



NORTHERN  
IRELAND  
HUMAN  
RIGHTS  
COMMISSION

29 September 2009

Mr Simon Hamilton MLA  
Chairperson  
Committee for Social Development  
Room 412  
Parliament Buildings  
Stormont  
BELFAST BT4 3XX

Dear Mr Hamilton

**Housing (Amendment) Bill**

The Commission was grateful for the opportunity to provide oral evidence to the Committee on the Housing (Amendment) Bill on 24 September. During the evidence session the Committee requested further written information on whether or not the Commission has a view regarding NIACRO's position on intentional homelessness. A response on this issue is set out below, in addition to further clarification regarding the Commission's evidence on intentionality and the Homelessness (Scotland) Act 2003.

**Imprisonment and intentional homelessness**

The Commission understands that NIACRO is concerned about the potential for released prisoners to be deemed intentionally homeless because the loss of accommodation has resulted from an offence having been committed and subsequent imprisonment. The Commission did not provide any input regarding imprisonment and intentional homelessness in its evidence on the Housing (Amendment)

Bill. Nevertheless, having been asked by the Committee to consider this specific issue the Commission would refer Committee members to the following international human rights standards, which are relevant to prisoner release and resettlement:

- Access to appropriate accommodation is an important aspect of the resettlement process. International human rights standards establish that resettlement forms an integral part of the right of all persons deprived of liberty to be treated with humanity and dignity. Article 10(3) of the International Covenant on Civil and Political Rights (ICCPR) states that “the penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation”. Commenting on the operation of this provision, the UN Human Rights Committee has indicated that the criminal justice system “should essentially seek the reformation and social rehabilitation of the prisoner” and to this end, the Committee asks that when reporting on obligations under Article 10 of the Covenant, States parties provide information on the extent to which they provide assistance after release.<sup>1</sup>
- In addition, the UN Standard Minimum Rules for the Treatment of Prisoners set out principles to guide States on prison release:

Services and agencies, governmental or otherwise, which assist released prisoners to re-establish themselves in society shall ensure, so far as is possible and necessary, that released prisoners be provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.<sup>2</sup>

Given the importance of appropriate accommodation to resettlement, the Commission would be concerned, both for the individual and the community, about any legislative provision, policy or practice that would render a person homeless by virtue of them having been imprisoned following conviction for a criminal offence. The Commission therefore recommends that any policy on accommodation

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<sup>1</sup> Human Rights Committee (1992) *General Comment No. 21: Concerning humane treatment of persons deprived of liberty (Art. 10)*, 10/04/92 at paragraph 10.

<sup>2</sup> Rule 81(1) of the Standard Minimum Rules, which were adopted in 1955 and reaffirmed by the Economic and Social Council in 1977.

for those released from prison is based on best practice and complies with international human rights standards.

### **Intentionality and the Homelessness (Scotland) Act 2003**

In its initial letter to the Committee, the Commission recommended that consideration be given to the scheme of the Homelessness (Scotland) Act 2003 in so far as it seeks to achieve progressive realisation of the right to housing. The Commission brought the 2003 Act to the attention of the Committee because that legislation has been recognised by the UN Committee on Economic, Social and Cultural Rights as a positive measure for progressive realisation of the right to housing within Article 11 of the Covenant. However, the Commission accepts that whether the 2003 Act should be implemented in Northern Ireland is not a matter for consideration within the current Housing (Amendment) Bill. The Commission understands that the Bill is aimed at clarifying the existing law or, where appropriate, ensuring that Northern Ireland homelessness legislation corresponds with what exists in England and Wales.

To alter the legislative provisions on intentionality would require significant policy change that is likely to be outside the remit of the Housing (Amendment) Bill and may be better considered under separate legislation. Further consultation is required to establish how best to achieve progressive realisation of the right to housing for everyone in Northern Ireland. This should include considering whether or not it is feasible and sustainable to set out a time scale for removal of the 'priority need' and intentionality criteria so that, eventually, all persons found homeless in Northern Ireland are entitled to homelessness assistance. This would correspond with the recommendation of the Committee on Economic, Social and Cultural Rights that the government "take into consideration the Homelessness (Scotland) Act 2003 as best practice, especially its provision relating to the right to housing as an enforceable right."<sup>3</sup>

There is potential for the Housing Executive to clarify how it operates the policy on intentionality. During its recent investigation resulting in the report *No Home from Home*, the Commission found that non-UK nationals might be deemed intentionally homeless because they had left accommodation abroad. However, investigators did not find a

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<sup>3</sup> Concluding Observations of the Committee on Economic, Social and Cultural Rights (2009) *The United Kingdom of Great Britain and Northern Ireland, the Crown Dependencies and the Overseas Dependent Territories*, 22 May 2009, para 29.

consistent approach to this issue and therefore Recommendation 21 of the investigation states that:

The Housing Executive should develop human rights compliant guidance outlining the circumstances in which having accommodation abroad can result in a finding that homelessness has been intentional (p145, *No Home from Home*).

The Commission will be working with the relevant agencies, including the Housing Executive, in the coming weeks to devise action plans for the implementation of the investigation's recommendations.

I hope that this clarifies matters for the Committee. Should Committee members require any further information, please do not hesitate to contact either myself or Investigations Workers Roisin Devlin or Sorcha McKenna.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter O'Neill', written in a cursive style.

**Peter O'Neill**  
**Chief Executive**