

A Place of Refuge?



A monitor of homelessness
among destitute asylum
seekers

A proposal for action
April 2016

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A refugee and asylum delegation, including Housing4All members, with Belfast City Lord Mayor Arder Carson

Introduction



We are a group of people seeking asylum in Northern Ireland.

Ordinarily people seeking asylum in Northern Ireland get basic financial and housing support through National Asylum Support Services (NASS) (under Section 95 of the Immigration and Asylum Act (1999)) for the period during which their asylum application and any subsequent appeal may have to be considered.

However those who have had their applications refused and are in the process of gathering further evidence for submission have been left out from government support. During this period such people cannot work or access social security/welfare payments or support.

Due to a noticeably drastic increase in asylum cases being rejected; as a group we developed a human rights survey to assess the impact that the gap in support has had in Northern Ireland.



We have found out that the levels of destitution and health implications are vast and are not reflective of a civil and welcoming society where people can safely seek refuge and sanctuary.

The Executive does not monitor the number of destitute asylum seekers in Northern Ireland. This is part of the problem; if you do not know the extent of a problem then you cannot develop policies or programmes to address it. However, we estimate that there approximately one fifth of asylum seekers become destitute. There are, on average, 200 asylum claims a year in Northern Ireland.

We estimate the figures are much greater than those we present in this report; past traumatic experiences and adverse psychological effects of going through the asylum process usually stifle disclosure of personal circumstances.

A person's immigration status should not determine whether they can access shelter or are forced to sleep outside in the full wrath of the elements. The International Covenant on Economic, Social and Cultural Rights states quite clearly:

30. The ground of nationality should not bar access to Covenant rights, e.g. all children within a State, including those with an undocumented status, have a right to receive education and access to adequate food and affordable health care. The Covenant rights apply to everyone including non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation. (General Comment No. 20,

Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)



The 2014 United Nations (UN) Report entitled 'The Economic, Social and Cultural Rights of Migrants in an Irregular Situation'¹ further elaborated on the position that as we are born free and equal in dignity and rights, provision of these fundamental rights should not be conditional to any person's immigration status.

We seek recognition and a commitment to tackle this form of discrimination in the provision of accommodation in Northern Ireland. The human impact and effect of not addressing this issue is not only restricted to failed asylum seekers but to the wider society.

Regardless of such systematic neglect that they go through, asylum seekers have made a significant and positive contribution to diversity in Northern Ireland through voluntary work with charities, churches and other organisations in the community.

Acknowledgment of such contributions will only carry weight and sincerity if asylum seekers are afforded the same dignity and humanity as people born in Northern Ireland - and their fundamental rights to housing and wellbeing are respected.

Housing for All, April 2016

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¹ http://www.ohchr.org/Documents/Publications/HR-PUB-14-1_en.pdf

Human Rights Context



International Standards: Human Rights for All

The enjoyment of international human rights should not depend upon nationality, citizenship or status. In fact, international law demands that states pay particular attention to groups in society who would be most vulnerable to human rights abuses. This is said again and again in international law when considering the application of human rights standards at a state level:

*The ground of nationality should not bar access to Covenant rights, e.g. all children within a State, including those with an undocumented status, have a right to receive education and access to adequate food and affordable health care. **The Covenant rights apply to everyone including non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation.***²

*“Whereas everyone has the right to social security, **States parties should give special attention to those individuals and groups who traditionally face difficulties in exercising this right**, in particular women, the unemployed, workers inadequately protected by social security, persons working in the informal economy, sick or injured workers, people with disabilities, older persons, children and adult dependents, domestic workers, homeworkers, minority groups, **refugees, asylum-seekers, internally displaced persons, returnees, non-nationals**, prisoners and detainees.”³*

*“In particular, States are under the obligation to respect the right to health by, inter alia, **refraining from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal immigrants**, to preventive, curative and palliative health services; abstaining from enforcing discriminatory practices as a State policy.”⁴*



Cllr Nichola Mallon supporting Housing4All proposals

States also have an obligation to ensure that there is no regression in the enjoyment of social and economic rights, i.e. that there should be continuous improvement, or

“progressive realisation”, and should therefore:

² General Comment No. 20, Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights)

³ Committee on Economic, Social and Cultural Rights, Thirty-ninth session, 5–23 November 2007, General Comment No. 19, The right to social security (art. 9)

⁴ Committee on Economic, Social and Cultural Rights, Twenty-second session, Geneva, 25 April–12 May 2000, Agenda item 3, Substantive issues arising in the implementation of the International Covenant on Economic, Social and Cultural Rights, General Comment No. 14 (2000), The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights)

“take steps... to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”⁵

Under Schedule 2 of the Northern Ireland Act 1998, the issues of immigration and nationality are listed as ‘excepted’ matters which are not devolved. However this should not be interpreted as rendering the Executive powerless or without obligations to ensure that the human right to housing is protected, respected and fulfilled. The unique and powerful role of local and devolved government has been outlined recently to the UN Human Rights Council by the UN Special Rapporteur on Housing:



“Local governments are in a position to bring forward the experiences of marginalized groups and others whose rights have not been ensured and to find solutions. They serve as the main contact point with community-based initiatives for housing production and upgrades, linking them with broader regional, national or international financing, development and human rights initiatives.”⁶ [emphasis added]

This clearly has implications and opportunities for our own Executive, which we explore in our proposals section of this report.

Local Policy Context: Human Rights for Some



Why do asylum seekers become homeless?

An asylum seeker is not entitled to be on the social housing waiting list, or receive housing benefit, even if they are living in conditions which would qualify them for priority status for social housing due to homelessness, overcrowding, etc. in Northern Ireland.

An essential criteria for accessing social housing, either publicly owned by the Northern Ireland Housing Executive or publicly funded through housing associations, is that a person must have no limits on their ‘stay’. However

⁵ International Covenant on Economic, Social and Cultural Rights Article 2.1

⁶ These powers and responsibilities are underpinned by the UN Human Rights Committee, General Comment No. 31 (2004) on the nature of the general legal obligation imposed on States Parties to the International Covenant on Civil and Political Rights, para. 4. “All branches of government (executive, legislative and judicial), and other public or governmental authorities, at whatever level — national, regional or local — are in a position to engage the responsibility of the State Party”.

asylum seekers only have 'temporary stay', even if they have been living here for years and they have no other country to go to.

Many asylum seekers are accommodated under the National Asylum Support Service (NASS) – provided by the UK Home Office, sourced by the Northern Ireland Housing Executive and managed by multinational service company SERCO and property management firm Orchard & Shipman.⁷

When an asylum seeker's claim is refused by the Home Office (and this can happen numerous times during a person's application process) they are evicted from NASS accommodation and deprived of the limited access to housing and support they have been afforded to date and made destitute.

Such asylum seekers are also not entitled to access emergency accommodation or support through homeless hostels.

The Northern Ireland Supporting People Guidance 2012⁸ (which homeless hostel accommodation beds are funded by, most of which are hostels run by charities) classifies irregular migrants, which includes asylum seekers, as "ineligible service users". This means that even where a hostel or shelter wants to provide support, they cannot. Homelessness providers are compensated for providing emergency accommodation through Housing Benefit, and asylum seekers are not entitled to access housing benefit or other forms of social security.

Therefore even though many homelessness charities want to provide shelter to everyone equally, they are currently prevented from doing so by the administrative and funding arrangements of the Northern Ireland Housing Executive, Department for Social Development and ultimately the Northern Ireland Executive.

Social services have a duty to prevent human rights violations (including the provision of housing) for someone who is at risk of homelessness and is vulnerable due to factors including age, disability, mental/physical health issues, etc. The Health and Personal Social Services (NI) Order (1972) imposes a number of duties and creates powers including:

"15. (1) In the exercise of its functions under Article 4(b) the Ministry shall make available advice, guidance and assistance, to such extent as it considers

⁷ Concerns about the treatment of asylum seekers, including substandard housing conditions and complaints of bullying and intimidation by staff of Orchard & Shipman, have led to organisations like the Scottish Refugee Council to call for investigations into the company. See The Times 'Inquiry call over 'callous treatment' of refugees', 18th February 2016 - <http://www.thetimes.co.uk/tto/news/uk/scotland/article4693483.ece>

⁸ p.16, http://www.nihe.gov.uk/supporting_people_guidelines_2012.pdf

necessary, and for that purpose shall make such arrangements and provide or secure the provision of such facilities (including the provision or arranging for the provision of residential or other accommodation, home help and laundry facilities) as it considers suitable and adequate. [...]

(2) Assistance under paragraph (1) may be given to, or in respect of, a person in need requiring assistance in kind or, in exceptional circumstances constituting an emergency, in cash; so however that before giving assistance to, or in respect of, a person in cash the Ministry shall have regard to his eligibility for receiving assistance from any other statutory body, and, if he is so eligible, to the availability to him of that assistance in his time of need."



While there exists certain prohibitions against social services providing support to individuals within the immigration system⁹, in 2005 the UK House of Lords ruled that a failure by the state to provide social support which exposes some asylum seekers to a real risk of becoming destitute will in certain circumstances constitute 'inhuman and degrading treatment', and therefore will be contrary to Article 3 of the ECHR.¹⁰

In practice, however, most asylum seekers find this support impossible to access. Even foregoing the narrow access criteria, the Northern Ireland Human Rights Commission has stated that this approach is not sufficient:

*"It should be emphasised that this bare minimum approach is less than satisfactory, coming from a developed state such as the UK. Nevertheless, it is the Commission's view that, to ensure a minimum level of support, a non-UK national who is destitute and has no other means of support ought to be assessed for assistance under the 1972 Order."*¹¹

*level of support, a non-UK national who is destitute and has no other means of support ought to be assessed for assistance under the 1972 Order."*¹¹

Asylum seekers can be made homeless several times throughout their application. Sometimes this is for a number of weeks or months, and sometimes years. At these times there is no support open to them, and thus they have to sleep rough, stay in overcrowded conditions, and rely on churches or mosques.

As asylum seekers cannot work and cannot access benefits, they are effectively barred from accessing private rental accommodation.

What is the official NI Executive policy?

⁹ Section 119 of the Immigration and Asylum Act prohibits the provision of support if the 'person in need' has developed a need as a result of being destitute. In other words, there must be a pre-existing need.

¹⁰ R. (Adam and Limbuela) v. Secretary of State for the Home Department, 2005

¹¹ 'No Home from Home: Homelessness for People with No or Limited Access to Public Funds', NIHRC (2009) - <http://www.statewatch.org/news/2009/aug/n-ireland-nihrc-no-home-from-home.pdf>

The current NIHE document 'Facing the Future: *Homelessness strategy for Northern Ireland 2012-2017*' makes no mention of the situation of destitute asylum seekers. Whilst many publicly elected representatives offer support to destitute asylum seekers through constituency work, the destitution experienced by these asylum seekers is not deemed to be worthy of a public policy response.

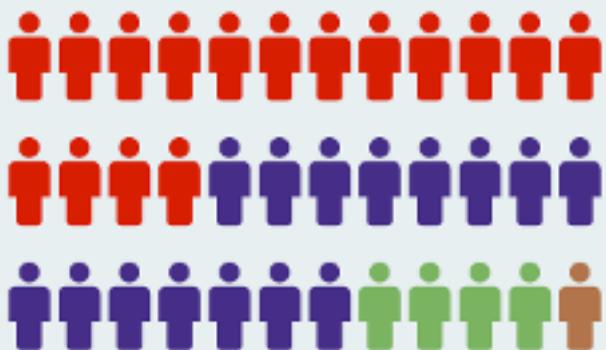
Participants' Profile



36 people took part in the research.

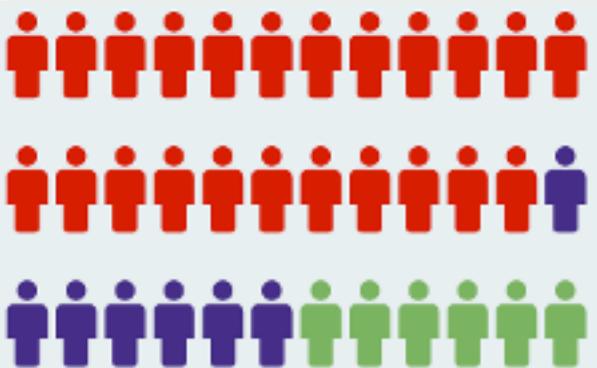
7 participants have families with dependent children in Northern Ireland.

AGE



■ 25-34 (44%)
 ■ 35-49 (42%)
 ■ 50-60 (11%)
 ■ Undisclosed (3%)

GENDER

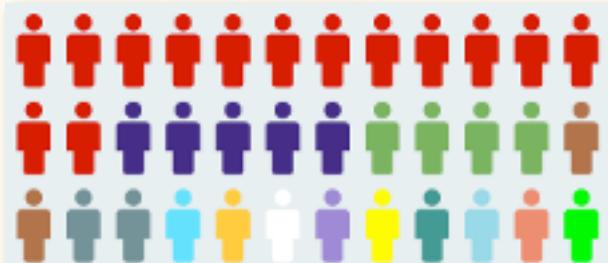


■ Male (64%)
 ■ Female (19%)
 ■ Undisclosed (17%)

Between October-December 2015 asylum seekers involved in the **Housing 4 All** campaign were supported by local human rights group Participation and Practice of Rights (PPR) to: monitor how their human right to housing was being violated; how it impacted individuals and families; and identify possible solutions.

Housing 4 All were supported to design their own human rights monitoring surveys using action research methods and carry it out with other people in similar circumstances. People were able to fill in the survey by attending one of the weekly housing rights clinics held in the offices of the Northern Ireland Community of Asylum Seekers and Refugees, through homeless support services, shelters, community networks and elsewhere.

COUNTRY OF ORIGIN



■ Zimbabwe (39%)
 ■ Sudan (14%)
 ■ Somalia (11%)
 ■ Nigeria (6%)
 ■ Algeria (6%)
 ■ Egypt (3%)
 ■ Ivory Coast (3%)
 ■ Botswana (3%)
 ■ DR Congo (3%)
 ■ Syria (3%)
 ■ Morocco (3%)
 ■ Jordan (3%)
 ■ UAE (3%)
 ■ Kenya (3%)

Monitoring Results



All of the survey questions were developed with and by people who are, or have, applied for asylum and have direct experience of the process.

ASYLUM APPLICATION:

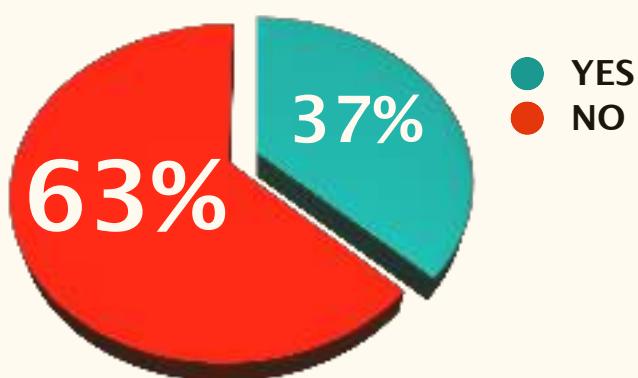
How long have you been in the asylum process and what stage are you at?



40% of respondents were making fresh claims for asylum, whilst 26% have had their claims rejected by the UK Home Office.

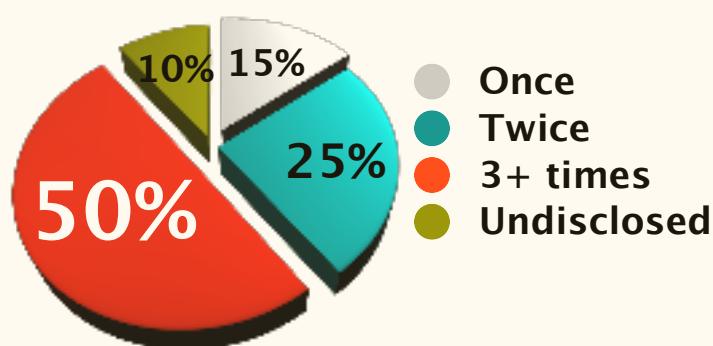
HOMELESSNESS:

Is this your first time being homeless in Northern Ireland?



63% of respondents had been homeless more than once while seeking asylum in Northern Ireland.

If 'No', how many times have you been homeless in Northern Ireland?



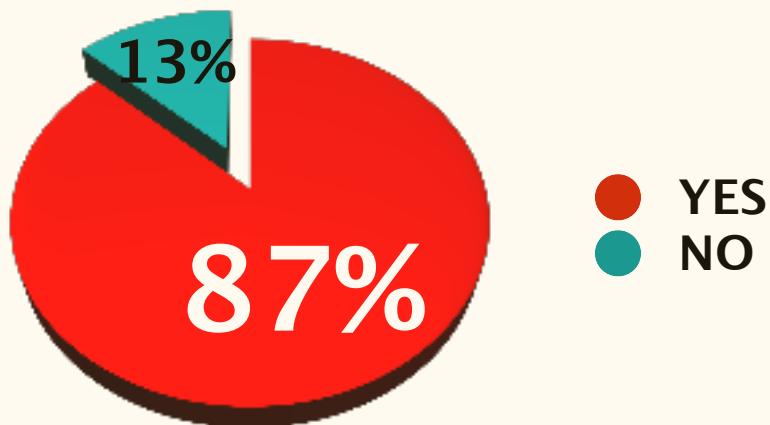
50% of those who had been homeless, were homeless on more than 3 occasions since coming to Northern Ireland.

Monitoring Results



HEALTH & HOMELESSNESS:

Does your living situation affect your health (physical and mental)?



"Mentally I am destabilised, also after being in detention for 6 months and released in [date] never thought or expected to be about to be homeless..."

What type of accommodation would suit your needs?



21% 'Own Home'



30% 'Sharing with an individual'



48% 'Any type'

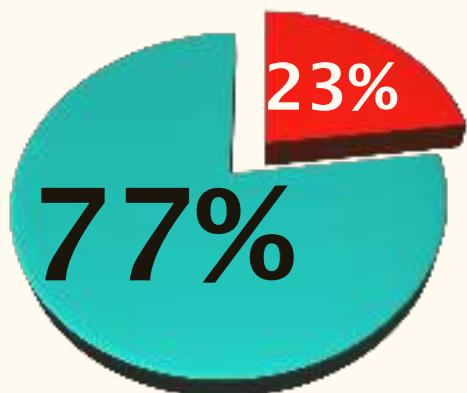
*"Angry, think of wife and kids back home. **Feel like [a] burden**, [and I am] stopping friends life (so he can be with his girlfriend) etc. **Problems with liver made worse**. Have to be outside during day..."*

Monitoring Results



SUPPORT:

Have you approached social services for help with accommodation?



● YES
● NO

"because am asylum seeker don't qualify"

If 'Yes', was the support provided sufficient to meet your housing needs?

Everyone who approached social services said the support was insufficient.

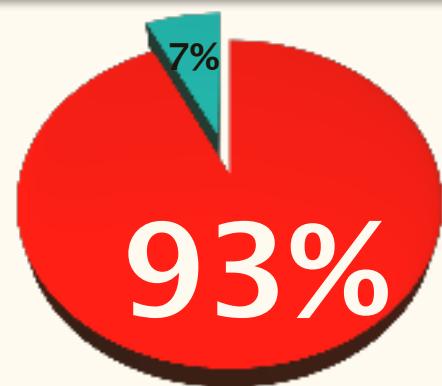
"Have not tried as didn't think of it as an option in my situation"

SUPPORT:

Have you approached local charities for help with your housing?

"I wish to have the freedom like everyone else not treated like asylum seekers. Being an Asylum Seeker it's like having a disease which doesn't go away. Everywhere we go hospital when people start to talk with you, the moment you say I am an asylum seeker there do make you feel out of place."

● YES
● NO



If 'Yes', was the support provided sufficient to meet your housing needs?

Only 5% who approached charities said the support was sufficient.

"Welcome Centre, Red Cross, NICRAS - none had shelter..."

What can be done?

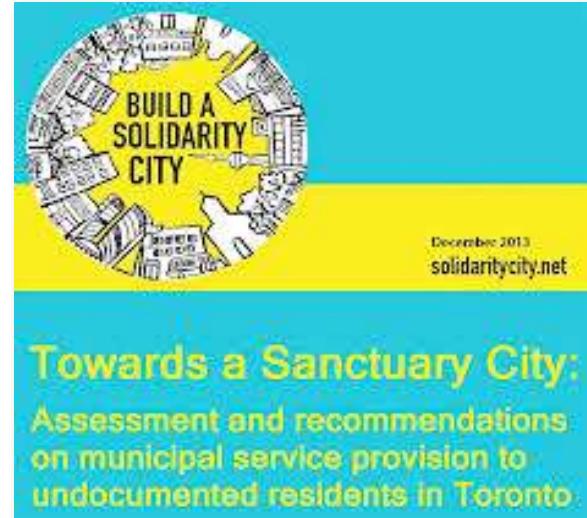


Housing policy is not reserved – it is a devolved matter. Therefore it is within the power of the Executive to provide practical support and change this situation. They have done so before concerning other punitive housing measures – such as ensuring the Bedroom Tax was not introduced in NI – and with political will it can be done it again.

A range of good practice precedents exist internationally of states and cities taking action to address the rights violations experienced by asylum seekers outlined above.

Toronto, Canada

On February 21, 2013, Toronto became the first Canadian municipality to formally provide sanctuary for undocumented immigrants or those without status. City employees reviewed ways to implement the decision, including ensuring that all residents have access to social services by removing identification requirements to a wide range of core service areas, such as healthcare, education, income support programs, employment protection, affordable housing, settlement services, social assistance and legal services.



On 6th April 2016, the City of Vancouver unanimously passed a plan to offer municipal services to all Vancouver residents without discrimination on the basis of immigrant status.

City of Sanctuary Movement, USA

Multiple cities in the USA (including New York, San Francisco, Los Angeles, Seattle, Baltimore, Washington D.C) have adopted City of Sanctuary Ordinances which prohibit city employees from requesting information about immigration status when delivering services, or from passing information through to Federal immigration authorities.

For more information see: http://citiesofmigration.ca/good_idea/access-without-fear-building-a-city-of-sanctuary/

Ghent, Belgium

“The city developed a number of good practices to make shelters accessible for undocumented migrants and to close the gap that exists between the applicable legal framework and the situation in practice. One example is a project



approved in June 2013, which allows undocumented families access to housing and provides guidance. They also developed specific social guidance providing information to everyone who needs to use night shelters. Guidance is given to undocumented migrants approaching the shelters in relation to basic needs and access to services, as to where to find a health practitioner, relevant NGOs, social workers, etc. “

For more information see: http://picum.org/picum.org/uploads/publication/Annual%20Conference%202013%20%20report%20HOUSING_EN_FINAL.pdf

Our Proposals



As the **Housing 4 All** group we urge the NI Executive and local authorities to fully acknowledge that housing provision and support for failed asylum seekers is a fundamental right which should not to be conditional on one's immigration status. As the Northern Ireland Human Rights Commission makes explicitly clear on its website:

“[Q] I am not a citizen of Northern Ireland, do I still have human rights here? [A] Yes human rights apply to all human beings – they do not depend on citizenship.”¹²

Asylum seekers arrive in Northern Ireland with multiple vulnerabilities and as victims of wars and political instability in their own home countries. By refusing them the right to work and earn an income, privately rented accommodation is not an option. Refusing them access, as of right, to publicly supported accommodation is effectively a deliberate policy intended to consciously make human beings destitute. Lord Brown of Eaton-Under-Heywood said, in his judgment in *R. (Adam and Limbuela) v. Secretary of State for the Home Department, 2005*:



Minister for Culture, Arts and Leisure Carál Ní Chuilín supporting Housing4All proposals

“It seems to me one thing to say...[that]...there are unfortunately many homeless people and whether to provide funds for them is a political, not judicial, issue; quite another for a comparatively rich (not to say northerly) country like the UK to single out a particular group to be left utterly destitute on the streets as a matter of policy.” [emphasis added]

The monitoring results outlined in this report demonstrate the personal damage that the marginalisation of failed asylum seekers has done to people in Northern Ireland. The hierarchical provision of support and discriminating approach to the right to housing in Northern Ireland effectively operates as a ‘weapon’ causing psychological, physical and emotional violence to extremely vulnerable people.

This is both at odds with how Northern Ireland projects itself internationally and more importantly how the public would wish to provide support and sanctuary to those in need - as demonstrated recently by the massive public mobilisations and activities in support of refugees seeking sanctuary in Europe.

¹² www.nihrc.org/advice-for-you/immigration-and-asylum

Belfast as a member of the EUROCITIES Network is party to a statement made in May 2015 that recognises that:

*“We have a particular role in the guarantee of basic protection to asylum claimants and in the reception and integration of newcomers in our society. Our cities are also the places where asylum seekers wait for a decision on their Refugee Status Determination process and where services are provided to them. Finally, it is in our cities that asylum claimants often remain as undocumented migrants if their asylum applications are rejected and return decisions are not applicable or enforced. **Their exclusion from service provision would have a detrimental impact on social cohesion, public health and protection of fundamental rights”**¹³ [emphasis added]*



EUROCITIES Network acknowledge that marginalising people who are seeking refuge amounts to denying them their fundamental rights and inhibits them from making valuable contribution in society. The consequential health and social impact is also costly to the society as a whole.

Taking steps to secure minimum standards and progress the right to housing (and the right to work) for all asylum seekers in Northern Ireland will not only benefit people who are fleeing persecution but also recipient communities through the experience and

development of diversity in social bonds. Through volunteering, people seeking asylum in Northern Ireland add significant value to their communities and contribute tremendously to diversity.

By supporting people who are in fear of deportation and seeking asylum through guaranteeing right to housing, the Northern Ireland Executive, working with partners across civil society, can send a positive and true message that far beyond their vulnerabilities, people seeking protection here have got a diverse range of contributions to communities rather than burdens.

¹³ ‘Eurocities statement on asylum in cities’ (2005) - http://nws.eurocities.eu/MediaShell/media/EUROCITIES%20stmt_asylum_May%202015.pdf



Housing 4 All proposes the following measures be brought forward by the NI Executive:

- i. provide public funding to homeless hostel providers so that those without access to Housing Benefit can secure emergency accommodation;
- ii. change NIHE current position that homeless hostels providing beds to destitute asylum seekers is a derogation of a hostel's duty to take referrals from NIHE;
- iii. institute a social services assessment for asylum seekers before they are knowingly made homeless and destitute by the Home Office to assess the nature and extent of support required;
- iv. carry out research through the Assembly's services to identify the legislative opportunities for, and barriers to, securing the right to housing for all asylum seekers;
- v. carry out research through the Assembly's services into the benefits of enabling asylum seekers to access their right to work in Northern Ireland with a view to developing a pilot initiative.