



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

ORAL EVIDENCE TO THE SOCIAL DEVELOPMENT COMMITTEE ON THE HOUSING (AMENDMENT) BILL

THURSDAY 24 SEPTEMBER 2009

Introduction

Chair and members of the Committee I would like to begin by thanking you for extending an invitation to my staff and I to attend this evidence session.

The Northern Ireland Human Rights Commission recently published an investigation report entitled *No Home from Home* which you should all by now have received. The investigation came about in response to the Commissions concern about the vulnerability of certain categories of non UK nationals to destitution.

The report examined the issues facing homeless non UK nationals in Northern Ireland and the complex mix of EU and domestic immigration law which means that homelessness assistance is not available to non-UK nationals in a number of situations. The report also looks at the policy, practice and responses of the Northern Ireland Housing Executive, the Health and Social Care Trusts and the Social Security Agency. Furthermore *No Home from Home* addressed the thematic issues of domestic violence, racial intimidation, labour exploitation and asylum seeking.

I am joined today by the co-authors of the report and Commission investigators, Roisin Devlin and Sorcha McKenna, who, on your invitation are here to discuss possible amendments to the proposed Housing (Amendment) Bill. In light of the recent investigation, their focus today will be on strengthening the Bill to better protect some of the most vulnerable members of society. To this end they will

contain their evidence to clauses 1-5 of the Bill and will also draw your attention to the relevant recommendations from the Commissions recent investigation report.

I will now hand you over to Sorcha McKenna who will take your through clauses 1-3 and she will be followed by Roisin Devlin who will speak about clauses 4 and 5 as well as the relevant recommendations from the Commissions report *No Home from Home*.

Key points

1. The Commission welcomes the opportunity to give evidence before the Social Development Committee. The Commission is providing comment on Clauses 1 to 5 of the Bill.

Clause 1: Homelessness strategy

2. The Commission welcomes this provision as a positive development and recommends the following:
 - 2.1 That in New Article 6A (1) "The Executive **may** formulate and publish a homelessness strategy" is changed to read "The Executive **shall** formulate and publish a homelessness strategy." This ensures that the language is consistent with the remainder of the Article and with the intention that the formulation of a homelessness strategy is a duty rather than a power.
 - 2.2 Given the Commission's particular concerns in relation to homeless non-UK nationals, many of whom are ineligible for homelessness assistance, the remit of the strategy is particularly welcome as it applies to persons in Northern Ireland without exclusions based on nationality or immigration status. The Commission therefore recommends that the homelessness strategy will refer to all those at risk of homelessness or assessed as homeless in Northern Ireland.

Clause 2: Duty of Executive to provide advice

3. The Commission welcomes this as a positive measure. It requires the Northern Ireland Housing Executive (the NIHE) to provide advice about homelessness and the prevention of homelessness free of charge to *any person* in Northern Ireland (emphasis added). This ensures that the NIHE can adopt a more proactive role in relation to homelessness. The

Commission notes that the advice is provided free of charge to any person in Northern Ireland and therefore it can include all individuals regardless of nationality or immigration status. Again, this is particularly welcome given the concerns for homeless non-UK nationals as reported in the Commission's most recent investigation. The Commission recommends:

- 3.1 That the advice provided by the NIHE (or by any other person acting on the Housing Executive's behalf) under new Clause 6D (1) is set out in Guidance, which is subject to appropriate consultation and review

Clause 3: Eligibility for housing assistance

4. This requires the NIHE to notify an individual of the decision and the reasons for the decision where they are found ineligible for housing assistance. The notice must be given in writing. It applies to persons found ineligible due to their behaviour and also to those found ineligible due to immigration status. The Commission welcomes this provision and recommends the following:

- 4.1 The notice should be accompanied by written information on the applicant's right to request review and the right of appeal to the county court (rights that are proposed in clause 5 of the Bill).
- 4.2 In addition, the written information should refer to sources of support, for example, the contact details for the relevant unit within the Housing Executive and for those external organisations funded by the Housing Executive to provide advice.
- 4.3 The Commission's recent investigation has found that there is a language barrier for some non-UK nationals in Northern Ireland and therefore recommends that the format and content of all correspondence takes account of the language needs of the applicant. For example, while it may not be possible to translate the decision and reasons for ineligibility in every case, it may be feasible to include a standard statement in several languages (ideally in the applicant's first language, if known) explaining how to make contact with the Housing Executive for further information, for translation or interpretation assistance, or for other help.

Clause 3: Eligibility for housing assistance (amendment to Article 7A (5) changing “applicant” to “person”)

5. The Commission requests clarification on the reasons for this proposed amendment. The Commission is concerned that by amending “applicant” to “person” an individual might be refused housing assistance under Article 7 of the Housing (NI) Order 1988 before they have become an “applicant,” that is, before they have submitted a full homeless application which would allow a proper inquiry into their circumstances.

Clause 4: Power of the Department to prescribe the form of advice and assistance

6. The Commission welcomes the power of the Department to prescribe the form of advice and assistance. During its investigation, the Commission found that ‘advice and assistance’ formed an important part of the NIHE’s duties to homeless persons. ‘Advice and assistance’ may be the only support that ‘ineligible’ non-UK nationals receive from the Housing Executive. It is therefore crucial that ‘advice and assistance’ is appropriate and thorough and directs ‘ineligible’ individuals to other statutory bodies that may be able to offer support. Therefore, in order to strengthen the proposed amendment in Clause 4, the Commission recommends:
 - 6.1 That the wording is changed from “[...] advice and assistance of such type as **may** be prescribed by the Department” to “[...] advice and assistance of such type as **shall** be prescribed by the Department.” This means that there is instead a duty on the Department to prescribe the form of advice and assistance (rather than a power).
 - 6.2 That the form and content of ‘advice and assistance’ as prescribed by the Department is produced in Guidance.
 - 6.3 That either the Bill or, if more appropriate, the Guidance sets out a *minimum* that the Executive ‘advice and assistance’ must entail. Drawing on its investigation findings, the Commission is of the view that this is particularly important for applicants who are ineligible for homeless assistance. For example, as a minimum, the Housing Executive should be required to refer ‘ineligible’ applicants to the relevant Health and Social Care Trust so that they can be assessed to establish whether or not they are entitled to assistance under the Health and Personal Social Services (NI) Order 1972 or the Children (NI) Order

1995.

- 6.4 The form of advice and assistance should be subject to appropriate consultation and review.
- 6.5 The Commission reiterates the need for the format and content of any correspondence, which includes advice and assistance, to take account of the needs of the applicant in terms of language and understanding.

Clause 5: Review of decisions in relation to homelessness

7. The Commission welcomes clause 5 introducing a statutory right of review of the Housing Executive's decisions and a right of appeal to the county court on points of law. In the course of its investigation, the Commission found that relatively few non-UK nationals had requested review, or had appealed homelessness decisions. The Commission therefore recommends:
 - 7.1 That information about, and mechanisms for, review and appeal are accessible particularly for persons who are experiencing language barriers.

Relevant recommendations from *No Home from Home*

8. The Commission refers to its investigation report *No Home from Home* and the recommendations contained therein. The Commission would like to highlight a number of relevant recommendations for Committee members some of which may be relevant for inclusion within a homelessness strategy and guidance and others that require legislative change.
 - The following recommendation is within the legislative gift of the NI Assembly [...] the Government should amend homelessness legislation so that those who are sleeping on the street, without any other means to access welfare benefits or accommodation, are given 'priority need' (within the meaning of the *Housing (Northern Ireland) Order 1988*).
 - Again, this recommendation is directed at the NI Assembly and calls for the development of a fund that can be accessed by relevant voluntary organisations which accommodate or otherwise support individuals who have no, or limited access to, public funds.

The development of a homelessness strategy and departmental guidance will be an important way to bring forward the following recommendations from *No Home from Home*:

- All government agency staff [...] should be familiar with when, and how, to refer a homeless non-UK national, who is excluded from accessing homelessness assistance and welfare benefits, to the relevant Health and Social Care Trust for an assessment of her or his entitlement to assistance.
 - The government agencies should include within each letter a standard statement, translated into several languages, explaining the purposes and urgency of the letter and how to contact the government agency for further information, explanation or a review of any decisions. In addition, government agencies should assess the extent to which certain letters or parts thereof, can be standardised and therefore translated in advance.
 - The government agencies should develop agree and effectively disseminate reliable interagency protocols. The protocols should identify any potential gaps in service provision and ensure that, in all circumstances, there is a referral route so that a homeless non-UK national, who is excluded from homelessness assistance and welfare benefits, can be assessed to establish if they are entitled to any other form of support. Appropriate and formalised, referral arrangements should be included. In addition, the interagency protocols should outline the approach to be adopted for daytime and 'after hours' services. Following on from this, the government agencies should produce an interagency guide for their staff, outlining options for assistance and referrals for homeless non-UK nationals.
9. The main recommendation is that regardless of nationality or immigration status no-one should be allowed to fall into destitution. In order to realise this, the Commission also recommends that everyone should have access to appropriate emergency accommodation. The Commission understands that immigration is not within the legislative remit of the Northern Ireland Assembly and therefore this recommendation is primarily directed at the Government at Westminster. Nevertheless, the Northern Ireland Assembly has an important

role to play in engaging with Westminster in order to bring about legislative change. The Commission therefore looks forward to working with the Northern Ireland Assembly and Westminster in bringing forward all of the recommendations in *No Home from Home*.

10. This concludes our evidence on the Housing (Amendment) Bill. We are happy to answer questions or provide further written clarification to the Committee if required.

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