

REPORT ON THE FIRST MONITORING OF HOUSING CONDITIONS IN DOLPHIN HOUSE RIALTO DUBLIN 8

**RESEARCHED AND COMPILED BY THE
RIALTO RIGHTS IN ACTION GROUP**

OCTOBER 5TH 2010



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The Rialto Rights in Action Project is a collaboration of Rialto Residents, Dolphin House Community Development Association, The Dolphin and Fatima Health Projects, Community Response, Community Action Network and Participation and Practice of Rights Project, Belfast, and is funded by Joseph Rowantree Charitable Trust.

1. Introduction.

This is the First Report of The *Rialto Rights in Action Group* (RRIAG) Dolphin House Monitoring Group, which is monitoring 8 issues in relation to housing conditions in Dolphin House flats complex, Rialto, Dublin 8.

Background

On May 5th 2010 the Rialto Rights in Action Group held a Human Rights Housing Hearing at which the Irish Human Rights Commission (IHRC), leading academics in the field of human rights and housing, public representatives and the media, heard overwhelming evidence from residents of deplorable living conditions in many of the Dolphin House flats.

These included sewerage invasion through toilets, baths, sinks and washing machines, corrosive damp in bedrooms, kitchens and bathrooms and mould containing pathogenic spores. All of these conditions have persisted for decades and pose a risk to residents' health as well as making for a generally poor quality of life.

The response from Dublin City Council has been completely inadequate according to the evidence presented at the May 5th Hearing by RRIAG,.

The IHRC president Dr. Maurice Manning, supported by academics who are expert in human rights and housing, (Dr Padriac Kenna of NUI Galway and Professor Lorna Fox O Mahony of Durham University) said that these conditions clearly contravene the rights of residents under the United Nations Convention on Economic Social and Cultural Rights (CESCR), to which Ireland is a signatory.

They further concluded that it is the responsibility of the Duty Bearer (the relevant minister) to vindicate the progressive realisation of these rights. This means that the state is compelled to ensure that people's rights under the Convention on Economic, Social and Cultural Rights are secured over a reasonable period.

At the Hearing the residents launched indicators, in line with the principle of progressive realisation. These are timed measures of progress towards the Human Rights Standard as

defined by CESC, which the residents intend to monitor over the coming twelve months. These

indicators were endorsed by the panel including the IHRC as more than reasonable given the long history of sub-standard conditions in the complex. These indicators are being monitored over a twelve month period at four monthly intervals by a repeat of the door-to-door survey of 70 flats that provided the evidence for the first hearing.

Since the hearing RRIAG was invited to meet with Mr Ciaran MacNamara, then Assistant City Manager of Dublin City Council and his staff to discuss the situation. The meeting was positive and Mr. MacNamara gave an undertaking that, while the planning for the Regeneration Project for Dolphin House was ongoing, the issues of damp and waste-water would be addressed as a matter of urgency. He further committed that the development of solutions to these issues would be undertaken in partnership with residents, through the existing Maintenance Group, a sub-group of the Dolphin Joint Regeneration Board.

Some quotes from RRIAG Dolphin Housing Hearing May 2010

“The dampness is in the little girl’s room. It started at the back of the edge of the skirting board and worked its way right up to the top, up to the ceiling. It’s all over the windows as well. Then I noticed, a few years back, it started in the bathroom. It grew and grew and grew. I’ve painted it ,and done everything with it. It’s just so severe.”

“It’s everywhere. All the rooms. The bedrooms more so. It’s all around the beds. The walls are 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.”

“I have massive problems with sewerage from the time I moved into the flat. I’m eight years living in the flat and have had numerous amounts of work done and there is still no success with it at all. The smell and the fumes that come out of the sewerage through my bathroom and when I use the washing machine, is unbelievable.”

“The sewerage that came 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, out of my own pocket to go to the doctor and I guarantee you if you pull my sink out in my kitchen there is still human faeces behind it because the smell of crap and everything else that’s in my flat is unbelievable.”

“The bath – it (sewerage) gurgles, it comes up a couple of inches. I have to put my plug in every night and I have a big heavy candle I put over it. If the kids are in the bath, well as soon as we hear that gurgle, I have to drag them out of the bath because it will come up in on top of them and you don’t know what’s coming up.”

(Residents speaking at the Human Rights Housing Hearing, Dolphin House May 2010)

“From what I have seen and from what I have heard, from the testimony of the residents, and from the expert evidence of Dr Padraic Kenna – all suggest to me a Human Rights violation under the understanding of adequate shelter set out by the UN Committee on Economic, Social and Cultural Rights... We in the Irish Human Rights Commission applaud today’s initiative. We strongly support your right to participate in decisions about how these issues are dealt with. We will certainly keep a watching brief on the situation alongside the monitoring proposed by the Rialto Rights in Action Group.”

(Dr Maurice Manning President of the Human Rights Commission responding to residents’ evidence.)

“Indicators must also be specific, be measurable, be achievable, be relevant and be time limited. All of these criteria are satisfied by the indicators adopted here today. In terms of their reasonableness, my only comment is that in any civilised and developed society, a State should be meeting housing rights minimum core obligations in this area in 12 days and not 12 months’.

(Dr Padraic Kenna NUI Galway commenting on the Resident’s launch of indicators towards the Human Rights Standard to be monitored over a twelve month period.)

2. Analysis of Findings from First Monitoring.

This report follows the first monitoring survey of a significant sample of residents, which took place through September 2010. The monitoring was done in relation to eight indicators, as follows:

Percentage

On the evidence of this survey very little has changed since May 2010 for residents regarding the unacceptable housing conditions in which they live. Indeed, in some cases the situation has worsened. There was a slight increase in those reporting dampness and mould (72% to 77 and 64 to 66%). There remained a too large proportion reporting sewerage (77%). While Dublin City Council has explained that it is carrying out a programme of works in an attempt to address the problems the results of the follow up survey carried out in the last two weeks of September reveals that this work has not provided any relief for tenants. It has clearly been an inadequate response. The residents report that they still live with the smell of the sewerage every day. When they put on their washing machines or go into the bathroom they get a repugnant smell, their baths and sinks take hours to drain, and black gunge is still coming back up into sinks and baths.

Residents still report being told by DCC that the problems are of their own making. For example their drying clothes, not opening windows, and not opening vents is the cause of the damp and mould. One woman with dampness and mould in her bedrooms and bathroom, where the agar plates from the last survey found spores harmful to health, suffers from persistent asthma and bronchitis. Her flat was identified as a pilot for addressing the issue by DCC. However a DCC representative came out to her flat and told her that it was just condensation and she was to wash the walls with dettol to stop the mould. He said that DCC would be back in touch with her, but after three weeks she had heard no more.

In another case the dampness in the walls has worsened and the resident was told by DCC to put another vent in the wall. However this would make the flat too cold for her young children.

Tenants report their clothes continue to be ruined by mould due to the dampness.

Most distressing is the extremely high number of residents in the survey that are still worried about the health implications of the sewerage, damp and mould, particularly for their children. This figure remained staggeringly high at 90%. Tenants report that their babies and young children are 'constantly sick' with chest infections, pneumonia, bronchitis and e-coli infections. One tenant with bad damp and mould problems in the flat explained that both her young children were asthmatics and the doctor told them that "the flat was not good for their chests". One child is attending the respiratory clinic and another had been in hospital recently for pneumonia. Another tenant explained that her children are picking up infections on their face and hands from the drain (shore) outside the door of the flat which is constantly blocked and very smelly. Tenants also report that the smells cause them headaches.

An overwhelming 83% of residents surveyed still feel alienated from the decision making on issues that affect them. They said that DCC hasn't done anything to address the problems and that they are fed up reporting the problems because nothing gets done. One resident said: "we are tired reporting it. It's hard to keep reporting when you don't see any progress." Another tenant said she is "very very angry because the sewage problem keeps coming back". They are left waiting for inexcusable lengths of time for repairs to be carried out. They feel let down from constant promises that are not delivered upon. They are told by DCC workers that there is nothing that can be done. Residents report the frustration of having to constantly redecorate their flats by wallpapering, painting etc often in a short space of time (sometimes just a couple of months) because the leaking, dampness and sewerage problems cause so much damage.

DCC undertook a 'blowing' of the sewerage pipes in the flats in June. Generally, this resulted in no change to the situation and in some cases it appeared to make things worse. DCC have also carried out investigations into some of the flats with serious sewerage cases and state they are 'looking into the problem'.

As well as the door-to door survey RRIAG commissioned Tobin environmental consultants to

undertake a test of waste-water backing up into the flat of one of the residents. The results of this analysis support residents in their belief that sewerage invasion is a threat to their health. DCC claimed that this black gunge that comes up tenants' baths and sinks was just waste water and was not sewerage containing faecal matter. However, in June a TOBIN representative observed the wastewater backup within a household drainage system, with significant wastewater backup into the household bath and bathroom sink. This wastewater within the bathroom was sampled on 28th June 2010 and sent for laboratory analysis to identify the components of the wastewater. The analytical results indicated that, in general, the quality of the wastewater sample taken was highly polluted and had constituents which could be described as harmful to human health. It indicated that the sample comprised material with a high biological content.

"The **Faecal Coliform** result for the wastewater sample was extremely elevated with a concentration of 570 million CFU/100ml. This concentration vastly exceeds S.I. No. 294 of 1989 A3 limit of 40,000 CFU/100ml and is consistent with faecal coliform concentrations within raw sewerage. The **Total Coliform** result for the wastewater sample was extremely elevated with a concentration of 570 million CFU/100ml. This concentration vastly exceeds the S.I. No. 294 of 1989 A3 limit of 100,000 CFU/100ml and is consistent with total coliform concentrations within highly polluted waters."

The Tobin report noted that

"It has been determined from chemical analyses of the wastewater sample taken from the flat that the wastewater is in a highly polluted state, 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 elevated coliforms, suspended solids, phosphate (ortho), phosphorous (total) and BOD are consistent with partially treated and untreated sewerage waste."

This information, together with the results of spore samples taken from a number of flats in May, which found significant levels of pathogenic moulds illustrate that conditions are not only extremely unpleasant but also a significant threat to health.

It is important to restate that there are laws in Ireland that specify housing standards, for example, the 1966 Housing Act and Housing (Standards For Rented Houses) Regulations, 1993, 2008 and 2009 states that the house should have proper drainage, that the house will be kept by the landlord during the tenancy, in all respects reasonably fit for human habitation and not defective due to dampness or otherwise. It is not only the Convention of Economic

Social and Cultural Rights that is being breached, but also national standards. The Irish State, specifically the Minister for Environment, Department of Environment and DCC are failing in their responsibility to provide adequate housing to these tenants.

It is important to again acknowledge the effort of many DCC officials and workers who are trying to improve conditions for residents in Dolphin. But as they explain themselves they are working within reduced budgets, cannot hire new workers or replace ones leaving. However, this cannot be an excuse for allowing such substandard housing conditions of its tenants to continue.

As explained in the last hearing, Dolphin has a vibrant, close knit and supportive community. Residents want to stay and live in the area and they actively contribute to their community. You can see their enthusiasm in their engagement with this process. Particularly in these difficult times a supportive community is vital to sustain the social fabric of areas like this. But the community cannot survive with the current conditions. The experience of other estates is that those who can will leave and this will send any estate into a downward spiral. The window of opportunity is still open for the state to support the development of a sustainable community with a good quality environment.

Taking the view that conditions cannot be improved because of a lack of finance is a short sighted approach. It will be much more costly to the State to address the health problems arising from mould, damp and sewerage, and the constant repairs and maintenance required by DCC, than to spend money now to bring homes up to the Human Rights Standard.

The community is determined to fight for adequate housing conditions, for regeneration and for its survival. It is working in partnership with DCC on a Regeneration Masterplan. Regeneration is ultimately the solution to the housing situation but while waiting for this it is essential the environmental conditions are improved so that this can be a sustainable community which does not go the way of other estates; entering a downward spiral of anti social behaviour, vandalism, despair and ultimately, complete break down.

As Michael Finneran T.D., Minister for Housing and Local Services said last year: "Despite these difficult times..it is vitally important that we continue to invest in our communities, to preserve the neighbourhoods in which families were reared and to add to the quality of local

housing options available for the next generation...it is the only strategy which can enable us maintain the focus of our efforts where they are needed most including communities in need of social, physical and economic renewal”

Furthermore, the Minister for the Environment under the Housing Act 1966 can provide the resources to DCC and instruct them to act on these issues:

That Act stated that “Whenever the Minister is of opinion that a housing authority have failed to perform any of their functions under this Act, or have failed to perform any such function in a satisfactory manner, he may by order require the authority to perform the function...”

3. Summary of findings on each indicator on first monitoring;

What follows is

- The baseline survey result for each indicator from May 2010
- The Human Rights standard according to the Committee for Economic Social and Cultural Rights,
- The target result for First Monitoring (September 2010), set by residents under the principle of Progressive Realisation and endorsed by the Irish Human Rights Commission and Human Rights experts
- The actual result for that indicator in September 2010.

Indicator 1.

Percentage of residents reporting dampness

Human Rights Standard;

“Adequate housing must provide the inhabitants with adequate space and protect them from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease vectors.”

CESCR General Comment 4, Paragraph 8 (d)

- | | |
|----------------------------|------------|
| • Benchmark as of May 2010 | 72% |
|----------------------------|------------|

Target Result at First Monitoring

- | | |
|----------------------------|------------|
| • +4 months September 2010 | 55% |
| • Actual Result | 77% |

Indicator 2.

Percentage of residents reporting mould

“Adequate housing must provide the inhabitants with adequate space and protect them from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease vectors.”

CESCR General Comment 4, Paragraph 8 (d)

- | | |
|----------------------|------------|
| • Benchmark May 2010 | 64% |
|----------------------|------------|

Target Result at First Monitoring

- | | |
|----------------------------|------------|
| • +4 months September 2010 | 40% |
| • Actual Result | 66% |

Indicator 3

Percentage of residents reporting sewerage invasion/smells

Human Rights Standard

“An adequate house must contain certain facilities essential for health, security, comfort and nutrition...safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.”

CESCR General Comment 4, Paragraph 8 (b)

- Benchmark May 2010 **89%**

Target Result at First monitoring

- +4 months September 2010 **50%**
- **Actual Result** **77%**

(Asked on a scale of 1 to 10 how bad are the smells 80% stated it was 8, 9 or 10)

Indicator 4

Percentage of residents concerned about health because of sewerage or damp

Human Rights Standard

“An adequate house must contain certain facilities essential for health, security, comfort and nutrition...safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.”

CESCR General Comment 4, Paragraph 8 (b)

- Benchmark May 2010 **91% (of those who had damp/ sewerage)**

Target Result at First Monitoring

- +4 months September 2010 **50%**
- **Actual Result** **90%**

Indicator 5

Percentage of residents reporting dissatisfaction with response to issues of sewerage and damp

Human Rights Standard

The right to an effective remedy need not be interpreted as always requiring a judicial remedy. Administrative remedies will, in many cases, be adequate and those living within the jurisdiction of a State party have a legitimate expectation, based on the principle of good faith, that all administrative authorities will take account of the requirements of the Covenant in their decision-making. Any such administrative remedies should be accessible, affordable, timely and effective.

CESCR General Comment No 9, C paragraph 94

- Benchmark May 2010 **86%**

Target Result at First Monitoring

- +4 months September 2010 **50%**
- Actual Result **81%**

Indicator 6

Percentage of residents given no information/explanation as to why problems occur

Human Rights Standard

The full enjoyment of other rights...such as the right to participate in public decision making is indispensable if the right to adequate housing is to be realised and maintained by all groups in society.

CESCR General Comment 4, Paragraph 9

- Benchmark May 2010 **68%**

Target Result at First Monitoring

- +4 months September 10 **30%**
- Actual Result **60%**

Indicator 7

Percentage of residents reporting no information given on how issues of dampness and sewerage are to be addressed

Human Rights Standard

“The full enjoyment of other rights...such as the right to participate in public decision making is indispensable if the right to adequate housing is to be realised and maintained by all groups in society.”

CESCR General Comment 4, Paragraph 9.

• Benchmark May 2010	91%
Target Result at First Monitoring	
• +4 months September 10	50%
• Actual Result	?%

Indicator 8

Percentage of residents reporting that they are not included in decisions affecting them regarding dampness and sewerage

Human Rights Standard

“The full enjoyment of other rights...such as the right to participate in public decision-making is indispensable if the right to adequate housing is to be realised and maintained by all groups in society.”

CESCR General Comment 4, Paragraph 9

• Benchmark May 2010	91%
Target Result at First Monitoring	
• +4 months September 10	50%
• Actual Result	83%

4. Next Steps.

RRIAG monitoring group will conduct its next survey (Second Monitoring) in January 2011. The target results for this period, endorsed by Irish Human Rights Commission, are as follows: (highlighted)

Indicator 1

Percentage of residents reporting dampness

Benchmark May 2010	72%
+4 months September 2010	55%
+ 8 months January 2011	30%
+12 months May 2011	0%

Indicator 2.

Percentage of residents reporting mould

Benchmark May 2010	64%
+4 months September 2010	40%
+ 8 months January 2011	20%
+12 months May 2011	0%

Indicator 3

Percentage of residents reporting sewerage invasion/smells

Benchmark May 2010	89%
+4 months September 2010	50%
+ 8 months January 2011	20%
+12 months May 2011	0%

Indicator 4

Percentage of residents concerned about health because of sewerage or damp

Benchmark May 2010	91%
+4 months September 2010	50%
+ 8 months January 2011	20%
+12 months May 2011	0%

Indicator 5

Percentage of residents reporting dissatisfaction with response to issues of sewerage and damp

Benchmark May 2010	86%
+4 months September 2010	50%
+ 8 months January 2011	20%
+12 months May 2011	0%

Indicator 6

Percentage of residents given no information/explanation as to why problems occur

Benchmark May 2010	68%
+4 months September 10	30%
+ 8 months January 2011	10%
+12 months May 2011	0%

Indicator 7

Percentage of residents reporting no information given on how issues of dampness and sewerage are to be addressed

Benchmark May 2010	91%
+4 months September 2010	50%
+ 8 months January 2011	10%
+12 months May 2011	0%

Indicator 8

Percentage of residents reporting that they are not included in decisions affecting them regarding dampness and sewerage

Benchmark May 2010	91%
+4 months September 2010	50%
+ 8 months January 2011	10%
+12 months May 2011	0%