



NUI Galway
OÉ Gaillimh

Empowering Tenants: Protecting Human Rights

*Effective Tenant Participation
in the Management of
Local Authority Housing*

April 2022



**An Ghníomhaireacht
Tithíochta**
The Housing Agency

The Housing Agency's purpose is to provide expertise and solutions to help deliver sustainable communities throughout Ireland. A strategic objective is to support stakeholders with evidence-informed insights and data to develop a sustainable Irish housing system. In this vein, the Research Support Programme funds research projects which respond to key topical issues in housing and have the potential to impact on housing policy and practice.

The views expressed in this report are those of the author(s) and do not necessarily represent those of The Housing Agency.

Acknowledgements

The authors acknowledge the support provided by the Housing Agency under its Research Support Programme 2020, Round 2.

CHLRP and CAN thank Dr Mark Jordan of the University of Southampton for the valuable contribution he made to this report.

The authors thank Peter Dorman for the illustrations in this report.

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About this report

This Report is based on the NUI Galway research project funded by The Housing Agency under the Research Support Programme 2020 – Round 2. The research sought to examine how structured tenant participation, incorporating human rights standards could be developed in Irish local authorities housing management which would respect the rights of tenants, and comply with the local authorities' public sector duty.

The overall objectives of the research were to promote a model of innovative management in Irish local authority estates with meaningful tenant participation in policy and decision-making processes at a national and local level at its core. This model would also be based on respect for human rights, social inclusion, and the multicultural and diverse communities of Ireland to-day.

The specific objectives were to:

- ▶ Research models of rights-based housing management policies and practices that have tenant participation in countries such as Scotland, Denmark, France, UK and the Netherlands.
- ▶ Critically assess the current local authority tenant participation practices within local authority housing management in Ireland.
- ▶ Develop a model of best practice that would suit the Irish context.
- ▶ Map the key stakeholders who have the potential to influence, support or implement such a model
- ▶ Prepare and host a series of structured Dialogue events to Inquire into the opportunities and challenges of implementing a rights-based tenant participation framework within local authority housing in Ireland.
- ▶ Document and disseminate the findings.

The project also addressed the housing and sustainability, and innovations in housing management themes of the Housing Agency.

Executive summary

This report is based on a NUI Galway Centre for Housing Law, Rights and Policy / Community Action Network (CAN) research project funded by the Housing Agency in 2020. It involved desk research and series of meetings with local authority tenants, local authority housing staff, councillors and Strategic Policy Committee (SPC) members across three local authorities in 2021 and 2022. The report takes account of leading international literature on tenant participation, and the input of local authority tenants, local authorities' representatives and elected councillors from three Dialogue events. These inputs informed the development of a rights-based tenant participation model for Ireland and the recommendations below. The report recommends that a bottom-up rights-based tenant participation model for local authority housing be introduced in Ireland.

What is tenant participation?

In this project tenant participation is understood as effective tenants' involvement, both directly and via representative associations, in housing management and maintenance decision-making, and in housing policy formation, including changes being proposed in these areas. There is an absence of any structured national tenant participation model in Ireland. Currently, the 130,000+ local authority tenants have no collective or representative input into how rents are negotiated, tenancy agreements formulated, standards are maintained, or how policies are developed, implemented and monitored.¹

What are the benefits of tenant participation?

Effective tenant participation is widely recognised as being essential to good social housing management and maintenance, to sustainable communities and to community safety.

The overall benefits of effective tenant participation include realising the human rights of tenants, gaining insights and input from tenants to improve housing management and maintenance, promoting strong communities, reducing social isolation, empowering tenants, building skills and community support, as well as developing more open, inclusive governance of housing.²

Tenant participation internationally

The situation in Ireland is out of line with many countries in Europe where tenant participation policies and practices are well established and have a long history – going back in some countries over 50 years. For instance, in Belgium, Scotland, Wales, Northern Ireland, England and the Netherlands, it is a legal

¹ The number is much larger if one includes the range of other social housing supports including, in particular, households renting their homes through long term renting arrangements (e.g. Rental Accommodation Scheme) and those living in private rented housing but in receipt of Housing Assistance Payment. These groups also do not have effective participation structures.

² UN Economic Commission for Europe, *#Housing2030* (UN, 2021) 42-43.

requirement that providers of social housing develop and implement tenant participation strategies. In many of these countries national independent regulatory bodies are responsible for supporting tenant participation, and ensuring compliance with tenant participation strategies.

A human rights-based approach to tenant participation

Ireland has accepted various legal and political obligations to mainstream human rights and increase participation at every level of government.³ There is a growing recognition that human rights-based approaches offer a means of persuading duty bearers (i.e. the Department of Housing and public and social landlords) to recognise tenants as having a right to meaningful participation in key housing management decisions – an approach which is counter to any stigmatising of local authority tenants. At the same time, the approach offers a concrete means by which public bodies may realise their participation, human rights and equality duties. This report advocates a bottom-up human rights based approach to tenant participation, and emphasises the PANEL principles as a means of explaining in concrete terms what a human rights-based approach means in practice (see PANEL principles below).⁴

Participation	Tenants should have the opportunity to be involved in decisions that affect their rights.
Accountability	There should be independent monitoring of how tenants' rights are being affected, as well as remedies when things go wrong.
Non-discrimination	Tenants and their households should be treated fairly irrespective of their age, gender, ethnicity, disability, religion or belief, sexual orientation, gender identity or any other personal characteristic.
Empowerment	Tenants should be assisted to understand their rights, and be fully supported to take part in developing policy and practices which affect their lives.
Legality	Tenant rights should be set out in national law where possible.

Recommendation

The ideal model is one where a representative national association of local authority tenants with affiliated local branches and networks plays a key role in the development of housing law and policy, and raises issues of concern to tenants at the highest levels. Although this model is not achievable at present, some important stepping stones for that outcome can be laid now. Our research has shown that there are some real capacity, cultural and resource obstacles to developing any such model at present. Instead, we recommend

³ Irish Human Rights and Equality Commission (IHREC), Implementing the Public Sector Equality and Human Rights Duty (IHREC, 2019) 5.

⁴ This table is adapted from the Scottish Human Rights Commission review of the Scottish Social Housing Charter (2016) as developed in the literature review.

piloting a tenant participation model in three local authority areas in Ireland, which would build on what has already been achieved. This would clearly establish the benefits of tenant participation, and help identify and overcome structural and cultural barriers to effective participation. It offers a realistic and pragmatic step towards developing a human-rights based national model of tenant participation in Ireland that extends beyond mere consultation and engagement, and seeks to empower local authority tenants to shape the decisions that affect their lives, homes, and communities.

1 Introduction

This report recommends that a bottom-up rights-based tenant participation structure would be appropriate in the Irish context.

While there is considerable academic debate over tenant participation, its definition, the form it takes and its function in social housing management, effective tenant participation is widely recognised as being essential to good social housing management.⁵ In many countries across Europe, it is a regulatory requirement that social landlords develop and implement tenant participation strategies. The subject has been extensively researched and a fuller discussion of this research can be found in the literature review.

This report is the result of desk research on international tenant participation literature, as well as direct engagement with local authority tenants, local authority representatives, elected councillors, local authority housing staff and others, in three joint Dialogue meetings facilitated by Community Action Network (CAN).⁶ This engagement has shaped this report in a number of ways. It demonstrated the broad support among tenants and local authority representatives for greater tenant participation in the management of local authority housing and, in particular, for a human rights-based approach to tenant participation. However, a number of barriers to participation facing tenants and local authorities were evident. The research helped to identify some of the practical and administrative challenges of expanding tenant participation given existing local authority housing management structures and funding arrangements. The recommendations of this report have been drafted to take account of these specific points.

The structure of the report is as follows.

- ▶ Section 2, **Methodology of this project**, sets out the novel and somewhat experimental methodology employed in this research project.
- ▶ Section 3, **Tenant participation, an overview** provides an overview of tenant participation, outlining definitions, forms of participation, as well as drivers of and barriers to participation.
- ▶ Section 4, **Local authority tenant participation in Ireland**, places tenant participation in an Irish context and outlines how it has featured in social housing management and maintenance to date.
- ▶ Section 5, **Tenant participation: the critical debate** looks at some of the leading critical perspectives on tenant participation.
- ▶ Section 6, **Good practice in tenant participation**, identifies some potential examples of best practice approaches to tenant participation.
- ▶ Section 7, **Ireland's obligations to mainstream human rights**, looks at Ireland's human rights obligations in relation to housing and particularly in the context of relevant in housing regeneration projects.

⁵ T. Manzi, I. Simpson & N. Bailey, *Success, Satisfaction and Scrutiny: The business benefits of involving residents* (University of Westminster/AmicusHorizon, 2015); J. Frey & P. Shanks, 'Embedding a Culture of Tenant Engagement' (Tuath Housing, 2021) 28-33.

⁶ The preparation and organisation of these meetings are outlined in section 2.

- ▶ Section 8, **Rights-based approaches to tenant participation**, outlines a potential rights-based model of tenant participation that may be suitable for an Irish context.
- ▶ Section 9, **Conclusion**, summarises our understanding of where tenant participation is in Ireland now.
- ▶ Section 9, **Recommendation** sets out our recommendation for a pilot tenant participation model across three local authority areas.

2 Methodology of this report

There are two key strands to the methodology that informed this paper. The first strand is based on detailed and critical desk research on the principles, human rights and other obligations in relation to tenant participation in social housing management. The literature review included an examination of best practice models of housing management and related policy making with tenant participation in Northern Ireland, Scotland, Wales, England, Belgium, Sweden and the Netherlands. An initial framing document was prepared to inform a potential model of best practice that could suit the Irish context, and key questions were extracted for consideration by key stakeholders and actors.



The second strand involved a structured set of four Dialogue meetings, which took place online, in order to comply with covid-19 restrictions. The

methodology for this strand initially involved CAN mapping the key stakeholders who have the potential to influence, support, hinder or implement such a model. This process, through Dialogue, was designed to encourage different stakeholders to sit, think and talk together in a way that respected everyone's right to be heard, challenged assumptions, named the real struggles in the complex web of relationships, and used the learning to inform new and innovative future relationships. To build the environment for this type of exchange and inquiry, CAN organised a series of separate Dialogues with tenants and local authority officials in Dublin City Council, South Dublin County Council, Mayo County Council and a National Dialogue event.

Outreach to tenants

In the course of the project we encountered a number of challenges in engaging with potential participants. Firstly, there is an absence of any local, regional or national infrastructure in place to facilitate tenant to tenant, landlord to tenant, or 'anybody' to tenant, contact. CAN contacted major Family Resource Centres and some Partnerships (including making a presentation to the Western Regional Network of FRCS) and other local bodies, but discovered that there existed no one body looking after the needs of tenants locally, or regionally. This revealed a lot about the need for a more structured voice for tenants. Where CAN was able to contact tenants, this took place through some existing relationship-based connection that CAN had in the area or through other work. Secondly, once CAN started meeting tenants, it was clear that it was essential to allow tenants to voice their huge frustration, anger, lack of trust, isolation and sense of powerlessness with any current engagement (more likely lack of engagement) with their landlords – local authorities. The first few meetings were dominated with accounts of negative experiences in the tenant–landlord relationship, and dominance of day-to-day management and tenancy issues in any discussions, displacing valuable energy and time which could have been devoted to an effective collective approach. Thirdly, COVID and working online were both a challenge and an opportunity. Some people were not familiar with the technology or had poor internet access. However, online meetings did allow CAN to meet tenants from different parts of the country, which would otherwise have been impossible. It also facilitated great participation from local authority councillors, SPC Members and housing staff due to the limited travel obligations.

Despite these challenges, the conversations facilitated tenants to see the patterns and themes across their individualised experiences, and to become aware that there were a number of common policy areas where they could have a national voice. Over time and with encouragement, tenants were able to begin to shift their focus from frustration with management and maintenance issues to considering how things might be different into the future at local, regional and national level. Tenants also began to shift focus from an individual or estate-based focus to a more collective regional and national focus. These initial sessions included some interactive work on human rights and the right to participate, and there was input from speakers from the UK and Flanders. All of this prepared the tenants to engage with a model of rights-based tenant participation, and link the proposed model to their

experience and context. This period of outreach facilitated a very articulate, empowered, informed, engaged collective of tenants across the communities. These tenants made clear they wanted to challenge stigma around social housing, and have real participation in decision making on issues that impact on their housing conditions, tenancies, maintenance, estate management, community safety and building sustainable communities.

Outreach to local authorities

CAN engaged with key personnel in Dublin City Council (DCC), South Dublin County Council (SDCC) and Mayo County Council. These Local authorities were selected because of their particular characteristics. DCC and SDCC were selected because of the relatively higher number of local authority tenants that live in Dublin and rent from these authorities. Mayo County Council were selected in order to bring into focus the experiences of local authority housing outside of a Dublin context. With the exception of DCC, CAN found it was quite difficult to identify the key people to contact. Once key personnel were identified, a letter of invitation was sent by Professor Padraic Kenna, which was then followed up with a phone conversation from CAN. It was necessary to encourage participation in a non-operational space. This was an essential part in the process, as much of the local authority's engagement with tenants can be operational, and quite often characterised by tension and conflict.

Dialogue events: approach and recurring themes

CAN organised four Dialogue events and the approach encouraged different stakeholders to sit, think and talk together in a way that respected everyone's right to be heard, challenged assumptions, named the real struggles in the complex web of relationships and used the learning to inform new and innovative future relationships between tenants, local authority staff and members of Housing SPCs in a particular local authority. The events were non-operational – i.e., they did not seek to establish any kind of consensus, but were designed to hear different perspectives and inquire into them. CAN identified a number of common themes from across these Dialogues.

One of the recurring themes from the Dialogue events was the sense that the current approach to managing local authority housing was not working. This was most commonly expressed by tenants but the view was shared by a number of personnel working for Local authorities. Tenants frequently made the point that they feel that local authority housing policy decisions are made in a remote, top-down way which provides tenants with limited or no effective involvement or participation. This contributes to tenants' feelings of frustration, and lack of trust towards Local authorities. It illustrates the limitations of adopting a top-down approach to tenant participation in this context.⁷

Another theme was the broad recognition of the need for establishing collective local authority tenant representation. Tenants made clear that many of the problems they dealt with were common or collective problems, which

⁷ J. Frey & P. Shanks, 'Embedding a Culture of Tenant Engagement' (Tuath Housing, 2021) 5.

were faced by other local authority tenants. local authority representatives were generally supportive of a collective tenant voice as it could help to identify common issues (i.e., diversity and equality within communities, community safety, housing maintenance, arrears policy) and develop proactive, rather than reactive, solutions. There was some debate over whether tenant representation should be organised at local, regional and/or national level. Some participants felt that collective representation should only take place at a local level. However, most tenants were in favour of collective tenant representation structures at national level – to improve accountability and transparency and inform development of national law and policy. A regional or national focus was also seen as important in the need to account for the urban–rural experiences of local authority housing, and the relationship with other housing bodies.



There was remarkably strong support among tenants and local authority representatives for adopting a human rights-based approach to tenant participation. Tenants felt that such an approach would provide a way of structuring meaningful tenant participation in a way that builds on and reorientates the landlord–tenant relationship and challenges stigmatising attitudes to social housing. local authority representatives were broadly supportive of such an approach. However, there was some concern expressed around how tenants’ right to housing would be realised in practice. A number of local authority representatives stressed their support for this model but expressed their concern that it would require adequate resourcing from central

government. Tenants viewed this as a key issue and outlined their concern that without adequate resourcing, participation would be tokenistic. Tenants felt that for this model to be effective, it must have a real impact on decision making. Some local authority representatives queried where rights-based tenant participation would fit alongside existing public sector and participation structures. Others were of the view that establishing structures for tenant participation could enhance existing structures and narrow the existing participation gap facing local authority tenants.



3 Tenant participation: an overview

Definitions

Tenant participation is ‘a contested concept with different definitions’.⁸ The term participation can be used to refer to a set of principles, processes for participation as well as structures to participation. At its broadest, participation may be taken to refer to ‘collective action based on the local housing area’.⁹ A more specific definition is ‘how tenants or others living nearby can influence a social landlord’s activity’.¹⁰ The definition we adopt in this report is ‘effective tenants’ involvement, both directly and via representative associations, in housing management and maintenance decision making, policy formation and changes, performance improvement, and community projects at local and national level’. This definition is based on international literature on tenant participation. But it has also been shaped by the input of tenants at Dialogue events, which made clear the importance of independent local and national representative tenants unions and associations in developing effective participation.¹¹

Forms of tenant participation

Tenant participation may take a variety of different forms including the ‘provision of information and advice, consultations, tenant panels, service-specific groups, mystery shoppers, tenant and resident associations, involvement in management, strategic decision-making, governance arrangements’ as well as involvement in the design and implementation of policy.¹² These various forms represent different levels of participation. Giving information and engaging and consulting with tenants represent a more limited top-down form of participation. By contrast, tenant-led scrutiny and inspections of providers of social housing, as well as leading decision-making tend to be viewed as higher forms of participation.¹³ Providers of social housing may provide a ‘menu’ of different forms of tenant participation that gives the appearance of extensive participation, but critics have argued that tenants

⁸ K. McKee and V. Cooper, ‘The paradox of tenant empowerment: Regulatory and liberatory possibilities’ (2008) 25 *Housing, Theory and Society* 132-146, 133. See J. Pierce, *Understanding approaches to tenant participation in social housing* (UK Collaborative Centre for Housing Evidence, 2019) 10; Q. Bradley, *The Tenants’ Movement: Resident involvement, community action and the contentious politics of housing* (Routledge, 2014) chapter 3.

⁹ P. Somerville & A. Steele, ‘Making Sense of Tenant Participation’ (1995) 10 *Netherlands Journal of Housing and the Built Environment* 259-281 260.

¹⁰ H. Pawson, J. Bright, L. Engberg & G. van Bortel, *Resident Involvement in social housing in the UK and Europe* (Heriot Watt University, 2012) 3.

¹¹ Campbell Tickell Ltd, *Support for Tenant Participation: Priorities and shape of future provision* (Welsh Government Social Research, 2014) 10.

¹² Ibid 17.

¹³ Ibid 17; S. Hall and P. Hickman, ‘Resident Participation in Housing Regeneration in France’ (2011) 26 *Housing Studies* 827-843.

must be alert to the risk of 'landlord-controlled participation' inhibiting tenant independence to participate.¹⁴



Drivers of and barriers to participation

There are many drivers of tenant participation from both a tenants and landlords perspective. Tenants often have diverse motivations for wanting to get involved, as was reflected in the Dialogue events we held. For some, getting involved was a means of 'giving 'tenants a voice' and representing tenants' collective interests.¹⁵ For others, it was about equality and empowerment and the notion that engagement could help address the power imbalance between landlord and tenant, and challenge stigma around council housing. Although many tenants may want to get involved,¹⁶ commentators have frequently pointed out that they often face particular and numerous barriers to

¹⁴ Pawson, *Resident Involvement in social housing* (n 10) 6; J. Lee, 'Housing governance and ethopolitics in a postcolonial city: constructing responsible community and consumer identity in Hong Kong' (2010) 28 *Environment and Planning C-Government and Policy* 112-127; B. Reid and P. Hickman, 'Are housing organisations becoming learning organisations? Some lessons from the management of tenant participation' (2002) 17 *Housing Studies* 895-918, 914.

¹⁵ K. McKee and V. Cooper, 'The paradox of tenant empowerment' (n 8) 132-146; R. Simmons and J. Birchall, 'Tenant participation and social housing in the UK: Applying a theoretical model' (2007) 22 *Housing Studies* 573-595; B. Bengtsson, 'Solving the Tenants' Dilemma: Collective Action and Norms of Co-operation in Housing' (2000) 17 *Housing, Theory and Society* 175-187.

¹⁶ IPSOS MORI, *Understanding tenant involvement: summary report* (Tenant Services Authority, 2009).

participation.¹⁷ This was a point frequently made at the Dialogue events. Barriers may be inherent in the existing participation structures and it is important that the structures themselves be a focus of discussion. Equally, many tenants can be dissuaded from taking part due to perceptions that participation will have little influence, or indeed from prior negative experiences of dealing with public authorities.¹⁸ From a landlord's perspective, there are also diverse motivations for organisations to develop and implement tenant participation. Studies have drawn attention to motivations relating to the landlords' social mission and to good business and better decision-making, as well as to issues around attracting financing – some of these were reflected in our Dialogue events.¹⁹ A recurring theme in the literature, and a point made by local authority representatives at Dialogue meetings, is that regulatory compliance is a key motivator to organisations implementing tenant participation practices.²⁰

Arguments for and against tenant participation

Effective tenant participation is widely recognised as being essential to good social housing management. The UN Economic Commission for Europe (2021) has outlined a number of arguments for effective tenant participation. These include realising the human rights of tenants to participate, gaining insights and input from tenants which can improve housing management and maintenance, promoting strong communities and reducing social isolation, empowering tenants, building skills and community support, and developing more open, inclusive governance of housing.²¹ One of the striking findings of a recent Housing Agency report was how renters expressed lower levels of satisfaction with their housing than home-owners in Ireland.²² Although the report did not disaggregate the findings for local authority renters from other renters, it is arguable that the absence of meaningful participation is a contributing factor. There are also a number of arguments against involving tenants in the management of rented housing. These include concerns over how tenant participation may conflict with the culture of the landlord organisation, the risk that it creates inequalities between 'insiders' and 'outsiders', the additional demands that it may place on tenants, the difficulties of ensuring widespread representation, as well as the risk that participation may be tokenistic and not reinforced by effective regulation and resourcing.²³

¹⁷ N. Bliss, B. Lambert, C. Halfacre, T. Bell & D. Mullins, *An investment not a cost: The business benefits of tenant involvement* (Tenants Leading Change, 2015).

¹⁸ Pierce, Understanding approaches to tenant participation (n 8) 8; C. Hastie, The Perpetuation of Inequality: The role of community engagement (Sociological Research Online, 2018).

¹⁹ Pawson, Resident Involvement in social housing (n 10) 8.

²⁰ P. Somerville, 'Empowerment through residence' (1998) 13 *Housing Studies* 233–257, 248.

²¹ UN Economic Commission for Europe, *#Housing2030* (UN, 2021) 42-43.

²² See R. Molloy and A. Murphy, *Residential Satisfaction in Ireland: Comparison of Housing and Neighbourhood Satisfaction Levels by Housing Tenure – Working Paper* (Housing Agency, 2019).

²³ Ibid.

4 Local authority tenant participation in Ireland

History of tenant participation: 1960s–2000s

There is a long history of local authority tenant organising and campaigning for housing rights in Ireland. During the 1960s and 1970s, housing action committees were established as part of campaigns to improve housing conditions.²⁴ These associations formed the National Association of Tenants' Organisations (NATO) which organised rent strikes as part of campaigns for differential rents and greater discounts on tenant purchase schemes.²⁵ During the 1970s, policy makers began to scale down large-scale local authority housing development.²⁶ This change, alongside the ongoing promotion of tenant purchase schemes, caused the local authority rented sector to consistently decline in size and the sector became increasingly residualised.²⁷ In the process, many local authority communities became fragmented. At the same time, the sector became marginalised in State housing law and policy, which increasingly embraced the promotion of ownership through the housing market as the key housing priority.

During the 1990s, the Irish government recognised that local authority housing management had been 'remote from tenants' and that 'their needs and aspirations are not always sufficiently taken into account' and their '... participation in the running of their estates is inadequate and not sufficiently encouraged'.²⁸ Following the recognition of the importance of tenant participation in State social housing policy in the early 1990s, Local authorities were provided with remarkably wide-ranging powers to facilitate tenant participation.²⁹ This included powers to delegate all or part of its housing management powers in respect of a local authority estate to local residents associations.³⁰ Guidelines for tenant participation were developed and some tenant participation schemes were established, mainly as part of regeneration projects in Dublin and Limerick.³¹ Some of these tenant participation schemes were established at the insistence of local communities, in particular, in Fatima

²⁴ V. Lima, 'From housing crisis to housing justice: Towards a radical right to a home' (2021) *Urban Studies* 1, 5

²⁵ A. Hayden, 'Local Authority rented housing: The path to decline, 1966-1988' in L. Sirr (ed) *Renting in Ireland* (Dublin, Institute of Public Administration, 2014) 107-12.

²⁶ M. Norris, *Property, Family and the Irish Welfare State* (Dublin, Palgrave Macmillan, 2016) 5.

²⁷ *ibid* 157.

²⁸ Department of the Environment and Local Government, Memorandum on the Preparation of a Statement of Policy on Housing Management (DoELG, 1993) 6.

²⁹ Housing (Miscellaneous Provisions) Act 1992, s. 9.

³⁰ Housing (Miscellaneous Provisions) Act 1992, ss 9(2)(7).

³¹ M. Norris, *Managing Partnership: Enabling Tenant Participation in Housing Estate Management* (DoELG, 2001).

Mansions, then St Michael's Estate, Dolphin House, Charlemont and St Teresa's Gardens.³²

Despite the status accorded to tenant participation in national housing law and policy, the evidence from the operation of these tenant participation initiatives indicates that they were implemented in a patchy and inconsistent manner, often linked to particular social issues and regeneration projects³³ Norris and Redmond conclude that these initiatives fell short for a number of reasons. In some cases, they note that there was no discernible tenant participation strategy. At the same time there appeared to be 'limited evidence of a formal and systematic approach' adopted by providers of social housing. Overall, they argue that the failures of these initiatives reflects a general 'reluctance on the part of Local authorities to critically examine their housing service'.³⁴

Participation and human rights obligations on public bodies in Irish law

Following the financial crisis in 2008, and the subsequent cuts to public sector budgets, many regeneration projects were paused, scaled back, or substantially changed, with limited meaningful engagement with tenants.³⁵ However, there was a renewed focus in national law and policy on public participation and human rights in the mid-2010s. This resulted in new legal obligations being placed on Local authorities to promote effective participation³⁶ and protect the human rights of those to whom they provide services.³⁷ This means that when public bodies (including Local authorities, the Department of Housing, and any other relevant public body), make important decisions, they must provide individuals and communities affected with opportunities for meaningful participation.³⁸ Furthermore, they must carry out their housing functions in a way that protects the human rights of individuals and communities in their area, as provided in the international human rights treaties which Ireland has ratified (outlined below). Although effective tenant participation aligns with these objectives, and could be seen as a means of realising these commitments, there was no provision made for the specific participation rights of local authority tenants within these structures.

³² See J. Donohue and P. Dorman, *Dream, Dare, Do* (Fatima Groups United, 2006) 18-21; P. Dorman, *Things Can Be Different!* (CAN, 2007) 41-69.

³³ D. Redmond and M. Norris, 'Reforming Local Authority Housing Management: The Case of Tenant Participation in Estate Management' in M. Norris and D. Redmond, *Housing Contemporary Ireland, Policy, Society and Shelter* (Institute of Public Administration, 2006) 195-197.

³⁴ Ibid.

³⁵ R. Hearne, *Housing Shock: The Irish Housing Crisis and How to Solve it* (Policy Press, 2020) 92-95.

³⁶ Local Government Act 2001, s. 127 (as amended by the Local Government Reform Act 2014).

³⁷ Irish Human Rights and Equality Commission Act 2014, s. 42; European Convention on Human Rights 2003, s. 3.

³⁸ Irish Human Rights and Equality Commission (IHREC), *Implementing the Public Sector Equality and Human Rights Duty* (IHREC, 2019) 5.

The contemporary tenant participation picture

The contemporary situation is that despite the national commitment to mainstreaming participation and human rights at every level of government there is an absence of any structured tenant participation model in contemporary social housing law and policy in Ireland.³⁹ Housing for All (2021) outlines a commitment to creating sustainable communities:

The creation of sustainable communities has been an enduring goal of housing policy in recent decades. Sustainable communities are places where people want to live and work. They meet the diverse needs of existing and future residents, are sensitive to their environment and contribute to high quality of life. They are safe and inclusive, well planned, and offer equality of opportunity and good services for all (p. 122).

However, the Plan makes no reference to tenant participation, although it states:

There is also a need to ensure that the interests of current tenants in social housing are protected and that a fair and equitable system is in place to respond to their needs (p. 131).

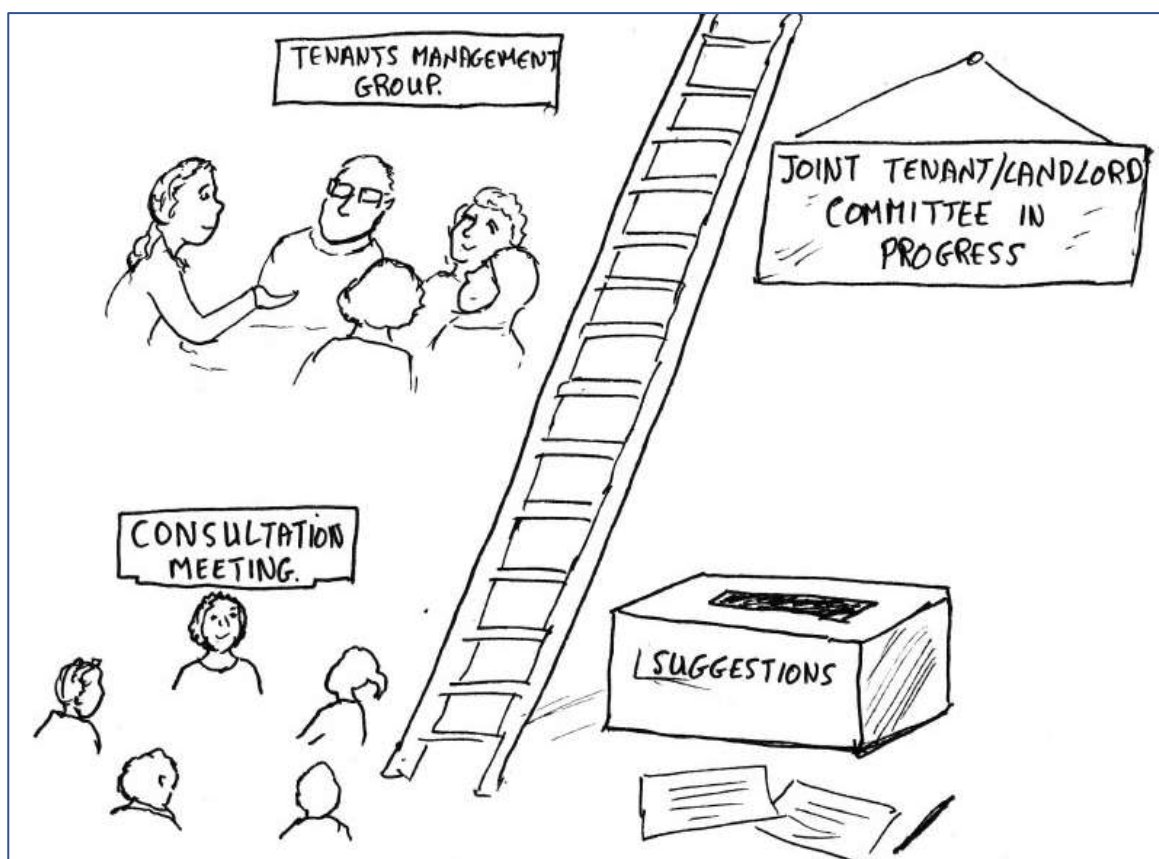
Despite this concern, tenant participation does not feature in any substantial way in State social housing policy. Indeed, the term was not mentioned at all in the Social Housing Strategy (2020). Nor is any meaningful commitment to tenant participation apparent in the Voluntary Regulatory Code for Approved Housing Bodies (i.e. social landlords). The Governance Standard that forms part of that Code sets out an expectation that providers of social housing engage with their tenants. However, the Standard outlines relatively limited forms of engagement with tenants – landlords are expected to gather information and consult with their tenants, but there is no expectation that tenants become involved in scrutiny, inspections or decision-making processes. There are recent examples of housing associations seeking to develop tenant participation strategies, but it is unclear how these will effectively operate in practice.⁴⁰

³⁹ See P. Kenna, *Housing Law, Rights and Policy* (Clarus Press, 2011) 788-789.

⁴⁰ See Respond, *Tenant Handbook* (Respond, 2019) p. 31. Also see North & East Housing Association, 'Launch of Tenant Engagement Strategy' (*North & East Housing Association*, 29 July 2019) <<https://www.northandeast.ie/news/launch-of-tenant-engagement-strategy>> accessed 19 February 2021; Oaklee Housing, 'Tenant Involvement' <<https://www.oaklee.ie/tenants-forum/tenant-involvement>> accessed 19 February 2021; Tuath Housing, *Tenant Engagement Officers* <<https://www.tuathhousing.ie/tenant-info/tenant-engagement-officer/>> accessed 19 February 2021.

5 Tenant participation: the critical debate

There is considerable critical debate over tenant participation, particularly in the UK. In a recent review of approaches to tenant participation, Pierce (2019) suggests there are a number of key conceptual debates. These are considered in more detail in the literature review, and it is only possible to outline some key critical insights from these debates here.⁴¹ These debates should be understood in light of the tragedy of Grenfell Tower, which revealed the lack of accountability and responsiveness to concerns about safety that were raised by tenants and residents.⁴²



Empowerment of tenants

Tenant participation is frequently associated with the empowerment of tenants.⁴³ A foundational theory in this approach is Arnstein's (1969) ladder of citizen participation which outlines graduated forms of participation culminating in partnership and citizen control at the pinnacle of participation.⁴⁴ The ladder offers a perspective for seeing who has power when key decisions

⁴¹ Pierce, *Understanding approaches to tenant participation* (n 8) 14-17.

⁴² J. Boughton (2019) 'Grenfell and the Need for a Tenants' Voice' available at: <https://www.law.ox.ac.uk/housing-after-grenfell/blog/2019/01/grenfell-and-need-tenants-voice> (Accessed 29 March 2022).

⁴³ Somerville, 'Empowerment through residence' (n 20) 234.

⁴⁴ Sherry R. Arnstein, 'A Ladder of Citizen Participation' (1969) 35(4) *Journal of the American Planning Association* 216-224.

are made.⁴⁵ Although citizen power is often seen as the pinnacle of participation, it has been argued that many forms of tenant participation may in fact reinforce the power of the landlord.⁴⁶ This is because the landlord will often initiate and control the participation process.

Responsibilisation

Much of the literature on tenant participation is focused on the notion of responsibilisation in social housing management.⁴⁷ This refers to ‘a process through which behavioural norms are transmitted, promoting tenants to regulate their own behaviour in order to participate as responsible subjects’.⁴⁸ It has been argued that there are risks that tenant participation can impact of tenants’ identity as tenants and undermine their independence.⁴⁹ For example, it has been argued that participation training programmes can serve as a means of controlling tenants by instilling certain notions of a ‘good engagement’ that conforms to existing housing practice.⁵⁰ This real risk underlines the important role which an independent tenants’ movements can play – when supported by a national tenants association – in organising tenant-led training and skills development.⁵¹

Organisational culture

A good deal of research has focused on the role which the organisational culture of the landlord plays in developing and implementing, tenant participation.⁵² Some have argued that strong leadership is a necessary but not by itself a sufficient pre-condition for the development of a ‘customer responsive organisation’.⁵³ Cultures of openness, trust and accountability are regarded as being vitally important in developing effective tenant participation.⁵⁴ However, this often depends upon the landlord demonstrating to tenants that tenant participation has genuine impact and can lead to change.⁵⁵ Legislation and regulatory interventions can play a significant role in

⁴⁵ See Q. Bradley, ‘Capturing the Castle: Tenant Governance in Social Housing Companies’ (2008) 23 *Housing Studies* 879-897.

⁴⁶ Pierce, *Understanding approaches to tenant participation* (n 8) 14-15.

⁴⁷ *ibid* 15.

⁴⁸ Q. Bradley, ‘“Putting our mark on things”: The identity work of user participation in public services’ (2013) 33 *Critical Social Policy* 384-402, 385.

⁴⁹ Bradley, ‘Capturing the Castle’ (n 45); McKee and Cooper, ‘The paradox of tenant empowerment’ (n 8); M. McDermont, ‘Mixed messages: Housing associations and corporate governance’ (2007) 26 *Social & Legal Studies* 71-94, 89.

⁵⁰ McKee and Cooper, ‘The paradox of tenant empowerment’ (n 8).

⁵¹ Q. Bradley, ‘Proud to be a Tenant: The Construction of Common Cause Among Residents in Social Housing’ (2012) 27 *Housing Studies* 1124-1141, 1134.

⁵² Pierce, *Understanding approaches to tenant participation* (n 8) 16-17.

⁵³ Pawson, *Resident Involvement in social housing* (n 10) 60.

⁵⁴ Bliss, *An Investment not a Cost* (n 17) 16.

⁵⁵ The Democratic Society, *Democracy Starts at Home: Improving democratic engagement in the housing sector* (The Democratic Society, 2019).

starting the ball rolling and directing organisational responsiveness to tenant participation.⁵⁶

Approaches to tenant participation

There are a wide range of approaches to tenant participation.⁵⁷ Commentators have pointed out that while landlords may be categorised according to their approach to tenant participation, in each case landlords tend to be highly reluctant to cede control over the participation process itself.⁵⁸ This underlines the important role which legislation plays in requiring landlords commitment to develop and implement tenant participation. It also indicates how independent tenant organisations can play a key role in ensuring that participation is not tokenistic, or does not simply serve to reinforce the power of the landlord. The international examples of tenant participation outlined in the next section illustrate how effective tenant participation can be supported by the development of a national tenants organisation or union that is supported through government funding, but independent from landlord control.

⁵⁶ Somerville, 'Empowerment through residence' (n 20) 234.

⁵⁷ L. Cairncross; D. Clapham and R. Goodlad, 'Tenant Participation and Tenant Power in British Council Housing' (1994) 72 *Public Administration* 177-200; L. Cairncross; D. Clapham and R. Goodlad, *Housing Management, Consumers and Citizens* (Routledge, 1997).

⁵⁸ P. Hickman, 'Approaches to tenant participation in the English Local Authority sector' (2006) 21 *Housing Studies* 209-225.

6 Good practice in tenant participation

The notion that tenants should be involved in decisions relating to social housing management is deeply entrenched in various countries across Europe. Key features of tenant participation models in Belgium, England, the Netherlands, Northern Ireland, Scotland, Sweden and Wales are outlined in the literature review. A number of themes have been extracted from this literature review and are considered here.

Rights-based approaches

One of the key themes is how various Governments have introduced rights-based approaches whereby legislation mandates that providers of social housing develop and implement tenant participation. There is growing recognition that rights-based approaches offer a means of challenging duty bearers (i.e. providers of social housing) to break with stigmatising attitudes to tenants, and instead recognise tenants as rights holders.⁵⁹



⁵⁹ Scottish Human Rights Commission, *Review of the Scottish Social Housing Charter 2016* (Scottish Human Rights Commission, 2016) 7; International Union of Tenants, *The Tenants Charter* (IUT, 2003) Part VI.

Tenant participation strategy

There is broad recognition of the importance of requiring Local authorities to adopt tenant participation strategies. Following Arnstein (1969) a tenant participation strategy should detail the different levels of participation. This should set out the provision of information, provide structures for consultation and Dialogue, facilitate shared decision-making and tenant management in specific areas.⁶⁰ Equally, there should be a broad agreement on participation objectives, the function of tenant participation and the degree of influence which each party has in the process. It is difficult to overstate the importance of national legislation and policy in setting core principles and directing approaches appears to be key to securing a degree of consistency in participation structures and tenant experiences at local level.

Regulation

Another key theme is the role of regulation of tenant participation. Participation must be meaningful and not merely tokenistic.⁶¹ It has been frequently pointed out that meaningful tenant participation requires the provision of relevant, comprehensive and accessible information on housing management to tenants. The international examples of tenant participation illustrate how tenants' associations can play an important role in scrutinising tenant participation. Furthermore, independent external regulatory bodies, such as the Scottish Housing Regulator, can play a crucial role in supporting tenants associations and ensuring the commitment of providers to participation is meaningful.⁶² In a number of countries, independent regulatory bodies have been established to support and oversee the development of effective tenant participation and provide remedies. This provides support to tenants but also accountability where landlords fall short of their obligations.



⁶⁰ L. Cairncross; D. Clapham and R. Goodlad, *Housing Management, Consumers and Citizens* (Routledge, 1997).

⁶¹ D. Redmond and M. Norris, 'Reforming Local Authority Housing Management' (n 33) 201-203.

⁶² TAROE TRUST, *Ensuring fairness for tenants: A manifesto for change* (TAROE Trust, 2018); SHELTER, *A vision for social housing: The final report of Shelter's commission on the future of social housing* (Shelter, 2019).

Tenants unions and associations

Another recurring theme is the role of independent tenants unions or associations in developing and implementing tenant participation.⁶³ There is a growing recognition of the important role of independent tenant unions and associations, both formal and informal, at local, regional and national levels in supporting meaningful tenant participation. In many countries, tenant unions or associations play a key role in advising and supporting tenants and representing their interests in key management and policy decisions at local, regional and national levels. This is particularly apparent in Sweden, the Netherlands and Belgium where national tenants unions play an important role in representing tenants interests in the formation of national housing policies including rent setting.



Adequate resourcing

There is broad agreement that the resourcing of tenant participation is crucially important. Resourcing tenant participation can be regarded as an investment in improved public decision-making processes that can pay dividends for both tenants and landlords. However, there is a real risk that inadequate resourcing, or the provision of funding that limits the independence of tenants' unions or associations in representing their members interests, can render participation ineffective. Landlords are invariably well resourced relative to their tenants,

⁶³ International Union of Tenants, The Tenants Charter (IUT, 2003) Part VI, available at <https://www.iut.nu/about-iut/the-tenants-charter/> (accessed 2 February 2021).

and there is a need for training for both tenants and housing managers. It has been pointed out that because landlords/providers may control funding models, and training schemes, this may compromise tenant independence and curtail effective participation.⁶⁴

⁶⁴ See Pierce, *Understanding approaches to tenant participation* (n 8) 14.

7 Ireland's obligations to mainstream human rights

Ireland has accepted various legal and political obligations to mainstream human rights and increase participation at every level of government. These national and international obligations are particularly relevant in housing regeneration projects because it is through the implementation of public policies at a local level that human rights and commitments to meaningful participation are fulfilled.⁶⁵

National obligations

Irish law places obligations on local authorities to promote effective participation⁶⁶ and protect the human rights of those to whom they provide services.⁶⁷ This means that when local authorities undertake regeneration projects they must provide individuals and communities affected with opportunities for meaningful participation in the design and implementation of such projects. Furthermore, they must carry out their housing functions in a way that protects the human rights of individuals and communities in their area, as provided in the international human rights treaties which Ireland has ratified (outlined below). These legal obligations are bolstered by political commitments made by successive Irish Governments that regeneration projects should be undertaken in a way that recognises the importance of both material and social regeneration in creating sustainable communities.⁶⁸ This has been 'an enduring goal' of Irish housing policy in recent decades and it has been replicated in national guidance on regeneration⁶⁹ and in local authority development plans.⁷⁰ The current State Housing Plan – *Housing for All* (2021)(p. 122) states:

The creation of sustainable communities has been an enduring goal of housing policy in recent decades. Sustainable communities are places where people want to live and work. They meet the diverse needs of existing and future residents, are sensitive to their environment and contribute to high quality of life. They are safe and inclusive, well planned, and offer equality of opportunity and good services for all.

⁶⁵ UN Development Programme, *Guide for Local Planning from a Human Rights-based Approach* (United Nations, 2011) 7.

⁶⁶ Local Government Act 2001, s. 127 (as amended by the Local Government Reform Act 2014).

⁶⁷ Irish Human Rights and Equality Commission Act 2014, s. 42; European Convention on Human Rights 2003, s. 3.

⁶⁸ Department of Housing, Local Government and Heritage, *Housing for All* (Government of Ireland, 2021), Department of the Environment, Heritage and Local Government, *Delivering Homes, Sustaining Communities – Statement on Housing Policy* (Government of Ireland, 2007), Department of the Environment, Heritage and Local Government, *Quality Housing for Sustainable Communities* (Government of Ireland, 2007).

⁶⁹ Kasey Treadwell Shine and Michelle Norris, *Good Practice Guidelines Regenerating Estates Rebuilding Vibrant Communities* (Centre for Housing Research, 2006).

⁷⁰ Dublin City Council, *Dublin City Development Plan 2016 – 2022* (Dublin City Council, 2016), SN25 to SN 31.

International obligations

Ireland has accepted obligations in international law to protect, respect and promote human rights at a national, regional and local level. These treaties establish the rights of individuals and impose obligations on states to protect, fulfil and promote such rights. Many of the rights contained in these treaties are relevant to urban renewal and regeneration, but the right to adequate housing is particularly significant in this context.

Ireland has accepted and ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the European Social Charter. Under Article 11 of the ICESCR, Ireland has accepted an obligation to ensure an adequate standard of living ‘including adequate food, clothing and housing, and the continuous improvement of living conditions’. Housing is treated as a discrete right derived from Article 11.⁷¹ In General Comment 4, the UN Committee on Economic Social and Cultural Rights outlined seven essential elements which must be present in order for housing to be considered adequate and for the right to housing to be enjoyed – e.g. these include security of tenure, affordability, and the requirement that the housing be safe and habitable. Within each element, there ‘are a set of highly specific sub-elements’.⁷² These include:

- 1** Legal security of tenure – this requires states to ensure that all persons, regardless of the type of tenure, possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats.
- 2** Availability of services, materials, facilities and infrastructure – adequate housing must contain certain facilities essential for health, security, comfort and nutrition.
- 3** Affordability – housing costs should not threaten or compromise an individual’s ability to satisfy other basic needs.
- 4** Habitability – housing must be habitable, in the sense that the dwelling is safe in both a physical sense, but also with regard to the health of the occupiers.
- 5** Accessibility – Housing must be available to all, with the Committee drawing particularly attention to disadvantaged groups including the elderly, children, the ill, those with disabilities, victims of natural disasters and people living in disaster-prone areas.
- 6** Location – Housing must be in a location which allows access to employment options, health-care services, schools, childcare centres and other social facilities.
- 7** Cultural adequacy – housing must be culturally adequate in the sense that it enables the expression of cultural identity and diversity.

⁷¹ UN CESCR, *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, UN Doc. E/1992/23, 13 December 1991, para 1; J. Hohmann, *The Right to Housing: Law, Concepts, Possibilities* (Hart, 2013) 17-18.

⁷² J. Hohmann, *The Right to Housing: Law, Concepts, Possibilities* (Hart, 2013) 21.

Under the ICESCR Ireland has accepted an obligation to ‘take appropriate steps’ towards the progressive realisation of the right to adequate housing.⁷³ This requires the State to show that measures being taken are ‘sufficient to realise the right for every individual in the shortest possible time in accordance with the maximum of available resources’.⁷⁴

The right to housing is also recognised in a number of articles of the European Social Charter which Ireland has accepted and ratified. In particular, Article 16 of the Charter imposes obligations on Ireland to promote the provision of an adequate supply of housing for families, to take the needs of families into account in housing policies and to ensure that existing housing is of an adequate standard and includes essential services.⁷⁵ This is not simply a rhetorical commitment. In *International Human Rights Federation (FIDH) v. Ireland*, Complaint No. 110/2014 (*FIDH v. Ireland*) the European Committee of Social Rights (‘the Committee’) found that a significant number of families living in local authority housing in Ireland reside in poor housing conditions amounting to housing that is inadequate in nature.⁷⁶ The Committee found that failure to deal with persistent conditions like sewage invasions, contaminated water, dampness and mould go ‘to the core of what adequate housing means’.⁷⁷ The inadequate housing conditions at the centre of this case have not yet been addressed and, as the Committee have repeatedly determined, Ireland remains in violation of Article 16.

The Committee have made clear that if the realisation of one of the rights in question is exceptionally complex and particularly expensive to implement, states party must take steps to achieve the objectives of the Charter within a reasonable time, with measurable progress and making maximum use of available resources.⁷⁸ Obligations under the Charter, while not imposing an ‘obligation of results’ require governments to take a ‘practical and effective, rather than purely theoretical form’.⁷⁹ For the situation to be compatible with the Charter, the Irish State must:

- a) Adopt the necessary legal, financial and operational means of ensuring steady progress towards achieving the goals laid down by the Charter
- b) Maintain meaningful statistics on needs, resources and results
- c) Undertake regular reviews of the impact of the strategies adopted
- d) Establish a timetable and not defer indefinitely the deadline for achieving the objectives of each stage
- e) Pay close attention to the impact of the policies adopted on each of the categories of persons concerned, particularly the most vulnerable.

⁷³ Article 2(1).

⁷⁴ UN CESCR, *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, UN Doc. E/1992/23, 13 December 1991, para 14.

⁷⁵ *Ibid.*, para 106.

⁷⁶ The Report to the Ministers of the Council of Europe of 22 June 2017 on the Decision on the Merits of Collective Complaint *International Human Rights Federation (FIDH) v. Ireland*, Complaint No. 110/2014, para 105-106.

⁷⁷ *FIDH v. Ireland*, Complaint No. 110/2014, para 119.

⁷⁸ *Autisme Europe v. France*, Complaint No. 13/2002, decision on the merits of 4 November 2003, para 53.

⁷⁹ *FEANTSA v. France*, Complaint No. 39/2006, para 56.

The Report of the Committee in March 2022 pointed out that the situation in Ireland had not yet been brought into conformity with Article 16 of the Charter.⁸⁰ Ireland must submit a report of how it is addressing this violation by December 2022.

Mainstreaming the right to housing in regeneration projects

The right to housing can serve at least four functions where local authorities undertake regeneration projects.

- 1 It provides minimum human rights standards which all public bodies must meet when undertaking regeneration projects. In order for housing to be adequate, it must, at a minimum, be secure, affordable, habitable and be facilitated by appropriate services, facilities and infrastructure.⁸¹
- 2 It sets the values that must guide the treatment of individuals and communities in regeneration projects i.e. equality, non-discrimination, and participation.
- 3 It imposes obligations on local authorities to empower residents to participate in the design and implementation of regeneration projects.
- 4 It provides a framework for resolving technical or policy conflicts that may arise in regeneration projects.

These human rights obligations are complemented by a number of international political commitments which Irish governments have accepted. Ireland has committed to achieving a number of Sustainable Development Goals as part of the United Nations 2030 Agenda. Of particular relevance to regeneration projects is Goal 11 under which Ireland has committed to making cities and human settlements inclusive, safe, resilient and sustainable.⁸² To help states realise these commitments, the UN has developed the New Urban Agenda (2016) which sets global standards of achievement in sustainable urban development. This guidance document makes clear that sustainable urban development is firmly grounded in human rights and that the realisation of the human right to adequate housing of all urban residents is a prerequisite to developing inclusive and sustainable communities.

⁸⁰ European Committee of Social Rights - Follow up to Decisions on the Merits of Collective Complaints - Findings 2020. Available at: <<https://rm.coe.int/findings-ecrs-2020/1680a1dd39>>

⁸¹ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, 13 December 1991, E/1992/23.

⁸² United Nations (2015) Resolution adopted by the General Assembly on 25 September 2015, Transforming our world: the 2030 Agenda for Sustainable Development (A/RES/70).

8 Rights-based approaches to tenant participation

Human rights-based approaches offer a means of challenging public and social landlords to recognise tenants as having a right to meaningful participation in key housing management decisions and thereby break with stigmatising attitudes to tenants. Participation is widely recognised as being vitally important to the realisation of the human right to housing in international law.⁸³ The UN Special Rapporteur on the right to adequate housing has made clear that states must ensure meaningful participation in the design, implementation and monitoring of housing policies and decisions.⁸⁴ There is growing recognition that tenant participation is key to human rights-based approaches that seek to use international human rights standards to ensure that people's human rights are put at the very centre of policies.⁸⁵ As the Scottish Human Rights Commission make clear, tenant participation is critically important 'in policy and decision making and the allocation and prioritisation of resources if rights are to be realised in practice'.⁸⁶ This underlines how a human rights-based approach to tenant participation offers a concrete means by which public bodies may realise their participation, human rights and equality duties.



⁸³ Special Rapporteur on extreme poverty and human rights, Report of the Special Rapporteur on extreme poverty and human rights (UN A/HRC/23/36, 2013) paras 35-79.

⁸⁴ Special Rapporteur on adequate housing, *Guidelines for the Implementation of the Right to Adequate Housing* (UN A/HRC/43/43, 2019) paras 20 to 24. Also see UN Office of the High Commissioner, *Guidelines for States on the effective implementation of the right to participate in public affairs* (UN, 2018); UN Office of the High Commissioner, *Summary of Guidelines for States on the effective implementation of the Right to Participation in Public Affairs* (UN, 2018) 1-26.

⁸⁵ Scottish Human Rights Commission, *Review of the Scottish Social Housing Charter 2016* (Scottish Human Rights Commission, 2016) 2-3.

⁸⁶ Ibid 1.

Human rights and housing

The European Convention on Human Rights 2003 provides that all legislation must be compatible with European Convention on Human Rights (ECHR) and that public bodies, including local authorities, and those exercising a public function, voluntary and cooperative bodies, act in compliance with the ECHR rights. Although all human rights are indivisible and interdependent, a number of ECHR rights have been recognised as particularly relevant to housing. These include right to freedom from cruel, inhuman and degrading treatment, right to a fair hearing, right to privacy and respect for home, and freedom from discrimination.⁸⁷ However, it has been pointed out that, for the most part, human rights approaches on social housing estates have been focused on the procedural rights of those suspected or indeed convicted of offences.

There are calls for more to be done on understanding and advocating for the rights of communities impacted by community safety issues, including rights related to how the state can ensure minimum standards in terms of quality of life for people and certain groups of people. In one report prepared for Dublin City Council, the question is asked: ‘can a right to decent housing include the right to live in a home and a community free from persistent low-level intimidation?’ Part of the strategy for the Community Resilience Project in South Central Area, funded by Dublin City Council, will be to examine the extent to which the argument for safe communities can be situated with a human rights framework, with associated tools and mechanisms to articulate this aim.⁸⁸

Ireland has accepted and ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the European Social Charter. Under Article 11 of the ICESCR involves an obligation to ensure an adequate standard of living ‘including adequate food, clothing and housing, and the continuous improvement of living conditions’. Housing is treated as a discrete right derived from Article 11.⁸⁹

The obligation is to ‘take appropriate steps’ towards the progressive realisation of the right to adequate housing.⁹⁰ This requires the State to show that measures being taken are ‘sufficient to realise the right for every individual in the shortest possible time in accordance with the maximum of available resources’.⁹¹ Tenant participation is vitally important to the progressive realisation of the right to adequate housing. As the Scottish Human Rights Commission notes:

⁸⁷ See P. Kenna, *Housing Law, Rights and Policy* (Clarus Press, 2011) chapter 8..

⁸⁸ Report to the DCC Housing SPC in 2022 on Estate Management Strategy – For the Management of Anti-Social Behaviour in our Neighbourhoods 2022-2027, p. 7. Available at: <https://councilmeetings.dublincity.ie/documents/s35414/3i.%20New%20Anti-Social%20Policy%20Draft%20Update.pdf>

⁸⁹ UN CESCR, *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, UN Doc. E/1992/23, 13 December 1991, para 1; J. Hohmann, *The Right to Housing: Law, Concepts, Possibilities* (Hart, 2013) 17-18.

⁹⁰ Article 2(1).

⁹¹ UN CESCR, *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, UN Doc. E/1992/23, 13 December 1991, para 14.

Fundamentally, human rights require that the voices of people whose rights are affected by a decision, are heard throughout the process of making and implementing that decision. The procedural legal obligation of participation of individuals in decision making and, where appropriate, the design of services helps ensure that systems are responsive to the particular needs of disadvantaged groups. A failure to include mechanisms to satisfy these procedural requirements of participation, access to information and transparency and due process in decision making may amount to violations of these international obligations.

The PANEL principles and tenant participation

Various advocates for a human rights-based approach to protecting the human right to housing have emphasised the PANEL principles as a means of explaining in concrete terms what a human rights-based approach means in practice (see appendix 2).⁹² PANEL stands for Participation, Accountability, Non-Discrimination, Empowerment and Legality. The following table illustrates how a human rights-based approach could inform the design and implementation of tenant participation in Ireland. This table is adapted from the Scottish Human Rights Commission review of the Scottish Social Housing Charter and takes account of good practice in academic literature on tenant participation outlined above.

Principles	Explanations
Participation	There should be independent monitoring of how tenants' rights are being affected, as well as remedies when things go wrong.
Accountability	Tenants and their households should be treated fairly irrespective of their age, gender, ethnicity, disability, religion or belief, sexual orientation, gender identity or any other personal characteristic.
Non-discrimination	Tenants should be assisted to understand their rights, and be fully supported to take part in developing policy and practices which affect their lives.
Empowerment	Tenant rights should be set out in national law where possible.
Legality	There should be independent monitoring of how tenants' rights are being affected, as well as remedies when things go wrong.

⁹² Ibid 2-3.

9 Conclusion

The Dialogue events which were held as part of this project demonstrated the broad support among tenants and local authority representatives for greater tenant participation in the management of local authority housing and, in particular, for a human rights-based approach to tenant participation. Despite this broad support it is striking that the notion that tenants should be involved in key decisions relating to social housing management and maintenance and policy formation is largely absent from contemporary social housing law and policy in Ireland. This is despite the Irish Government recognising as early as 1993 that local authority housing management is ‘remote from tenants’ and that their ‘participation in the running of their estates is inadequate and not sufficiently encouraged’.⁹³ The tenant participation initiatives that were introduced since the 1990s were not implemented in a sustained and consistent way.⁹⁴ Consequently, the absence of any tenant participation model in Ireland creates a considerable gap in policy and practice and contributes to the marginalisation of tenants. It is striking that the 130,000 local authority tenants currently have no collective or representative input into how rents are negotiated, how housing is managed and maintained, how policies are developed, implemented and monitored or a whole host of other relevant aspects of their tenancies, either at national, community or individual levels.

The absence of tenant participation in social housing management in Ireland is all the more striking given how common tenant participation models are across Europe. This report, and the literature review, shows there are numerous examples across Europe where domestic legislation mandates that social landlords develop and implement effective tenant participation strategies. These examples indicate the wide acceptance that tenant participation is essential to good social housing management.⁹⁵ Despite the broad acceptance of the importance of tenant participation, there is extensive academic debate about tenant participation, its nature, and the role it plays in social housing policy. The purpose of this paper is to bring this debate into an Irish context. Following an extensive literature review and direct engagement with tenants, local authority representatives as well as others, we have outlined some elements of a potential rights-based model of tenant participation that could be developed in an Irish context. The following recommendations work towards an effective model of local authority tenant participation that could be introduced in Ireland. These outline some core principles and approaches that could inform debate and serve as a basis for putting tenant participation at the centre of social housing management in Ireland.

⁹³ Department of the Environment and Local Government, *Memorandum on the Preparation of a Statement of Policy on Housing Management* (DoELG, 1993) 6.

⁹⁴ D. Redmond and M. Norris, ‘Reforming Local Authority Housing Management’ (n 33) 201-203.

⁹⁵ T. Manzi, I. Simpson & N. Bailey, *Success, Satisfaction and Scrutiny: The business benefits of involving residents* (University of Westminster/AmicusHorizon, 2015).

10

Recommendation

While the ideal model of a representative national association of Local Authority tenants is seen as being vitally important in building effective tenant participation, our research has shown that there are some real obstacles to developing any such model at present. Instead, we recommend piloting a tenant participation model in three local authority areas in Ireland, which would build on what has already been achieved. This would clearly establish the benefits of tenant participation, and help identify and overcome structural and cultural barriers to effective participation. It offers a realistic and pragmatic step towards developing a human rights-based national model of tenant participation in Ireland that extends beyond mere consultation and engagement, and seeks to empower local authority tenants to shape the decisions that affect their lives, homes, and communities.

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