

8th January 2024

The Housing Centre  
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**Open letter regarding NIHE Succession Policy and Evictions**

Dear Grainia,

Thank you for [your response](#) to [our Open Letter](#) on NIHE Succession Policy and Evictions, which we received on 20th December 2024.

Your response makes 3 key arguments:

**1. CATU's demands would require wholesale legislative change**

From your response: *"It is my view then that any significant or wholesale change to succession provisions would require legislative change. This is not within the gift of the Housing Executive, and it may be worth noting that England has similar statutory provision...It is not within my gift to meet your demand simply to cease to apply these provisions..."*

**2. The arguments CATU presented you with are not correct**

From your response: *"...even if I accepted that your argument(s) were correct, which I do not...I do not accept your assertion that the application of the statutory and policy provisions discriminates against any of the groupings listed..."*

**3. The Rules underpinning Succession Policy form part of the Housing Selection Scheme; the Scheme was subjected to an EQIA, and you are satisfied that the Scheme is compliant with Section 75.**

From your response: *"Both the Housing Selection Scheme, and the recent Fundamental Review of Allocations change project, have been subject to Equality Impact Assessment and I am satisfied that the Scheme is compliant in this regard."*

We Only Want The Earth

We will refute each of these points in turn, relying on evidence, or the lack there-of, when necessary, and will arrive at the following principle conclusions:

1. CATU's demands would not require wholesale legislative change
2. Refutation of CATU's demands would require counterevidence
3. The NIHE *does not collate any data* related to Succession Applications; *there are no data* on the equality related characteristics of persons or families who are evicted as a consequence of having Applications for Succession refused. Any EQIA argued to cover the operation of Succession Policy is insufficient in its ability to reassure the public that the Policy does not discriminate against relevant Section 75 groups.
4. *Working with* CATU's demands would do more good for the public than harm, and would be consistent with [your Equality Scheme](#).

### **1) CATU's demands would not require wholesale legislative change**

For ease, we will restate our demands related to NIHE Succession Policy below:

1. **Halting all evictions from social housing** (NIHE and housing-association) related to Succession Policy immediately, and **pausing investigations in all cases**, on grounds that the Policy discriminates against:
  - a. People of a Catholic background / people more likely to support republican or nationalist political positions, in particular
  - b. Women and children
  - c. People who are disabled
  - d. People who are separated / divorced from a previous partner
2. Urgently subjecting NIHE Succession Policy to an **Equality Impact Assessment** (EQIA)
3. Ensuring that *any* future evictions related to Succession Policy, following the EQIA, are **not discriminatory**, i.e., each case needs to be risk assessed against the potential of discrimination related to Section 75 characteristics
4. Ensuring your workers establish whether a case is a **statutory succession prior to investigating a case as a policy succession**

And for ease, we cite the most relevant legislative text from the 1983 Housing Order informing *Statutory Successions*, covered alongside *Policy Successions*, and *Successions under Very Exceptional Circumstances* within NIHE Succession Policy.

26.—(2) A person is qualified to succeed the tenant under a secure tenancy if he occupied the dwellinghouse as his only or principal home at the time of the tenant's death and either—

(a) he is the tenant's spouse or civil partner; or

(b) he is another member of the tenant's family and has resided with the tenant throughout the period of twelve months ending with the tenant's death.

Statutory Provisions are incorporated in the Housing Selection Scheme through Rule 73. In lines 40-42 of our Open Letter, we explained that part of our Claim relates to *Policy Successions*, as guided by rules 74, 74A, and 74B of the Housing Selection Scheme (amended 2nd September 2024). At no point does our letter suggest a legislative change to criteria informing *Statutory Successions*. **Given the focus on Policy Successions in the Open Letter, we do not believe you can reject our demands on the basis that wholesale legislative changes related to Statutory Successions would be necessary.**

Based on the evidence we provided in the Open Letter, we are concerned that the criteria informing Policy Successions are discriminatory, and that this would indeed precipitate a necessary rule change. However, should this transpire to be the case, post an EQIA, it would require changes to specific rules that form part of the Housing Selection Scheme. Article 22(4) of the Housing Order 1981 enables the Housing Executive to evidence the need for such changes; such changes would not require *legislative* change.

22.—(1) *The Executive shall submit to the Department a scheme for the allocation of housing accommodation held by the Executive to prospective tenants or occupiers.*

(2) *The Department may approve a scheme submitted under paragraph (1) with or without modifications.*

(3) *The Executive shall comply with a scheme approved by the Department under paragraph (2) and with the provisions of Article 22A when allocating housing accommodation held by it.*

(4) *The Executive may submit to the Department proposals for amending a scheme approved under paragraph (2) or a scheme replacing any such scheme*

*and paragraphs (2) and (3) shall have effect in relation to those proposals or a scheme replacing an existing scheme as they have effect in relation to a scheme.*

**Given that any issues revealed through an EQIA could require changes to Housing Selection Scheme Rules, but not legislative changes, again, we do not believe you can reject our demands on the basis that wholesale legislative changes would be necessary.**

You state that: *“It is not within my gift to meet your demand simply to cease to apply these provisions.”* This appears to be a misrepresentation of our demands. Addressing our succession-related demands would require you and your colleagues to:

1. Quickly gather data on people who have applied for a succession. This would include:
  - a) cases in which a decision is pending, b) cases in which a negative decision was made, but the decision is being reviewed, c) cases in which a possession order is being sought, d) cases in which a possession order has been given, but the licensee remains in situ.
2. Pause ongoing investigations (groups 1a-b), and halt evictions (groups 1c-d).
3. Subject NIHE Succession Policy to an Equality Impact Assessment (EQIA)

*The outcome* of an EQIA would help to inform an NIHE decision as to aspects of Succession Policy that need to be adapted; that is, ***your own investigation of internally held data would help to determine whether a cessation of any succession-related provisions is necessary.*** Our belief is that changes to Succession Policy will be necessary, in order to ensure that it is non-discriminatory; however, policy decisions should be based on as much available evidence as possible, and an EQIA would reveal the necessary evidence.

## ***2) Refutation of CATU's demands would require counterevidence***

You state that: *“...even if I accepted that your argument(s) were correct, which I do not...I do not accept your assertion that the application of the statutory and policy provisions discriminates against any of the groupings listed...”*

Table 11 restates the risks to Section 75 groups, evidenced in the Open Letter.

**Table 11:** Summary of the risks to Section 75 evidenced in the Open Letter

	Rules 74 and 74B discriminate against the following groups	Risks to Section 75	Supporting evidence
1	<p>Succession claimants who live in areas of greater housing need, in which all property types are in higher demand, given the greater number of applicants on the social housing waiting list.</p>	<p>Risk of causing a higher eviction rate in areas with people predominantly from a Catholic background.</p> <p>Risk of forcing an increased proportion of people from a Catholic background to become reliant on private renting, and through doing so, increasing their likelihood of experiencing financial hardship and a second bout of homelessness.</p> <p>Perpetuating already existing and systemic discrimination against people of a Catholic background through reducing access to social housing based on need.</p> <p>Affecting the ability of people from a Catholic background, who are evicted and forced to become reliant on private renting, to exercise their right to a suitable home under 1983 criteria.</p>	<p>Table 4 Table 5 Table 6 Table 7</p>
2	<p>Close family members who have provided care over the long-term, and who had been</p>	<p>Failing to allow for the fact that women on lower incomes, in particular, who provided care to deceased family members, will be unable to show that they gave up a</p>	<p>Table 8 Table 9</p>

3	<p>living with the deceased, but have no evidence of selling a dwelling or giving up a tenancy or licence.</p> <p>Close family members who acted as carers for the deceased, but whose just previous address had been a tenancy or licence granted by a relative.</p>	<p>tenancy- or license agreement in order to do so.</p> <p>Failing to take into account that exposing children to an eviction from their home will be extremely distressing, and not only because they are losing their home, but also because of the impact on friendships and access to school.</p>	
4	<p>Close family members who continued to live at home, or who needed to move back to the family home, through no or little cause of their own, but unrelated to providing care.</p>	<p>Failing to recognise that, regardless of whether or not disabled people provide care, disabled people are more reliant on social housing, and evicting a disabled person will have a proportionately more aversive impact than a non-disabled person.</p> <p>Discriminating against people who become reliant on the family home from a position of having separated from a partner, but who then subsequently provide care.</p>	Table 10

**Our position is that, in order to refute our demands, you would need to evidence that Succession Policy is not / is not at risk of discriminating against groups covered under Section 75 characteristics.** Specifically, the groups we included are: 1) people from a Catholic background, 2) women on low income who provide care, but who may struggle to demonstrate having given up a tenancy or license, 3) children who happen to find themselves living in a home under investigation through Succession Policy, 4) people who are disabled, 5) people who are separated, and by default the intersections between these groups.

In an attempt to evidence the extent to which Succession Policy is / is not discriminating against relevant Section 75 groups, we submitted a Freedom of Information Request to the NIHE, requesting data on Succession Policy Applications over the past 10 years, FOI 564. The response we received was: **“The Housing Executive does not hold or collate this information.”** As a consequence of not having the relevant data collated at present, we would judge that you are not in a confident position through which to reassure the public that those in the stated Section 75 groups are not being discriminated against.

When the relevant data is collated as part of an EQIA, you will be able to test:

1. Whether the proportion of people from a Catholic background being granted a tenancy through Succession is lower than, or similar to, the corresponding proportion of people from a Protestant background (under Statutory, Policy, Very Exceptional Circumstances criteria etc).
2. Whether a significant percentage of people who are unable to evidence having given up a tenancy are women who have fulfilled a caring role for a deceased relative, and are on a low income.
3. Whether there is a proportion of children who are evicted, as a consequence of a parent not meeting current Succession criteria.
4. The proportion size of disabled people, and separated people, who are evicted, as a consequence of not meeting current Succession criteria (most likely no evidence of having given up another tenancy or license).

**You are not in a position, at present, to test the extent to which Succession Policy discriminates against the relevant Section 75 groups, and are therefore not in a position to claim that the evidence-based arguments CATU presented you with are not correct.**

**3) An EQIA argued to cover Succession Policy that fails to draw on any data related to Succession Applications is insufficient**

You state that: *“Both the Housing Selection Scheme, and the recent Fundamental Review of Allocations change project, have been subject to Equality Impact Assessment and I am satisfied that the Scheme is compliant in this regard.”*

Generally the first stage of an EQIA requires data and information to be gathered that will inform the completion of the EQIA. Data on particular groups or protected characteristics need to be broken down. In Table 12, we summarise the measures that members of the public *should arguably* be able to access on Succession Applications through an FOI. *Monitoring* measures on an ongoing basis enable an Organisation to be satisfied that its policies are indeed compliant with Section 75.

We interpret “The Housing Executive does not hold or collate this information” to mean that:

- 1. The NIHE has not been in a position to conduct a suitable and sufficient EQIA on Succession Policy.**
- 2. The NIHE is not in a position to monitor measures that would inform its understanding of how Succession Policy (differentially) impacts relevant equality-related groups; you are not in a position to be satisfied that Succession Policy, in this context, is compliant with Section 75.**

Consistent with current Equality Impact provisions being insufficient, the [EQIA on the Fundamental Review of Allocations](#) makes *no reference* to data on Succession Applications, despite the fact that Rules 74, 74A, and 74B, related to Policy Succession were amended from 2<sup>nd</sup> September 2024, as a consequence of the FRA.

**Table 12:** Data related to Succession Applications that arguably should be collated and held by the Housing Executive

Year	LGD	Number of Succession Applications	Status of the applicants/homes	Relevant applicant details	No. of applications granted under Statutory Succession Criteria	No. of applications granted under Policy Succession Criteria	No. of applications granted under Very Exceptional Circumstances
	With additional measures (e.g. -housing need -no. homeless -no. on waiting list -dependency on private renting -social housing availability)		No. homes never succeeded previously  No. of applicants stated as carers  No. of applicants who sold a dwelling to provide care  No. of applicants who gave up a tenancy or license to provide care	-Gender -Dependants  -Income/ economic status  -Disability Status  -Marital Status	No. granted under Statutory Succession  No. refused despite no former Succession	No. granted under Policy Succession  No. granted a suitable alternative under Policy Succession	A thematic analysis of the Very Exceptional Circumstances would be useful

The latest EQIA on the Housing Selection Scheme, *from 2007*, is not publicly available for scrutiny; the [link to the EQIA](#) in other documents is broken, and it does not appear to be available on the NIHE website. 4.19 of your Equality Scheme reads:

*We will make publicly available the results of our assessments (screening and EQIA) of the likely impact of our policies on the promotion of equality of opportunity and good relations.*

We would appreciate it if you could see to it that the link to the 2007 EQIA on your website is fixed.

The only sentence we can find from the latest EQIA states: “*As the Housing Selection Scheme Policy addresses specific housing needs in Northern Ireland it affects some groups more than others; equally, the response to the needs of some groups when compared to others can be different...This difference is, however, as a consequence of the applicant’s needs (i.e. household needs) and not their equality status.*” We are concerned by this statement, as it fails to recognise that sometimes equality related groups *need* to be treated differently *because of* their equality status. For example, society should share a collective concern about the eviction of people from their home, and this concern should be greater if children are involved, *because of* their equality status, in this context, age.

***In reality, there is no data on the equality related characteristics of persons or families who are evicted as a consequence of having Applications for Succession refused; you are not in a position to be satisfied that Succession Policy, in this context, is compliant with Section 75.***

***4) Working with CATU’s demands would do more good for the public than harm, and would be consistent with [your Equality Scheme](#).***

1. ***Halting all evictions from social housing*** (NIHE and housing-association) related to Succession Policy immediately, and ***pausing investigations in all cases***, would give you and your colleagues the time to collate data to help establish the extent to which Succession Policy is discriminating against relevant equality-related groups.
2. Urgently subjecting NIHE Succession Policy to an ***Equality Impact Assessment*** (EQIA) would give you and your colleagues the time to establish which particular aspects of Succession Policy are most at risk of discriminating against the different groups.

3. The EQIA, which would help in developing a set of measures to be monitored on an ongoing basis, would help you to ensure that *any* future evictions related to Succession Policy, following the EQIA, are ***not discriminatory***. Each case could be risk assessed against the potential of discrimination related to Section 75 characteristics.

These demands are consistent with the approach outlined in your Equality Scheme:

4.27 We monitor any adverse impact on the promotion of equality of opportunity of policies we have adopted. We are also committed to monitoring more broadly to identify opportunities to better promote equality of opportunity and good relations in line with Equality Commission guidance.

4.28 The systems we have established to monitor the impact of policies and identify opportunities to better promote equality of opportunity and good relations are:

- The collection, collation and analysis of existing relevant primary quantitative and qualitative data across all nine equality categories on an ongoing basis.
- The collection, collation and analysis of existing relevant secondary sources of quantitative and qualitative data across all nine equality categories on an ongoing basis.
- An ongoing evaluation of existing information systems to identify the extent of current monitoring and to identify any action necessary to address gaps in information.
- Undertaking or commissioning new data if necessary.

#### Remaining outstanding demands

4. Ensuring your workers establish whether a case is a ***statutory succession prior to investigating a case as a policy succession***

We were reassured to read that your policy is to weigh up each application for succession against Statutory criteria, prior to Policy criteria. As additional reassurance, can you address the following? A) If an investigation were to confirm that an applicant for succession was a carer for a deceased tenant who had significant, and ongoing, care needs that could only be addressed through having a live-in carer, then would we be in agreement that evidence of that

care would count as evidence as having lived at the home under investigation? So if I can provide evidence that I was a live-in carer, then this counts as evidence of having lived in the home? B) Decisions can be arrived at on the basis of a balance of probabilities or beyond reasonable doubt: as the Housing Selection Scheme falls within the purview of civil law, the decision making standard is on a balance of probabilities—is that correct?

5. Calling for a ***moratorium on evictions*** from privately rented- and temporary accommodation, until you can confirm/disconfirm, with confidence, that evictions in this context are dis/non-discriminatory based on Section 75 characteristics.

From your response: *“I am also confused by your “calling for a moratorium on all evictions from privately rented accommodation and temporary accommodation”. Leaving aside the normal legal meaning of the word eviction, (1) the Housing Executive has no control over any eviction or ejection from private rented accommodation. (2) Temporary accommodation is provided in line with statutory homeless duties. As such, (3) I cannot see how either of these matters link directly to succession.”*

**You are the single strategic housing authority in Northern Ireland.** The NIHE’s Governance Manual cites, among others, the functions set out in Table 13, against which we highlight links to private renting / privately rented properties, and temporary accommodation provision. (1) You may not have total control over any one eviction, but your staff certainly do make efforts to negotiate with landlords in order to stave off evictions from private rentals, and your governance structure provides *plentiful scope* to call for a moratorium on evictions from private rental priorities, at least until the NIHE puts suitable and sufficient mechanisms in place to monitor the equality-related characteristics of those evicted from privately rented properties.

(2) Temporary accommodation is provided in line with statutory homeless duties, yes, and, for completeness, in line with all housing executive functions. Protection from an eviction is a key area of concern to people in temporary accommodation and private renters. Your governance structure provides you with the scope to call for a moratorium on evictions from temporary accommodation, at least until the NIHE puts suitable and sufficient mechanisms in place to monitor the equality-related characteristics of those evicted from temporary accommodation.

(3) *Evictions from social housing* due to applications for Succession being rejected, *evictions from temporary accommodation* (including single-lets) due to a decision of the landlord, a landlord’s representative, or the NIHE, and *evictions from private rentals* are all related because a person(s) or family are being evicted from their home in each context. And they are related because the NIHE, as the single strategic housing authority in Northern Ireland, has the governance scope to call for a moratorium on evictions, particularly when it is drawn to its attention that ***the NIHE must have an awareness of the extent to which a given housing intervention is in breach of Section 75, and it must develop a strategy as to how this can be rectified.***

**Table 13:** Functions of the Housing Executive, set out in legislation, and their relationship to private renting / private rental properties, and the provision of temporary accommodation

No.	Housing Executive Function	Relationship to private rentals &/or temporary accommodation
1	The regular examination of housing conditions and housing requirements	This covers private rentals and Temporary Accommodation, as it is not reasonable for people to live in housing conditions that are unfit, and living with housing conditions that are not suitable contributes to housing stress, drawing on fitness and suitability criteria outlined in the 1983 Housing Order.
2	Drawing up wide ranging programmes to meet housing needs	This could include drawing up a proposal on changes within the private rental sector that could be introduced to limit evictions, also in line with homelessness prevention
3	Establishing housing information and advisory services	Risks of being evicted in private rentals is certainly a potential outcome that those seeking housing advice would need to be made aware of - the NIHE should have area-based data on eviction rates.

		The provision of information and advice in relation to different types of temporary accommodation is necessary.
4	Consulting with District Councils and the Northern Ireland Housing Council	Private renting or temporary accommodation could be a focus here.
5	Effecting the closure, demolition and clearance of unfit houses	Privately rented properties, including single lets, fall under this function.
6	The possession of unoccupied houses	Privately rented properties fall under this function.
7	Carrying out improvements or repairs by agreement	
8	Entry to land for the purpose of survey, valuation or examination	
9	Making vesting orders in respect of land and the disposal of land held	
10	Administering Housing Benefit to the public and private rented sectors	Included tenants / licensees privately renting and in temporary accommodation.
11	Undertaking the role of the Home Energy Conservation Authority for Northern Ireland	Applies to private renting and temporary accommodation.
12	Administering the 'Supporting People' initiative	Applies to people, independent of tenure
13	Administering Private Sector Grants	Applies to private renting and temporary accommodation.

14	Provision of caravan sites for members of the Traveller Community	
15	The making of energy Brokering arrangements for its tenants pursuant to an approved statutory scheme	
16	Preparation and submission of Houses in Multiple Occupation (HMO) Registration Scheme for Departmental approval and HMO regulation	Applies to private renting.
17	Information sharing powers in respect of anti-social behaviour	Applies to private renting and temporary accommodation.
18	Powers to take action to enhance community safety in any area	Applies to private renting and temporary accommodation.
19	Power to enter into arrangements with other statutory authorities	Applies to private renting and temporary accommodation.
20	Effecting the improvement of the condition of the housing stock	
21	Identifying the need for the provision of new social houses	Data from those privately renting / privately rented properties, and from people in temporary accommodation, should feed into assessments of housing need.
22	The formulation and publication of a Homelessness Strategy	As a key contributor to homelessness, data from the private rental sector, and from temporary accommodation, should feed into the formulation of a Homelessness Strategy.

23	Provision of advice about homelessness and the prevention of homelessness strategy Responsibility for dealing with homeless applications	As above
24	Publication and review of its anti-social behaviour policies and procedures	

*From your Governance Manual: Public bodies like the Housing Executive operate through a governance framework which brings together legislative requirements, governance principles and management processes. Good governance leads to good management, good performance, good stewardship of public money, good public engagement and, ultimately, good outcomes from the services provided and for those it serves.*

Compliance with Section 75 falls under good governance; working with CATU’s demands would be consistent with good governance.

**Conclusion**

In our communications with you, we will do our best to avoid logical fallacies, including Strawman, Slippery Slope, Ad Hominem, and Personal Incredulity. We would appreciate it if you could do the same.

Indeed the public will benefit from our communications being as closely tied as possible to evidence-based arguments. We hope that you are now willing to work with CATU’s demands. We reserve the right to escalate action on these demands, if they are not met, which will include defending our members against evictions.

Regards,  
CATU Belfast

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