

An account of Fingal County 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 FCC's functional area





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## Contents

Glossary .....	2
1. Introduction .....	3
2. Outline framework of the Fingal County Council Equality Review .....	4
3. Summary of the Fingal County Council's Equality Review.....	6
4. Outline framework of the Fingal County Council Equality Action Plan .....	9
5. Summary of the Fingal County Council Equality Action Plan.....	11
6. Conclusion .....	16
7. FCC Update June 2021 .....	19

## Glossary

**DHPLG** Department of Housing, Planning & Local Government

**DRHE** Dublin Region Homeless Executive

**FCC** Fingal County Council

**EEA** European Economic Area

**ESA** Equal Status Acts 2000-2015

**HAP** Housing Assistance Payment

**IHREC** Irish Human Rights and Equality Commission (the Commission)

**RAS** Rental Accommodation Scheme

**DOJE** Department of Justice and Equality (as it was then)

**TAU** Traveller Accommodation Unit

## 1. Introduction

The Commission invited Fingal County Council ("FCC") under s. 32(1) of the Irish Human Rights and EC 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 FCC's functional area as well as to homeless services within FCC's functional area, including its broader remit with regard to DRHE.

FCC submitted the Equality Review on the 25<sup>th</sup> October 2018 and the Equality Action Plan on the 22<sup>nd</sup> January 2020.

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

## 2. Outline framework of the Fingal County Council Equality Review

The Commission asked that in conducting the Equality Review FCC carry out the following:

- An audit of the level of equality of opportunity regarding s.10 of the Housing Act 1988<sup>1</sup> and s.19 of the Housing (Miscellaneous Provisions) Act 2009<sup>2</sup> of the 2009 Act services provided to non-Irish nationals (EEA and non-EEA) in FCC's functional area having regard to FCC'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 FCC's obligations under the ESA.

Specifically, the Commission asks that FCC 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 FCC to provide both section 10 and section 19 services;
- (b) The reported practice, that in addition to the statutory criteria, FCC 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

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<sup>1</sup> s.10 provides for additional provisions regarding accommodation for homeless persons.

<sup>2</sup> s.19 provides for the provision of social housing support.



accommodation services. Again, there was no apparent legislative basis for this requirement. It was not included in the allocation scheme;

- (c) 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);
- (d) Any other areas (of either best practice, or improvements) so identified when carrying out this review; and
- (e) Any recommendations and/or findings arising from the review.

### 3. Summary of the Fingal County Council's Equality Review

FCC appointed two staff members to undertake the FCC Equality Review. The review comprised of an examination of current and historic data, documentation and application forms and practice and procedures. In addition meetings were held with staff from the Homeless Team, Housing Allocation and Support Teams, HAP, RAS and TAU Teams.

#### Finding 1

- FCC report in the Equality Review that the overall consensus is that staff believe that FCC treats individuals who either present as homeless, or those who wish to be an approved applicant for social housing supports, in a fair and non-discriminatory manner.

#### Recommendation

- FCC to update the website setting out its mission to meet the objectives of up to date equality legislation. FCC will provide this in various languages.

#### Finding 2

- Need to Simplify Housing Application Form

#### Recommendations

- FCC to write to DHPLG to request a policy and explanatory booklet on access to social housing for housing authorities and applicants;
- FCC to review, redesign and simplify the Housing Application Form; and
- Translation services to be made available to applicants.

#### Finding 3

- The Housing Circular 41/2012 ("the Circular") can be difficult to interpret and that it contains anomalies and that it should be reviewed and updated.

#### Recommendations

- FCC to write to DHPLG seeking a review of the circular; and

- FCC to invite a member of staff from DHPLG to attend a meeting with senior officials within FCC to discuss the Circular to have an opportunity to have a meaningful discussion and to receive guidance on assessing eligibility for social housing supports.

#### Finding 4

- The staff would like continued training in respect of assessing eligibility for social housing supports specifically in relation to residency status.

#### Recommendations:

- FCC to provide more training to staff including a refresher course to ensure that existing staff and in particular new staff have the most up to date information; and
- FCC to establish a working group between the Community Development Office and Housing Divisions to utilize the €20,000 grant awarded to FCC from IHREC and devise training for senior management and front-line senior management and frontline staff. This will focus on its obligations to develop policies/action plans to include same in cooperation plan/Annual Report. It will also provide frontline staff with the knowledge to ensure implementation of Public Sector Duty.

#### Finding 5

- There is an absence of clear guidelines in the Social Regulation 2011 as to the eligibility criteria required for homeless applicants to qualify for housing support.

#### Recommendations:

- The continuation of meetings between the four Dublin local authorities at senior official level. This provides a platform for discussion and sharing of ideas. The four Dublin local authorities are in a unique position with regard to homelessness as the DRHE is a shared service for the response to homelessness; and

- Review the procedures for booking one-night-only emergency accommodation in conjunction with DRHE – a review of the current system may improve access for those trying to obtain one-night-only emergency accommodation. Access to one night accommodation is difficult. Phone is the only method to book the one night only accommodation.

**FCC confirmed that it had ceased the following practices on completion of the Equality Review:**

1. The practice of referring non-Irish nationals to the New Communities Unit has now ceased; and
2. The practice of FCC to require an applicant to be residing at a permanent address in its administrative area for a minimum period of one year prior to becoming homeless in order to qualify for accommodation services.

## 4. Outline framework of the Fingal County Council Equality Action Plan

The Commission asked that in conducting the Equality Action Plan, FCC address the following:

- (a) How will FCC ensure, in the immediate term, first, that there is no conflation of eligibility criteria as between the two services (of homeless and social housing support) and, secondly 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 the Circular and/or 2011 Regulations?
  - a. Could this 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 the Circular and 2011 Regulations are not applicable to the assessment of eligibility for homeless services.
- (b) How will FCC 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? Any such guidance should expressly state that the Circular should no longer inform assessment for social housing support.
- (c) How will FCC ensure long term clarity regarding access to social housing for non-Irish nationals?
  - a. Would it be prudent to engage with the DHPLG in order to raise the concerns identified herein, and request that the Circular be withdrawn and new guidance introduced?

- (d) How will FCC ensure that non-Irish nationals can access homeless services and social housing supports in a meaningful way and that the service provided is one that resonates with all communities?
- a. How will FCC address barriers faced by non-Irish nationals when accessing these services because of language barriers including for example – the adequacy of interpreting services, the availability of information 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 FCC ensure that private service providers are aware of their equality law obligations 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?
- (f) 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?
- (g) How will FCC measure if the objectives of the Equality Action Plan have been achieved and when?

## 5. Summary of the Fingal County Council Equality Action Plan

FCC submitted the Fingal County Council Equality Action Plan 2020-2021 on the 22<sup>nd</sup> January 2020.

FCC procured the services of an independent, external consultant with housing expertise to assist with the research and preparation of this Equality Action Plan. In addition, FCC has sought legal advice on the existing statutory framework; legislation, regulations and government circulars. In preparing the Equality Action plan FCC held internal consultations with staff, reviewed case files, observed interviews with housing applicants and held meetings with external stakeholders.

Based on the above consultations, a review of processes regarding EEA and non-EEA eligibility for social housing and access to homeless services has been carried out, and a series of recommendations and actions have been identified.

### Recommendations in respect of the Statutory Framework

- FCC to engage with the DHPLG to review existing legislation, statutory instruments and relevant departmental circulars concerning eligibility requirements for social housing supports and homeless services; and
- FCC to ensure that all households, seeking access to social housing support and homeless services, including EEA and non-EEA nationals, are provided with services in an efficient and timely manner and in such a way to avoid any conflation between eligibility for social housing supports and homeless supports.

### Actions

1. FCC will, in the period covered by this Equality Plan, engage with the DHPLG on the application of existing legislation, regulations and circulars and seek guidance and legislative change where required, with respect to the assessment of the legal right to reside long-term in the state and eligibility for social housing support and homeless support services.

## Recommendations by FCC Staff

- FCC to ensure that all households, seeking access to social housing support and homeless services, including EEA and non-EEA nationals, are provided with services in an efficient and timely manner;
- FCC to carry out a review of existing policy, procedures and processes and update where required and request information sessions through the DRHE/DHPLG on the legal situation and entitlements of EEA and non-EEA nationals;
- FCC to engage with designated homeless service providers and community-based agencies to assist the EEA and non-EEA nationals who are homeless and are applying for social housing;
- FCC to engage with DHPLG & DRHE re eligibility for Housing Supports/Homeless Services and availability of accommodation placements;
- FCC to develop social housing application form in conjunction with the Housing Agency and the DHPLG;
- FCC to enhance language and translation services and provide information on accessing housing support in several languages;
- FCC to engage with DHPLG, DRHE and DOJE in relation to family reunification households; and
- FCC to ensure that the specific requirements of households with complex needs are addressed in an appropriate and transparent manner.

## Actions

1. FCC will over the lifetime of this plan develop and implement a Service Level Agreement with Corporate Services (CCU) on the provision of advice and support to customers seeking housing support;
2. FCC to table the Allocation Scheme for Social Housing Support as an agenda item on the policy programme of the Housing Strategic Policy Committee;



3. FCC will engage with DHPLG, DRHE, NGO's and other community-based advocacy groups and service providers regarding eligibility for Social Housing Support and accommodation placements;
4. FCC will over the lifetime of this plan develop and implement a Service Level Agreement with Corporate Services (CCU) on the provision of advice and support to customers seeking housing support;
5. FCC will engage with the Housing Agency on the development of an on-line housing applications process to assist applicants applying for social housing support and, subject to Data Protection Commissioner advice, fully consider the inclusion of a question to enable applicants to identify their specific ethnicity if desired;
6. FCC will examine existing capacity to assist with translation services, improve the availability of information in several languages and procure translation services if required;
7. FCC will seek an integrated approach between key stakeholders; FCC, DHPLG, DOJE and DRHE for the services are provided; and
8. FCC to engage with relevant stakeholders to address the requirements of households presenting with complex needs to ensure, where possible, information and access to housing support services are provided.

## Recommendations in respect of the DRHE

- FCC to liaise with the DRHE to support a review of the one-night-only homeless accommodation provision. FCC confirmed that the one-night-only provision is under review and FCC is committed to implementing any new procedures arising from this review; and
- FCC to ensure that decisions on applications for housing support are issued in writing and that details of the application and appeals processes is readily available.

## Actions

1. FCC engagement with external stakeholders and advocacy groups to be reviewed to ensure that the issues that emerged as part of the consultation process are addressed as fully as possible and that the needs of vulnerable applicants are addressed appropriately; and
2. FCC Housing Support and Homeless Services Teams and other relevant staff will work to ensure that relevant decisions issue in writing and that information and support is provided effectively and efficiently with clear and transparent complaints procedures and appeals processes in place.

## Recommendation by External Stakeholders

- FCC to consider an engagement process with external stakeholders to improve their knowledge and understanding of the housing support application process and to facilitate contact arrangements with the housing and homeless support teams.

## Actions

1. Ongoing engagement with external stakeholders and advocacy groups to be reviewed to ensure that the issues that emerged as part of the consultation process are addressed as fully as possible and that the needs of vulnerable applicants are addressed appropriately; and
2. Housing Support and Homeless Services Teams and other relevant staff will work to ensure that relevant decisions issue in writing and that information and support is provided effectively and efficiently with clear and transparent complaints procedures and appeals processes in place.

## Recommendation: FCC Migrant Integration & Cohesion Strategy

Implement the actions from FCC's Migrant Integration & Cohesion Strategy including Public Sector Duty requirements.

## Actions

1. FCC to implement the Action Plan arising from the Migrant Integration & Cohesion Strategy Action Plan to promote Equality & Diversity across the County and meet Public Sector Duty requirements; and
2. FCC to seek sanction from the DHPLG to engage an Integration Officer, at the appropriate level, to drive the development and monitoring of policies, initiatives and practices in relation to equality, human rights, diversity and non-discrimination both for employees and service users.

## 6. Conclusion

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

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

The Commission remains concerned that FCC 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 FCC to non-Irish nationals seeking to access homeless services.

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

- A Service Level Agreement with Corporate Services (CCU) on the provision of advice and support to customers seeking housing support;
- 
- The tabling of the Allocation Scheme for Social Housing Support as an agenda item on the policy programme of the Housing Strategic Policy Committee and please advise of any issues raised at the Committee in respect of barriers faced by non-nationals in accessing FCC housing support services;
- 
- FCC engagement with DHPLG, DRHE, NGO's and other community-based advocacy groups and service providers regarding eligibility for Social Housing Support and accommodation placements;
-

- FCC engagement with the Housing Agency on the development of an on-line housing applications process to assist applicants applying for social housing support;
- 
- Provide details of the review and improvements of the translation services provided by FCC;
- 
- Provide an update on FCC's development of an integrated approach between key stakeholders; FCC, DHPLG, DOJE and DRHE that will inform local authorities of planned family reunification;
- 
- Provide an update on FCC engagement with relevant stakeholders to address the requirements of households presenting with complex needs to ensure, where possible, information and access to housing support services are provided;
- 
- Provide an update on FCC engagement with external stakeholders and advocacy groups to be reviewed to ensure that the issues that emerged as part of the consultation process are addressed as fully as possible and that the needs of vulnerable applicants are addressed appropriately; and
- Provide details of how FCC Housing Support and Homeless Services Teams and other relevant staff ensure that relevant decisions issue in writing and that information and support is provided effectively and efficiently with clear and transparent complaints procedures and appeals processes in place.

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

1. FCC to take specific actions to promote equality and diversity across the County (including specialised committees, training and development of policies);
2. FCC to implement Public Sector Duty requirements; and
3. FCC to engage an Integration Officer, to drive the development and monitoring of policies, initiatives and practices in relation to equality, human rights, diversity and non-discrimination both for employees and service users.

## 7. FCC 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:

- FCC does not use Circular 41/2012 as the basis for assessment for social housing supports for non- Irish nationals;
- FCC does not use Circular 41/2012 in relation to non- Irish nationals accessing homeless services;
- The social housing application form was reviewed and developed in conjunction with the Housing Agency and the DHPLG as it is a prescribed form; and
- FCC has developed a compulsory staff training course on Intercultural Diversity and the Public Sector Duty in collaboration with the Immigrant Council of Ireland.













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