

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

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

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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.

Section One.

Rialto Rights in Action Second Monitoring Report Survey results

Executive summary.

In preparation for the second monitoring report on the housing conditions in Dolphin House Rialto Rights in Action Group surveyed 60 flats which have been surveyed twice previously. The surveys focused on progress on 8 indicators set in May 2010 to measure the compliance of the State with its obligations under the Convention of Economic Social and Cultural Rights. The following are the results set against targets and results of previous surveys (Latest targets and results are in bold.).

Indicator 1.

Number 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%
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Target Result at First Monitoring	
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+4 months September 10	55%
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Actual Result	77%
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Target result at second monitoring	30%
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Actual Result	80%
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Indicator 2.

Number of residents reporting mould

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 May 2010	64%
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Target Result at First Monitoring	
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+4 months September 10	40%
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Actual Result	66%
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Target result at second monitoring	20%
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Actual Result	68%
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Indicator 3

Number 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%
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Target Result at First monitoring	
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+4 months September 10	50%
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Actual Result	77%
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Target result at second monitoring	20%
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Actual Result	82%
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Indicator 4

Number 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%
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Target Result at First Monitoring	
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+4 months September 10	50%
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Actual Result	90%
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Target result at second monitoring	20%
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Actual Result	90%
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Indicator 5

Number 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 10	50%
Actual Result	81%
Target result at second monitoring	20%
Actual Result	82%

Indicator 6

Number of residents given no satisfactory 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%
Target result at second monitoring	10%
Actual Result	93%*

**Note This question was amended slightly since previous surveys from “given no explanation” to given no Satisfactory explanation, which may explain the rise.*

Indicator 7

Number 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	No result recorded
Target result at second monitoring	10%
Actual Result	85%

Indicator 8

Number 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%
Target result at second monitoring	10%
Actual Result	93%

Supplementary survey.

Rialto Rights in Action Group also surveyed a supplementary 15 flats. This was done in recognition of the fact that it was not possible to get access to some flats on the original list. Of the 15 surveyed the results were as follows:

14 report damp

13 report mould growth

14 report sewage invasion in or around the flat

14 have concerns for their health arising from these problems.

14 are dissatisfied with DCC response to the problem

15 report no satisfactory explanation as to why problems occur
15 report no information being given as to how the problem is to be dealt with
15 do not feel included in decisions on these issues

Health impact

This survey also asked residents to identify illnesses that may be aggravated by damp, mould or sewage. Of the sixty units surveyed;

45% report respiratory issues for adults living in the flat

42% report respiratory issues for children in the flat.

62% report that these ailments developed or worsened only since moving into a flat with damp/mould/sewage.

Of the 15 supplementary flats surveyed,

11 report adults living in the flat experiencing respiratory problems

13 report children living in the flat experiencing respiratory problems

10 said these problems only developed or worsened when they moved into flats with damp/mould/sewage

Commentary.

These are obviously very disappointing results. They show that not only are they very far off the targets, but they are marginally worse than at first monitoring.

We acknowledge that some action has been taken by Dublin City Council (see section 2.), but we are conscious of the comment by Dr Padraic Kenna at the May hearing when asked how reasonable a twelve month time frame was for solving this problem. He replied;

“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**’.”

The frustration residents feel at the lack of outcomes on these basic issues is palpable on the doorsteps.

The link to health is very worrying and we intend to explore this more closely over the coming months. Evidence of a link to health in this survey includes:

- The number of people who worry that their health is affected
- The number of people with respiratory problems, afflictions that are seriously aggravated by the presence of damp spores

“The presence of *Aspergillus fumigatus* is very worrying since this is a known human pathogen and can cause a variety of pulmonary (lung) diseases in humans. Prolonged exposure to this fungus at the level present in most of these houses could cause a deterioration in asthma and bronchitis”

Dr Kavanagh of NUI Maynooth commenting on spores in Dolphin House flats.

- The number of people whose respiratory and other health problems began or worsened after they moved into a damp flat
- Residents reporting that their doctors have expressed concern about them living in damp conditions

A number of other health problems were also mentioned and linked by residents to damp/mould and sewage. These include diarrhea and skin rashes. Depression is also cited as a consequence of living in a cold damp smelly flat.

RRIAG also commissioned MouldBusters to carry out a study of four units in which ventilators had been placed by DCC in an attempt to tackle damp. Mouldbusters found that:

“All viable plates showed very high numbers of Colony Forming Units (CFUs).

Extrapolation from the CFU numbers indicates much higher than normal concentrations of mould spores in the indoor air.

Visible mould growth in the properties, as seen during testing, is consistent with Medium to High mould infestation as defined by the US EPA.

The presence of *Aspergillus fumigatus* raises concern due to its association with a range of pulmonary ailments.

The nature and extent of the mould present in these dwellings poses a potential health risk to the occupants.

In order to restore the dwellings to a safe and healthy standard, each affected property in Dolphin House should be given a rigorous mould remediation by a professional remediation company. “

This finding shows that the damp conditions in which so many Dolphin House residents live still pose a risk to health ten months after the first RRIAG hearing.

Section 2

Rialto Rights in Action Group's response to the Second Monitoring Results.

1. Introduction.

Dolphin House is a local authority (Dublin City Council) housing estate in Dublin's south inner city. It has 436 housing units (flats) with a population of approximately 900 persons. The residents are tenants of Dublin City Council. The population of Dolphin is classified as "extremely disadvantaged" in terms of its high proportion of lone parents, low levels of education rates, high unemployment etc. The other principal issues affecting the residents include the poor standard and maintenance of the housing by Dublin City Council, issues of anti-social behaviour, drug dealing and addiction, inadequate play and youth facilities, and mental health issues. It is important to highlight that Dolphin is a vibrant, close knit, and supportive community where the residents want to stay and live and actively contribute to their community. However, the housing conditions of many of the flats are intolerable.

This is the Second Report of The *Rialto Rights in Action* (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, according to the evidence gathered by RRIAG, completely inadequate.

The IHRC president Dr. Maurice Manning, supported by academic in the field of 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 peoples rights under the Convention on Economic, Social and Cultural Rights are secured over a reasonable period.

The residents also launched indicators, in line with the principle of progressive realisation. These are timed measures of progress towards the Human Rights Standard as defined by CESCR. 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 around 70 flats that provided the evidence for the first hearing. The indicators of progress are as follows;

1. Number of residents reporting dampness
2. Number of residents reporting mould
3. Number of residents reporting sewerage invasion/smells
4. Number of residents concerned about health because of sewerage or damp
5. Number of residents reporting dissatisfaction with response to issues of sewerage and damp
6. Number of residents reporting no information given on how issues of dampness and sewerage are to be addressed
7. Number of residents reporting being given no information/explanation as to why problems occur
8. Number of residents reporting that they are not included in decisions affecting them regarding dampness and sewerage

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.

RRIAG monitored progress on the indicators by a survey of flats during September 2010. The results showed that there had been no significant progress. In addition, a report from an independent engineer showed that waste water backing up into sinks and baths was highly toxic. At the first monitoring hearing in October 2010 Dublin City Council's Acting Assistant City Manager (ACM), Martin Kavanagh agreed that all would be done to ensure proper communication and partnership with residents in solving these issues. He committed to meet residents. As a result, a request was made by RRIAG in October 2010 for the Acting City Manager and other senior Dublin City Council officials such as head of maintenance, and senior engineer to attend, as necessary, the monthly meetings of the Maintenance sub-group of the Regeneration Board in partnership with residents on the issues. However, the ACM did not attend any meeting and other senior officials have attended just one of the four meetings held since the last hearing (November, December, February, March). Residents affected by these issues have made every effort to engage and attend the meetings and are very disappointed about this. However, if the key actors from DCC are not attending such meetings it is difficult to see how effective solutions can be worked out and implemented in partnership with residents.

Dublin City Council also declined a request from residents to issue a joint communication to all the tenants of Dolphin House explaining what was being jointly agreed as a way to tackle the issues.

What has been tried to date.

Ventilators.

Notwithstanding the barriers to a partnership approach, it is important to acknowledge that DCC did install, between December 2010 and January 2011, 6 ventilators as a pilot solution to address the dampness. They have also undertaken the jetting of pipes, commissioned an independent analysis

of the waste water situation, and are replacing plinths to remedy penetrating damp. We fully acknowledge their attempts in these areas.

A proper analysis of the impact of the ventilators is awaited but anecdotally it appears that they have not been successful. Damp and mould growth persists and residents in two of the trial flats report that their units are now colder. In addition, a test for damp spores carried out by placing Agar Plates in four of the units in which ventilators were placed found that: there is still a potential risk to the health of occupants.

The experience of one resident who agreed to having a ventilator installed in her flat highlights how difficult it is for residents to place trust in Dublin City Council. A hole was left in her bedroom wall by the contractors installing the ventilator in the first week of December 2010. This was reported to DCC and the engineer agreed he would get it fixed. By March 4th 2011 the tenant was still waiting for the repairs to be carried out on the wall.

Jetting of pipes.

A programme of jetting pipes is underway. This process involves cleaning the insides of pipes to ensure greater flow of wastewater. This process was endorsed by Tobin Engineers. It remains to be seen how successful this will be over the coming months.

Dampness: a question of responsibility.

During this period of monitoring it has come to light that it is written as DCC policy that “repairs due to condensation” are the residents’ responsibility. Blaming residents for damp arising from condensation has caused great offense to residents over many years. Residents are directed not to dry clothes indoors, to open windows for ventilation etc, to prevent condensation. At the First Monitoring hearing in October 2010 the Acting City Manager acknowledged that although condensation was a main cause of damp and mould in the flats, this does not mean that it was residents’ fault. A number of facts support this.

Residents regularly report that though they fully comply with directives not to dry clothes, boil too many kettles, open windows etc, damp and mould remains persistent.

Engineers say that as long as walls are not insulated and have no cavity there will be condensation. An engineers report highlighted the lack of adequate

insulation in the walls of the flats and the absence of a cavity wall or other thermal block which would prevent the heat from leaking through the fabric of the building at an excessive rate. He also noted that the vents in the double glazed PVC windows are totally inadequate

It appears to RRIAG that condensation is mainly due to the structure of the buildings rather than residents' behaviour. The buildings in their current condition are unable to facilitate modern living.

A Role for Government.

Substantial intervention required:

It is our view that Dublin City Council are trying to address the problems from within existing budgets and this is leading to them to undertake only minor ameliorative works rather than the significant structural interventions that are required. However, it is very clear that to address the structural problems with adequate solutions requires investment from the Department of the Environment. This is therefore not just a DCC issue but a Government responsibility.

Our call: Improve the living conditions in order to sustain the community!

To date Dolphin House has retained a strong and vibrant community. Strong links and family ties are vital supports in addressing social marginalisation and ensuring a sustainable community. Current Irish Government Housing Policy (*The Housing Policy Framework – Building Sustainable Communities 2005*) states that its aim is to support such communities. By putting in resources to address the housing conditions– but also addressing the system failures in the state institutions that lead to poor resource allocation and mistreatment of vulnerable citizens – the Irish Government could ensure the survival and sustainability of this community.

Residents and the City Council decided that the complete demolition and regeneration of the estate was necessary in 2009. Significant work has been done in the last three years on setting up structures of a local regeneration board with DCC and local politicians and community organisations. However progress on developing the regeneration plans has been far too slow and there is no indication of a start date for regeneration, or funding sources. Furthermore, whilst regeneration is ultimately the solution, it is essential the

environmental conditions are improved immediately so that this can be a sustainable community. It is vital that Dolphin does not go the way of other estates: entering a downward spiral of anti social behaviour, vandalism, despair and ultimately, complete break down. A clear commitment from the DOE that it will fund the regeneration of Dolphin House is required.

Ireland is undergoing particular economic difficulties which has impacted housing policy. However, while Dublin City Council is stating that finance is not available to address these issues due to cuts from its funding sources including the Department of the Environment, this should be contrasted with the ability of the Irish State to finance the rescue of the financial system. It should also be noted that these unacceptable housing conditions were not addressed during the economic boom. Therefore finance is not the only issue. It is about commitment to ensuring adequate housing conditions for all in society, and particularly those on lower incomes and those who are marginalized in social housing estates such as Dolphin House. Furthermore, 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. Finally, it is clear social housing in Dolphin House does not comply with minimum standards as set out by the Department of Environment, and it should not be acceptable that the social housing domain should compare unfavourably with private housing development.

We believe there are key actions the Irish state should take to fulfill its obligations under its commitments outlined in various international treaties such as the Convention on Economic, Social and Cultural Rights. These, in summary, include:

- Provide the necessary financial and staffing resources to address the housing conditions in Dolphin House.
- Ensure DCC and the DOE and other responsible state agencies engage with the tenants (rights-holders) to develop plans in partnership about how to address the concerns raised

Note of Interest.

Members of political parties now in government have raised the issue of conditions in Dolphin House in the Dail following the first RRIAG hearing in May 2010. For example on June 2nd 2010 Catherine Byrne Fine Gael TD asked:

“How, in a developed country, can the Government and especially the Minister for the Environment, Heritage and Local Government stand by and do nothing? The Government has a duty of care to the residents of these flat complexes, both through the housing Acts, and through public health requirements, but it chooses to ignore it.

The bottom line is that the human rights of these people, their right to proper housing and sanitation, are being totally disregarded which is unacceptable and cannot continue. It is vital that the Government takes action on the issue of housing conditions and on the broader issue of regeneration. The Minister for the Environment, Heritage and Local Government must step up and take responsibility for the deplorable living conditions with which many residents of our city-centre flat complexes are forced to deal every day. “

Labour Party TD Mary Upton asked the Minister for the Environment, Heritage and Local Government his *“plans to address the housing conditions in Dolphin House flats complex, Dublin 8; if he is concerned that the existing situation will result, or may already have resulted in, damage to the health and well-being of the residents of the complex; and if he will make a statement on the matter.”*

These parties are now of course on the Government benches. Will they deliver for Dolphin as they urged last administration to?

Conclusion.

The approach of RRIAG has been to try and engage with the State from the outset and to work out solutions in partnership. Rather than being threatened, the State should be supporting the active engagement and empowerment of Rights-Bearers. This will mean the State living up to its own human rights obligations. It will save the State money as those living with the problems are best placed to help have identify potential solutions, avoiding costly failures.

It is a poor reflection on the State at local and national level that it does not take greater advantage of the opportunity to work with a group of active

residents who want to contribute positively to improving the conditions for the entire community of Dolphin. These realities illustrate a failure of the Irish State at all levels to engage with those suffering from poverty and social exclusion. In the end, the Irish State continues to fail to implement the human rights obligation outlined in CESCR General Comment 4, Paragraph 9 which guarantees Dolphin House residents a right to participate in decision making relating to their housing issues.

The lack of progress has led to extreme frustration on the part of the residents. Therefore, they feel they have no option but to step up their action on this issue. They are no longer tolerating this inadequate response to dealing with their living conditions. They are looking for ways to highlight it directly to the offices of the City Council and to Dail Eireann.

Dr Rory Hearne, Regeneration Co-ordinator Dolphin House, on behalf of Rialto Rights In Action Group. March 2011