDFORRA, [Information Circular No 03/2020: Review of Conciliation and Arbitration Scheme](#) (24 January 2020).

¹⁸⁷ *Irish Examiner*, [Defence forces group PDFORRA lodges High Court case to allow ICTU link](#) (June 2020).

¹⁸⁸ *Irish Examiner*, [UN pressure on Government to allow PDFORRA members union affiliation](#) (January 2021).

IHREC reiterates its call on the State to remove the complete prohibition against military representative associations from joining national employees' organisations in order to bring the current legislative framework into conformity with Article 5 (the right to organise) of the Charter.



**16 – 22 Sráid na Faiche,
Baile Átha Cliath, D07 CR20**
16 – 22 Green Street,
Dublin, D07 CR20

Idirlíon/Web www.ihrec.ie

Twitter @_ihrec