



# **Submission to the Special Rapporteur on adequate housing regarding the link between the right to life and the right to adequate housing**

July 2016

## **Background**

The Northern Ireland Human Rights Commission (the NIHRC) is a statutory public body established in 1999 to promote and protect human rights. In accordance with the Paris Principles, the NIHRC reviews the adequacy and effectiveness of measures undertaken by the United Kingdom (UK) Government and Northern Ireland (NI) Executive to promote and protect human rights, specifically within NI.

In response to the Special Rapporteur on adequate housing's request for information on the link between the right to life and adequate housing, in a NI context, Ms Farha may wish to consider the following.

## **Response to Questions**

### **Question 1**

**Please provide any statistical indicators regarding the health, mortality and morbidity consequences of inadequate housing and homelessness in your country, disaggregated by sex, race, immigration status, age and disability, or other grounds, if and where possible. Please also provide references to any**

## **documentation (written, visual or otherwise) of the lived experiences that lie behind these statistics.**

The Northern Ireland Executive (NIHE) has recognised that there is a close relationship between poor housing and poor health.<sup>1</sup> Nonetheless, the statistical indicators for adequate housing in NI are limited in scope and categorisation.<sup>2</sup> They also focus on standard of housing, as opposed to the health implications. The main statistics that are available are set out below.

### **Unfit Housing**

Of NI's 760,000 housing stock in 2011, 4.6 percent were unfit (20.5 percent of which were occupied), 49.3 percent were in disrepair (25 percent of which were occupied), and 11.4 percent were classed as non-decent. Those who were most vulnerable to an inadequate standard of housing were those living in dwellings built before 1919 (35.3 percent), in dwellings located in isolated rural areas (23 percent), and those in households with an income less than £10,000 per annum (14 percent). There are 290,000 fuel poor households in NI; this represents 42 percent of the population.<sup>3</sup>

Non-governmental organisations report that they regularly provide cookers, washing machines and fridges for the disadvantaged, including those accommodated in social housing.<sup>4</sup>

A NI study has shown that poor housing can contribute to injuries and health problems, but this has been conducted through an economic lens.<sup>5</sup> There are no NI specific statistics available in relation to unfit housing and the implications on health, though the NIHE has found that:

over 70% of health impacts occur as consequences of factors outside the formal health service. Housing and housing related activities, particularly the improvement in housing conditions are accepted as some of the most critical of these impacts.<sup>6</sup>

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<sup>1</sup> NIHE, 'Housing, Health and Well-being: Innovation, Practice and Partnerships' (NIHE, 2006), at 5; NIHE, 'Housing and Health: Towards a Shared Agenda' (NIHE, 2000).

<sup>2</sup> The NI Statistics and Research Agency is a key source. See <http://www.nisra.gov.uk/>

<sup>3</sup> NIHE, 'NI House Condition Survey' (NIHE, 2011), at 46-49. The next survey is due to be conducted in 2016.

<sup>4</sup> Roundtable discussion with members from voluntary and community organisations based in NI, 23 January 2014.

<sup>5</sup> Maggie Davidson *et al*, 'The Cost of Poor Housing in NI' (BRE Trust, 2012), at 6.

<sup>6</sup> NIHE, 'Housing, Health and Well-being: Innovation, Practice and Partnerships' (NIHE, 2006), at 5.

## Access to Housing

There is insufficient housing supply in NI.<sup>7</sup> There is a need for 190,000 (11,200 annually) new dwellings in NI between 2008 and 2025.<sup>8</sup> The (former) Department of Social Development,<sup>9</sup> pledged 8,000 social and affordable homes over five years in the Housing Strategy 2012-2017.<sup>10</sup> Yet 2,500 new housing units were required per year to accommodate the rising population and the outstanding need for smaller housing.<sup>11</sup> This meant a shortfall of 4,500 units between 2012 and 2017.

Thirty-six percent of young adults in NI are living with their parents.<sup>12</sup> Those most affected are young adults between 20 and 24 years of age with it affecting 1 in 3 men and 1 in 5 women.<sup>13</sup> This is not necessarily by choice. Rising rents, pay freezes, unemployment and stricter mortgage criteria are making it more difficult to gain independence.<sup>14</sup>

For Travellers there is a “shortage of adequate stopping sites”.<sup>15</sup> The existence of the Unauthorised Encampments (Northern Ireland) Order 2005 is also concerning as it “makes Roma/Gypsies and Irish Travellers liable to be evicted from their homes, to have their homes destroyed and then to be imprisoned and/or fined”.<sup>16</sup>

There are no NI specific statistics available in relation to inadequate access to housing and the implications on health, but the NIHE has acknowledged a link between the two.<sup>17</sup>

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<sup>7</sup> Housing Supply Forum, ‘Report and Recommendations’ (Housing Supply Forum, 2016).

<sup>8</sup> NIHE, ‘NI Housing Market Review and Perspectives 2015-2018’ (NIHE, 2015), at 23.

<sup>9</sup> Now Department of Communities.

<sup>10</sup> NIHE, ‘Homelessness Strategy for NI 2012-2017’ (2012), at 20.

<sup>11</sup> NIHE, ‘Homelessness Strategy for NI 2012-2017’ (NIHE, 2012).

<sup>12</sup> Office of National Statistics, ‘Young Adults Living With Parents’ (ONS, 2013).

<sup>13</sup> Office of National Statistics, ‘Young Adults Living With Parents’ (ONS, 2013).

<sup>14</sup> Office of National Statistics, ‘Young Adults Living With Parents’ (ONS, 2013); Joanne Sweeney, ‘More young adults in NI living with their parents than anywhere else in UK’, 22 January 2014.

<sup>15</sup> E/C.12/GBR/CO/5, ‘Concluding Observations of the CESCR: United Kingdom of Great Britain and Northern Ireland, the Crown Dependencies and the Overseas Dependent Territories’, 22 May 2009, at para 30; NIHE, ‘Traveller Accommodation Needs Assessment 2014’ (NIHE, 2014), at 29.

<sup>16</sup> E/C.12/GBR/CO/5, ‘Concluding Observations of the CESCR: United Kingdom of Great Britain and Northern Ireland, the Crown Dependencies and the Overseas Dependent Territories’, 22 May 2009, at para 30.

<sup>17</sup> NIHE, ‘Housing, Health and Well-being: Innovation, Practice and Partnerships’ (NIHE, 2006), at 5; NIHE, ‘Housing and Health: Towards a Shared Agenda’ (NIHE, 2000).

## Security of Tenure

In NI the default term for a tenancy in the private rented sector is six months.<sup>18</sup> This is viewed as too short to adequately guarantee security of tenure.<sup>19</sup>

There are no NI specific statistics available in relation to security of tenure and the implications on health, but the NIHE has acknowledged a link between inadequate housing and health.<sup>20</sup>

## Homelessness

In 2014-2015, 19,621 households presented as homeless with 11,016 being accepted as full duty applicants.<sup>21</sup> Of those 54 percent were single, 32 percent were families, 10 percent were pensioners and 5 percent were couples.<sup>22</sup> The highest number of presenters were single males aged between 24 and 59 years of age (24 percent).<sup>23</sup> There are concerns for the 'hidden homeless' – those whose applications were rejected and the unknown number of homeless who do not apply in the first place. For example, the Simon Community received 33,000 calls related to homelessness or a fear of becoming homeless in 2015.<sup>24</sup>

Homelessness arises due to a combination of factors.<sup>25</sup> The primary reasons are "sharing breakdown/family dispute, accommodation not reasonable and loss of rented accommodation".<sup>26</sup> Economic pressures, mental health and addiction can also have an impact.<sup>27</sup> The Simon

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<sup>18</sup> Article 13, Private Tenancies (NI) Order 2006.

<sup>19</sup> Housing Rights, 'Review of the Private Rented Sector' (Housing Rights, 2016).

<sup>20</sup> NIHE, 'Housing, Health and Well-being: Innovation, Practice and Partnerships' (NIHE, 2006), at 5; NIHE, 'Housing and Health: Towards a Shared Agenda' (NIHE, 2000).

<sup>21</sup> Full duty applicants are those that fall within the statutory definition of homelessness set out in the Housing (NI) Order 1992.

<sup>22</sup> NI Statistics and Research Agency, 'NI Housing Statistics 2014-15' (DSD, 2015), at 45.

<sup>23</sup> NI Statistics and Research Agency, 'NI Housing Statistics 2014-15' (DSD, 2015), at 45.

<sup>24</sup> Statistics provided by Simon Community NI.

<sup>25</sup> Patient and Client Council, 'Issues faced by People who are Homeless in Accessing Health and Social Care Services – Report of an Initial Scoping Exercise' (HSCNI, 2015), at 5.

<sup>26</sup> Patient and Client Council, 'Issues faced by People who are Homeless in Accessing Health and Social Care Services – Report of an Initial Scoping Exercise' (HSCNI, 2015), at 5.

<sup>27</sup> Patient and Client Council, 'Issues faced by People who are Homeless in Accessing Health and Social Care Services – Report of an Initial Scoping Exercise' (HSCNI, 2015), at 5; Suzanne Fitzpatrick *et al*, 'The Homelessness Monitor: Northern Ireland 2013' (Crisis, 2013), at ix.

Community NI reports that 80 percent of 371 individuals that it provides beds to on a nightly basis have complex needs.<sup>28</sup>

## Homelessness and Health

The NIHE's Housing and Health strategy examined the contribution of housing to health and recognised the need for partnership working with the health sector and also statutory, voluntary and community sectors.<sup>29</sup> It also recognised a link between inadequate housing and health.<sup>30</sup> Extern reports that the current GP registration process, which requires a permanent address, is preventing those who are homeless from accessing health services.<sup>31</sup> It has also reported a lack of coordinated mental health support in NI.<sup>32</sup>

The average age of life-expectancy for homeless people sleeping rough or residing in shelters and homeless hostels is 43 years of age for women and 48 for men. This is on average 30 years lower than the average age of life-expectancy across the general population.<sup>33</sup> The NIHE estimates that less than 10 individuals sleep rough in NI per night. If services were not available it is estimated that this figure would rise to 100 individuals.<sup>34</sup> These figures exclude foreign nationals who also sleep rough on a regular basis.<sup>35</sup> Five rough sleepers died on the streets of Belfast between January and April 2016.<sup>36</sup> According to homeless organisations the lack of housing was not the sole contributor to these deaths, as each of the deceased had complex needs (mental health and/or addiction issues).<sup>37</sup> The Simon Community reports that out of 371 individuals that it provides with a bed on a nightly basis, 14 have self-harmed, 5 have

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<sup>28</sup> Paddy McGettigan (Simon Community NI) speaking at 'Ending Homelessness: Recommendations to the NI Assembly and Executive', Stormont, 30 June 2016.

<sup>29</sup> NIHE, 'Housing, Health and Well-being: Innovation, Practice and Partnerships' (NIHE, 2006), at 5; NIHE, 'Housing and Health: Towards a Shared Agenda' (NIHE, 2000).

<sup>30</sup> NIHE, 'Housing, Health and Well-being: Innovation, Practice and Partnerships' (NIHE, 2006), at 5; NIHE, 'Housing and Health: Towards a Shared Agenda' (NIHE, 2000).

<sup>31</sup> Danny McQuillan (Extern), speaking at 'Ending Homelessness: Recommendations to the NI Assembly and Executive', Stormont, 30 June 2016.

<sup>32</sup> Danny McQuillan (Extern), speaking at 'Ending Homelessness: Recommendations to the NI Assembly and Executive', Stormont, 30 June 2016.

<sup>33</sup> Patient and Client Council, 'Issues faced by People who are Homeless in Accessing Health and Social Care Services – Report of an Initial Scoping Exercise' (HSCNI, 2015), at 5.

<sup>34</sup> NIHE, 'Homelessness Strategy for NI: 2012-2017' (NIHE, 2012), at 22.

<sup>35</sup> NIHE, 'Homelessness Strategy for NI: 2012-2017' (NIHE, 2012), at 22; Council for the Homeless NI, 'Homelessness Manifesto 2016' (CHNI, 2016), at 18.

<sup>36</sup> Committee for Social Development Meeting, 3 March 2016. Available at <https://niassembly.tv/video/committee-social-development-meeting-03-march-2016/> (Last visited 29 June 2016).

<sup>37</sup> Committee for Social Development Meeting, 3 March 2016. Available at <https://niassembly.tv/video/committee-social-development-meeting-03-march-2016/> (Last visited 29 June 2016).

attempted suicide, there have been 11 emergencies and 2 have died between October 2015 and June 2016.<sup>38</sup> Experts have stressed that a holistic approach is required to prevent similar deaths in the future.<sup>39</sup>

There are no NI specific statistics available in relation to homelessness and physical health, however, it has been reported that the majority of homeless people “have multiple physical health needs, the most common of which include general aches and pains, chest and breathing problems, colds and flu, eyesight, dental and skin problems”.<sup>40</sup> Health issues extend to “ulcers, dehydration, frostbite and hypothermia” among rough sleepers.<sup>41</sup>

There are no NI specific statistics available in relation to homelessness and mental health, however it has been reported that mental health issues are “disproportionately higher” amongst homeless people than the general population.<sup>42</sup> This is within the context that NI has a “20-25% higher prevalence rate of mental health problems than the rest of the UK”.<sup>43</sup> Particular issues are depression, bipolar disorder and anxiety disorders, psychotic illness and substance misuse.<sup>44</sup>

There are no NI specific statistics available in relation to homelessness and substance misuse, however it has been reported that “alcohol and substance misuse problems are more dominant among the homeless population”.<sup>45</sup> Extern reports that at least 50 percent of the homeless it supports have mental health *and* substance issues.<sup>46</sup>

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<sup>38</sup> Paddy McGettigan speaking at ‘Ending Homelessness: Recommendations to the NI Assembly and Executive’, Stormont, 30 June 2016.

<sup>39</sup> Committee for Social Development Meeting, 3 March 2016. Available at <https://niassembly.tv/video/committee-social-development-meeting-03-march-2016/> (Last visited 29 June 2016); ‘Ending Homelessness: Recommendations to the NI Assembly and Executive’, Stormont, 30 June 2016.

<sup>40</sup> Patient and Client Council, ‘Issues faced by People who are Homeless in Accessing Health and Social Care Services – Report of an Initial Scoping Exercise’ (HSCNI, 2015), at 6.

<sup>41</sup> Patient and Client Council, ‘Issues faced by People who are Homeless in Accessing Health and Social Care Services – Report of an Initial Scoping Exercise’ (HSCNI, 2015), at 6.

<sup>42</sup> Patient and Client Council, ‘Issues faced by People who are Homeless in Accessing Health and Social Care Services – Report of an Initial Scoping Exercise’ (HSCNI, 2015), at 6.

<sup>43</sup> Mental Health Foundation, ‘Mental Health in NI: Fundamental Facts’ (Mental Health Foundation, 2016), at 3; ‘Adult Psychiatric Morbidity Survey’ (2007).

<sup>44</sup> Patient and Client Council, ‘Issues faced by People who are Homeless in Accessing Health and Social Care Services – Report of an Initial Scoping Exercise’ (HSCNI, 2015), at 6.

<sup>45</sup> Patient and Client Council, ‘Issues faced by People who are Homeless in Accessing Health and Social Care Services – Report of an Initial Scoping Exercise’ (HSCNI, 2015), at 6.

<sup>46</sup> Danny McQuillan (Extern), speaking at ‘Ending Homelessness: Recommendations to the NI Assembly and Executive’, Stormont, 30 June 2016.

## Vulnerable Groups and Adequate Housing

Consideration should be given to that Equality Commission for NI's report that has identified that single, divorced, separated and older people are most likely to live in inadequate housing.<sup>47</sup> Older women in rural areas more frequently experience poor housing conditions than men, while the reverse applies in urban areas. Catholics are more vulnerable to facing inadequate access to affordable housing than Protestants.<sup>48</sup> This is particularly so in North Belfast.<sup>49</sup> There are inconsistent statistics on whether ethnic minorities face discrimination regarding access to housing, but racial attacks on such communities are a growing concern.<sup>50</sup> Practitioners have also indicated that destitution (including inadequate housing) in NI is prevalent within the asylum seeker and refugee community<sup>51</sup> and that overcrowding is prevalent among the migrant worker population.<sup>52</sup> Furthermore, persons with disabilities are more likely to live in poor housing conditions than households without a member with disabilities.<sup>53</sup>

The overall standard of Traveller accommodation has been inadequate. A quarter of Traveller respondents residing in Northern Ireland consider their place of residence to be unhealthy or very unhealthy, with 29 percent describing their residence as unsafe.<sup>54</sup> A lack of adequate infrastructure has also been reported.<sup>55</sup> Travellers' life expectancy is 11

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<sup>47</sup> Alison Wallace, 'Housing and Communities Inequalities in NI' (University of York and ECNI, 2015), at 12-13. Available at <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/HousingInequalities-FullReport.pdf> (Last visited 7 July 2016).

<sup>48</sup> E/C.12/GBR/CO/5', 12 June 2009; UN Special Rapporteur Press Statement, 11 September 2013; Alison Wallace, 'Housing and Communities Inequalities in NI' (University of York, 2015), at 83.

<sup>49</sup> E/C.12/GBR/CO/5', 12 June 2009; UN Special Rapporteur Press Statement, 11 September 2013; Alison Wallace, 'Housing and Communities Inequalities in NI' (University of York, 2015), at 83.

<sup>50</sup> Alison Wallace, 'Housing and Communities Inequalities in NI' (University of York, 2015), at 107-130.

<sup>51</sup> Roundtable discussion with members from voluntary and community organisations based in NI, 23 January 2014.

<sup>52</sup> Tony O'Sullivan *et al*, 'Migrant Workers and the Housing Market: A Report to the NIHE' (NIHE, 2014), at 96.

<sup>53</sup> Alison Wallace, 'Housing and Communities Inequalities in NI' (University of York, 2015), at 132-146.

<sup>54</sup> Equality and Human Rights Commission, 'Outlining Minimum Standards for Traveller Accommodation' (ECNI, 2009), at 9-10.

<sup>55</sup> Safa Abdella *et al*, 'Our Geels: All Ireland Traveller Health Study' (UCD, 2010), at 46; NICEM, 'The Annual Human Rights and Racial Equality Benchmarking Report 2013/14' (OFMDFM, 2014), at 96.

years less for females and 15 years less for males, than that of the general population.<sup>56</sup>

Social security reforms will reduce household income, and at a time of rising housing costs could therefore exacerbate housing need, and increase risks of homelessness among households. These include extending the application of the single room rent eligible housing benefit to people aged under 35 from aged under 25;<sup>57</sup> reducing Housing Benefit by between £20 and £40 per week under the new Local Housing Allowance rates;<sup>58</sup> introducing a Benefit Cap;<sup>59</sup> and increasing the waiting period of Support for Mortgage Interest from 13 to 39 weeks.<sup>60</sup> These changes are likely to disproportionately affect vulnerable groups.

## Question 2

**Please refer to the provisions of your state's constitution or human rights legislation which guarantee the right to life and explain whether these apply to circumstances where homelessness or inadequate housing place health, security or life at risk and whether positive obligations of governments have been recognised in this context. Please provide references to any relevant cases or other examples, if available.**

### Right to Life Protections

From a right to life perspective, Article 2 of the European Convention on Human Rights 1950 (ECHR) is a core provision. It has been incorporated into domestic law by the Human Rights Act 1998, which the UK government is considering repealing. One issue of note is that, under the UK government's current plans, the Human Rights Act is to be repealed and replaced by a British Bill of Rights.<sup>61</sup>

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<sup>56</sup> All Ireland Traveller Health Study Team, 'All Ireland Traveller Health Study: Our Geels' (UCD, 2010), at 94.

<sup>57</sup> Available at <http://www.nihe.gov.uk/index/benefits/lha.htm> (Last visited 1 July 2016).

<sup>58</sup> Available at <http://www.nihe.gov.uk/index/benefits/lha.htm> (Last visited 1 July 2016).

<sup>59</sup> Available at <https://www.citizensadvice.org.uk/nireland/benefits/welfare-benefits-reform-ni/welfare-reform-what-s-changing-in-northern-ireland-ni/> (Last visited 1 July 2016).

<sup>60</sup> Available at <https://www.nidirect.gov.uk/articles/getting-help-make-your-mortgage-interest-payments> (Last visited 1 July 2016).

<sup>61</sup> A separate Bill of Rights for NI is provided for within the Belfast (Good Friday) Agreement 1998, "taken together with the ECHR", is to provide "additional rights to reflect the principles of mutual respect for the identity and ethos of both communities and parity of esteem". See Belfast (Good Friday) Agreement 1998, at para 4 of the 'Rights, Safeguards and Equality of Opportunity' section.



The UK, including NI, has ratified the International Covenant on Civil and Political Rights 1966,<sup>62</sup> Convention on the Rights of the Child 1989<sup>63</sup> and the Convention on the Rights of Persons with Disabilities 2006,<sup>64</sup> which all contain right to life provisions.<sup>65</sup> It has also ratified the International Covenant on Economic, Social and Cultural Rights 1966,<sup>66</sup> which contains the right to an adequate standard of living.<sup>67</sup> Through ratification, the UK is bound by these provisions, but they have not been directly incorporated into domestic law.

## **Duty to Provide Adequate Housing within Domestic Legislation**

The Housing (NI) Order 1988 places a statutory duty on the Housing Executive<sup>68</sup> to respond to homelessness, but only for those who fit within the definition of "priority need".<sup>69</sup> The Housing (Amendment) Act (NI) 2010 requires the Housing Executive to formulate and publish a homelessness strategy, which it did in 2012.<sup>70</sup>

The Housing (NI) Order 1992 places a statutory duty on public housing bodies to provide a certain standard of housing. Similar obligations are placed on private landlords under the Private Tenancies (NI) Order 2006. It has been proposed that the way of assessing the minimum standard of housing in NI is changed from the basic 'Fitness Standard' to the broader 'Health and Safety Rating System'.<sup>71</sup>

The Rent (NI) Order 1978, Housing (NI) Order 2003 and Private Tenancies (NI) Order 2006 offer protections in relation to possession and termination of tenancies. The Housing (Amendment) Act (NI) 2011 offers protection for deposits. The 2003 Order is also relevant in relation to Traveller accommodation.<sup>72</sup>

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<sup>62</sup> The UK ratified on this treaty on 20 May 1976.

<sup>63</sup> The UK ratified on this treaty on 16 December 1991.

<sup>64</sup> The UK ratified on this treaty on 8 June 2009.

<sup>65</sup> The relevant provisions are Article 6(1) of the International Covenant on Civil and Political Rights 1966, Article 6 of the Convention on the Rights of Persons with Disabilities 2006 and Article 10 of the Convention on the Rights of Persons with Disabilities 2006.

<sup>66</sup> The UK ratified on this treaty on 20 May 1976.

<sup>67</sup> Article 11, International Covenant on Economic, Social and Cultural Rights 1966.

<sup>68</sup> The Housing Executive is under a statutory duty to provide advice, assistance and/or accommodation to people who are homeless or threatened with homelessness. This duty is contained with the Housing Executive (NI) Act 1971, the Housing (NI) Order 1976 and the Housing (NI) Order 2003. The Housing Executive is assisted by Housing Associations, which are non-profit organisations that rent properties to people on low incomes or with particular needs.

<sup>69</sup> See Articles 3 and 5, Housing (NI) Order 1988.

<sup>70</sup> NIHE, 'Homelessness Strategy for NI 2012-2017' (NIHE, 2012).

<sup>71</sup> Housing Rights NI, 'Policy Briefing on the Housing Health and Safety Rating System' (Housing Rights NI, 2014).

<sup>72</sup> Schedule 2, Housing (NI) Order 2003.

## Right to Life and Adequate Housing in NI

Article 2 of the ECHR protects the right to life. Under this provision the State is required to take reasonable steps to prevent intentional and unintentional deprivation of life.<sup>73</sup>

There are a number of important European Court of Human Rights (ECtHR) cases in relation to the link between the right to life and socio-economic obligations, such as *Wasilewski v Poland* (1999),<sup>74</sup> *Sokur v Ukraine* (2002),<sup>75</sup> *Öneryildiz v Turkey* (2004),<sup>76</sup> *Burke v UK* (2006)<sup>77</sup> and *Nencheva v Bulgaria* (2013).<sup>78</sup> The key principles from these cases are:

- 1) The conditions must be extreme<sup>79</sup> – for example the affected person/s are subject to destitution;
- 2) The extreme conditions experienced must be a result of State action or inaction;<sup>80</sup>
- 3) The extreme conditions must pose a real and immediate or imminent risk to life;<sup>81</sup> and
- 4) The State must have been aware that a real and immediate or imminent risk existed and failed to take reasonable steps.<sup>82</sup>

Consideration will also be given to whether there was a member of a vulnerable group involved.<sup>83</sup> A new test has been set by the UK Supreme Court in *Hotak v London Borough of Southwark* (2015) on how to determine vulnerability in the context of homelessness.<sup>84</sup>

There are presently no domestic cases in NI concerning the right to life and adequate housing or homelessness. However, the findings of the

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<sup>73</sup> *Wockel v Germany*, Application No 326165/96, Judgment of 16 April 1998; *Öneryildiz v Turkey*, Application No 48939/99, Judgment of 30 November 2004; *Solomou and Others v Turkey*, Application No 36832/97, Judgment of 24 June 2008.

<sup>74</sup> *Wasilewski v Poland*, Application No 32734/96, Judgment of 20 April 1999.

<sup>75</sup> *Sokur v Ukraine*, Application No 29439/02, Judgment of 26 November 2002.

<sup>76</sup> *Öneryildiz v Turkey* (2004) 39 EHRR 253.

<sup>77</sup> *Burke v United Kingdom*, Application No 19807/06, Judgment of 11 July 2006.

<sup>78</sup> *Nencheva and Others v Bulgaria* (2013) ECHR 554.

<sup>79</sup> *Nencheva and Others v Bulgaria* (2013) ECHR 554.

<sup>80</sup> *Nencheva and Others v Bulgaria* (2013) ECHR 554.

<sup>81</sup> *Wasilewski v Poland*, Application No 32734/96, Judgment of 20 April 1999, at para 3; *Sokur v Ukraine*, Application No 29439/02, Judgment of 26 November 2002, at para 1; *Öneryildiz v Turkey* (2004) 39 EHRR 253, at para 101; *Burke v United Kingdom*, Application No 19807/06, Judgment of 11 July 2006, at para 1.

<sup>82</sup> *Öneryildiz v Turkey* (2004) 39 EHRR 253, at para 101; *Burke v United Kingdom*, Application No 19807/06, Judgment of 11 July 2006, at para 1.

<sup>83</sup> *Nencheva and Others v Bulgaria* (2013) ECHR 554.

<sup>84</sup> *Hotak and Others v London Borough of Southwark* [2015] UKSC 30. See also *R(Omar) v Wandsworth LBC* [2015] QB (Admin). The old test was established in *R v Camden London Borough Council, ex p Pereira* [1998] 31 HLR 317.

ECtHR and the UK Supreme Court offer an indicator of what the domestic courts' approach would be if such a case was presented within NI.

### Question 3

**Please explain whether and in what ways court or human rights bodies in your state have recognised the disproportionate effect of homelessness and inadequate housing on particular groups (such as persons with disabilities, indigenous peoples, women experiencing violence etc) as an issue of discrimination. Please provide references to any relevant cases or other examples, if available.**

The NIHRC is not aware of any domestic cases that recognise the issue of homelessness and inadequate housing on particular groups as an issue of discrimination.

The NIHRC has conducted a range of work on highlighting the disproportionate effect of homelessness and inadequate housing on particular groups.<sup>85</sup> This includes highlighting these effects as an issue of discrimination regarding Traveller accommodation<sup>86</sup> and access to adequate housing for Catholics, for example in North Belfast.<sup>87</sup>

The Housing and Health Strategy and its progress report in 2006 do not expressly deal with the disproportionate effect of inadequate housing on particular groups or identify this as an issue of discrimination. However, they do identify the need to have specific actions regarding teenage parents, Travellers, ethnic minorities and rural communities.<sup>88</sup>

The current Homelessness Strategy for NI refers to those who are "vulnerable" to homelessness.<sup>89</sup> It has identified as vulnerable those "people who misuse alcohol and drugs, people with mental health

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<sup>85</sup> The NIHRC's work is available at [www.nihrc.org](http://www.nihrc.org).

<sup>86</sup> E/C.12/GBR/CO/6, 'Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 24 June 2016, at paras 49 and 50; NIHRC, 'NIHRC Submission to the CESCR 58<sup>th</sup> Session on the Sixth Periodic Report of the UK's Compliance with ICESCR' (April 2016), at paras 44.1-44.3. The NIHRC's submission to the CERD is also due to be submitted to the Committee on the Elimination of all Forms of Racial Discrimination on 11 July 2016.

<sup>87</sup> E/C.12/GBR/CO/6, 'Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 24 June 2016, at paras 49 and 50; NIHRC, 'NIHRC Submission to the CESCR 58<sup>th</sup> Session on the Sixth Periodic Report of the UK's Compliance with ICESCR' (April 2016), at para 40.8; Alison Wallace, 'Housing and Communities Inequalities in NI' (University of York, 2015), at 83; E/C.12/GBR/CO/5', 12 June 2009; UN Special Rapporteur Press Statement, 11 September 2013.

<sup>88</sup> NIHE, 'Housing and Health: Towards a Shared Agenda' (NIHE, 2000), at 35; NIHE, 'Housing, Health and Well-being: Innovation, Practice and Partnerships' (NIHE, 2006).

<sup>89</sup> NIHE, 'Homelessness Strategy for NI 2012-2017' (NIHE, 2012), at 22.

problems, people leaving prison or other institutions and people who have experienced family or relationship breakdown including domestic violence".<sup>90</sup> The strategy does not articulate the context of the vulnerabilities as being an issue of discrimination.

The proposed Programme for Government for the NI Assembly 2016-2021 does not acknowledge the disproportionate effect of homelessness and inadequate housing on particular groups as an issue of discrimination.<sup>91</sup> Civil society organisations have expressed concern at the Programme's limited mention of homelessness generally and the "soft language" used in this regard.<sup>92</sup>

In addressing the disproportionate effect of inadequate housing on health, the NI Chest, Heart and Stroke provide a 'Homeless and Health Service' to improve health outcomes for people who are homeless, because of increased prevalence of heart attacks and strokes among this population.<sup>93</sup> Also food poverty, which has links to homelessness, is now within the Food Standards Agency's remit.<sup>94</sup>

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<sup>90</sup> NIHE, 'Homelessness Strategy for NI 2012-2017' (NIHE, 2012), at 22.

<sup>91</sup> The Programme for Government is at the consultation stages and is due to be finalised in the coming months. See NI Executive, 'Draft Programme for Government Framework 2016-21' (NI Executive, 2016).

<sup>92</sup> 'Ending Homelessness: Recommendations to the NI Assembly and Executive', Stormont, 30 June 2016, particularly the Simon Community, Extern and MACS.

<sup>93</sup> Available at <http://nichs.org.uk/how-we-can-support-you/health-and-homeless/> (Last visited 7 July 2016).

<sup>94</sup> Available at <http://www.food.gov.uk/northern-ireland/nutritionni/ninutritionhomeless> (Last visited 7 July 2016). See Food Standard Agency, 'Research into Food Poverty and Homelessness in NI: Final Report' (FSA, 2006).