

***Submission to the Department of
the Taoiseach on the European
Semester 2020 and the National
Reform Programme***

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



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16 – 22 Green Street, Dublin 7, D07 CR20

T (01) 858 9601 | F (01) 858 9609 | E info@ihrec.ie | www.ihrec.ie

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1. Introduction

The Irish Human Rights and Equality Commission ('The Commission') is both the national human rights institution (NHRI) and the national equality body for Ireland, established under *the Irish Human Rights and Equality Commission Act 2014* (the Act).

In its *Strategy Statement 2019-2021*¹, the Commission prioritizes the advancement of the socio-economic rights of decent work and housing, and disability rights, addressed within this submission.² The Commission welcomes the opportunity to make its first submission under the European Semester. It will focus specifically on the areas of social policy, the labour market, and training and education.

2. Social policy

Supporting childcare

The Commission has regularly raised concerns regarding ongoing deficiencies in the childcare infrastructure in Ireland.³ Despite welcome measures to address these deficiencies in recent years⁴, there remains a high level of unmet need for formal childcare supports.⁵ The Commission is concerned that current childcare and care work policy in Ireland continues to negatively and disproportionately affect women. It stresses the urgent need for effective and transformative policy in Ireland to address the gendered division of care work, and to uphold the value of care work and the rights of care workers.⁶

¹ IHREC (2019), [Strategy Statement 2019-2021](#).

² IHREC has established a Worker and Employer Advisory Committee and a Disability Advisory Committee to advise on the advancement of human rights and equality in these areas. IHREC has submitted a draft statutory Code of Practice on Equal Pay for Like Work², and is currently consulting on a draft Code of Practice on the promotion of family-friendly measures in the workplace.

³ See, for example: IHREC (2017), [Ireland and the Convention on the Elimination of all forms of Discrimination against Women](#); IHREC/ESRI (2019), [Caring and Unpaid Work in Ireland](#); IHREC (2020), [Submission to Citizens' Assembly on Gender Equality](#)

⁴ Recent measures include the extension of the free pre-school year support from 38 weeks up to a further 50 weeks and the introduction of Paternity Leave and Paternity Benefit in 2016, the National Childcare Scheme in 2018, as well as the passing of the Parental Leave Act in 2019.

⁵ IHREC/ESRI (2019) [Caring and Unpaid Work in Ireland](#)

⁶ See IHREC (2020), [Submission to Citizens' Assembly on Gender Equality](#)

The Commission is of the view that an approach to reform of state policy on care work should place a more holistic emphasis on these interrelated elements of recognition of rights, provision of services, work-care reconciliation and financial supports.⁷

The Commission recommends that the State address the high costs of childcare in Ireland with a view to providing adequate financial supports, and state-delivered subsidies that ensure quality and accessible childcare, particularly for lone parents, parents with limited financial resources, unemployed parents and parents pursuing full-time education.⁸

Access to adequate housing and homelessness

The Commission has repeatedly raised its concerns⁹ about the slow progress in dealing with the current housing crisis in Ireland and the growing phenomenon of family homelessness.¹⁰

The Commission believes that the provision of social housing is central to the solution to the homelessness crisis. The Commission is disappointed by the Government's attempt to take the emphasis off the human face of the homelessness crisis, and instead to recast the crisis as the by-product of market dynamics, or the price our society pays for progress.¹¹ The decision to withdraw from building social housing and to instead provide rent supplement for private renters has made low-income households extremely vulnerable to shocks in the housing market.¹² The Commission is increasingly supporting individuals who have

⁷ IHREC (2020), [Submission to Citizens' Assembly on Gender Equality](#). See also Sue Yeandle et al. (2017), [Work-care reconciliation policy: Legislation in policy context in eight countries](#), Bundesministerium für Familie, Senioren, Frauen und Jugend, p.3.

⁸ IHREC (2020), [Submission to Citizens' Assembly on Gender Equality](#)

⁹ IHREC (2015) [Ireland and the UN Convention on the Rights of the Child](#), at pp. 26-27. IHREC (2015), [Ireland and the International Covenant on Economic, Social and Cultural Right](#), at p. 67.

¹⁰ In January 2020, the Department of Housing, Planning and Local Government counted 6,697 homeless adults and 3,574 homeless children, representing a 5.2 per cent increase in the overall number since January 2019, and a 40.7 per cent increase since January 2019.

¹¹ Current government housing policy is now heavily dependent on the use of the private housing market to meet public and social housing needs. See R. Hearne and M. Murphy (2018), 'An absence of rights: homeless families and social housing marketisation in Ireland', *Administration*, 66(2), pp.9–31 and M. Byrne and M. Norris (2018), 'Procyclical social housing and the crisis of Irish housing policy: marketization, social housing, and the property boom and bust', *Housing Policy Debate*, 28(1), pp.50–63.

¹² M. Norris and M. Byrne, 'Procyclical Social Housing and the Crisis of Irish Housing Policy: Marketization, Social Housing, and the Property Boom and Bust' *Housing Policy Debate* (2018) 28(1) at pp. 50-63.

experienced discrimination on the housing assistance ground.¹³ The impact of homelessness on families and children is a particular concern, and the Commission is of the view that emergency accommodation should only be used for the shortest possible period of time.¹⁴

Certain groups within society are at greater risk of homelessness, such as migrants, ethnic minorities including Travellers and Roma,¹⁵ persons with disabilities and lone parents. Further, state policy is limited in the provision of social housing for non-traditional family structures.¹⁶

The Commission recommends that the State realises its obligations regarding the human right to adequate housing by adopting a policy approach that commits to social housing and public housing provision.¹⁷

The Commission recommends a review of the Housing Acts and associated policy instruments to reflect the changing and increasingly diverse nature of the population in need of social housing and homelessness supports, and to address the discrimination and inequalities faced by minority ethnic groups.¹⁸

The Commission recommends the introduction of dissuasive sanctions for local authorities who fail to provide Traveller-specific and culturally appropriate accommodation in areas where there is a stated need.¹⁹

¹³ 1,711, public concerns were handled by the Commission about discrimination in 2018 relating to the Equal Status Acts. 22 per cent of these concerns focused on discrimination on the housing assistance ground. See IHREC (2019), [Annual Report 2018](#), p. 53.

¹⁴ IHREC (2019) [Comments on Ireland's 16th National Report on the implementation of the European Social Charter](#), p.16.

¹⁵ In June 2019, the Commission initiated 31 Equality Reviews with every local authority in the State on their provision of Traveller-specific accommodation. See IHREC (2019), Press Release: [Human Rights and Equality Commission Launches National Review into Council Traveller Accommodation Provision](#)

¹⁶ In this context, the Commission welcomes the Supreme Court judgement in *Mr Fagan v Dublin City Council* in 2019, where the Commission appeared as amicus curiae. See IHREC (2019), Press Release: [Supreme Court Establishes the Importance of Parental and Family Rights in Dublin City Council's Assessment of Children's Housing](#)

¹⁷ IHREC (2019), [Ireland and the Convention on the Elimination of all forms of Racial Discrimination](#), p.95

¹⁸ IHREC (2019), [Ireland and the Convention on the Elimination of all forms of Racial Discrimination](#), p.97

¹⁹ IHREC (2019), [Ireland and the Convention on the Elimination of all forms of Racial Discrimination](#), p.100

Child poverty

The Commission notes that the State has failed to meet its own targets on poverty and deprivation including the reduction of child poverty²⁰, and to ensure that the right of families to economic protection is progressively realised.²¹ Measures to combat child poverty need to address the needs of specific groups that are disproportionately affected, including lone parents and children²²; and children from Traveller, Roma and refugee backgrounds.²³

The Commission recommends the State puts in place a detailed action plan to ensure that anti-poverty and social inclusion targets established by the *Roadmap for Social Inclusion 2020 – 2025* are met.

3. Labour market

Employment and persons with disabilities

The employment rate gap between people with and without disabilities in Ireland is the highest in the EU (42.2 % compared to 24.2 % in the EU).²⁴ Persons with disabilities are less likely to be in employment compared to those without disabilities and, once in the labour market, are more likely to be unemployed²⁵.

²⁰ *Better Outcomes, Brighter Future: the National Policy Framework for Children and Young People 2014–2020* set out to reduce the number of children living in consistent poverty by at least two thirds from the 2011 level. *The Roadmap for Social Inclusion 2020 – 2025* has a target to reduce the percentage of children at risk of poverty and social exclusion from 23.9 per cent to 16 per cent.

²¹ According to the Central Statistics Office (CSO), child poverty decreased slightly from 8.8 per cent in 2017 to 7.5 per cent in 2018, and the numbers of those at risk of poverty dropped from 39.5 per cent to 33.5 per cent in the same period. See CSO (2018) [Survey on Income and Living Conditions \(SILC\) 2018](#).

²² Children of lone parents are more than twice as likely to live in consistent poverty as the general child population. See: Children's Rights Alliance (2019), [Report Card 2019](#), pp.41-42.

²³ Committee on the Rights of the Child (2016) [Concluding Observations on the Combined Third and Fourth Periodic Reports of Ireland \(1 March 2016\)](#), p.13.

²⁴ See Employment differences between people with and without disabilities at Eurofound (2018) [European Quality of Life Survey](#).

²⁵ People with a disability are much more likely to be unemployed having lost or given up a job or to be unable to work due to permanent sickness or disability. This gap increases with age and is particularly high for two groups – people with physical and psychosocial disabilities; men with these disabilities appear to particularly negatively affected. See NDA, [Factsheet 4: Retaining people with a disability in the workforce](#).

Since its establishment, the Commission has received persistently high level of requests for assistance in relation to disability discrimination in employment.²⁶ The Commission is preparing a statutory code of practice to promote greater employment of people with disabilities²⁷. The Commission welcomes the recent launch of the Workplace Passport scheme by the ICTU and IBEC.²⁸

The Commission is concerned that discrimination on the grounds of disability remains persistent, pernicious and prevalent in Ireland's workplaces and recruitment practices.

The Commission is of the view that integrating reasonable accommodation into routine recruitment, selection and employment processes is essential to address the employment gap for people with disabilities.²⁹

Employment and women

Substantial investment is needed to improve access to employment for women. Despite legal protections in Ireland, including the *Employment Equality Acts 1998-2015*, there remains a significant gender inequality in Ireland. Inequality in accessing the labour market comes not only in the shape of a pay and pension gap, but also in terms of occupational and hierarchical segregation, and the intersectional experience of discrimination.

The Commission is of the view that a variety of legislative and policy measures need to be undertaken to tackle these inequalities, including in the areas of equal pay and wage transparency; promotion of family friendly work practices; and strengthening Ireland's Equality Legislation.³⁰

²⁶ Of the 352 concerned received by the Commission in 2018 related to the Employment Equality Acts, 30 per cent were involved discrimination on the disability ground. See IHREC (2019), [Annual Report 2018](#)

²⁷ The Commission has invoked its statutory powers under section 31(2) of the Irish Human Rights and Equality Commission Act 2014 in preparing this code of practice. Once completed, the code will be legally admissible in evidence in court, Workplace Relations Commission and Labour Court proceedings. See IHREC (2019), Press Release: [Discrimination Against People with Disabilities in Employment a Persistent and Pernicious Roadblock to Worker's Dignity and Inclusion](#)

²⁸ See ICTU (2019), Press Release: [Workplace Passport scheme announced by ICTU and IBEC for workers with disability](#)

²⁹ See IHREC (2019), Press Release: [Discrimination Against People with Disabilities in Employment a Persistent and Pernicious Roadblock to Worker's Dignity and Inclusion](#)

³⁰ See IHREC (2020), [Submission to Citizens' Assembly on Gender Equality](#)

Employment and applicants for international protection

The Commission is concerned at ongoing evidence from its Your Rights service and legal casework that international protection applicants are facing continuing barriers in effectively accessing employment, despite the recently launched scheme granting access to the labour market.³¹ The Commission is of the view that measures for access to the labour market for asylum seekers must be effective in practice, sufficient in their scope to provide meaningful access to employment and safeguard against potential exploitation and discrimination.

The Commission recommends that applicants for international protection be granted access to the labour market no later than six months after the date of lodging an application.³²

The Commission recommends that the State conduct a review of the scheme for labour market access for asylum seekers to identify and address the ongoing administrative barriers, including access to banking services and driving licence applications.³³

4. Training and education

The Commission is concerned about the practical barriers faced by certain groups within society, including migrants, refugees and applicants for international protection wishing to access training, upskilling and education opportunities. The Commission notes that there is no nationally collected data on the participation of minority ethnic groups in apprenticeships.³⁴ Such opportunities can be particularly important for refugee young people due to the gaps in their education and the difficulties they can face in accessing third-level education.³⁵

³¹ Barriers include the refusal by the NDLS to grant learners permits to asylum seekers. The Commission has successfully represented an asylum seeker at the Workplace Relations Commission, where the adjudicator ordered €2,500 in compensation to be paid and instructed the driving license service to process the man's application for a learner-permit. See IHREC (2020), Press Release: [Asylum Seeker Refused Driver Licence Experienced Discrimination on the Grounds of Race](#). In 2018, the Commission received 34 concerns related to asylum seekers/human trafficking/immigration. See IHREC (2019), [Annual Report 2018](#)

³² See IHREC (2019), [Ireland and the Convention on the Elimination of all forms of Racial Discrimination](#), p.74

³³ See IHREC (2019), [Ireland and the Convention on the Elimination of all forms of Racial Discrimination](#)

³⁴ SOLAS (2018), 'Review of pathways to participation in apprenticeship', p.3; National Youth Council of Ireland (2019), NYCI Pre-Budget Submission 2020, p.12

³⁵ Ní Raghallaigh et al., Safe Haven, p.57.

The Commission recommends that access to vocational education, English language training and tuition support be provided to asylum seekers and those recently granted refugee status or subsidiary protection to transition into the labour market.³⁶

The Commission recommends that the State introduce practical supports to increase the accessibility of apprenticeships to people from minority ethnic groups, including the adoption of specific measures for women.³⁷

³⁶ See IHREC (2018), [Access to the Labour Market for Applicants for International Protection](#), p.23

³⁷ See IHREC (2019), [Ireland and the Convention on the Elimination of all forms of Racial Discrimination](#), p.69



**16 – 22 Sráid na Faiche,
Baile Átha Cliath, D07 CR20**
16 – 22 Green Street,
Dublin, D07 CR20

Idirlíon/Web www.ihrec.ie

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