

An account of Dublin City Council's Equality Review and Action Plan, in respect of non-Irish nationals' (EEA nationals and non-EEA nationals) access to social housing services within DCC's functional area



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Glossary

DHPLG Department of Housing, Planning & Local Government

DRHE Dublin Region Homeless Executive

DCC Dublin City Council

EEA European Economic Area

ESA Equal Status Acts 2000-2015

HAP Housing Assistance Payment

IHREC Irish Human Rights and Equality Commission (the Commission)

NQSF National Quality Standards Framework

1. Introduction

The Commission invited Dublin City Council ("DCC") under s. 32(1) of the Irish Human Rights and Equality Commission Act 2014 (the 'Act') to carry out an Equality Review and to prepare an Equality Action Plan in respect of non-Irish nationals' (EEA nationals and non-EEA nationals) access to social housing services within DCC's functional area as well as to homeless services within DCC's functional area, including its broader remit with regard to DRHE.

Dublin City Council ("DCC") submitted the Equality Review on the 15th October 2018 and the Equality Action Plan on the 1st November 2019.

This account provides a summary description of that Equality Review and Equality Action Plan as undertaken by DCC, pursuant to s. 28(2) of the Act.

2. Outline framework of the Dublin City Council Equality Review

The Commission asks that in conducting the equality review DCC carry out the following:

- An audit of the level of equality of opportunity regarding s.10 of the ((Housing Act 1988¹ and s.19 of the Housing (Miscellaneous Provisions) Act 2009² of the 2009 Act services provided to non-Irish nationals (EEA and non-EEA) in SDCC's functional area having regard to SDCC's obligations under the ESA; and
- An examination of the practices of, and procedures in, and other relevant factors material to, the provision of accommodation services to non-Irish nationals (EEA and non-EEA) to determine whether those practices, procedures or other relevant factors are conducive to the promotion of equality of opportunity in the provision of accommodation services to non-Irish nationals (EEA and non-EEA) having regard to DCC's obligations under the ESA.

¹ s.10 provides for additional provisions regarding accommodation for homeless persons.

² s.19 provides for the provision of social housing support.

Specifically, the Commission asks that DCC address and report on the following:

- (a) The stated practice of referring non-Irish nationals, or particular groups of non-Irish nationals to the New Communities Unit of the Department of Social Protection as it appeared on the website of the DRHE. It was unclear why non-Irish nationals (either EEA, non-EEA or both) would be referred to another statutory agency, when it was the responsibility of DCC to provide both section 10 and section 19 services;
- (b) DCC's reference on the website to three bands of priority in respect of its scheme for letting priorities, and in the context of homelessness. Specifically, the bands suggested that persons from outside of Dublin would be admitted to the housing list for the purpose of qualifying for rent supplement, only. The emergency nature of the power pursuant to section 10 of the 1988 Act (which address homelessness) called into question whether any residency status restrictions on that power would be lawful, having regard to the purpose of the power. Moreover, these three band priority areas appeared to be in addition to those provided for under DCC's allocation scheme and did not appear to have a legislative basis.
- (c) The reported practice, that in addition to the statutory criteria, DCC also required applicants to be residing at a permanent address in its administrative area for a minimum of one year prior to becoming homeless in order to qualify for accommodation services. Again, there was no apparent legislative basis for this requirement. It was not included in the allocation scheme.
- (d) The level and extent of training provided to all relevant staff in relation to the ESA, and the relevant aspects of EU law (with regard to EEA members and their families).
- (e) Any other areas (of either best practice, or improvements) so identified when carrying out this review.
- (f) Any recommendations and/or findings arising from the review.

3. Summary of Dublin City Council's Equality Review

DCC appointed an external consultant to carry out the equality review on its behalf. It reported that the methodology included:

- An inception meeting with management and staff;
- Literature review
- Interviews with Staff of DCC, and civil society groups and service users;
- Focus groups with front line staff and senior management; and
- Drafting report and making recommendations

DCC application of the Access to social housing supports for non-Irish nationals –Circular 41/2012 ("the Circular")

- The DCC Equality Review notes that DCC is bound by the Circular, as housing authorities are required under s.5 of the Housing (Miscellaneous Provisions) Act 2009 to have regard to guidelines in the performance of their functions and under s. 4 of the 2009 Act to comply with policy directions.

Access to Social Housing

- The DCC Equality Review noted that the Circular has not been updated to take account of S.I. 548/2015, which transposed the updated EU law in this area.

Access to Homeless Accommodation

- The DCC Equality Review found that there was evidence that the Circular informed the DRHE's assessment with regard to eligibility of homeless services.
- The DCC Equality Review further found that where a person was deemed ineligible for social housing they would be provided with one night only accommodation, in comparison to applicants who were eligible for social housing, who were generally provided with long term emergency accommodation.

DCC Equality Infrastructure

- The DCC Equality Review reported that the institutional equality infrastructure of DCC was under-developed, particularly in relation to service users.
- The Equality Review reported that the Public Sector Human Rights and Equality Duty had yet to be implemented by the DHPLG.
- The DCC Equality Review reported that the legislative base on which social housing supports and homeless services are provided is the responsibility of the DHPLG. The Equality Review found that the legislation is under-developed, particularly in relation to the provision of homeless services, noting that there is a particular vacuum left in relation to provision for EEA nationals and non-EEA nationals.

Actions Taken by DCC

- The DCC Equality Review reported that DCC has funded civil society organizations to provide information, guidance and support to assist EEA and non-EEA nationals access social housing and homeless support services.

DCC Equality Review Recommendations and Conclusions: DRHE

1. The DCC Equality Review reported that the legislative base provided by the DHPLG is under-developed. Work needs to be undertaken to ensure access to appropriate services to EEA and non-EEA nationals to access social housing and homeless services.
2. The DCC Equality Review noted that the Circular 41/2012 cannot be considered an enactment and cannot be relied upon in seeking to avail of exemptions under the ESA. It concluded that it is too basic an instrument to capture the complexities and nuances of legislation and case law.
3. The DCC Equality Review noted that while the Circular refers specifically to the provision of social housing supports, there is conflation in its application, in the provision of homeless services in the absence of any regulation governing these that could involve forms of discrimination.

Recommendations

1. The Equality Review recommended that the Housing (Miscellaneous Provisions) Act 2009 and associated regulations be reviewed and amended to provide appropriately for the situation and needs of EEA nationals and non-EEA nationals and to ensure no conflation of eligibility requirements for social housing supports and homeless services.
2. The Equality Review recommended that the Housing Act 1988 be reviewed and amended to provide appropriately for the situation and needs of EEA nationals and non EEA nationals and to ensure no conflation of eligibility requirements for social housing supports and homeless services.
3. DCC recommended that Housing Circular be withdrawn and new and separate guidance be developed for housing authorities on the entitlements of EEA nationals and non EEA nationals seeking social housing supports and homeless services.

DCC Equality Review Recommendations and Conclusions in respect of DCC

The DCC Equality Review noted that the institutional equality infrastructure of DCC was under developed, particularly in relation to service users. It stated that change is necessary at this wider institutional level to ensure that the services provided by the Housing Allocations and Transfer Section and DRHE to EEA nationals and non EEA nationals are free from discrimination, take account of diversity and promote equality. It recommended that the Public Sector Equality and Human Rights Duty and implementation of the NQSF for homeless services should provide a driver for change in this regard.

Recommendations

The DCC Equality Review reported that the institutional equality infrastructure, including the 'race' ground that encompasses EEA nationals and non-EEA nationals, be expanded to focus on service users and putting in place:

- (a) An equality policy;
- (b) An equality committee;
- (c) Equality and diversity training for staff;

- (d) Engagement in dialogue with the diversity of service users
- (e) Equality impact assessments on policies, plans, procedures, services and programmes; and
- (f) An expansion of the staff allocated to the unit responsible for this institutional equality infrastructure.

DCC's Equality Review conclusions in respect of the DCC Housing Allocations and Transfer Section and DRHE

DCC concluded that there was potential for conflation by DCC Housing Allocations and Transfer Section and DRHE of the provisions of the 2011 regulation, governing social housing supports, and the provisions of the 1988 Act, governing categorisation as a homeless person, in the absence of any regulation governing homeless services.

It reported that the potential for conflation was further exacerbated by any general use of the Circular given its sole focus on social housing supports. It stated that this could lead to discrimination, in disproportionately disadvantaging EEA nationals and in particular non-EEA nationals given the different requirements for social housing supports and that they have more difficulty in complying with or doing so in a timely manner. The Equality Review concluded that a person should not be refused access to emergency accommodation on the basis of criteria for access to social housing supports in the regulation.

According to the Equality Review this disadvantage finds expression in periods, often of long duration, of one night only provision for some EEA nationals and in particular non-EEA nationals. According to the Equality Review's conclusions, this provision is both harsh and inefficient and could be discriminatory.

Recommendations

- A clear separation to be made in the assessment of eligibility for social housing supports and for homeless services and criteria for eligibility for each be separately and clearly set out and communicated.
- Attention be given at the point of triage in DRHE to ensure that all who present at the office are assessed for eligibility.

- Eligibility to be assessed in a manner that avoids any conflation between eligibility for social housing supports and for homeless services.
- Staff training to be provided on the entitlements of EEA nationals and non EEA nations seeking social housing supports and homeless services.
- One night only provision to cease as a regime for service provision to those seeking homeless services that are deemed ineligible under the Circular.
- All those requiring homeless services should have access to long-term emergency accommodation until their legal status is established.

DCC's Equality Review's conclusions in respect of the Public Sector Duty

DCC's Equality Review concludes that the Public Sector Duty requires the assessment of equality and human rights issues relevant to DCC functions, addressing these issues through actions established as part of its planning process, and reporting progress in relation to resolving these issues. According to DCC this duty had yet to be implemented by the DHPLG.

Recommendations

- An assessment be prepared, in a participative manner with those affected, of the current equality and human rights issues, relevant to the various functions of the DHPLG, that face EEA nationals and non-EEA nationals alongside those facing other groups covered by the Public Sector Equality and Human Rights Duty.
- Implementation of the recommendations to review, amend and provide guidance on housing legislation be done in a manner that ensures no diminution in the current situation of EEA and non-EEA nationals in seeking social housing supports or homeless services, by making use of this assessment in implementing the Public Sector Duty in conducting this work.
- National planning in relation to these policy fields, including the forthcoming National Housing First Implementation Plan, make use of this assessment and include a focus on addressing the relevant equality and human rights issues identified.

DCC reported that it had ceased the following practices on completion of the Equality Review:

1. The practice of referring non-Irish nationals, or particular groups of non-Irish nationals, to the New Communities Unit of the Department of Social Protection;
2. DCC's reference to three bands of priority in respect of its scheme for letting priorities, as they appeared on the DRHE website in the context of homelessness.
Specifically, the bands suggested that persons outside of Dublin would be admitted to the housing list for the purpose of qualifying for rent supplement only; and
3. The practice that, in addition to the statutory criteria, DCC also required applicants to be residing at a permanent address in its administrative areas for a minimum of one year prior to becoming homeless in order to qualify for accommodation services.

4. Outline framework of the Dublin City Council Equality Action Plan

The following is an Account of DCC's Equality Action Plan to promote the equality of opportunity for EEA and non-EEA nationals in respect of access to social housing, as well as to homeless services within DCC's functional area, including its broader remit with regard to DRHE.

On [dated] the Commission invited DCC to prepare and implement an Equality Action Plan and specifically invited the DCC to take action on the following:

- (a) How will you ensure, in the immediate term, that non-Irish nationals applying for social housing support are not unlawfully refused?
 - a. Could this be achieved through written guidance for staff and services users setting out the correct eligibility for social housing and the proofs necessary, and clearly stating that Circular 42/2012 should no longer inform applications for social housing?
- (b) How will you ensure long term clarity regarding access to social housing for non-Irish nationals?
 - a. Would it be prudent to engage with the Department for Housing, Planning and Local Government in order to raise the concerns identified herein, and request that the Circular be withdrawn.
- (c) (a) How will you ensure, in the immediate term that there is no conflation of eligibility criteria as between the two services (of homeless and social housing support)?
 - b) How will you ensure that one-night-only accommodation ceases for non-Irish nationals who have been deemed ineligible on the grounds that they did not meet the criteria under Circular 41/212 and/or 2011 Regulations?
- a. Could the issues raised in C. (a) and C. (b) be achieved through written guidance for staff and services users setting out, and distinguishing between, the eligibility for the two distinct services? Any such guidance should expressly state that

Circular 41/2012 and 2011 Regulations are not applicable to the assessment of eligibility for homeless services.

- (d) How will you ensure that non-Irish nationals can access homeless services and social housing support in a meaningful way and that the service provided is one that resonates with all communities?
 - a. How will you address barriers faced by non-Irish nationals when accessing these services because of language barriers, including for example, access to adequate interpreting services, publication of information material in languages other than English, the phone-in service, the self-accommodating option and the application process;
 - b. Would it be prudent to carry out equality impact assessments (that focused on the race ground) on both the provision of homeless and social housing services, and that includes consultation with relevant staff, private service providers, service users and civil society groups?
- (e) How will you ensure that private service providers are aware of their equality law obligation when providing homeless services?
 - a. Could this be achieved through inserting an equality clause into service level agreements that require an express commitment to equality compliance and that requires the development and, implementation of equality policies and training by the service provider?
- (f) How will DCC/DRHE address the policy of placing immigration officers in homeless services which in its operation could amount to unlawful and discriminatory treatment in individual cases?
- (g) What are the arrangements for monitoring and review of the Equality Action Plan and who will be named individual(s) (and their associated job titles) responsible for same?
- (h) How will you measure if the objectives of the Equality Action Plan have been achieved and when?

DCC submitted its Equality Action Plan on date and set out a series of recommendations and proposed actions, which are summarised as follows.

5. Summary of the Dublin City Council Equality Action Plan

DCC Equality Action Plan Recommendations: DHPLG

1. The Housing (Miscellaneous Provisions) Act 2009 and associated regulations should be reviewed and amended to provide appropriately for the situation and needs of EEA nationals and non-EEA nationals and to ensure no conflation of eligibility for social housing supports and homeless services;
2. The Housing Act 1988 should be reviewed and amended to provide appropriately for the situation and needs of EEA nationals and non-EEA nationals and to ensure no conflation of eligibility requirement for social housing supports and homeless services;
3. The Housing Circular 41/2012 should be withdrawn and new and separate guidance be developed for housing authorities on the entitlements of EEA nationals and non-EEA nationals seeking – social housing supports and homeless services.
4. An assessment should be prepared, in a participative manner with those affected, of the current equality and human rights issues, relevant to the various functions of the DHPLG, that face EEA nationals and non-EEA nationals alongside those facing other groups covered by the Public Sector Duty;
5. Implementation of the recommendations to review, amend and provide guidance on housing legislation be done in a manner that ensures no diminution in the current situation of EEA and non-EEA nationals in seeking social housing supports or homeless services, by making uses of this assessment in implementing the Public Sector Duty in conducting this work; and
6. National planning in relation to these policy fields, including the forthcoming National Housing First Implementation Plan, make use of this assessment and include a focus on addressing the relevant equality and human rights issues identified.

Action

- Engage with the DHPLG on the application of the Circular with respect to the assessment of the legal right to reside long-term in the State.

- Engage with the DHPLG with respect to the provision of homeless services for persons who are not eligible for social housing and in particular EEA and non-EEA migrants.
- Implement any changes in policy with regard to the assessment of eligibility for Social Housing Support and/or homeless services as issued by the DHPLG.

DCC Equality Action Plan Recommendations: DCC

1. The DCC-wide institutional equality infrastructure, including the 'race' ground that encompasses EEA nationals and non-EEA nationals, be expanded to focus on service users, putting in place:
 - An equality policy;
 - An equality committee;
 - Equality and diversity training for staff;
 - Engagement in dialogue with the diversity of service users; and
 - Allocated to the unit responsible for this institutional equality infrastructure.
2. The DCC commitment under the Migrant Integration Strategy to establish an Integration Network be implemented, and include a specific focus on and structure for addressing social housing supports and homeless services;
3. Equality impact assessments on policies, plans, procedures, services and programs;
4. An expansion of the staff to the unit responsible for this institutional equality infrastructure;
5. An assessment of the current equality and human rights issues relevant to the functions of providing social housing supports and homeless services that face EEA nationals and non EEA nationals, alongside those facing other groups covered by the Public Sector Equality and Human Rights Duty, be prepared in participative manner with those affected; and

6. The equality and human rights issues assessed be included in the next DCC Corporate Plan with plans, policies and actions identified that address them, and progress on these issues be monitored and reported on.

Actions

- Develop, communicate and implement an equality policy for service users and a dignity in service provision policy for service users that encompasses all grounds covered under the equality legislation.
- Establish an Equality Committee at Executive Managerial Level with a terms of reference. This will be to drive the development and monitoring of policies, initiatives and practices in relation to equality, human rights, diversity and non-discrimination for employees and service-users. Equality Teams will be convened on a time-limited, task focused basis to address and progress specific issues and initiatives.
- Develop a Public Sector Duty implementation plan and implement the tasks set out. This will be based on corporate equality and human rights values. First steps will include an assessment of equality and human rights issues for pilot sections with subsequent incorporation of actions to address these issues in relevant plans. Further steps would include equality and human rights impact assessment of draft and existing plans, programmes, service design, projects and procedures. The forthcoming Corporate Plan will commit to implement this Public Sector Duty implementation plan and this will be carried through in Annual Business Plans.
- Strengthen the resources available to the equality officer to progress the initiatives they are responsible for under this Equality Action Plan, including allocation of a further post to this office.
- Identify, develop and make available training programmes and materials to support implementation of the Public Sector Duty implementation plan; build capacity and awareness about equality and human rights issues to implement the equality policy; and engage staff and management with our equality and human rights values.

- Resource the currently vacant Social Inclusion post and fulfil commitments made in the Migrant Integration Strategy.

DCC Equality Action Plan Recommendations: DCC Housing Allocations and TransferSection and DRHE

1. A clear separation be made in the assessment for social housing supports and for homeless services and criteria for eligibility for each be separately and clearly set out and communicated;
2. Attention be given at the point of triage in DRHE to ensure that all who present at the office are assessed for eligibility and eligibility is assessed in a manner that avoids any conflation between eligibility for social housing supports and for homeless services;
3. Staff training be provided on the entitlements of EEA and non-EEA nationals seeking social housing supports and homeless services;
4. One- night- only provision cease as a regime for service provision to those seeking homeless services that are deemed ineligible under the Circular. All those requiring homeless services should have access to long-term emergency accommodation until their legal status is established.

Actions

- Engage with the DHPLG on the application of the Circular with respect to the assessment of the legal right to reside long-term in the State and the provision of homeless services for persons who are not eligible for social housing support, and in particular EEA and non- EEA migrants, and implement any changes in policy with regard to the assessment of eligibility for Social Housing Support and/or homeless services as issued by the DHPLG.
- The triage process at Central Placement Service has been dismantled. As such, all who attend will be assessed for eligibility and this will continue to be the case.
- Links have been established and will continue between the DRHE Family Placement Team and Department of Justice personnel to support DCC staff's knowledge base on the legal situation and entitlements of non-EEA nationals,

without interfering with the confidentiality of individual service users and applicants.

- Information sessions on the legal situation and entitlements of EEA nationals and non-EEA nationals will be organized for staff working on addressing applications for housing and issues of housing eligibility, on the basis of information and materials provided by DHPLG.
- The Housing Allocations and Transfer Section will continue to implement a strategy of management leadership and mentoring for equality, with particular attention to using issues that arise as moments for conversation and learning and to sustaining a culture that reflects corporate equality and human rights values. Staff in direct contact with service users will receive top-up training as deemed necessary to address staff turnover and to keep the learning up-to-date. Foundational anti-racism awareness training of three days duration has been provided for all staff.
- A senior staff member within DRHE will be identified and enabled to hold a training brief, who will be responsible for training needs analysis and planning. This brief will explicitly include skills, knowledge, and awareness training on equality and human rights issues, and more specifically, on the evolving legal situation and entitlements of EEA and non-EEA nationals (on the basis of information and training materials provided by DHPLG).
- Foundational anti-racism awareness training of three days duration has already been provided to all staff.
- Conduct a comprehensive review of one night only accommodation with respect to the assessment of homeless persons, who have not qualified for Social Housing Support. One night only accommodation is provided by the DRHE to prevent rough sleeping where, on the basis of an eligibility or needs assessment, a Dublin local authority does not offer emergency placement. Permanent changes in this area are dependent on other actions in the plan but, in the interim, the DRHE will, as resources allow, increase opening hours and rolling bookings in

order to give stability for a limited time for clients to source alternatives and/or successfully apply for social housing.

DCC Equality Action Plan Recommendations: Procedures

1. The procedures of DCC Housing Allocations and Transfer Section and DRHEbe made available and accessible to EEA nationals and non-EEA nationals seeking access to these services;
2. These procedures set out an adequate and appropriate appeals mechanism and this should be communicated in an effective manner;
3. These procedures include an adequate and appropriate complaints mechanism that would:
 - (a) Identify obligations under the ESA;
 - (b) Establish that complaints of discrimination, sexual harassment or harassment would be dealt with internally, in a fair confidential manner and without victimization and how this is to be done;
 - (c) Set out people's rights to also bring such complaints to the Workplace Relations Commission; and
 - (d) Ensure steps are taken to ensure that there is a public awareness of the complaint mechanism.
4. Procedures and related guidance for housing applications and lettings will be made accessible and made readily available to service users, including to EEA and non-EEA service users;
5. The DRHE Community Development Officer, in making contact with EEA and non-EEA nationals, will take steps in a planned manner to discuss and ensure that they have a clear understanding of the DRHE procedure and the relevant appeals and complaints mechanisms, including specifically complaints of discrimination, sexual harassment and harassment;

6. The Guidelines being developed for service users in Private Emergency Accommodation will identify the various complaints procedures available to them, including specifically complaints of discrimination, sexual harassment and harassment. These cover informal local resolution of complaints, formal submission of complaints to our Customer Complaints, and accessing rights under the ESA; and
7. The complaints procedure for all service users will be revised and streamlined to make it more customer friendly. This will include a specific focus on complaints of discrimination, sexual harassment and harassment. There will be a specific tracking and monitoring of these complaints. Communication materials and initiatives will be devised to profile this procedure widely.

DCC Equality Action Plan Recommendations: Diversity

1. Policy, procedures, and practices to be developed, implemented and communicated in order to respond to the practical implications of cultural diversity for service provision, and identify the particular needs of EEA nationals and non-EEA nationals that arise from this diversity and provide reasonable accommodation for these needs;
2. The Initial Assessment Placement Form of DRHE and the DCC Social Housing Support Application Form identify a commitment to make reasonable accommodation for diversity and seek relevant information related to the

3. diversity of the situation, experience and culture and identity of applicants to enable this to be done;
4. Adequate provision of interpretation, translation of documentation, and information materials in a relevant range of languages be put in place and communicated; and
5. Steps be taken to address the specific difficulties of language barriers and discrimination faced by EEA and non-EEA nationals in taking up the option of self-accommodation or develop a different approach for these groups.

Actions

- Update the initial assessment form for applicants, and, subject to guidance from the Data Protection Commission (DPC), include a trigger question to enable applicants to identify if they wish to discuss any specific placement or support needs arising from their having one or other of the characteristics protected under the equality legislation that could be addressed in a process of 'reasonable accommodation' based on the resources available. The application of this question will be done on the basis of best practice respecting the voluntary nature of the response and explaining the value and purpose of responding.
- Revise the holistic needs assessment implemented by key workers for service users in Supported Temporary Accommodation to include a question to identify adjustments or supports that might be required specifically by EEA and non-EEA nationals, along with those holding under characteristics protected under the equality legislation, and that could be addressed in a process of 'reasonable accommodation' based on the resources available.
- The guidelines being developed for service users in Private Emergency Accommodation will communicate DCC's commitment to promoting equality, accommodating diversity and protecting human rights, including specific reference to DCC's commitment to make adjustments for diversity on foot of an engagement with them on their specific needs or particular barriers they might face arising from their diversity on the basis of a process of 'reasonable accommodation' based on the resources available.

- Engage with DHPLG to request that the current revision of the Housing Application Form consider the inclusion of an ethnic question, based on the census (including a Roma question) format, and include a trigger question to enable applicants to identify if they wish to discuss any specific letting or support needs arising from their having one or other of the characteristics protected under the equality legislation. The application of this question will be done on the basis of best practice respecting the voluntary nature of the response and explaining the value and purpose of responding.
- A review of needs, options and costs for translation and interpretation services will be conducted and acted upon to further build on the approaches currently in place.
- Support will be offered to families who are struggling to secure self-accommodation in particular to families who face language barriers. The DRHE will implement a policy of moving families from self-accommodation to contracted accommodation/hubs when availability arise.

DCC Equality Action Plan Recommendation: Data and Research

1. Data systems to be developed further so that:
 - (a) Equality data gathered is accurate and robust and is gathered in a manner that respects confidentiality and sets out the purpose for which it is being gathered;
 - (b) There is a full usage of the equality data gathered on EEA nationals and non-EEA nationals in the analysis of housing and homeless data conducted by DCC; and
 - (c) Statistical reports build the knowledge base on the specific causes of homelessness, experiences of homeless provision, routes out of homelessness and specific needs of EEA nationals and non-EEA nationals.
2. Further survey and research initiatives be undertaken to obtain a full picture of the situation, experience and specific needs of EEA nationals and non-EEA nationals requiring social housing supports and homeless services.

Actions

- As part of the review and redevelopment of the Pathway Accommodation and Support System (PASS), the capacity of the system to access and make use of specific equality data gathered on EEA and non-EEA nationals experiencing homelessness will be activated. This will enable future iterations of reports produced by DCC to disaggregate data to establish the particular experience and situation of these groups as deemed necessary.
- Collection of data and reporting will be informed by guidance from the Data Protection Commission.
- The initial assessment form for applicants is currently being updated and, subject to guidance from the DPC, will include an ethnicity question based on the census format. This will allow for a more refined approach to the diversity of EEA and non-EEA nationals. A further question will be included to enable applicants to identify if they wish to discuss any specific placement or support needs arising from their having one or other of the characteristics protected under the equality legislation.

DCC Equality Action Plan Recommendation: Accessibility

1. Adequacy of the funding provided for assertive engagement and the provision of information, guidance and support by civil society organizations to EEA nationals and non-EEA nationals be reviewed to ensure there is capacity to fully and effectively meet the needs of all those presenting from these groups, and action be taken to address any funding gap that emerges in seeking to achieve this goal.

Action

- Review the capacity of Section 10 funded services to meet the particular information, guidance and support needs of EEA and non-EEA nationals.

DCC Equality Action Plan Recommendation: Commissioning of Services

1. Steps be taken to ensure all contracted services in the field of social housing supports and homeless services reflect a commitment to equality, diversity and non-

discrimination for EEA nationals and non-EEA nationals with the Service Level Agreement signed with such contractors:

- (a) The reference to NQSF for Homeless Services in Ireland should be backed up with a set of metrics that enable a tracking of the equality and diversity elements within these standards; and
- (b) The steps these organizations should take to develop and operationalize an institutional equality infrastructure and specific measures they should take to accommodate the diversity of these groups availing of the service in question should be enumerated in place of the broad reference to the public sector equality and human rights duty.

Actions

- Develop specific guidance on implementing the equality elements within the NQSF. This guidance will be made available to contracted service providers covered under this framework and will be included as a focus in ongoing site inspections for these services.
- As part of the quality improvements plans being developed on themes selected by contract service providers and implemented quarterly under the NQSF, an equality theme will be included on foot of the guidance developed.
- All Service Level Agreements relating to social housing supports and homeless services will identify that DCC has legal obligations under the Public Sector Duty and will require that service providers put in place equality policies and procedures, and staff training and mentoring that have regard to the equality and human rights issues identified for this field by DCC.

DCC Equality Action Plan Recommendation: Private Rented Sector

1. Steps be taken to ensure EEA and non-EEA nationals in the private rented sector are fully aware of their rights and the supports available for tenants, and are appropriately engaged with and benefit from the prevention measures already in place.

Action

- Ensure Section 10 funded services support the distribution of materials developed with the purpose of giving rights information in different languages for those in the private rented sector.

DCC Equality Action Plan Recommendation: Communication of Commitment to Equality

1. The DCC commitment to equality be championed in DCC public communication on EEA nationals and non-EEA nationals with such communication pursued in a manner that engages values of equality, diversity and non-discrimination with care taken to ensure that such communication does not lend itself to any blaming or scapegoating of EEA national and non-EEA nationals.

Action

- DCC communications in relation to housing and homelessness will explicitly engage the corporate equality and human rights values and will be proofed in preparation in this regard where possible.

DCC Equality Action Plan Recommendation: Refugees and Asylum Seekers

1. Formal and structured multi-agency links be established between DCC and the Department of Justice and Equality along with other relevant actors to support and inform planning for and approaches to enabling people to secure housing on foot of leaving Direct Provision Centres once their status has been recognized and to plan for and manage family reunification once this has been approved;
2. Flexibility in relation to HAP be sustained and enhanced to:
 - (a) Ensure ongoing access to homeless HAP for those leaving Direct ProvisionCentres;

- (b) Support family reunification in a manner that does not lead to homelessness;and
 - (c) Allow for further mobility in relation to using HAP.
3. Dedicated timely and appropriate assistance to be provided to those involved in family reunification to prevent situations of homelessness emerging.

Actions

- Participate in and implement the recommendations of the Department of Justice and Equality.
- Oversight Committee for People with Status/permission to remain (PTR) transitioning from Direct Provision.
- Continued liaison with the Department of Justice and Equality to ensure an effective approach to housing needs arising from family reunification decisions.

DCC Equality Action Plan Recommendation: Public Sector Duty

1. An assessment of the current equality and human rights issues relevant to the functions of providing homeless services and social housing supports that face EEA and non-EEA nationals, alongside those facing other groups covered by the Public Sector Equality and Human Rights Duty, be prepared in a participative manner with those affected, and included in the forthcoming Dublin Homeless Action Plan with plans, policies and actions identified that address them, and progress on these issues be monitored reported on.

Actions

Include a commitment in the Homeless Action Plan Framework for Dublin 2019-2021 to:

- Undertake a participative assessment of the equality and human rights issues relevant to the provision of homeless services covering the nine grounds under the equality legislation (which includes the ground of race) and the socio-economic status ground;
- Identify additional actions required to address these issues and incorporate these into the framework for implementation; and

- Monitor and report on the implementation and impact of these actions as part of the annual reporting and business planning process over the life of the Homeless Action Plan Framework.

6. Conclusion

The Commission remains concerned in respect of the application by DCC of the Circular on Access to Social Housing Supports for Non-Irish Nationals.

The Commission remains concerned in respect of the potential application by DCC of the Circular to non-Irish nationals accessing the homeless services

The Commission remains concerned that DCC has not addressed the concerns raised regarding the potential conflation of the eligibility criteria of access to homeless services and social housing support within its Equality Action Plan. It remains unclear what if any eligibility criteria are applied by DCC to non-Irish nationals seeking to access homeless service.

The Commission welcomes the following specific actions reported by DCC to reduce the barriers faced by non-nationals in accessing DCC Services:

- Updated assessment process to facilitate applicants who wish to discuss any particular placement or support needs arising from one of the protected grounds;
- Review of the holistic needs assessment carried out by keyworkers in placements to include a similar question in relation to protected grounds;
- Updated Housing Application form to include a question on ethnicity;
- Review of the translation and interpretation services currently in place;
- DCC guidance developed on implementing the equality elements within the National Quality Standards; and
- Implementation of DCC's Public Sector Duty requirements, ensuring equality in accessing services and equality training to staff.

The Commission welcomes the following specific actions reported by DCC to address organisational equality infrastructure:

- Development of an equality policy for service users and a dignity in service provision policy for service users that encompass all grounds covered under the ESA;
- The establishment of the Equality Committee at Executive Manager level with terms of reference; and
- The development of a Public Sector Duty plan and details of the actions taken to date.

7. DCC Update June 2021

In June 2021, the Commission provided a draft copy of this account to DCC. DCC provided the following information by way of update:

- DCC has engaged with the DHPLG and requested formal policy to replace the Circular, particularly with respect to EU citizens and in respect of the relevance of reckonable residence for non-EEA applicants with legal residence.
- DCC updated the Commission that where a provision of the Circular is contrary to EU law, DCC will uphold EU law and disapply the Circular;
- The Circular is not used as guidance to assess applications for homeless services. DCC arranges emergency accommodation placements for all persons who, in the opinion of the local authority, are homeless in accordance with the provisions of the Housing Act 1988;
- DCC participated in workshops with the DHPLG and the Housing Agency on the revision of the form during 2020. DCC reported that it specifically requested the inclusion of an ethnicity question, as recommended in DCC's Equality Review. DCC report that it was not included in the final version issued.



Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas
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