

Ensuring a Home for All:

Using the Public Sector Duty to Improve Access to Housing and Homelessness Supports for Migrant Households

Report to the Irish Homeless Policy Group

**Irish Homeless
Policy Group**



Coimisiún na hÉireann
um Chearta an Duine
agus Comhionannas
Irish Human Rights and
Equality Commission

This project is supported
under the Irish Human
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Niall Crowley · October 2020

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Introduction

This report is the outcome of a project of the Irish Homeless Policy Group, coordinated by Focus Ireland and funded by the Irish Human Rights and Equality Commission. Members of the Irish Homeless Policy Group include Focus Ireland, the Simon Communities, Threshold, Depaul, Mercy Law Resource Centre, Crosscare, Jesuit Centre for Faith and Justice, COPE Galway, the Society of St. Vincent de Paul and Respond.

This report¹ has been developed to support public authorities responsible for housing and homeless services to implement the public sector equality and human rights duty and to provide a platform for civil society participation and collaboration in this process. It reflects a shared ambition across public authorities and civil society organisations involved in housing and homeless services to realise the evident potential in an effective implementation of the duty.



1 See Appendix 1 for details of the project and its implementation.

The Public Sector Equality and Human Rights Duty

Section 42 of the Irish Human Rights and Equality Commission Act 2014 establishes a statutory duty on public bodies, including local authorities, to have regard, in carrying out all their functions, to the need to eliminate discrimination, promote equality of opportunity, and protect human rights for staff and service users.

Public bodies must take three steps in implementing the Duty, to:

- assess the equality and human rights issues relevant to their work and their different functions;
- identify the policies, plans, and actions in place or proposed to be put in place to address these equality and human rights issues; and
- report annually on developments and achievement in addressing the issues.

These steps should be implemented as an integral part of strategic planning by public bodies, to enable a planned and systematic approach to addressing equality and human rights concerns by public bodies. The Irish Human Rights and Equality Commission (IHREC) has a mandate to support and enforce implementation of the Duty and has published guidance on its implementation².

The guidance developed by the IHREC locates the Duty in the context of the Employment Equality Acts 1998–2015, the Equal Status Acts 2000–2015, and the European Convention on Human Rights Act 2003. It suggests that the focus for the assessment of equality and human rights issues should be on people from ten identified groups: people at risk of poverty and social exclusion and people across the nine grounds included in equality legislation, which includes the ground of ‘race’ which encompasses migrant households.

The IHREC guidance suggests that the assessment of equality and human rights issues should be evidence-based and participative.

Migrant households present a diversity, when compared to the general population, in their situation, experience, and identity. Situation refers to the social and economic status of the group and the resources available to them. Experience refers to the nature and quality of relationship with public institutions and the wider society for the group. Identity refers to the extent to which specific needs, that flow from how groups give expression to their identity, are met.

An examination of situation, experience, and identity of the group reveals the equality and human rights issues they experience. Migrant households comprise various groups, each with their own situation, experience and identity, including: asylum seekers, refugees, re-unified families, returning Irish emigrants, migrant parents of Irish born children, migrant students, Roma, and economic migrants.

² [Implementing the Public Sector Equality and Human Rights Duty](#), Irish Human Rights and Equality Commission, Dublin, 2019.

A Template for the Assessment Step in Implementing the Duty

The first step by public bodies in implementing the Duty is to assess the equality and human rights issues facing the identified groups. This is the cornerstone of the Duty and underpins a planned and systematic approach by public authorities to equality and human rights issues relevant to their various functions.

This process is not an evaluation or assessment of the public authority. It is an examination of the situation, experience and identity of the identified groups to establish the equality and human rights issues they face. This provides an agenda for action by the public authority that can include areas where they are already taking action, and areas where further action might be needed.

Assessment of Equality and Human Rights Issues

Equality and human rights issues in relation to the **situation** of the diversity of migrant households:

- 1 Homelessness.
- 2 Housing deprivation and poor-quality accommodation.
- 3 Overcrowded accommodation.
- 4 Poverty, irregular employment, and low wages.
- 5 Vulnerability due to legal status in relation to residency, including inadequate understanding of this legal status, and lack of appropriate responses to the vulnerability that arises on the part of service providers.

Equality and human rights issues in relation to the **experience** of the diversity of migrant households:

- 1 Racism in society, that can find expression within service provider organisations and that can underpin barriers of mistrust among service users in relation to service providers.
- 2 Discrimination, direct and indirect, and harassment from service providers and landlords.
- 3 Lack of knowledge and understanding of the service provision and the systems involved.
- 4 Lack of knowledge of rights and confidence to exercise those rights.
- 5 Isolation and lack of support networks.
- 6 Bureaucratic demands, including inappropriate requirements for documentation.
- 7 Provision of one-night-only emergency accommodation placements and provision of this form of accommodation over long periods of time.
- 8 Direct Provision for asylum seekers, and limited access to services for those in Direct Provision once granted refugee status.
- 9 Family reunification processes, including delays in access to supports, leading to homelessness and housing insecurity.
- 10 Previous experience of trauma and triggering of this in stressful contexts.

Equality and human rights issues in relation to the **identity** of the diversity of migrant households:

- 1 Lack of adaptation for cultural diversity in particular: language translation and interpretation; family composition; and faith imperatives.
- 2 Inflexibility in service design and service provision.

Evidence Base

The IHREC guidance³ for the implementation of the Duty, emphasises the need for the assessment of equality and human rights issues to be evidence-based. The guidance sets out possible data sources external to the public body, including. It Identifies possible data sources internal to the public body, including.

This assessment of equality and human rights issues of migrant households draw from data and information available in:

- public policy strategies, national and local research carried out by public authorities or with publicly funded research bodies, research and policy submissions prepared by civil society organisations; and
- data gathered by civil society organisation providing housing and homeless services to migrant households.

The evidence base is set out as a resource from which to assess and prioritise the relevant equality and human rights issues in the template provided. The data and information apply to the situation, experience, and identity of migrant households. They are not gathered as an assessment of all or any local authorities, and do not necessarily apply to all local authorities or to any specific local authority.

³ Implementing the Public Sector Equality and Human Rights Duty, Irish Human Rights and Equality Commission, Dublin, 2019.

Public policy strategies, research, and policy submissions

The ‘Migrant Integration Strategy: A blueprint for the future’, published by the Department of Justice and Equality in 2017, makes no reference to housing and homelessness issues and thus is not a data source for this assessment. It does commit that ‘Integration issues will be mainstreamed in the work of all appropriate Government Departments and agencies and addressed in their Strategy Statements, Annual Reports and other documents’, noting that this includes the Department of Housing, Planning, Community and Local Government.

The strategy further commits that ‘Initiatives will be undertaken aimed at increasing the number of migrant representatives in local authority fora, like Public Participation Networks (PPNs), and other representative fora’, which participation could serve as a driver for implementation of the Duty.

The National Traveller and Roma Inclusion Strategy 2017–2021 includes reference to and data on Traveller accommodation but no reference to or data on Roma access to housing supports and homeless services.

The Roma in Ireland: a National Needs Assessment published by the Department of Justice and Equality and Pavee Point in 2018 provides data on the situation and experience of Roma in relation to housing and in relation to discrimination in housing provision. This report identified that of those surveyed:

- › 77.1% lived in private rented accommodation;
- › 93.3% experienced discrimination in accessing accommodation;
- › 44.8% experienced overcrowding in their accommodation;
- › Had a lack of basic facilities, where 4.4% had no bathroom; 12.4% had no kitchen; 13.5% had no fridge; and 9.6% had no cooker;
- › 36.6% had no tenancy agreement; and
- › 45.7% had experienced homelessness, with 6% currently homeless.

The Irish Human Rights and Equality Commission and the ESRI published research on ‘Discrimination and Inequality in Housing’ in 2018, which includes data of relevance to the situation and experience of Black and minority ethnic groups. This research found that:

- › Black people are five times more likely to report housing discrimination than White people;
- › Non-EU nationals are 1.7 times more likely to experience housing deprivation than Irish nationals;
- › Non-EU nationals are 2.5 times more likely to live in overcrowded housing than Irish nationals; and
- › Nationals other than Irish nationals are substantially over-represented among those experiencing homelessness.

The Irish Human Rights and Equality Commission provide further information of relevance to the situation and experience of Black and Minority ethnic people in relation to housing and homelessness in its report ‘Ireland and the Convention on the Elimination of Racial Discrimination’ of 2019. This identified issues where:

- Black and minority ethnic people experience consistent and significant levels of discrimination across all sectors. and are subject for ‘troubling attitudes’ on the part of the majority population, where just under half of adults born in Ireland are found to believe that some cultures are superior to others.
- The application of Circular 41/2012⁴ of the Department of Housing, Planning, & Local Government in practice might see unlawful refusals to both homeless and social housing services, amounting to discrimination on the ground of race.
- The application of the Habitual Residency Condition⁵ can have a discriminatory impact on migrant and Roma families, given the particular challenges they face in meeting its conditions. Evidence of its use in relation to access to emergency accommodation was also noted.

‘A Profile of Families Experiencing Homelessness in the Dublin Region 2016–2018’ published by the Dublin Regional Homeless Executive identified that:

- Lone parent, non-Irish national, and larger families were more susceptible to homelessness than other family types; and
- 976 new families accessed homeless accommodation in the Dublin region in 2017 of which 67% were Irish families, 12% were EU (includes EEA) families, and 21% were non-EU families, reflecting an upward trend in total and in percentage of non-EU families.

In a policy submission made by **Crosscare Refugee Service** on ‘Reunified Refugee Families and Homelessness’ in 2018, particular difficulties were identified as being experienced by those with refugee status whose application for family reunification has been granted. These include:

- Unable to source Housing Assistance Payment (HAP) tenancies for family members in advance of arrival prior to various administrative steps being completed on arrival;
- Overcrowding and tenancy of sponsor put at risk;
- Limited knowledge of services and how to access these;
- Being rendered homeless or at risk of homelessness (32 Crosscare cases involving 153 individuals in this situation were noted);
- Difficulties due to one-night-only provision of emergency accommodation with long waits for a rolling booking, in accessing the freephone services where these are provided, and in managing self-accommodation options;
- Access to case management and support worker can be limited as a result of these difficulties;
- Language barrier in absence of interpretation;
- Triggering of previous trauma in emergency accommodation; and
- Negative impact on integration.

4 Circular 41/2012 provides guidance to local authorities on ‘access to social housing supports for non-Irish nationals’. in relation to Circular 41/2012. It should be noted that Circulars are policy documents designed to give guidance on the application of statute rather than giving effect to statute.

5 Habitual Residence Condition is a condition that must be satisfied by a person in order to be eligible for most means tested social welfare payments. It came into effect from May 1st 2004 following the enlargement of the European Union.

In a subsequent working document prepared in 2020, Crosscare Refugee Service noted 'a significant regression in systematic practices that is putting reunified refugee families further at risk with longer delays in access to immediately required basic supports' and 'a notable increase in the severity of cases presenting to the service'. It notes that families seeking support from the service have been on the increase, with a total of 25 cases of reunified refugee families presented from January 2018 to November 2019. Six of these families were separated in homeless services.

Several changes to practice in supporting reunified refugee families are identified as compounding barriers for these families to access accommodation and extending the duration of homelessness spent in one-night-only emergency accommodation. These include:

- Increased delays and restriction with registration with GNIB, with an estimated waiting period of up to two months for an appointment for new registration on the online booking system in 2019.
- Increased delays with registration for PPS numbers, with the estimated waiting period for PPSN registration currently standing at eight weeks.
- Increased delays with and inconsistency in access to social protection, with non-compliance noted with operational guidelines and case law.

This is leading to extensive stays in one-night-only emergency accommodation for these families with access denied to rolling-booking emergency accommodation, HAP and secure private rented accommodation, and income and welfare supports.

Research published in 2019, by Crosscare Refugee Service, on 'Coming Home in Crisis: Experiences of Irish emigrants returning in crisis situations' notes the recent trend of emigrants returning from conflict zones. 'Dual-nationality and naturalised citizens of Black, Asian and minority ethnic communities or heritage' are present among these returned Irish emigrants. These particular groups were found to experience discrimination and issues of access to emergency accommodation and social welfare, with poor recognition of their rights and entitlements by authorities on their return to Ireland.

Service provider data and information

Threshold gathered data on the ethnicity of their clients over a week from 27th to 31st January 2020. These clients principally come from the private rented sector. Threshold staff used the census ethnicity question in this exercise:

What is your ethnic or cultural background?	
A. White	Irish Irish Traveller Any other White background
B. Black or Black Irish	African Any other Black background
C. Asian or Asian Irish	Chinese Any other Asian background
D. Other including mixed background	

Table: Census Data Question, CSO, 2016.

The ethnicity data gathered allows comparison between the situation and experience of clients who identified as Black or Black Irish, Asian or Asian White, and any other White background with clients who identified as any other White background. This allows identification of any specificity in the situation and experience of migrant households, and of different groups of migrant households.

Three main issues were presented by Threshold clients in this period: tenancy termination, rent review or rent increase, and issues with Housing Assistance Payment (HAP), Rental Accommodation Scheme (RAS), or Rent Supplement. The most noticeable difference between the Black and minority ethnic groups and the White Irish group relates to rates of tenancy termination. Black and minority ethnic clients appear to be significantly more vulnerable in relation to this.

	Number	Tenancy Termination	Rent Review/ Increase	HAP/ RAS/Rent Supplement
Total Clients	682 Clients	32% (315)	12% (85)	9% (59)
White Irish	325 Clients	28% (92)	12% (38)	10% (33)
Asian or Asian Irish – Chinese or Other Asian Background	17 Clients	53% (9)	12% (2)	0% (0)
Black or Black Irish – African or Other Black Background	33 Clients	45% (15)	12% (4)	9% (3)
White – Other White Background	141 Clients	38% (53)	13% (18)	9% (12)

Table: Client Ethnicity and Tenancy Issues, Threshold, 27 to 31 January 2020.

The clients identified the reasons they were being given for termination of tenancy. Arrears, landlord or family moving in, premises being renovated, or premises being sold emerge to a greater extent among Black and minority ethnic clients.

	Total Clients	White Irish (325 clients)	Asian or Asian Irish (17 clients)	Black or Black Irish (33 clients)	Other White Background (141 clients)
Arrears	16	6 (2%)	2 (12%)	0	6 (4%)
Cannot afford rent	1	0	0	0	1 (1%)
Landlord in breach of obligations	1	0	0	0	1 (1%)
Landlord or family move in	29	11(3%)	2 (12%)	4 (12%)	4 (3%)
Noise/anti-social behaviour	6	3 (1%)	0	1 (3%)	2 (1%)
Property no longer big enough	2	1 (0%)	0	0	0
Purchasing own home	1	1 (0%)	0	0	0
Relationship breakdown – tenant notice of termination	1	0	0	0	0
Renovation	12	4 (%)	1 (6%)	2 (6%)	2 (1%)
Repossess/receiver	3	2 (%)	0	0	0
Section 34(b)	6	2 (1%)	0	0	3 (2%)
Landlord selling	87	33 (10%)	3 (18%)	6 (18%)	23 (16%)
Other	21	11 (3%)	0	0	5 (4%)
No reason	9	6 (2%)	0	0	1 (1%)

Table: Tenancy Termination Reasons and Client Ethnicity, Threshold, 27 to 31 January 2020

Some clients identified if they were on HAP, RAS, or Rent Supplement and some if they were not. No clear pattern emerges of specific situations for the different groups. This might relate to the legal status in relation to residency of some clients or their current housing situation or their labour market participation.

	Total Clients	White Irish (325 clients)	Asian or Asian Irish (17 clients)	Black or Black Irish (33 clients)	Other White Background (141 clients)
HAP	32	13 (4%)	1 (6%)	1 (3%)	10 (7%)
Rent Supplement	24	8 (3%)	0	3 (9%)	8 (6%)
RAS	3	1 (0%)	0	1 (3%)	1 (1%)
Not on HAP, RAS or Rent Supplement	57	29 (9%)	0	4 (12%)	12 (9%)

Table: Rent Supports and Client Ethnicity, Threshold, 27 to 31 January 2020.

Depaul gathered and analysed data on referrals received from the nine Direct Provision centres that it started to work with in 2019. During 2019, 300 households that had been granted refugee status but faced difficulties in securing their own accommodation, were referred to Depaul. There were 710 people in these households. The centres are in Monaghan, Dundalk, Galway (2), Sligo, Mayo, Meath, Dublin (2).

The table below shows the length of time these households remained in Direct Provision since having their refugee status granted. This data on the 300 families was reviewed as a data snapshot in May 2020. Households are recorded as waiting for significant periods of time. While it is clear that this remains at issue, the provision of a targeted support service during 2019 has improved the situation.

	Up to 6 Months	Up to 1 Year	Up to 2 Years	Up to 3 Years	Over 3 Years
Total Households	86	99	87	22	6
Those who had moved on by May 2020	79	55	61	11	3
Those still in Direct Provision in May 2020	7	44	26	11	3

Table: Length of time in Direct Provision from granting of refugee status, Depaul, May 2020.

The data snapshot for May 2020 on these 300 families establishes a range of difficulties experienced by 107 of these households in registering with the local authority and accessing (Housing Assistance Payment) HAP, with some households experiencing more than one of these difficulties as set out in the table below:

Local Authority: Local connection issue	Local Authority: Immigration status, stamps, GNIB issues	Local Authority: Documents, affidavits issues	Local Authority: Family composition issues	Local Authority: Other issues	HAP: income, social welfare, student issues	HAP: Deposit, 1 st month's rent, top-up limit, Uplift issues	HAP: Other
27	19	36	20	16	19	50	15

Table: Difficulties for those leaving Direct Provision to register and access HAP, Depaul, May 2020.

The snapshot data for May 2020 on these 300 families establishes a range of difficulties experienced by 189 of these households in dealing with landlords in the private rented sector for households seeking to leave Direct Provision after being granted refugee status, with some households experiencing more than one of these difficulties as set out in the table below:

Landlords or agents not accepting HAP, including issue of not having tax clearance	Lack of work references or other landlord references	Language and confidence barriers	Landlords unwilling to wait for processing times required	Perceived discrimination on ground of race or refugee status or being in Direct Provision	Barriers of language, confidence, lack of knowledge of the system	Barriers to get to viewing, including transport	Other
140	151	33	33	88	134	145	7

Table: Difficulties for those leaving Direct Provision in engaging with landlords, Depaul, May 2020

The snapshot data for May 2020 identifies that 105 households, of the 209 households who had moved on by May 2020, required additional assistance over time to settle in.

The Depaul Migrant Homeless Action Team analysed their contact data with individuals in private emergency accommodation, people in one-night-only emergency accommodation provision, over the first week and a half of September 2019. There is an over-representation for EU and non-EU nationals evident from the table below.

	Total Clients	Successfully registered as homeless with local authority	Not registered/ no consent	Rejected for registration	Registration postponed/ deferred	Registration application cancelled/ closed
Irish	220	118	49	2	40	11
EU	137	39	48	11	35	4
Non- EU	69	25	26	2	16	0
Other	21	3	17	0	1	0
Total	447	185	140	15	92	15

Table: Clients in private emergency accommodation and one-night-only emergency accommodation by ethnicity, Depaul, September 2019.

Crosscare Information and Advocacy Service analysed data from the 381 families experiencing homelessness that presented to their services during 2019, with particular reference to the one-night-only provision of emergency accommodation.

123 (32%) of these families had at some point accessed one-night-only provision of emergency accommodation or were still accessing this provision. 18 (14.6%) of these 123 families had Irish citizenship, 82 (66.7%) had European Economic Area (EEA) citizenship, and 23 (18.7%) were of Non-EEA citizenship.

These 123 families included:

- 324 children and 225 adults
- 51 (41.8%) families with 3 or more children and 18 (14.6%) families with 5 or more children
- 39 (30%) lone parent families
- 57 (46%) Roma families

In terms of legal status in relation to residency:

- 70 (56%) families had established 'EU Worker' status.
- 7 (5.7%) were family reunification cases.
- 17 (13%) were Returning Irish Citizens.
- 2 (1.6%) had Irish Citizen Child Stamp 4 applications pending.

All four Dublin housing authorities were involved: Dublin City Council (61% of these cases), Fingal (18.7%), South Dublin (11.4%), and Dun Laoghaire Rathdown (1.6%).

The time spent by these families in one-night-only emergency accommodation varied significantly, the average being 13.72 weeks:

- Non-EEA family cases spent 16.88 weeks on average
- EEA family cases, regardless of EU migrant worker status, spent between 14.33 weeks on average
- Roma family cases spent 14.50 weeks on average
- Irish citizen family cases (mostly returnees to Ireland) spent 6.91 weeks on average
- Family reunification cases spent 5.65 weeks on average

Clients identified issues of: stress of not knowing when and where you can go somewhere safe for the night; risks for children and difficulties in feeding them properly; racist experiences on the streets; feeling isolated and unsupported; poor facilities in the locations provided; specific difficulties for those doing shift work; difficulties communicating with officials; being asked for documents they cannot get or that they had already submitted; and length of time for assessment.

Crosscare staff identified language and literacy barriers for these families, difficulties in having specific needs of particular families met, and high levels of advocacy required even in cases that were not complex.

During 2019, all first-time presenting families, from the cohort analysed by Crosscare, were placed in one-night-only emergency accommodation as a first response by housing authorities, regardless of family composition, situation or circumstances. Except in very exceptional circumstances, housing authorities required a completed full housing assessment with all attendant documentation before stable accommodation options were offered. Of the 123 families, 109 (88.6%) had made social housing applications with their local authority, while 13 families had not made an application during this period, with one family unknown.

Of the 109 families that had made social housing applications:

- 82 (75.2%) had been accepted onto their respective council's lists.
- 17 (15.5%) had decisions pending as of the 25/03/2020, with the following issues evident, and more than one in some instances:
 - 8 of these applicants had experienced delays in their application due to invalid documentation requests on the part of the local authorities;
 - 2 of these applicants experienced delays in their applications due to administrative errors within local authorities;
 - 11 of these applications were pending due to missing/delayed documentation;
 - 2 of these applications submitted were pending due to lengthy processing times in the Department of Justice related to Irish Citizen Child Stamp 4 applications; and
 - 2 of these applications were pending with no reported issues regarding documentation.
- 10 (9.1%) were not accepted on to the housing list as of the 10/01/20, with eligibility under Circular 41/2012 being the greatest factor in this.

Participative Process

A roundtable seminar for civil society organisations, involving homeless organisations and anti-racist and migrant rights organisations, was convened to examine the equality and human rights issues facing migrant households that are relevant to the provision of housing and homeless supports.

The debate was concerned to review and further elaborate the data and information to be used in the assessment of equality and human rights issues. It focused on the situation, experience, and identity of migrant households. The points made are not to evaluate local authorities and do not necessarily apply to all local authorities or to any specific local authority.

Roundtable Seminar Minute

Equality and human rights issues were assessed on the basis of the particular situation, experience, and identity of migrant households:

- › Situation: the economic and social status of the group, specifically the level and quality of resources available to the group, such as: income; welfare supports; employment; education and training; health; and accommodation.
- › Experience: the interaction of group members with public institutions and the wider society including: discrimination; under-representation and disempowerment; stereotyping; and harassment and sexual harassment.
- › Identity: the manner in which the group chooses to give expression to its identity, what they value in this regard, and specific needs that arise.

Situation of migrant households

Legal status in relation to residency is a dominant element in the situation of migrant households experiencing homelessness and housing insecurity. A range of equality and human rights issues are identified in relation to this legal status and how it is responded to, where:

- › Housing and homeless policy does not adequately address the intricacies of legal status in relation to residency, and this policy limits access to services and supports (in particular Circular 41/2012, the Right to Reside⁶ test, and the Habitual Residence Condition).
- › Providers of housing and homeless supports and services do not address the issue of legal status in relation to residency appropriately and they do not adequately respond to the vulnerabilities due to this, thus limiting access to services and supports.
- › EU and Non-EU nationals are over-represented in one-night-only provision of emergency accommodation which is unnecessary and a difficult experience for them.
- › Most migrant households experiencing homelessness over a prolonged period due to their legal status in relation to residency, eventually secure the required legal status.
- › The changing demographic for inward migration is not tracked in policy and provision, in particular the situation and experience of second-generation migrants, who might not have an Irish passport.

EU and Non-EU nationals are over-represented in the private rented sector compared to Irish nationals, another element relevant to their situation:

- › Lack of access to homelessness preventive services can be reflected in a disproportionately high numbers of tenancy terminations compared to Irish nationals.
- › Requirements for references can be difficult to meet for some with no history or renting in Ireland or with no employer reference available.

⁶ EU/EEA citizens and their family members must have a right to reside in order to be eligible for non-discretionary Social Assistance, Non-EEA citizens not covered exclusively by EU law are granted residency permission under Irish Immigration Law that can be subject to conditions.

Asylum seekers, re-unified families, returning Irish emigrants, migrant parents of Irish born children, migrant students, and economic migrants present specific situations. A range of equality and human rights issues can be identified in relation to the situation of each of these groups, where:

For asylum seekers in Direct Provision:

- › There are difficulties in registering as homeless in many local authorities, and many local authorities do not accept applications for Housing Assistance Payment (HAP) from people in Direct Provision once their refugee status is secured, as they are presumed to have accommodation in Direct Provision.
- › People are trapped in Direct Provision institutional settings after refugee status granted often for periods of 3 to 5 years, due to lack of access to housing.
- › Where people in Direct Provision are eligible to apply for social housing, they can only do so once their refugee status is granted, which results in a long wait at that point.
- › Where people in Direct Provision can move on under HAP, they do not have access to home-settlement supports as they are not registered as homeless.

For families re-united under Family Reunification:

- › HAP tenancy cannot be sourced prior to the arrival of the family.
- › Families face delays in securing necessary documentation.

For returning Irish emigrants, many of whom are Black and minority ethnic:

- › There is no support network to call on when faced with homelessness and housing insecurity.

For migrant parents of Irish born children:

- › Single pregnant women move from one-night-only provision of emergency accommodation to more settled provision for the birth of their child, but are then faced with being moved back onto one-night-only provision where longer-term services are only being made available to those with a housing application.
- › Young mothers might be on one-night-only provision of emergency accommodation for three years waiting for their legal status in relation to residency to be resolved, which is inappropriate in a context where, ultimately, the vast majority are successful in securing legal status, as with other migrant households.

For students from migrant background:

- › High rents, overcrowding, poor quality accommodation, and harassment are experienced in the private rented sector.
- › Students in full-time education while in Direct Provision are not provided with payments such as back-to education allowance when their refugee status is secured.
- › Students in full-time education cannot access the social housing register and HAP once their refugee status is secured, without leaving their education.

For economic migrants:

- › Low wages make it difficult to pay rent at the current levels.
- › Low wages lead to people having to rent in situations of overcrowding.

Experience of migrant households

A range of equality and human rights issues can be identified where migrant households can:

- Have limited knowledge of their rights and are not equipped to exercise their rights. Landlords can abuse their lack of knowledge.
- Be more vulnerable and, therefore, less willing to exercise their rights.
- Bring particular experiences of trauma from their country of origin and specific psycho-social health needs that are not taken account of by service providers through, for example, trauma informed approaches.
- Face barriers due to language issues and, for some groups, for example members of the Roma community, language barriers can be compounded with literacy issues in their first language.

A range of equality and human rights issues can be identified in relation to service provision where:

- Black and minority ethnic people experience racism, discrimination, and harassment from local authorities and landlords as well as those providing other support services.
- Service providers do not have adequate capacity to understand and recognise the rights of migrant households, or to address cultural difference with the required sensitivity.
- A disproportionate bureaucratic burden is imposed on migrant households compared to Irish nationals. Documentation sought might be impossible to get and the level of documentation required can be excessive.
- Particular needs are not addressed, in part due to inflexibility in HAP, including needs that arise from:
 - poor health, including the impact of trauma;
 - composition of the family in terms of family size and multi-generational households; or
 - changing circumstances such as family reunification.

Identity of migrant households

A range of equality and human rights issues can be identified in relation to cultural diversity and how this is responded to, where:

- › Language diversity is rarely accommodated with interpretation or translation.
- › The channels of communication used by migrant households are not sufficiently identified and availed of, by service providers, to support information provision to service users from these communities.
- › Family size and form are not adequately catered for, in particular with:
 - › housing infrastructure not suitable for large families; or
 - › income thresholds not set in an appropriate manner given the breadth of the family make-up.
- › The particular cultural and social value placed on family and the connections between people in the extended family is not respected, when family units are split up.
- › The particular value placed on community and the importance of community to the group, is not respected, when communities are dispersed across locations.
- › Faith-based imperatives are not respected and addressed.
- › Choice in food provided in emergency accommodation to suit cultural imperatives is not allowed for.
- › Service providers do not have flexibility to accommodate difference in being trapped into a fixed regime for the manner and terms on which a service is provided.

A Framework to Address the Issues as Assessed

A roundtable webinar with local authorities hosted by the Irish Housing Policy Group identified how the Duty is on the agendas of local authorities, but there remains a need to build a wider awareness of the Duty, and to build momentum for its full implementation.

The shared agenda and challenge evident in the Duty was viewed as creating opportunities for new forms of collaboration of an inter-agency nature, and between local authorities and civil society organisations working on issues of housing and homelessness.

There was an interest in an ongoing dialogue involving the Irish Housing Policy Group and local authorities as a means of pooling resources, addressing shared challenges, and enabling mutual support in relation to implementing the Duty. The Irish Housing Policy Group undertook to develop a framework to assist a process for addressing the issues as identified in the assessment that was developed in the first phase of this project. This framework could serve as a focus for ongoing dialogue and collaboration between Irish Housing Policy Group members and the local authorities.

Framework to Address the Issues

IHREC Guidance

The IHREC guidance for implementing the Duty, identifies that the Duty should be implemented as an integral part of the strategic planning cycle of public bodies⁷. The development and review of plans and procedures provide key moments for a public body to identify and commit to the actions, that it is already taking or now plans to take, to address the equality and human rights issues identified in the assessment that they have conducted.

Key Moments

The Housing (Miscellaneous Provisions) Act 2009 requires housing authorities to prepare a Housing Services Plan setting out its objectives for the provision of housing services (Section 14). This section has yet to be commenced.

Section 37 of the Act requires housing authorities to prepare a Homeless Action Plan to set out measures they will take to address homelessness, including those to achieve: prevention of homelessness; reduction of homelessness; provision of services including accommodation to meet the needs of homeless household; provision of assistance to those who were formerly homeless; and promotion of coordination of activities.

The Homeless Action Plan prepared by local authorities is of a multi-annual nature. It can be further reinforced with annual implementation plans or service plans. The preparation or review of these plans provide key moments for implementing the duty.

Local authorities work to procedures that govern their management of applications for social housing supports and of the housing needs assessment, and that govern their provision of homelessness services. These are based on the housing legislation and associated regulations.

The preparation or review of these procedures provide key moments for implementing the duty.

Key Steps

An equality and human rights check could be conducted at these key moments to ensure that the second requirement of the Duty is fulfilled: that organisations should identify the policies, plans, and actions in place or proposed to be put in place to address the equality and human rights issues identified in the required assessment.

The equality and human rights check is best implemented by those responsible for preparing or reviewing the plan or the procedure manual. If the local authority has, as recommended by the IHREC, established a cross-organisational working group for the Duty, this can play a valuable role in supporting the capacity of those doing the equality and human rights check and in ensuring this is done to the necessary standard.

⁷ Implementing the Public Sector Equality and Human Rights Duty, Irish Human Rights and Equality Commission, Dublin, 2019.

The equality and human rights issues relevant to the areas covered in the plan or procedure manual are identified, from the list of priority equality and human rights issues established following the assessment. This would be done and agreed at the start of the planning or review process so that actions to respond to these issues are built in from the start of the process.

The data and information gathered in undertaking the assessment is usefully made available to those responsible for the preparation or review of the plan or procedure. This data and information would be reviewed by them at the start of the process to establish if and how it might usefully be updated or further detailed in relation to the equality and human rights issues that are to be a focus in the process.

The equality and human rights check is carried out at towards the end of the process of preparing or reviewing the plan or procedure manual. The timing should such as to still allow for further revision of the plan or procedure manual as found to be necessary in order to adequately address the equality and human rights issues that are a focus for the process.

The equality and human rights check would first involve the staff responsible for preparing or reviewing the plan or procedure manual in:

- › reviewing the equality and human rights data available in relation to the issues identified with a view to,
- › assessing the potential of the plan or procedure manual to adequately and effectively address and make progress on the issues identified,
- › ensuring there is nothing in the plan or procedure manual that would exacerbate or limit progress on the issues identified, and
- › preparing a brief report on their conclusions and any further action required.

The IHREC recommend a participative approach to implementing the Duty, and this would apply to the equality and human rights check. Civil society representatives, working on issues of equality and human rights, would usefully be involved in a process of discussing and validating the check conducted by the responsible officials on the plan or procedure manual. This would be done by:

- › establishing the civil society representatives to be involved and briefing them on the Duty, and the equality and human rights check and its purpose,
- › making the draft plan or procedure manual as prepared or reviewed available to these civil society representatives alongside the report of the equality and human rights check conducted prior to any discussion,
- › convening a meeting of the responsible officials and these civil society representatives to discuss and validate this report and to document any further developments suggested as being required, and
- › providing feedback to these civil society representatives on any steps taken in response to the suggestions made at and conclusions of this meeting.

This equality and human rights check would be additional to and separate from any wider consultative processes with civil society engaged in by the local authority at an earlier stage in the planning or review process.

Public bodies have a further obligation under the Duty to publicly report on progress made in addressing the equality and human rights issues as assessed. This is the third step in the Duty. This will require public bodies to monitor the extent to which the actions proposed and taken in their plans and procedures, actually address the issues identified.

This reporting, and the monitoring involved, would require local authorities to ensure they have adequate data and other information gathering systems in place, in relation to these plans and procedure manuals, that would capture their ongoing impact on the equality and human rights issues identified. This data and information would be analysed and acted on as the plan and procedure manual are implemented as well as serving in the annual report on progress made.

The Duty as a Lever for Change

The public sector equality and human rights duty provides local authorities with a valuable driver for their concern to achieve equality and fulfil human rights. It creates a new platform for civil society organisations to engage with local authorities in realising this shared ambition.

Local Authorities and the Duty⁸

Twenty-one (68%) local authorities have published corporate plans for the next four to five-year period, four in draft form and one adopted but not published. Nineteen of the twenty-one local authorities make commitments to implementing the Duty (90%): Louth County Council make no reference to the Duty, and South Dublin County Council have yet to publish their adopted corporate plan. Limerick City and County Council reference the Duty but make no specific commitments.

Of the ten local authorities that have yet to complete their corporate plans, only two local authorities, Carlow County Council and Leitrim County Council, have made some commitment to implementing the Duty in a previous plan.

Overall, twenty-one local authorities have made some commitment in corporate plans to implementing the Duty. No local authority appears to have actually implemented the Duty, with none reporting a completed assessment of equality and human rights issues. While significant commitment to the Duty is evident, local authorities are at an early stage in its implementation. The commitment established by most of these twenty-one local authorities is very general in nature.

Practical steps taken by six local authorities (19%), as set out in their corporate plans, relate to creating the conditions for implementing the Duty. These include:

- › Development of an action plan for implementation of the Duty (Dublin City Council, and Monaghan County Council)
- › Establishment of a cross-department working group for the Duty (Dun Laoghaire-Rathdown County Council, Meath County Council, Monaghan County Council, and Offaly County Council)
- › Build capacity in relation to the Duty (Dun Laoghaire-Rathdown County Council, and Offaly County Council)
- › Gather data for an evidence-based approach (Tipperary County Council).

Two local authorities point to their engagement in pilot projects in relation to the Duty with the Irish Human Rights and Equality Commission, and note that they are now building on the outcomes of these projects (Cork City Council, and Monaghan County Council). One local authority has completed an IHREC funded project to support implementation of the Duty and should build on this (Galway City Council).

In April 2018, the IHREC invited the four Dublin local authorities to carry out equality reviews specifically focused on EEA and non-EEA nationals' access to social housing and homeless services. These have yet to be published.

Overall, eight (26%) local authorities have committed to or have taken practical steps to create the conditions for implementing the Duty. This reflects limited progress in implementing the Duty and the need for a concerted action on this.

⁸ See table in appendix 2

Civil Society Engagement

The Duty offers a new point of connection for civil society service providers with local authorities with the potential to enhance service provision to the range of migrant households experiencing housing insecurity and homelessness. To maximise this potential, it would be useful for civil society service providers to:

- › Coordinate their engagement with local authorities in relation to the Duty in order to:
 - › promote ongoing progress in implementation of the Duty by each local authority;
 - › present the assessment of equality and human rights issues developed and secure agreement on its adoption by the local authority;
 - › seek improvements in data gathering and analysis to inform implementation of the Duty; and
 - › create a platform for engagement in local authority planning for housing and homeless supports specifically to assess all plans and procedures at final draft stage for the adequacy of their response to the equality and human rights issues assessed.
- › Strengthen their own data systems to gather and analyse up-to-date data and information on the situation and experience of migrant households availing of their services as a source of ongoing evidence for implementation of the Duty.

The Duty has implications for civil society service providers. In focusing on the Duty as a point of connection, it would be important for civil society service providers to live up to its requirements. In time, the requirements of the Duty will also be included in local authority contracts for services. To address this challenge, it would be useful for civil society service providers to:

- › Establish the equality and human rights issues as set out in this report that are relevant to their functions.
- › Review their service provision to establish the actions already being taken to address these issues and the need for any further action, and include a focus on these issues in strategic planning and annual work planning.
- › Strengthen their internal equality infrastructure of: equality and human rights policies; staff training on equality and human rights issues; management responsibility for equality and human rights issues; and dialogue with Black and minority ethnic civil society organisations.
- › Evolve this work towards a full implementation of the Duty, encompassing all of the identified groups for inclusion under the Duty.

Appendix 1: The Project

This report is the outcome of a project of the Irish Homeless Policy Group, coordinated by Focus Ireland and funded by the Irish Human Rights and Equality Commission.

The core focus for the project is the development of an assessment of equality and human rights issues for migrant households that are relevant to the provision of housing and homelessness supports. The assessment is the foundation step in implementing the Duty and the first point of contact for civil society with local authorities and other relevant service providers in seeking its implementation.

The report is based on an evidence-based and participative process to this assessment, that involved:

- › analysis of data and information available nationally and produced by the member organisations of the Irish Homeless Policy Group;
- › a roundtable seminar, involving civil society homeless organisations and anti-racist and migrant rights organisations, to examine the equality and human rights issues facing migrant households that are relevant to the provision of housing and homeless supports;
- › review of performance by local authorities in meeting their obligations under the Duty, based on a review of corporate plans; and
- › a meeting for Irish Homeless Policy Group member organisations to discuss the report and support a capacity to put its findings to effective use.

A roundtable webinar with local authorities was convened by the Irish Homeless Policy Group, as part of this project, to present and discuss the assessment of equality and human rights issues and to discuss the shared challenge of implementing the duty.

This led to a further focus for the project on supporting action under the duty to address the equality and human rights issues as assessed. A framework was developed for this key second step in implementing the duty.

The first section of the report introduces the public sector equality and human rights duty and the second section presents a template with the assessment of equality and human rights issues relevant for migrant households seeking housing and homeless services. The two subsequent sections set out the evidence gathered to inform the assessment and the participative event to contribute to the process.

The next section of the report establishes a framework for addressing the issues as assessed. A final section presents the current state of play by local authorities in implementing the Duty and sets out possible strategies for civil society organisations to mirror the requirements of the Duty in their work and to engage with local authorities in securing an effective implementation of the Duty.

Appendix 2: Local Authorities and the Duty

Local Authority	Corporate Plan from 2019 Available	Commitment made to implement the Duty	Nature of Commitment
Carlow County Council	No	Yes in 2015–2019 plan	Commitment under ‘Operating Environment’ to assess equality and human rights issues relevant to functions.
Cavan County Council	No	No	
Clare County Council	Yes	Yes	Commitment to assess and address.
Cork City Council	Yes	Yes	General commitment to build on work done under pilot project and to embed the Duty in its people strategy, corporate planning process and organisational activities and plans with focus on organisational culture.
Cork County Council	No	No	
Donegal County Council	No	No	
Dublin City Council	Yes (draft)	Yes	Action plan for ongoing rolling implementation of the Duty in place and commitment to implement this.
Dun Laoghaire-Rathdown County Council	Yes	Yes	A corporate goal to implement the Duty, develop a cross-departmental group, assess, address, and report, and build capacity.
Fingal County Council	Yes	Yes	One strategic objective under ‘Quality in our Work – Deliver Quality Services’ is to deliver on the Duty and compliance with the Duty is a Corporate performance goal.
Galway City Council	No	No	Project in implementation to establish framework for the Duty.

Local Authority	Corporate Plan from 2019 Available	Commitment made to implement the Duty	Nature of Commitment
Galway County Council	No	Yes in 2015–2019 plan	Commitment to develop a framework for implementing the Duty.
Kerry County Council	No	No	
Kildare County Council	Yes	Yes	Commitment to develop a framework to implement, need for assessment of equality and human rights issues identified, and under Building Communities through Empowerment and Inclusion strategic objective, to evaluate, address and report on compliance with the Duty.
Kilkenny County Council	Yes	Yes	General commitment to implement.
Laois County Council	Yes (draft)	Not specific	General commitment under ‘Corporate Affairs – Service to Customers’ to examine equality and human rights issues relevant to functions and to put actions in place to address these.
Leitrim County Council	No	Yes in 2014–2019 plan	Under Quality Customer Service, to develop an appropriate framework in consultation with IHREC.
Limerick City and County Council	Yes	Yes (Duty is referenced)	Commitments not linked to Duty but general commitment to promotion of equality, diversity, and human rights identified for functions in relation to goals of an integrated Limerick and to the LECP.
Longford County Council	Yes	Yes	Commitment to implement the Public Sector Duty principles under goal of Longford a County for Everyone.
Louth County Council	Yes	No	
Mayo County Council	Yes (framework)	Yes	No detail...under aim to promote an inclusive Mayo.
Meath County Council	Yes	Yes	General commitment to implement alongside specific Appendix on the steps that will be taken: cross-departmental project team to be established to implement three steps of assess, address, and report, and to build on values-led approach established under LECP.
Monaghan County Council	Yes	Yes	Commitment, under ‘Internal Environment’ stated to organisation culture of respect for equality and human rights and to consider equality and human rights in planning, delivering, monitoring and evaluating its work. Commitment in Appendix to preparing a public sector duty plan to be implementing with a cross-departmental committee established.

Local Authority	Corporate Plan from 2019 Available	Commitment made to implement the Duty	Nature of Commitment
Offaly County Council	Yes	Yes	Commitment to provide training to members and staff, establish a cross functional working group, and include in annual report. Specific focus in four areas including access to housing services.
Roscommon County Council	No	No	
Sligo County Council	No	No	
Tipperary County Council	Yes (draft)	Yes	General commitment to implement alongside specific Appendix on the steps that will be taken: assess, address and report with an evidence-based approach.
Waterford City and County Council	Yes	Yes	No detail.
Westmeath County Council	Yes	Yes	Commitment to compliance with the Duty under 'Quality Customer Service' strategic goal and to implement People Strategy and update HR policies and procedures in compliance with the Duty under 'Organisational Capacity' strategic goal.
Wexford County Council	Yes	Yes	Commitment under 'Delivering Quality Services' to review and renew an equality action plan relating to staff and the public.
Wicklow County Council	Yes	Yes	Equality and human rights statement mentioned and commitment to assess and address issues when preparing strategic plans.
Tipperary County Council	Yes (draft)	Yes	General commitment to implement alongside specific Appendix on the steps that will be taken: assess, address and report with an evidence-based approach.
Waterford City and County Council	Yes	Yes	No detail.
Westmeath County Council	Yes	Yes	Commitment to compliance with the Duty under 'Quality Customer Service' strategic goal and to implement People Strategy and update HR policies and procedures in compliance with the Duty under 'Organisational Capacity' strategic goal.
Wexford County Council	Yes	Yes	Commitment under 'Delivering Quality Services' to review and renew an equality action plan relating to staff and the public.
Wicklow County Council	Yes	Yes	Equality and human rights statement mentioned and commitment to assess and address issues when preparing strategic plans.

Irish Homeless Policy Group



Coimisiún na hÉireann
um Chearta an Duine
agus Comhionannas
Irish Human Rights and
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