



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

Strategy for the Rented Sector- Consultations process
Rental Market & AHB Regulation Section
Department of Housing, Planning, Community & Local Government
Newtown Road
Wexford
Y35AP90

RE: Consultation on Strategy for the Rented Sector

7 November 2016

Dear Sir/Madam,

I write further to the call by Minister Simon Coveney TD for submissions to the consultation on a residential rental sector strategy, taking place under the *Rebuilding Ireland Action Plan for Housing and Homelessness*.

The Irish Human Rights and Equality Commission (the Commission) notes that improving the rental sector is a core pillar of the Department's wider objectives for the housing sector under *Rebuilding Ireland*, and welcomes the opportunity to make some observations on the proposed strategy for rental sector improvement at this stage in its development.

The Commission notes the key actions regarding the rental sector outlined in the consultation document. These include:

- Developing a strategy for a viable and sustainable rental sector;
- Introduction of legislation to "balance arrangements for tenancy termination";
- Enhancement of the role of the Residential Tenancies Board; and
- Introduction of an Affordable Rental Scheme

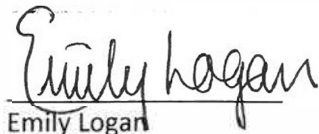
The Commission further notes the Terms of Reference attaching to the consultation and the proposed focus for the strategy on "issues affecting the supply, cost and accessibility of rental accommodation", as well as the inclusion of measures for "the development of a viable and sustainable rental sector that can provide choice, quality, value and security for households".

Below the Commission highlights some relevant obligations under Section 42 (public sector duty) of the Irish Human Rights and Equality Commission Act 2014, under international human rights law,

along with a number of other observations, which should be given due consideration during the drafting of this strategy.

I trust these observations will be of assistance in the drafting of the strategy. The Commission would welcome further engagement from the Department on the strategy as it is finalised, and would be more than happy to meet to discuss it further.

Yours sincerely,

A handwritten signature in black ink that reads "Emily Logan". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Emily Logan
Chief Commissioner

1. Ireland's obligations under international human rights treaties

The development of a strategy for the rented sector presents an opportunity for the state to address a number of concerns raised during its recent examination by the **United Nations Committee for Economic, Social and Cultural Rights**. The Committee in its Concluding Observations on Ireland of 8 July 2015,¹ expressed its concern at the “overall difficult housing situation in the State”, identifying rental costs, ineffective social supports, and tenancy-related issues as amongst the contributory factors.² The Committee called on the State, *inter alia*, to:

- “(a) Review policies with a view to making them more effective in responding to the real needs of the population, especially disadvantaged and marginalized individuals and groups; [...]
- (c) Consider introducing legislation on private rent and increasing rent supplement levels; [...]
- (e) Take all the measures necessary to meet the critical needs of those who are homeless or who are at risk of being homeless;
- (f) Establish effective complaint mechanisms for local authority tenants on housing issues.”³

In its May 2015 parallel report to the Committee for Economic, Social and Cultural Rights, the Commission made a number of relevant recommendations to the State.⁴ These included:

- monitor the efficacy of the Housing Assistance Payment and ensure that it is achieving its objective in ensuring that people on low incomes can access appropriate housing in the longer-term;
- consider the introduction of rent limits to reduce the financial pressure on low income individuals and families in need of private rented accommodation;
- increase Rent Supplement limits;
- take measures to ensure that affordable housing is available and is of sufficient quality in order to fully comply with its obligations under the ICESCR.

In its December 2015 parallel report to the **Committee on the Rights of the Child (CRC)** the Commission made a further recommendation that “the State take measures to ensure that both

¹ UN Committee on Economic, Social and Cultural Rights, *Concluding observations on the third periodic report of Ireland*, E/C/12/IRL/CO/3, 9 July 2015, at para 26.

² The committee itemised the following under para 26:

- “(a) Continuing gaps between availability and demand for social housing, which result in a long waiting list for social housing;
- (b) Increased costs of rental housing and reduced family incomes;
- (c) Ineffective social support programmes, such as the Rent Supplements and the Housing Assistance Payment, which do not reflect rent increases;
- (d) Increasing number of long-term mortgage arrears;
- (e) Growing number of families and children that are homeless or are at risk of being homeless as a result of the lack of social housing and the inadequate levels of rent supplement;
- (f) Lack of effective complaint mechanisms for local authority tenants on tenancy-related issues.”

³ UN Committee on Economic, Social and Cultural Rights, *Concluding observations on the third periodic report of Ireland*, E/C/12/IRL/CO/3, 9 July 2015, at para 27.

⁴ Irish Human Rights and Equality Commission, *Ireland and the International Covenant on Economic Social and Cultural Rights*, Dublin, May 2015. Part III, p18, Available at https://www.ihrec.ie/download/pdf/ihrec_report_ireland_and_the_international_covenant_on_economic_social_and_cultural_rights.pdf

social housing and affordable housing are of sufficient quality and are made accessible to low income families.”⁵

Recommendations:

The Commission recommends that in drafting the strategy, the Department of Housing, Planning, Community and Local Government give due consideration to how measures contained therein address the concerns raised by the UN Committee for Economic, Social and Cultural Rights in its 2015 Concluding Observations on Ireland.

The Commission reiterates its own recommendations to the State outlined in part III of its parallel report *Ireland and the International Covenant on Economic Social and Cultural Rights*, as well as in its parallel report to the UN Committee on the Rights of the Child, and recommends that the Department give them due consideration in the drafting of the strategy.

2. Section 42 of the Irish Human Rights and Equality Commission Act 2014

Section 42 of the Irish Human Rights and Equality Commission Act 2014 (the 2014 Act) places a positive duty on all public bodies to have regard in the performance of their functions to eliminate discrimination, promote equality of opportunity and to protect the human rights of their members, staff and the persons to whom they provide services.

The drafting of this strategy presents the Department of Housing, Planning, Community and Local Government with an opportunity to engage this positive duty. In particular, there may be an opportunity to have specific regard to Section 42 of the 2014 Act when devising within the strategy, as proposed in the Terms of Reference, “critical success factors for its implementation, as well as a comprehensive results framework for monitoring, reviewing and accounting for delivery”.

Under Section 42 of the 2014 Act the Commission has a role in assisting public bodies in meeting their obligations under the Act. The Commission would welcome the opportunity to further engage with the Department on the development, implementation and monitoring of the strategy.

Recommendation:

Recalling the Public Sector Duty under Section 42 of the *Irish Human Rights and Equality Commission Act 2014* the Commission recommends that the Department further engage with it on the development, implementation and monitoring of the strategy.

3. Further considerations

The Commission recalls that as of 1 January 2016, the **Equality (Miscellaneous Provisions) Act 2015 introduced “housing assistance” as a new ground to protect against discrimination in accommodation.** Under this provision, landlords and accommodation advertisers have a responsibility to ensure that the practice of discriminating against tenants and prospective tenants

⁵ Irish Human Rights and Equality Commission, *Ireland and the United Nations Convention on the Rights of the Child: Report by the Irish Human Rights and Equality Commission to the UN Committee on the Rights of the Child on Ireland’s Combined Third and Fourth Periodic Reports*, Dublin, December 2015, p27. Available at <https://www.ihrec.ie/documents/ireland-and-the-united-nations-convention-on-the-rights-of-the-child-ihrec-submission-to-the-un-crc-december-2015/>.

on the basis of being in receipt of rent allowance, housing assistance payments, and other social welfare payments is ceased.

Recommendation: The Commission recommends that the strategy explicitly outline as a task the effective communication of the new ‘housing assistance’ discrimination ground to alert renters, landlords, and accommodation advertisers as to their obligations under equality law.

The Commission recalls that a **National Action Plan on Business and Human Rights** is currently being developed by the Department of Foreign Affairs and Trade to support Irish implementation of the UN Guiding Principles on Business and Human Rights.⁶ The Commission, in its commentary on the development of the National Action Plan,⁷ has observed that the effective protection of human rights in the context of business requires measures to ensure that human rights compliance is not only integrated into the activities of State owned or controlled enterprises, but also is a prerequisite for companies wishing to do business with the State or avail of its support, services or investment.

Recommendation: The Commission recommends that where elements of the proposed strategy envisage the provision by the State of cooperation, support, services or investment to private rental providers, the Department have regard to the UN Guiding Principles on Business and Human Rights, and to the work that has taken place around the development of a National Action Plan on Business and Human Rights.

⁶ For details, and to view the current Working Outline of the National Plan, see <https://www.dfa.ie/our-role-policies/international-priorities/human-rights/human-rights-in-ireland/national-plan-on-business-and-human-rights/>

⁷ Irish Human Rights and Equality Commission, Submission on Ireland’s National Action Plan on Business and Human Rights, Dublin, March 2015. Available at <https://www.dfa.ie/media/dfa/alldfawebsitemedia/ourrolesandpolicies/int-priorities/humanrights/nationalplanonbizandhr/Irish-Human-Rights-and-Equality-Commission.pdf>