



## **Ireland's First Universal Periodic Review, Geneva October 6<sup>th</sup> Claiming our Right to Housing and Health**

October 6<sup>th</sup> will be an important day for human rights in Ireland. The Irish Government will be reviewed on their Human Rights performance as part of the UN Universal Periodic Review - 'the UPR'. The UPR system is based on having frank, mature discussions between States on human rights. These discussions recognise the States achievements, challenges and failures in respecting, protecting and promoting human rights.

All states who are members of the UN can participate in any countries' Review, and are strongly encouraged to do so. Ireland has been very supportive of the UPR process, and has actively engaged in the reviews of many countries so far.

For us, the Residents of Dolphin House, this is an opportunity to continue our campaign to assert our right to health and housing and our right to participate in the decisions that affect our daily lives. We are doing this because we believe everyone has the right to live in a safe, secure and clean home and neighbourhood. This is not the case for us in Dolphin House, and we want to change that and ensure that our community's, especially our children's, basic rights to housing and health are respected.

We are asking you to encourage your country to get involved in Ireland's Review.

Your country can submit written questions in advance of the review, and make oral interventions at the review with questions and recommendations.

In order to do this you will need information on the human rights situation on the ground. Through this briefing we hope to give you all the information you need on

- Ireland's upcoming Universal Periodic Review
- Dolphin House and the Right to Housing and Health
- Suggested Recommendations (for use also as questions) for your Country's intervention

### **But, why should my country get involved in Ireland's review?**

The whole UPR process is based on the premise of all countries actively engaging in Reviews. Ireland has been very supportive of the UPR process, and has actively engaged in the reviews of many countries so far. Ireland takes its international reputation seriously and will engage proactively with all issues raised during the review.

### **Ok, so how can my country get involved in Ireland's review?**

All states are encouraged to participate in reviews, and can ask questions and make recommendations. You can submit questions in advance of the review or you can make oral intervention of questions and recommendations at the review itself.



## **Universal Periodic Review**

### **What is the Universal Periodic Review?**

The Universal Periodic Review (UPR), was established by the Human Rights Council of the UN in June 2007 and is a review of the human rights records of all UN Member States once every four years. It provides an opportunity for all States to declare what actions they have taken to improve the human rights situations in their countries and to overcome challenges to the enjoyment of human rights. The UPR also includes a sharing of best human rights practices around the globe. Currently, no other mechanism of this kind exists.

### **Who conducts the review?**

This is a review by States of States. The reviews are conducted by the UPR Working Group which consists of the 47 members of the Human Rights Council. Each State review is assisted by groups of three States, known as “troikas”, who serve as facilitators for the review. The selection of the troikas for each State review is done through a drawing of lots. The Troika reviewing Ireland is made up of Bangladesh, Italy and Moldova. However any UN Member State can take part in the discussion / dialogue with the reviewed States.

### **When will Ireland be examined?**

Ireland is one of the last countries to be examined, on the basis of the calendar that was drawn up in 2007. The review will be on October 6<sup>th</sup> 2011.

### **What are the reviews based on?**

The review is based on three documents:

- 1) A ‘national report’ prepared by the state being examined.
- 2) A document prepared by the Office of the High Commissioner for Human Rights (OHCHR) summarising information on the state’s human rights record
- 3) An “other stakeholders report” made up of the compiled submissions from NGOs and national human rights institutions.

### **How are the reviews conducted?**

Reviews take place through a discussion between the State under review and other UN Member States. This takes place during a meeting of the UPR Working Group. During this discussion any UN Member State can pose questions, comments and/or make recommendations to the States under review. The review lasts three hours.

### **What is the outcome of the review?**

Following the State review by the Working Group a report is prepared by the troika with the involvement of the State under review and assistance from the OHCHR. This report, referred to as the “outcome report”, provides a summary of the actual discussion. It therefore consists of the questions, comments and recommendations made by States to the country under review, as well as the responses by the reviewed State. The reviewed State has the opportunity to make preliminary comments on the recommendations choosing to either accept or reject them. The report then has to be adopted at a plenary session of the Human Rights Council

## The Situation in Dolphin House

Dolphin House is Dublin's second largest remaining public housing flat complex. There are major physical and social problems on the estate. Many of the flats are substandard in terms of size, private open space, energy efficiency and accessibility. We the residents of Dolphin House have experienced serious and sustained levels of damp, mould and poor sewerage systems which have lead to many negative effects on the health and well being of people living here. Socially, the estate has suffered historical neglect, exclusion, and social problems. Two particular recurring problems relate to sewage and dampness.

### Sewerage

Residents have experienced grey and black wastewater repeatedly backing up into household fixtures such as sinks, showers, baths and washing machines for a period of approximately 20 years. Analysis of this wastewater indicate that, the water is highly polluted and has constituents which can be described as harmful to human health when compared broadly with the categories given in Statutory Instrument No.294 of 1989 - European Communities (Quality of Surface Water Intended for the Abstraction of Drinking Water) The report also found that Faecal Coliform result was very elevated. The elevated coliforms, suspended solids, phosphate (ortho), phosphorous (total) and BOD in it were consistent with partially treated and untreated sewerage waste.

*"The sewage that come up through my hand basin in my bathroom, my sink – black, all the black stuff coming up. It came out on to my floors. Human faeces or whatever faeces was in it .... The smell of it in my toilet coming up through my bath, my hand basin. Since then to be honest with you I've been at the doctor with stomach bugs and bacterial infections and its costing me a fortune"*

### Dampness

Residents have experienced severe problems with dampness over an extended period of time. As far back as 2002 residents' surveys showed serious maintenance problems which showed that 145 flats out of 165 surveyed had complaints covering sewage, plumbing and dampness. Indicators of Progress towards the Human Rights Standard have shown that from the first monitoring survey in September 2010 and onwards conditions had not changed for residents regarding their unacceptable housing conditions. Furthermore there was a slight increase in those reporting dampness and mould (72% to 77% and 64% to 66% respectively). There remained over three quarters (77%) reporting sewage problems. Analyses of Damp spores have shown very high levels of fungal contamination. The analysis detected colonies of *Aspergillus fumigatus*, *Mucor*, *Rhizopus* and *Penicillium* in most of the test locations.

*"It's every where. All the rooms. The bedrooms more so. It's all around the beds. The walls be soaking wet. The walls are literally black. I have to wash them down with bleach and its back a couple of weeks later. The vents are all open anyway. There is nothing I'm doing wrong. I don't dry clothes in the bedrooms. It's in the walls. It's black and furry and disgusting to look at".*

**The severe and prolonged dampness and sewage problems experienced by the residents of Dolphin house are a violation of their right to adequate housing and the right to a highest attainable standard of physical and mental health under Article 11 and 12 of the ICESCR.**

## **Suggested Recommendation for Ireland's UPR**

### **Embedding the Rights in the Irish Constitution**

The Irish Constitution does not contain a Right to Housing. Ireland has also opted out of Article 31 of the European Social Charter notably impacting on the standard of local authority housing. The Housing Acts 1966-2002 provides the legislative basis for public housing in Ireland. While limited security of tenure is provided for social housing tenants, this legislation also does not confer any statutory right to housing. Local authority housing is not afforded some of the additional protections offered to private tenants under 2009 Housing (Standards for rented houses) Regulation.<sup>1</sup> Local authority tenants do not enjoy the additional protections provided for by The Residential Tenancies Act 2004 such as recourse to the Private Residential Tenancies Board and improved security of tenure.

### **Recommendations:**

- As recommended in the Report of the UN Independent Expert on Poverty and Human Rights following her mission to Ireland in January 2011, Ireland must, despite current financial constraints, take measures to solve the long-term housing needs in the country from a rights-based approach.
- As recommended by the UN Committee on Economic, Social and Cultural Rights<sup>2</sup>, the rights contained in the International Covenant on Economic, Social and Cultural Rights should be fully transposed into domestic legislation. Specifically, the Government should facilitate the amendment of the Constitution to include a right to adequate housing which would offer a means of empowerment to those excluded from the dominant housing market and grant access to a minimum unit of adequate standard social housing as a human right.
- Ireland should reform current legislation so that public authority tenants have the same degree of protection afforded to private tenants, including recourse to an independent dispute resolution mechanism such as that provided to private tenants, through the Private Residential Tenancies Board and improved security of tenure.

### **Human Rights Training and Awareness Raising with Local Authorities**

The majority of local authorities officials have not been trained in human rights, and do not fully comprehend or carry out their mandate to respect, protect and fulfill human rights.

### **Recommendation:**

- Ireland should ensure all local authorities are fully trained in human rights based approaches, and the right to housing and health in particular, and understand their role in ensuring these human rights are respected, protected and fulfilled.

---

<sup>1</sup> Measures such as requirement for landlords to maintain the house in a proper state of structural repair including the requirement that the house must not be defective due to dampness or otherwise the requirement for the provision of a fire blanket, fire alarms, cloth washing facilities and cloths drying facilities if there is no yard and provision of a ventilated room with a shower and bath and toilet.

<sup>2</sup> 2002 recommendations at para 31 iii

### **Dolphin House – A violation of Basic Human Rights**

Dolphin House is Dublin's second largest remaining public housing flat complex. Many of the flats are substandard in terms of size, private open space, energy efficiency and accessibility. The residents of Dolphin House have experienced serious and sustained levels of damp, mould, waste water invasion and poor sewerage disposal which have lead to many negative effects on the health and well being of people living there. The situation in Dolphin House is a clear violation of Residents' Right to Adequate Standard of Health and Housing, including the habitability clause in General Comment Four of the UN Covenant on Economic, Social and Cultural Rights.<sup>3</sup>

#### Recommendations:

- The Government should ensure the basic rights of the residents are met, including the habitability clause in General Comment Four of the UN Covenant on Economic, Social and Cultural Rights through immediate actions addressing the ongoing problems of dampness and sewage for all Residents. This should be done with the active, free and meaningful participation of the affected residents and their representatives.
- In order to address the severe structural problems and provide a safe, healthy and habitable environment in Dolphin House and Park the government should
  - Develop a masterplan for the regeneration of the estate.
  - Commence refurbishment and regeneration of the flats in the shortest possible timeframe and complete the regeneration of the entire estate within a reasonable timeframe.
  - Develop and implement a comprehensive social regeneration plan that includes an assessment of the health, employment and education needs of the community
  - Support the residents to engage with this process as equal and meaningful partners and as the rights holders by ensuring adequate funding and state support for the local community project, health project and regeneration board
  -
- As recommended in the Report of the UN Independent Expert on Poverty and Human Rights following her mission to Ireland in January 2011, and specifically her visit to Dolphin House, the Government should consider adopting a legislative framework for a National Public Housing Estates Regeneration Programme to ensure that international human rights standards and community participation are ensured in all regeneration projects in the country.
- During her recent mission to Ireland in January 2011 the UN Independent Expert on Poverty and Human Rights expressed alarm by the substandard housing conditions in some of the rent-supplement accommodations, including Dolphin house. The Government should follow her recommendation to ensure the effective enforcement of the Housing (Standards for Rental Houses) Regulations 2008 and 2009.

---

<sup>3</sup> General Comment Four of the UN Covenant on Economic, Social and Cultural Rights: Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors.



### **Children's Right to Leisure and Play**

Approximately 1,300 children and young people in Rialto have inadequacy provision of outdoor play and leisure facilities. The only playground in Dolphin House is broken, burnt out, unlit and littered with broken glass, therefore unsafe and unusable.

#### Recommendation:

- The Government should take steps to ensure the rights to play and leisure of children and young people in Dolphin House, Dublin's second largest public housing flat complex, are respected as set out in Article 31 of the UN Convention on the Rights of the child. This should be done with full engagement and participation of the children and young people.