

**Submission to the Office of the High Commissioner for Human Rights**

**On the occasion of Ireland's examination**

**Under the 12th session of the Universal Periodic Review**

**Report on the right to health and the right to housing by**

**Age Action Ireland**

**Disability Federation Ireland**

**Make Room Campaign Alliance**

**Mental Health Reform**

**Women's Human Rights Alliance**

**March 2011**

*This report is submitted by five Irish organisations working in the field of human rights and social justice on the issues of the right to health and the right to housing in Ireland. The report collates the issues from the participating organizations, consequently some of the issues and views covered in this report, do not necessarily reflect the policies and positions of each individual organisation. Rather, the report reflects a collective overview of, and vision for, the right to health and the right to housing in Ireland.*

## **Introduction**

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There are several areas in which Ireland fails to deliver on its human rights obligations. This is especially true in terms of the provision of health and housing. While these issues are not exhaustive of our human rights concerns, or of the issues on which we work, yet they are the areas in which we believe there are the most significant rights violations in the Irish context. The origins for these violations lie in the significant lack of protection for and promotion of social and economic rights in Ireland.

This report sets out the main issues in both health and housing as highlighted by the persons most affected by these rights violations, and recommends specific targeted actions that we believe the Irish government must take in order to meet its obligations under international human rights law.

### **1. Lack of Protection for Economic and Social Rights**

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#### **1.1 Lack of Constitutional and Legislative Protection for Economic and Social Rights**

The Committee for Economic, Social and Cultural Affairs in its last report on the Irish State's compliance to ICESCR recommended that the Irish Government incorporate economic, social and cultural rights into the Constitution, as well as into other domestic legislation. The constitutional incorporation of ICESCR would provide the most desirable accountability framework for government.

The Committee also recommended that the government adopt a human rights-based approach to disability legislation and integrate socio-economic rights into poverty strategies, into the health strategy and also adopt principles of nondiscrimination and equal access to health facilities and services for all sectors of the population. Few steps have been taken to incorporate or reflect the ICESCR into domestic legislation in Ireland.<sup>1</sup>

#### **1.2 Lack of implementation and effective remedy**

Official government health policy sets out principles of equity, quality, person-centeredness and accountability,<sup>2</sup> yet there are no direct legal protections to ensure that this policy is delivered.<sup>3</sup> Legislating for the rights to health and housing, in particular, would be a vital step in the move to balance the protection of economic, social and cultural rights in Ireland.

There are some laws that protect different aspects of housing rights,<sup>4</sup> and official government housing policy sets out principles that protect households experiencing poverty and disadvantage by providing housing that is available, affordable, accessible, of good quality and culturally acceptable.<sup>5</sup> However, there are no direct legal protections to ensure that this policy is delivered.

#### **Recommendations on Social and Economic Rights:**

- Incorporate social and economic rights into the Irish Constitution.
- Enact legislation that will protect the right to health and the right to housing.
- Sign and ratify the Optional Protocol to ICESCR.
- Amend existing Mental Capacity Legislation with the view to ratifying the Convention on the Rights of Persons with Disabilities.
- Broaden the remit and improve resources of existing accountability mechanisms.

## 2. Right to Health

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### 2.1 Inequality in Access to Healthcare

While macro-economic health indicators in Ireland are good,<sup>6</sup> they do not show health inequalities *within* the population. There are significant inconsistencies in the individual health experience across the population, including the fact that health status is very much determined by individual socio-economic status.<sup>7</sup> Commitments to deliver on a reduced health inequalities agenda have not been met.<sup>8</sup> Given that individual health is largely determined outside the healthcare sector, commitments to require all sectors to determine the effects of their policies and actions on health through mechanisms such as health impact assessment have not been met.<sup>9</sup>

A lack of implementation can be seen in how resources do not always follow the agreed policies and strategies of the State. In 2010, the Minister-appointed Expert Group on Resource Allocation found that resources are not fully aligned to support the implementation of policy.<sup>10</sup>

The abolition of the Combat Poverty Agency and the subsuming of the Women's Health Council into the Department of Health were retrogressive steps. The consistent failure of the Department of Health to implement a women's health strategy militates against a gender and human rights based approach to health.<sup>11</sup> The abolition of the draft National Carers Strategy in 2008 has been detrimental to delivering the infrastructure of services and benefits to assist carers.

The care older people need is less acute and tends towards the management of chronic health conditions, rehabilitation and a mix of health and social care services. While there has been significant investment in key community services of home help and home care packages, the provision of services has been patchy and inconsistent across the country.<sup>12</sup> In 2001, one quarter of older people requiring long term nursing home care died in hospital while waiting placement for a public nursing home bed.<sup>13</sup> The Nursing Home Support Scheme or Fair Deal, a system of co-payment between resident and the State, was established in November 2009 to resolve this anomaly. Unfortunately, many essential items of care are not included in the 'Fair Deal' contract.<sup>14</sup>

The link between socio-economic status and health is most pronounced among members of the Traveller community who have lower life expectancies: life expectancy at birth for a male traveller is 15.1 years less than men in the general population. Similarly, the Traveller community has higher infant mortality rates than the general population.<sup>15</sup> Respondents to the *All Ireland Traveller Health* study cited waiting lists and a lack of information as some of the barriers to accessing healthcare.<sup>16</sup>

The government set out a comprehensive reform agenda in its 2006 mental health policy, *A Vision for Change*,<sup>17</sup> promising to transform in-patient mental health service model into a community-based model. Progress in implementing this reform has been painfully slow.<sup>18</sup> Annual reports issued by the Inspector repeatedly point to mental health facilities that are unacceptable for care and treatment, in particular in some 'long-stay' units. A 2010 report from the Mental Health Commission found worryingly high levels of seclusion and restraint within in-patient services.<sup>19</sup> Children face unacceptably long waiting lists for mental health services and continue to be treated in adult in-patient facilities,<sup>20</sup> in breach of the UN Convention on the Rights of the Child.<sup>21</sup>

Services for women experiencing violence are chronically under-funded, despite increasing need in the current economic climate. Safe Ireland reports<sup>22</sup> that in just one day (4<sup>th</sup> November 2009) 368 women and 291 children were accommodated and/or received support from a domestic violence service and 194 helpline calls were received from women.

## **2.2 Difficulties in Accessing Acute Care**

The National Health Strategy acknowledges that the mix between public and private healthcare in public hospitals is a contributory factor in the unacceptably long waiting lists for public patients.<sup>23</sup> A recent study suggests that the over-utilisation of public beds by private patients may indicate that the treatment of private patients is being favoured over the medical need of public patients.<sup>24</sup> The impact of these initiatives on access to healthcare is not always clear and waiting lists remain a problem in Irish hospitals.<sup>25</sup> The National Treatment Purchase Fund, (NTPF) introduced in 2002 is a dedicated fund, used for the sole purpose of purchasing treatment in private hospitals for public patients who have waited more than three months from their out-patient appointment.<sup>26</sup> In 2009, the average wait time for patients prior to receiving treatment on the NTPF was approximately seven months.<sup>27</sup> Since its introduction it has been successful in addressing waiting lists for certain procedures.<sup>28</sup> In terms of addressing waiting lists, however, the impact is limited as the NTPF will only ever address a small proportion of the overall level of public hospital elective procedures. In 2008, for example, only 3.17% of public patients were treated using the fund.<sup>29</sup>

The Irish Nurses and Midwives Organisation (INMO) produce up-to-date figures on bed and/or ward closures around the country. On 4<sup>th</sup> January 2011 the INMO counted some 569 patients waiting treatment on trolleys in hospital emergency departments -the highest number ever recorded. A number of hospitals also had to postpone elective surgery to get to grips with the overcrowding. Overcrowding has worsened, resulting in increased length of hospital stay and increased patient mortality and morbidity.<sup>30</sup>

## **2.3 Geographic Inequalities in Healthcare Services**

Centralisation and the urban focus of many health services has had a negative impact on sections of the population yet local area data is not sufficiently disaggregated to allow for effective planning for health promotion and health service delivery. The Central Statistics Office, examining this in 2009 found evidence of extreme differentials in the accessibility of basic services, notably in access to a general practitioner.<sup>31</sup>

32% of people living in rural areas report difficulty in accessing their GP compared to 11% in urban areas.<sup>32</sup> This is particularly notable for the older population where CSO (2009) found over a third of older households reported difficulty accessing public transport (35%) and 29% had difficulty accessing a general practitioner. This is concerning as low levels of the older old (80+ years) actually possess a driving licence,<sup>33</sup> while reported rates of disability and chronic illness for this age group are exceptionally high. A lack of public transport to health centres and services means many continue to subsist with unmet healthcare needs.

People with disabilities continue to experience problems accessing public transport, especially in rural areas, when accessing health services. Transport to treatment facilities has been cut back by the Health Service Executive (HSE) and there is no systematic co-ordination between health facilities and public transport. Mental health services are not evenly available at the minimum standard and are geographically poor.<sup>34</sup>

## **2.4 Economic Barriers to Accessing Healthcare**

In Ireland, individuals are responsible for the costs of their own healthcare except where to do so would cause that individual 'undue hardship'.<sup>35</sup> Determination of eligibility for a Medical Card, which provides entitlement to access services within the public healthcare system, is the responsibility of the HSE. These are intended to ensure that individuals below a certain level of income have access to healthcare without cost. The State pays in full for access to the GP for around 39%<sup>36</sup> of the population, either through the Medical Card or GP Visit Card.<sup>37</sup> The remainder of the population pay for all GP visits themselves.<sup>38</sup>

Because of low income, people with disabilities may qualify for a medical card, but the terms can compromise their ability to lead full lives, e.g. they may lose entitlement to their medical card after three years of employment. Children with certain ongoing medical conditions living in families with income below an agreed threshold do not have automatic entitlement to a full medical card in their own right. Budget 2009 introduced means testing to medical cards for those over 70 years of age, thus dramatically weakening a proven formula for increasing healthy life expectancy. There are now 54,000 older people without a medical card and many older people continue to report difficulty in affording the cover of health insurance.

Benefits for all those *with* a medical card have worsened. Many items have been reduced to basic or emergency and a charge of 50cent per item was applied to all prescriptions.<sup>39</sup> Many medical experts argue the prescription charge may act as a deterrent to accessing essential medication. For those without a Medical Card, the cost of GP care has risen dramatically,<sup>40</sup> and those without medical cards make fewer GP visits because cost is a barrier.<sup>41</sup>

The cost of private health insurance in Ireland has risen sharply since the abolition of risk equalisation and the introduction of community rating in 2008. This is on top of an already 23% price increase in the average cost of VHI subscription at the beginning of 2009. This will make health insurance unaffordable for many people, leaving people who are sick, disabled or aging dependent on an already over burdened public system.

## **2.5 Acceptability and Appropriateness of Healthcare Services<sup>42</sup>**

Many older people experience emergency treatment on trolley beds in hospital corridors due to the lack of acute bed capacity in Ireland. This care setting is inappropriate and has negative effects on the dignity and health of older people. Concerns have been expressed about the care of older people with dementia in healthcare settings.<sup>43</sup> The establishment of the Health Information and Quality Authority (HIQA) has been a positive development in the investigation and monitoring of standards of care in nursing homes.<sup>44</sup> However, Ireland still awaits the publication of Mental Capacity legislation which would provide acceptable procedures for assessing mental capacity. A number of people with disabilities also end up in nursing homes for older people that are unsuitable for their needs, for example people with MS or an acquired brain injury.<sup>45</sup>

Many mainstream health service practitioners are not trained in dealing with very vulnerable groups such as people experiencing homelessness.<sup>46</sup> The care needs of people experiencing homelessness are often not being met in primary care settings. Instead a majority of people will have recourse to emergency departments which are not adapted to providing the necessary 'continuum of care' to people.<sup>47</sup>

The estimated Prevalence of Female Genital Mutilation (FGM) in Ireland in 2006 was 2,585.<sup>48</sup> In many instances, medical staff are not trained to recognise or deal with the complications associated with FGM.<sup>49</sup> A new study by the African women's network, AkiDWA, estimates the number of women in Ireland living with FGM has increased to about 3,170, up from 2,585 three

years ago.<sup>50</sup> The State currently has no legislation making Female Genital Mutilation an offence in Ireland.

Access to the right to legal, safe abortion is still not available for women in Ireland, despite the comments from the CEDAW Committee in 2005<sup>51</sup>. In December 2010 the EU Court of Human Rights ruled that a woman had her human rights violated, when she travelled out of Ireland to terminate her pregnancy while in remission from cancer.

Categorisation of services within the HSE makes it difficult for people with disabilities in different life stages to access services. Some health services are limited to people less than 65 years of age and others only provided for older people. The Independent Assessment of Need (IAN) is legislated for under Part 2 of the Disability Act 2005. It provides for an independent assessment of a person's health and educational needs arising from their disability but currently only applies to children 0-5 years old. Roll out for anyone over the age of five years has been suspended until further notice for economic reasons.<sup>52</sup>

The UN recommendation in 2002 in regards to the rehousing of persons living with Mental Health Difficulties to appropriate accommodation settings has not occurred. A 2008 report showed that 25% (4,000) of long stay users in residential care within the Mental Health Services in Ireland were inappropriately placed. Conditions in mental health facilities are often unacceptable: one institution was described as 'unfit for human habitation'.<sup>53</sup> People with intellectual disabilities continue to be inappropriately placed in large psychiatric hospitals without access to specialist intellectual disability mental health services<sup>54</sup>. Children and adolescents with no diagnosable mental disorder, often with social problems and 'nowhere else to go' are similarly inappropriately placed<sup>55</sup> and services remain underdeveloped<sup>56</sup>. The 2001 Mental Health Act does not adequately provide for mechanisms to review the detention of voluntary patients admitted to approved centres who lack capacity; for mechanisms to regulate the use of physical or chemical restraint; and for mechanisms for the review of treatment, in particular the use of medication in treatment.

## **2.6 Accountability in Healthcare**

The government, through the Health Information and Quality Authority (HIQA), has started to set standards for residential services for children and adults in the disability sector. In 2009, HIQA published approved standards for residential services for adults, however these standards have not yet been implemented or monitored due to lack of funding. In 2010, the Government committed to the implementation of standards for residential and respite services for children with disabilities but these have still not been published.

In 2007, a new statutory complaints system for the HSE came into effect<sup>57</sup>. The HSE also has an Appeals Service to provide an 'independent review of decisions taken by personnel of the HSE relating to applications by members of the public for specified services and entitlements, where applicants are dissatisfied with the outcome.'<sup>58</sup> This appeal process includes decisions on eligibility for Medical Cards. This appeals process is managed by the Office of the Ombudsman, which is not a binding adjudicatory body.

## **2.7 Relationship between Housing and Health**

Health and homelessness have a relationship of both cause and effect. In particular people with long-term experience of homelessness accumulate a range of health problems. A recent survey shows that 56% of people who are homeless experience at least one diagnosed physical health condition, 52% experience at least one diagnosed mental health condition and 28% of people experience a combination of one or more diagnosed physical and mental health conditions.

Traveller health status is inextricably linked to living conditions. The detrimental impact on physical and mental health of poor accommodation, cold conditions, damp, lack of basic facilities and overcrowding is evident in statistics.<sup>59</sup> The provision of and access to a quality home within a sustainable community setting is deemed critical to ensuring that Traveller's participation in healthcare services is achieved.<sup>60</sup>

### **Recommendations on the Right to Health**

- Introduce measures to ensure equality for all of access to and outcomes from the health system regardless of ability to pay.
- Ensure sufficient quantity in primary healthcare services by ensuring sufficient numbers of GPs.
- Ensure sufficient quantity in acute healthcare services by implementing the recommendations of the Emergency Department Task Force on waiting times in hospitals: Introduce structured wait time targets and address factors that mitigate against them.
- Provide older persons statutory right to health care and long term care.
- Address the content and recommendations of the All Ireland Traveller Health Study with a view to improving the health of Travellers.
- Ensure availability of specialist services that work in conjunction with mainstream health services to provide adequate healthcare to people who are homeless.
- Provide more support for women's caring roles and provide a policy framework and strategy to support carers.
- Ensure that women can participate and be represented at all levels of decision-making, support and progress community participation in health, establish a women's health strategy and fully implement the National Service User Strategy.
- Introduce legislation outlawing FGM as a matter of urgency.
- Repeal the 1861 Offences Against the Persons Act (criminal sanctions for those who have abortions and those who assist them) and immediately enact legislation to clarify the circumstances under which an abortion may be lawful in accordance with the ECHR ruling.
- Amend the 2001 Mental Health Act so that the term 'voluntary patient' refers to persons with capacity to consent to admission and treatment.
- End the practice of accommodating children in adult psychiatric units by meeting the deadlines set by the Mental Health Commission to phase-out this practice.
- Adequately fund services working on violence against women; protecting existing levels at a minimum.

## **3. Right to Housing**

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### **3.1 Availability of housing**

Local authorities provide accommodation to people whose need for accommodation has been established. To apply for council accommodation, you must first apply to go on the 'Housing List'. This list determines the sequence in which accommodation is provided to people. The management of wait lists and the criteria by which an individual is able to first access a wait list varies from authority to authority. Availability of housing stock is a problem and there are up to 100,000 households in need of local authority housing. There are at least 3,616 households experiencing homelessness at any one time in the State.

In the four urban centres in Ireland (Dublin, Limerick, Galway and Cork), there are almost 3,000 households in homeless accommodation, few of whom have tenancies or other long term security. Over 2,000 of these households are in Dublin.<sup>61</sup> The latest housing-need statistics,

gathered in 2008, show that the largest increase in demand for social housing was from young people leaving institutional care, an increase of 179% since 2005.<sup>62</sup> The Ryan Report *Implementation Plan* makes six commitments relating to aftercare support.<sup>63</sup> The Youth Homelessness Strategy was published in 2001 but it does not include an end date and does not reflect learning from research and practice over the past ten years. Little progress has been made on the government commitment to house every homeless household after six months.<sup>64</sup> Many people experiencing homelessness are not included on existing housing waiting lists and might not be aware of or fully understand the process of application.<sup>65</sup>

Although originally scheduled for completion in 2009, the National Housing Strategy for People with Disabilities (including mental health difficulties) has not yet gone to Cabinet.<sup>66</sup>

### **3.2 Adequacy of Housing and Housing Supports**

Public resources for improving housing for people with disabilities continues to be cut. An under supply of easily adaptable social housing has resulted in people with disabilities living in accommodation that does not meet their needs. A *Vision for Change* found that there was a serious lack of adequate housing and accommodation for enabling mental health service users to move through the different stages of recovery and progress towards a goal of independent community-based living.<sup>67</sup> For anyone requiring housing supports, the level and duration of support should differ dependent on individual needs.

The provision of good quality, appropriate accommodation for Travellers, essential for the protection of their distinct identity, should include serviced halting sites, culturally appropriate group housing schemes and transient sites. To date, no transient sites exist in any local authority area in Ireland. Government statistics do not provide a clear distinction between permanent and temporary halting site accommodation given that families have been accommodated in temporary halting site accommodation for many years. While temporary sites may be listed as an expenditure item they should not be listed as part of government achievement in the provision of halting site accommodation.<sup>68</sup>

Appropriate accommodation is essential for a community's survival, health and education. The *All Ireland Traveller Health Study* states: '...the better accommodated the Traveller family, the better the health status.'<sup>69</sup> While the National Traveller Accommodation Strategy<sup>70</sup> provides for the provision of Traveller specific accommodation and halting sites, each one is still subject to local planning permission and objections from the local settled community. As a result current Traveller specific accommodation is provided in areas that are isolated from local services and transport links. Provision of Traveller specific accommodation has been provided for in recent years under public-private partnership schemes. In the absence of additional halting sites, local authorities have provided traditional social housing solutions. These solutions are in direct opposition to the Traveller cultural practice of nomadism. The present (planning) procedure is inappropriate for regulating transient halting sites or in allowing for provision for nomadism.

### **3.3 Eviction and Security of Tenure**

Section. 62 of the 1962 Housing Act does not conform with international human rights standards relating to security of tenure means individuals may be evicted without burden of evidence and no independent appeals process exists apart from one that relates to procedures.<sup>71</sup> The procedure provided for under section 62 does not allow an individual to dispute the merits of an application for a warrant for possession against him or have the proportionality of this measure examined before an independent and impartial tribunal. Anti-social behaviour provisions may allow for unchecked discretion in removal from social housing, without transparency.

Travellers are particularly vulnerable to forced evictions; 594 Traveller families remained on unauthorised sites in 2007.<sup>72</sup> Section 10 of the 1992 Housing (Miscellaneous Provisions) Act gives local authority power to forcibly evict with short notice.<sup>73</sup> Housing (Miscellaneous Provisions) Act 2002 criminalises ‘trespass’ on land with a caravan. No written notice is needed and large powers of discretion are awarded to Gardai under this legislation. Evictions can also be made under other pieces of legislation<sup>74</sup> with little or no notice periods, thus providing no right to fair hearing or appeal. Travellers may be forced to leave their accommodation, because of factors other than evictions; issues which disproportionately affect Travellers such as discrimination, conflict, home and business taking place in same location, owning and breeding horses, all have an effect on Travellers enjoying security of tenure.

### **3.4 Rent supplement inadequacy and cuts**

Rent supplement was originally designed as a temporary measure or emergency needs payments designed to deal with exceptional situations. Rent supplement tenancies make up 50% of the rented market in Ireland, yet the indirect nature of the relationship means renters must negotiate tenancies and rents directly with private landlords. It is widespread practice that rent supplement will not cover the full rent payable and needs to be ‘topped up’ by the individual.<sup>75</sup> People on rent supplement are at higher risk of vulnerability as rent supplement is paid in arrears rather than upfront. Many new applicants of rent supplement receive the payment from the date the claim is approved as opposed to backdating payment to the date of application. This is contrary to the tenant’s obligations under the Residential Tenancies Act and leaves them vulnerable to eviction.<sup>76</sup> Over the last years, there have been considerable cuts to rent supplement payments which did not reflect the development of rents in the private sector, in particular for single person households. Recipients of rent supplement lose their allowance if they are in full time employment (30 hours per week or more).

The Rental Accommodation Scheme (RAS) was introduced in 2004 and has aimed to provide security of tenure for long-term rent supplement recipients through the sourcing, by housing authorities, of accommodation from the private rented market. Where a claimant is deemed by a Local Authority to be eligible for RAS (Rental Accommodation Scheme) they may retain Rent Supplement and work in excess of 30 hours, thus eradicating a poverty trap. Individuals must be in receipt of rent supplement for 18 months in order to qualify, however.

### **3.5 Habitual Residency Condition**

The Habitual Residence Condition (HRC) is a qualifying condition for social welfare payments which was introduced on 1 May 2004, to ensure that only persons who had been living in Ireland for a certain period of time (initially two years but now no fixed period of time) could qualify for social welfare payments.<sup>77</sup>

HRC applies to Irish citizens as well as non-citizens but it is easier for Irish citizens to satisfy it than for non-citizens. Irish nationals who have been resident outside the EU are also affected.<sup>78</sup> People who are experiencing homelessness who are non-HRC compliant may be excluded from homeless services. Travellers because of their nomadic culture are particularly affected by HRC given that there is a long tradition of Travellers travelling between Ireland, Northern Ireland and the United Kingdom.

### **3.6 Direct Provision**

Asylum seekers and people seeking other forms of protection are provided for by the Irish State through the Direct Provision Scheme, where accommodation and full board are provided.<sup>79</sup> Refugees are unable to enter housing waiting lists until their exit from the scheme. Upon their exit they are then subject to the habitual residency condition which requires them to reside in an

area for 6 months. The time in the Direct Provision centre will not be applied towards the 6-month waiting.

Accommodation standards vary from centre to centre, but some centres are overcrowded, poorly ventilated, and with inadequate shared toilet facilities.<sup>80</sup> Direct Provision accommodation is often situated in hostels or B&Bs. The lack of oversight in these hostels, which are run for profit, leads to conditions which may not be suitable for the individuals they support.<sup>81</sup>

Many centres are placed in remote areas with little access to necessary services. Centres may be unsuitable for women and children, and women asylum seekers highlight the impact of poor living conditions on the health and well being of children in the process. Key issues about the safety and security of women and teenage girls are a matter of concern, particularly in relation to sexual abuse or harassment. There are also concerns that women victims of trafficking for sexual exploitation are accommodated in direct provision, which breaches their right to appropriate accommodation, security and safety under the Palermo Protocol and the European Convention against Trafficking.<sup>82</sup>

### **3.7 Habitability**

Levels of fuel poverty in Ireland remain unacceptably high, particularly among older people and lone parents.<sup>83</sup> In 2008, the WHO described as ‘shocking’ that 17% of Irish households suffered from fuel poverty.<sup>84</sup> The rise in fuel prices and proposed water charges will have a disproportionate effect on older person households. Older people are at greater risks from cardiovascular and respiratory illness due to cold, damp and poorly ventilated and energy inefficient homes.<sup>85</sup> Ireland experiences one of the highest variations in seasonal mortality in Europe with between 1,500 and 2,000 preventable winter deaths each year.<sup>86</sup>

People with disabilities face greater difficulties around habitability of housing. For many, a home of their own depends upon suitable adaptations which are often beyond the person’s ability to pay but, without them, quality of life and health is compromised. The government has acknowledged these difficulties,<sup>87</sup> but deficiencies in the assessment of housing need mean that a person may be allocated social housing in a neighbourhood distant from key services or public transport. A revised Part M of the Building Code has been published for people with disabilities. The revision pays attention to access routes to homes but it does not go beyond the concept of visitability. Adoption of the concept of universal design is disappointingly slow and enforcement of Part M regulations has been very poor.<sup>88</sup>

Permanent and temporary halting sites for Travellers are often located in inaccessible locations, far from education and health facilities. Locations may include remote industrial estates not designated as residential or near environmental hazards.<sup>89</sup>

### **3.8 Maintenance Issues in Local authority and Private Rented Accommodation**

Large scale regeneration of social housing was to take place over the last decade though a series of public-private partnerships. Most of these partnerships will now not go ahead and the scheduled regeneration has not occurred, leading to the further deterioration of sites which were already designated for massive improvements or removal. A large proportion of rent supplement properties do not comply with minimum legal standards. In Dublin city, over three quarters (78%) of properties in receipt of rent supplement did not meet the legal minimum standard.<sup>90</sup> People living in the local authority flat complex, Dolphin House, have experienced unprecedented levels of damp, mould and sewage in their homes.<sup>91</sup> Tests carried out on water coming up through the plug holes of sinks and baths in the flat complex found the levels of faecal coliforms were consistent with those found in raw sewage.<sup>92</sup>

### **3.9 Affordability, Default and Repossession<sup>93</sup>**

Irish housing policy acknowledges the principle of affordability and that accommodation payments should not exceed a third of household net income,<sup>94</sup> yet the State has failed to ensure this. The 2000 Planning and Development Act provided that local authorities could require 20% of residential developments be set aside for social and affordable housing. The Act was amended in 2002, creating a legislative loophole which allowed developers to provide financial compensation in lieu of the allocation.

House prices in Ireland between 1996 and 2006 rose by 270 per cent, compared to a 30% rise in the Consumer Price Index.<sup>95</sup> Purchasers who borrowed at, or close to the price peak, found themselves in negative equity.<sup>96</sup> Mortgage defaulters in Ireland cannot walk away from their outstanding loan and allow the property to be repossessed and can still be imprisoned for debt. The recent Revised Code of Conduct on Mortgage Arrears has taken some pressure off mortgage holders but the debt remains at the end of the ease-period.<sup>97</sup>

#### **Recommendations on Right to Housing**

- Rectify substandard housing conditions in local authority estates.
- Ensure full implementation of the National Adult Homelessness Strategy 2008-2013 “The Way Home” and its corresponding implementation plan.
- Ensure a transparent and easily understandable application process for social housing, which should include a written response and a right to appeal.
- Remedy the current lack of protection of the rights of local authority tenants by amending Section 62 of the 1966 Housing Act.
- Provide local authority tenants a minimum standard of a right to an independent fair hearing if they are to be evicted.
- Provide good quality, appropriate accommodation to Travellers including serviced halting sites, culturally appropriate group housing schemes and transient sites.
- Review the provisions of the Housing (Miscellaneous Provisions) Act 2002.
- Abolish the system of Direct Provision and allow those seeking asylum to access accommodation in their own right. In the short term ensure adequate and separate provision for particularly vulnerable asylum seeking women and separate appropriate accommodation for victims of trafficking.
- Allow asylum seekers to work or increase the weekly social welfare payment to people living in Direct Provision to an inflation-adjusted value.
- Ensure accommodation costs match income levels and provide for home loan mortgage defaulters in a way that avoids prosecution.
- Reduce the length of time one must be on rent supplement to become eligible for the Rental Accommodation Scheme from 18 to 6 months.
- Publish and implement the national Housing Strategy for People with Disabilities.
- Develop, publish and implement a strategy on fuel poverty.
- Produce a new Youth Homelessness Strategy.
- Ensure adherence to the commitments on aftercare contained in the Ryan Report *Implementation Plan*.
- Amend the 1991 Child Care Act to provide a statutory obligation on the State to provide every child leaving care with aftercare support.

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<sup>1</sup> The concepts of implementation and monitoring are deeply entrenched in the core international human rights instruments covering economic, social and cultural rights. According to Article 2, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights, each State party is required ‘to take steps, individually and

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through international assistance and cooperation, especially economic and technical, 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.’

<sup>2</sup> Department of Health and Children (2001) *Quality and Fairness: A Health System for You, Health Strategy*, Dublin, Ireland: Government Publications.

<sup>3</sup> Apart from the provisions of Section 45(1) of the Health Act (1970), which first established the notion of ‘hardship’ for full eligibility to free medical treatment, but based upon financial circumstances, rather than clinical need. See Section 2.5 of this submission.

<sup>4</sup> Such as the Residential Tenancies Act (2004). The Housing Act (1988) defines homelessness and sets out ways in which Local Authorities can meet people’s housing needs. It does not put a duty on Local Authorities to house people who are homeless, however. The Health Act (1953) imposes a duty on health boards (now the HSE) to provide assistance and shelter to people who are homeless, and this duty is performed by Community Welfare Officers. The Childcare Act (1991) states that health services have a responsibility to provide for the care, welfare and accommodation of children and young people under age 18 who are homeless.

<sup>5</sup> Department of Social, Community and Family Affairs, *Building an Inclusive Society – Review of the National Anti Poverty strategy under the Programme for Prosperity and Fairness*, 2002, Dublin, Ireland: Department of Social, Community and Family Affairs, p.13.

<sup>6</sup> World Health Organisation (2010). *World Health Statistics Report 2010*. Geneva, Switzerland: WHO Press, p.48-54.

<sup>7</sup> This is both a global and Irish trend. For example, the Commission on Social Determinants of Health found that ‘in countries at all levels of income, health and illness follow a social gradient: the lower the socioeconomic position, the worse the health.’ See World Health Organization (2008) *Closing the gap in a generation: health equity through action on the social determinants of health. Final Report of the Commission on Social Determinants of Health*, Geneva, Switzerland, WHO. For an Irish analysis, see Richard Layte and Brian Nolan (2004) ‘Equity in the Utilisation of Healthcare in Ireland,’ *The Economic and Social Review*, Vol. 35, No. 2, Summer/Autumn, p. 111–134.

<sup>8</sup> Department of Health and Children (2001) *Quality and Fairness: A Health System for You, Health Strategy*, Dublin, Ireland: Government Publications, Objective 3, p. 61.

<sup>9</sup> Department of Health and Children (2001) *Quality and Fairness: A Health System for You, Health Strategy*, Dublin, Ireland: Government Publications, Objective 1.1, p. 61.

<sup>10</sup> ‘[T]here is no framework which allows decisions to be taken in an integrated way that links systematically with the overarching principles of the Irish health care system and aligns resources with goals.’ Expert Group on Resource Allocation and Financing in the Health Sector (2010) *Report of the Expert Group on Resource Allocation and Financing in the Health Sector*. Dublin, Ireland: Government Publications, p.x.

<sup>11</sup> The 2006 Census identified 160,917 Carers in Ireland, of whom 62.3% were women, while 80.5% of those in receipt of Carers Allowance were women. Central Statistics Office Census 2006, Volume 11: Disability, Carers and Voluntary Activities, Cork, Ireland: Central Statistics Office, 2010, p. 119. See also Carers Association (2007) *Pre-Budget Submission to the Government of Ireland Budget 2008: Delivering on Social Partnership Priority Action for 2008*, p.2. The 2006 Census identified 160,917 Carers in Ireland, of whom 62.3% were women, while 80.5% of those in receipt of Carers Allowance were women. Based on hours of care reported in the Census, carers save the health service more than €2.8 billion a year says O’Sullivan (2008) Health and Well-being of Family Carers in Ireland: Results of a survey of recipients of the Carer’s Allowance.

<sup>12</sup> PA Consulting, *Evaluation of Home Care Packages*, Department of Health and Children, Dublin, Ireland: 2009, pp.9-12 and National Economic and Social Forum, *Implementation of the Home Care Package Scheme*, 2009, Dublin, Ireland: National Economic and Social Forum, 2009, p.121.

<sup>13</sup> Coughlan T and O’Neill D (2001) ‘General hospital resources consumed by an elderly population awaiting long term care’ *Irish Medical Journal*, 94, pp.206-208.

<sup>14</sup> [For example access to basic therapy services deemed essential in the provision of a decent quality of life are not covered under Fair Deal. Access to these services is yet again contingent on ability to pay.](#)

<sup>15</sup> The All Ireland Traveller Health study, published in 2010, is the most recent comprehensive information on Traveller health. Life expectancy at birth for male Travellers has remained at the 1987 level of 61.7 which is 15.1 years less than men in the general population, representing a widening of the gap by 5.2 years (p. 94). Life expectancy at birth for female Travellers is now 70.1 which is 11.5 years less than women in the general population, and is equivalent to the life expectancy of the general population in the early 1960s (p. 94). Traveller infant mortality is estimated at 14.1 per 1,000 live births. This is a small decrease from an estimated rate of 18.1 per 1,000 live births in 1987. Over the same time period the general population infant mortality rate has reduced from 7.4 to 3.9 per 1,000 live births (p. 87). This is based on a Traveller population in the island of Ireland estimated at 40,129 in 2008; 36,224 in the Republic of Ireland and 3,905 in Northern Ireland (p. 43). See All Ireland Traveller Health Study Team at the School of Public Health, Physiotherapy and Population Science, University College Dublin (2010). *All Ireland Traveller Health Study: Our Geels*. Dublin, Ireland: Department of Health and Children, Summary Findings.

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<sup>16</sup> All Ireland Traveller Health Study Team at the School of Public Health, Physiotherapy and Population Science, University College Dublin (2010). *All Ireland Traveller Health Study: Our Geels*. Dublin, Ireland: Department of Health and Children, p.76.

<sup>17</sup> Report of the Expert Group on Mental Health Policy (2006) *A Vision for Change* Stationary Office, Dublin.

<sup>18</sup> On their recent visit to Ireland, the Committee on the Prevention of Torture reported that *A Vision for Change* was yet to be implemented. See Council of Europe, *Report to the Government of Ireland on the visit to Ireland carried out by the European Committee on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, 2011, para 114. See successive annual progress reports published by the Independent Monitoring Group established to monitor implementation of *A Vision for Change*, available at [www.dohc.ie/publications](http://www.dohc.ie/publications). See also successive annual reports of the Mental Health Commission, at [www.mhcirl.ie](http://www.mhcirl.ie)

<sup>19</sup> During its 2010 visit, the Committee on the Prevention of Torture met with patients who had been administered medication for behaviour control rather than for decreasing symptoms of their mental health problem. At present, such use of “chemical restraint” comes within the definition of restraint under Irish law and is therefore not subjected to oversight as such. Council of Europe, *Report to the Government of Ireland on the visit to Ireland carried out by the European Committee on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, 2011, para 132.

<sup>20</sup> In 2009 there were 212 admissions of children to adult inpatient units; nine of these children were 15 years of age and four were 13 or 14 years of age. See Health Service Executive (2010) *Second Annual Child and Adolescent Mental Health Service Report 2009 – 2010*, Dublin, Ireland: Health Service Executive.

<sup>21</sup> Committee on the Rights of the Child, Consideration of reports submitted by states parties under Article 44 of the Convention on the Rights of the Child. Concluding Observations: Ireland. para 46 “While welcoming the Mental Health Act of 2001 and noting that the State party has recognized the lack of adequate programmes and services related to the mental health of children and their families, the Committee is concerned that children with mental health difficulties still do not access existing programmes and services for fear of stigmatization, and that some children up to 18 years are treated with adults in psychiatric facilities.” This practice has been described as “counter-therapeutic and almost purely custodial” by Dr Patrick Devitt, Inspector of Mental Health Services. See Smyth, Jane, ‘100 children placed in adult psychiatric units.’ *The Irish Times*, Thursday, 7 October 7 2010. Last accessed from <http://www.irishtimes.com/newspaper/ireland/2010/1007/1224280567292.html> on 16 March 2011.

<sup>22</sup> Safe Ireland (2010) *In Just One Day: on the 4<sup>th</sup> November 2009*. Last accessed from <http://www.safeireland.ie/pdf/si-census-on-4th-Nov09.pdf> on 16 March 2011.

<sup>23</sup> Department of Health and Children (2001) *Quality and Fairness: A Health System for You, Health Strategy*, Dublin, Ireland: Government Publications, p.100.

<sup>24</sup> O’Reilly, J. and Wiley, M. (2010) ‘Who’s that sleeping in my bed? Potential and actual utilization of public and private in-patient beds in Irish acute public hospitals.’ *Journal of Health Services Research and Policy*, 15(4) pp 210-214.

<sup>25</sup> Health Service Executive (2009) *Public and private patients in public hospitals: Guidance to health service management on the treatment of public and private patients*.

‘Public hospitals have been banned from asking patients booking diagnostic tests if they have private health insurance...In internal correspondence, Health Service Executive (HSE) chief executive Brendan Drumm instructed one of his senior executives to inform hospitals about the new rule. “Common waiting lists should be in place. There was also the issue of our HSE-paid staff being involved in asking questions in relation to private practice, which should be an issue of serious concern to us,” he said.’ O’Regan, Eilish ‘HSE Orders an End to ‘Two-Tier’ Waiting Lists.’ *Irish Independent* 16 February 2010. Last accessed from <http://www.independent.ie/health/latest-news/hse-orders-an-end-to-twotier-waiting-lists-2064773.html> on 14 March 2011.

<sup>26</sup> Department of Health and Children (2001) *Quality and Fairness: A Health System for You, Health Strategy*, Dublin, Ireland: Government Publications, p.101.

<sup>27</sup> Comptroller and Auditor General (2009) *Accounts of the Public Services 2008*, Dublin, p.485

<sup>28</sup> A total of 164,449 patients were treated under the NTPF between 2002 and 2009 and the median waiting time on the NTPF list for medical and surgical patients is now 2.5 months. See National Treatment Purchase Fund (2010) *Annual Report 2009, Treating Patients Faster*, Dublin, at p.9 and 18.

<sup>29</sup> Comptroller and Auditor General (2009) *Accounts of the Public Services 2008*, Dublin, p.350.

<sup>30</sup> Irish Association for Emergency Medicine, Royal College of Surgeons in Ireland, press release 24 March 2010 ‘4<sup>th</sup> Anniversary of Minister’s Declaration that Emergency Department Overcrowding was a “National Emergency” and yet no resolution.’

<sup>31</sup> Central Statistics Office (2009) *Survey on Income and Living Conditions: Housing Module 2007*. Cork, Ireland: Central Statistics Office, p.16.

<sup>32</sup> Central Statistics Office (2009) *Survey on Income and Living Conditions, Housing Module 2007*, Cork, Ireland: Central Statistics Office.

<sup>33</sup> Central Statistics Office (2007) *Ageing in Ireland*, Cork, Ireland: Central Statistics Office.

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<sup>34</sup> Department of Health and Children, *Value for Money and Policy Review of Efficiency and Effectiveness of Long-Stay Residential Care for Adults within the Mental Health Services*, 2008 shows that 81.9% of the provision of community care services is in urban areas (p.12), that there were 845 inpatient and community-based beds in Dublin Mid Leinster 793 in Dublin North East, 1,513 in the South 1,501 in the West and 57 in Central Mental Hospital (p.x).

<sup>35</sup> The concept of undue hardship was established by the 1970 Health Act which introduced the Medical Card system entitling free access to health services within the public system. Determination of eligibility for a Medical Card is the responsibility of the Health Service Executive (HSE) and there are three primary means of determining eligibility: means test, discretionary assessment and EU Entitlement. Both the means test and the discretionary assessment are based on the concept of avoiding 'undue hardship', to an individual if they had to pay their own medical costs. EU entitlement is the result of agreements with EU countries on access to healthcare. The Health Service Executive use income guidelines to establish eligibility for medical Cards.

<sup>36</sup> Health Service Executive, Monthly Performance Report December 2010, 2011, p.23.

<sup>37</sup> GPs may become a contractor with the PCRS under the HSE to facilitate the free entitlements of GMS card holders. Participating GPs are remunerated under the terms of the Health Professional (Reduction of Payments to General Practitioners) Regulations 2009. See [www.pcrs.ie](http://www.pcrs.ie)

<sup>38</sup> GP surgery ranges from €35 to €70 at time of publication, with no regulation of permissible fee levels. National Consumer Agency (2010) *Doctors and Dentists Survey*.

<sup>39</sup> NCA (2010) report '*Doctors and Dentists Survey Report*' found the average price for a routine examination by a Dentist is €44 (one fifth of the weekly state pension).

<sup>40</sup> *Competition in Professional Services – General Practitioners Part I*, 2009, p.8.

<sup>41</sup> <sup>41</sup> Central Statistics Office (2010) *Survey on Income and Living conditions 2009*, Cork, Ireland: Central Statistics Office, p.75.

<sup>42</sup> General Comment 14 of the Committee on Economic, Social and Cultural Rights (CESCR), E/C.12/2000/4, 11 August 2000, para 12(c).

<sup>43</sup> Older and Bolder (2009) *What Does Positive Ageing Mean to Older People: A summary of feedback from Older & Bolder's consultation meetings with older people*, p.23.

<sup>44</sup> A full list of HIQA Nursing home inspections is available at:

[http://www.hiqa.ie/functions\\_ssi\\_inspect\\_rep\\_older\\_people.asp](http://www.hiqa.ie/functions_ssi_inspect_rep_older_people.asp)

Health Service Executive (2010) *Open Your Eyes: HSE Elder Abuse Services 2009*, last accessed from [www.hse.ie/eng/services/Publications/services/Older/openyoureyes.pdf](http://www.hse.ie/eng/services/Publications/services/Older/openyoureyes.pdf) on 16 March 2010.

<sup>45</sup> Disability Federation Ireland (2007) *The Right Living Space: Housing and Accommodation Needs of People with Disabilities*, Social Policy Series, p.25.

<sup>46</sup> *The Right to Health is a Human Right: Ensuring Access to Health for Homeless People*, Irish National Report for the FEANTSA Annual Theme 2006, last accessed from

[http://www.feantsa.org/files/Health\\_Annual\\_Theme/Annual\\_theme\\_documents/National\\_reports/Ireland\\_health\\_report.doc](http://www.feantsa.org/files/Health_Annual_Theme/Annual_theme_documents/National_reports/Ireland_health_report.doc) on 16 March 2010.

<sup>47</sup> Simon Communities of Ireland (2010) *Health and Homelessness: Health Snapshot Study of People using Simon Services and Projects*, p.41.

<sup>48</sup> Enumerated by 2006 census. See also *Female Genital Mutilation in Ireland: information for health care professionals in Ireland* AkiDWA / RCSI (2009). Last accessed from [http://www.akidwa.ie/FGM/FGM\\_Final.pdf](http://www.akidwa.ie/FGM/FGM_Final.pdf) on 16 March 2011.

<sup>49</sup> Free Legal Advice Centre (2010) *One Size Doesn't Fit All*, 2010, p.114.

<sup>50</sup> The Irish Times - Monday, 7 February 2011, last accessed from <http://www.irishtimes.com/newspaper/ireland/2011/0207/1224289183429.html> on 16 March 2011.

<sup>51</sup> The concluding comments of the CEDAW committee (2005) stated that "the Committee reiterates its concern about the consequences of the very restrictive abortion laws under which abortion is prohibited except where it is established as a matter of probability that there is a real and substantial risk to the life of the mother that can be averted only by the termination of her pregnancy (paragraph 38). The Committee urges the State party to continue to facilitate a national dialogue on women's right to reproductive health, including on the very restrictive abortion laws. It also urges the State party to further strengthen family planning services, ensuring their availability to all women and men, young adults and teenagers (Paragraph 39). Committee on the Elimination of Discrimination against Women. *Concluding Comments: Ireland*, UN Doc CEDAW/C/IRL/CO/4-5, 22 July 2005.

<sup>52</sup> Health Sectoral Plan 2009 Progress Report, Department of Health and Children, 2010.

<sup>53</sup> Mental Health Commission (2009) *Mental Health Commission's Annual Report including the Report of the Inspector of Mental Health Services 2009*.

<sup>54</sup> Mental Health Commission (2009) *Mental Health Commission's Annual Report including the Report of the Inspector of Mental Health Services 2009*, p.83.

<sup>55</sup> Mental Health Commission (2009) *Mental Health Commission's Annual Report including the Report of the Inspector of Mental Health Services 2009*, p.83.

<sup>56</sup> There are only 55 Child and Adolescent Mental Health Teams. 99 teams are recommended by the Second Annual Child and Adolescent Mental Health Service Report 2009 – 2010, p.8.

<sup>57</sup> Objective 1.1, Department of Health and Children (2001) *Quality and Fairness: A Health System for You*, Dublin, Ireland: Stationary Office, p. 61. As set out in part 9 of the Health Act (2004).

<sup>58</sup> See <http://www.hse.ie/eng/services/ysys/Appeals/> for the list of applicable schemes.

<sup>59</sup> Health Service Executive, *National Intercultural Health Strategy 2007-2012*, p. 49.

<sup>60</sup> O'Toole, Gráinne (2009) *Feasibility Study for the Establishment of a Traveller Led Voluntary Accommodation Association*, Dublin, Ireland: Irish Traveller Movement, p.9.

<sup>61</sup> Homeless Agency, *Counted In, 2008: A report on the extent of homelessness in Dublin*, 2008, p.4. *Counted-In, Cork City*, 2008; *Counted In, Galway City*, 2008; *Counted In, Limerick City*, 2008.

<sup>62</sup> Department of the Environment (2008) Heritage and Local Government, *The Way Home: A Strategy to Address Adult Homelessness in Ireland, 2008-2013*, Dublin, Ireland: Department of the Environment, Heritage and Local Government, p.13.

<sup>63</sup> Office of the Minister for Children and Youth Affairs (2009) Report of the Commission to Inquire into Child Abuse, 2009: Implementation Plan.

<sup>64</sup> Department of the Environment, Heritage and Local Government (2008) *The Way Home: A Strategy to Address Adult Homelessness in Ireland, 2008-2013*.

<sup>65</sup> Make Room (2010) *Response to the Housing Needs Assessment Consultation, June 2010*, last accessed from [http://www.makeroom.ie/download/pdf/20100630\\_makeroom\\_hna\\_response\\_final.pdf](http://www.makeroom.ie/download/pdf/20100630_makeroom_hna_response_final.pdf) on 15 March 2011.

<sup>66</sup> This document was developed with the aim of facilitating access, for people with disabilities, to an appropriate range of housing and related support services, delivered in an integrated and sustainable manner, which promotes equality of opportunity, individual choice and independent living.

<sup>67</sup> Report of the Expert Group on Mental Health Policy (2006) *A Vision for Change* Stationary Office, Dublin.

<sup>68</sup> Irish Traveller Movement (2005) Shadow Report to United Nations as part of Ireland's reporting under International Convention on the Elimination of All Forms of Racial Discrimination (CERD).

<sup>69</sup> All Ireland Traveller Health Study Team at the School of Public Health, Physiotherapy and Population Science, University College Dublin (2010). *All Ireland Traveller Health Study: Our Geels*. Dublin, Ireland: Department of Health and Children, p.168.

<sup>70</sup> Provided for in the Housing (Traveller Accommodation) Act 1998.

<sup>71</sup> Irish Human Rights Commission (2009) *Policy Statement on Section 62 of the Housing Act 1966 for the Recovery of Possession of a Local Authority Dwelling*.

<sup>72</sup> Department of the Environment, Heritage and Local Government (2008) *Annual Housing Statistics Bulletin, 2007*, p.88.

<sup>73</sup> And its subsequent amendments, i.e. section 32 of the Housing (Traveller Accommodation) Act (1998) and section 21 of the Housing (Miscellaneous Provisions) Act (2002).

<sup>74</sup> Section 69 of Roads Act (1993) and section 30 of Local Government (Sanitary Services) Act (1948).

<sup>75</sup> Society of Vincent de Paul (2010) *Submission to Social Welfare Services, Department of Social and Family Affairs on Supplementary Welfare Rent Limits, SVP Social Justice and Policy Team*, February 2010, p.2.

<sup>76</sup> Threshold National Housing Authority (2010) *Pre-Budget submission to the Department of Social Protection*.

<sup>77</sup> Introduced in May 2004, the Habitual Residence Condition specifies that you must be able to prove a close link to Ireland in order to qualify for certain social welfare payments and Child Benefit. <http://www.welfare.ie/EN/publications/sw108/Pages/1WhatistheHabitualResidencecondition.aspx> last accessed 24 November 2010.

<sup>78</sup> Make Room (2010) *Response to the Housing Needs Assessment Consultation, June 2010*, last accessed from [http://www.makeroom.ie/download/pdf/20100630\\_makeroom\\_hna\\_response\\_final.pdf](http://www.makeroom.ie/download/pdf/20100630_makeroom_hna_response_final.pdf) on 15 March 2011.

<sup>79</sup> Direct Provision was introduced as a pilot scheme in 1999.

<sup>80</sup> Free Legal Advice Centre, *One Size Doesn't Fit All: A legal analysis of the direct provision and dispersal system in Ireland, 10 years on*, Dublin, Ireland: FLAC, 2010, p. 89-91.

<sup>81</sup> Free Legal Advice Centre, *One Size Doesn't Fit All: A legal analysis of the direct provision and dispersal system in Ireland, 10 years on*, Dublin, Ireland: FLAC, 2010, p. 89-91.

<sup>82</sup> Pillinger, Dr Jane (Women's Human Rights Alliance) (2010) *A Women's Right to Health Report of consultation with women on the right to health* (unpublished).

<sup>83</sup> Institute of Public Health in Ireland, (2007) *All-Ireland policy paper on fuel poverty and health, December 2007*, Public Health Policy Centre, Dublin, Ireland: Institute of Public Health in Ireland.

<sup>84</sup> Gartland, Fiona, "Fuel poverty figures here shock WHO," *Irish Times*, 29 August 2008, last accessed from <http://www.irishtimes.com/newspaper/ireland/2008/0829/1219875242429.html> on 22 November 2010 [paid content].

<sup>85</sup> Rudge, Janet and Gilchrist, Roger, 'Excess winter morbidity among older people at risk of cold homes: a population based study' *Journal of Public Health* and Prunty, Martina (2007) *Older People in Ireland: An Analysis of EU-SILC, 2004*, Dublin, Ireland: Combat Poverty Agency, 2007.

<sup>86</sup> Healy, J.D (2003) 'Excess winter mortality in Europe: a cross country analysis identifying key risk factors' *Journal of Epidemiology and Community Health*, 57(10) pp. 784 – 789, p. 785 – statistic is in excess of 2,000 winter deaths in Ireland.

<sup>87</sup> The need for 'tailored housing' and the difficulties for people with disabilities are also identified in *Towards 2016*.

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<sup>88</sup> Until the Disability Act (2005) there was no systematic data collection on the accessibility of the built environment by central government, local authorities or other public bodies.

<sup>89</sup> Locations of sites have been investigated by National Traveller Accommodation Consultative Committee.

<sup>90</sup> Coates and Feely (2007) *Standards in the Private Rented Sector: Strategic Planning, Effective Enforcement* Centre for Housing Research.

<sup>91</sup> Louise Hogan (2010) 'Life-threatening fungus found in flats "not fit to house animals"' Irish Independent, 26 May 2010, last accessed from <http://www.independent.ie/national-news/lifethreatening-fungus-found-in-flats-not-fit-to-house-animals-2194161.html> on 16 March 2011. The flats in which the residents are living date back to the 1950s and were due to be regenerated by Dublin City Council in late 2009. Regeneration work was postponed following the collapse of the Public/Private Partnership deals set up for the purposes of renewal. See 'The Regeneration Solution: A common-sense proposal on a legislative framework for a cost-effective regeneration programme for national public housing estates'.

<sup>92</sup> Olivia Kelly (2010) 'Regeneration of Dolphin House flats "years away"', Irish Times, 6 October 2010, last accessed from <http://www.irishtimes.com/newspaper/ireland/2010/1006/1224280473698.html> on 16 March 2011.

<sup>93</sup> General Comment 4 of the Committee on Economic, Social and Cultural Rights (CESCR), E/1992/23, 13 December 1991, para 8(c).

<sup>94</sup> Via Section 93.1 of the Planning and Development Act 2000.

<sup>95</sup> Permanent TSB/ESRI (2006) House Price Index: Ten Year Review 1996-2006, last accessed from [http://www.finfacts.ie/irelandbusinessnews/publish/article\\_10006275.shtml](http://www.finfacts.ie/irelandbusinessnews/publish/article_10006275.shtml) on 16 March 2011.

<sup>96</sup> David Duffy (2010) Negative Equity in the Irish Housing Market, *Economic and Social Review*, Vol 41, 1, Spring 2010, p.109-132.

<sup>97</sup> Central Bank of Ireland, *Code of Conduct on Mortgage Arrears*, 2010. Last accessed from <http://www.financialregulator.ie/processes/consumer-protection-code/Documents/Code%20of%20Conduct%20on%20Mortgage%20Arrears%20%201%20January%202011.pdf> on 14 March 2011.