Poverty and Human Rights

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<td>Artificial Nutrition and Hydration</td>
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<td>DSS</td>
<td>Discretionary Support Service</td>
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<td>CEDAW</td>
<td>Convention on the Elimination of All Forms of Discrimination Against Women 1979</td>
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<td>ICERD</td>
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<td>CEIAG</td>
<td>Careers Education, Information, Advice and Guidance</td>
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<td>CESCR</td>
<td>Committee on Economic, Social and Cultural Rights</td>
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<td>CRC</td>
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<td>DLA</td>
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<td>DHSSPS</td>
<td>Department of Health, Social Services and Public Safety</td>
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<td>DSD</td>
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<td>ECHR</td>
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<td>EEA</td>
<td>European Economic Area</td>
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<td>Employment and Support Allowance</td>
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<td>GB</td>
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<td>HAP</td>
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<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights 1966</td>
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<td>JRCT</td>
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<td>Executive</td>
<td>Northern Ireland Executive</td>
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<td>NMW</td>
<td>National Minimum Wage</td>
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<td>NEET</td>
<td>Not in Education, Employment or Training</td>
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<td>NICVA</td>
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<td>OFMdFM</td>
<td>Office of the First Minister and deputy First Minister</td>
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<td>Abbreviation</td>
<td>Full Form</td>
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<td>PIP</td>
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<td>Socio-economic rights</td>
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INTRODUCTION

In 2013, 422,000 people in Northern Ireland experienced some level of poverty, including 109,000 children, 235,000 working age adults and 79,000 pensioners. Furthermore, five years since the start of the recession – 42% of households experience fuel poverty, more than half of households are struggling to keep up with the bills and 24.7% of 18-24 year olds are unemployed. Oxfam has warned that these figures and their impacts on individuals will get worse as a result of austerity measures, creating a “more unequal Northern Ireland society.”

This research considers poverty in Northern Ireland from a human rights perspective. It aims to establish to what extent the Northern Ireland Executive (Executive) and the Westminster Government are fulfilling core human rights obligations related to the right to an adequate standard of living, which continue to apply, even in times of recession and austerity.

What is Poverty?

The UN Committee on Economic Social and Cultural Rights (CESCR) defines poverty as:

… a human condition characterised by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights.

Poverty is a problem that persists even in the most affluent times. The most vulnerable to poverty have been identified as children, lone parents, people with disabilities, pensioners and

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2 Northern Ireland Housing Executive, ‘Northern Ireland House Condition Survey’ (Northern Ireland Housing Executive, 2011), at Table 6.2.
the disadvantaged. The Centre for Social Justice has identified five pathways to poverty. These are family breakdown, educational failure, economic dependency and worklessness, addiction and serious personal debt. These problems are exacerbated during times of economic recession and austerity, increasing vulnerability to poverty, even for those who were once economically secure.

Methodology

This research draws from domestic legislation, international human rights law, Government strategies, Government statistics, non-governmental quantitative research and semi-structured interviews with experts from the voluntary and community sector. It explores six questions:

- Has poverty increased? Who is affected? How are they affected?
- Is destitution increasing? Who is affected? How are they affected?
- Is there any evidence of the Government’s initiatives to tackle poverty and social exclusion?
- What obstacles, if any, are standing in the way of individuals accessing the State assistance that is available?
- What impact may the proposed welfare reforms have?
- What is the role of the voluntary and community organisations in tackling poverty?

The Report

Section I establishes how poverty, in its different forms, is defined within Northern Ireland. It also considers to what level these various types of poverty are evident in Northern Ireland. It uncovers that poverty is increasing, in all its forms. Section II tackles the question of whether poverty engages the ECHR; primarily Articles 2 (right to life), 3 (freedom from torture, inhuman or degrading treatment), 6 (right to fair trial), 8 (right to respect for private and family life), 14 (freedom from discrimination) and Protocol No 1 (right to enjoyment of property). It finds that it does, but only in the most extreme cases of destitution. It also specifies what the minimum core obligations are set out within international human rights law in relation to poverty; particularly the right to an adequate standard of living (including the rights to adequate housing, food, clothing and water), right to work, right to education and right to social security. Section III exposes that the demographics of who is subject to poverty is expanding. In its assessment it illustrates how the Executive is not ignoring its obligations under international human rights law

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to protect the rights related to preventing poverty. However, it also shows how State assistance is limited in its scope and availability, and is plagued by delays. As a result, it has unfairly fallen to voluntary and community organisations to assist those neglected by the State system. Section III further assesses whether the proposed welfare reforms place enjoyment of the rights highlighted in further jeopardy.
SECTION I: NORTHERN IRELAND AND POVERTY

In Northern Ireland there are five ways to measure poverty recognised within statute. These are relative poverty, absolute poverty, persistent poverty, low income and material deprivation, and destitution. These each set different thresholds and represent variable levels of poverty. The Executive has also recognised social exclusion as a key contributor to poverty. This section considers each of these indicators.

Relative Poverty

Relative poverty is “a standard which is defined in terms of society in which an individual lives and which therefore differs between countries and over time.”\(^9\) In other words, relative poverty aims to “capture an individual's inability to participate in society” and is defined “in relation to overall distribution of income.”\(^10\) Within the United Kingdom of Great Britain and Northern Ireland (UK) relative income poverty is defined as a household whose “equivalised net income for the financial year is less than 60% of UK median equivalised net household income for the financial year”, it does not include housing costs for that particular year.\(^11\)

**Analysis**

In 2002/2003 the average income before housing costs was £401 per week (£360 after housing costs), this gradually rose to a peak of £420 per week before housing costs (£380 after housing costs) in 2008/2009, before starting a gradual decline to £372 per week before housing costs (£336 after housing costs) in 2011/2012 (See Figure 1).\(^12\)

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Therefore, in 2011/2012 the relative poverty threshold for a couple with no children was an income of £256 per week (£13,400 annually) before housing costs. For a couple with children aged 5 and 15 the threshold is £392 per week (£20,500 annually), for a single person with children aged 5 and 14 the threshold is £308 per week (£16,000 annually) and for a single person without children the threshold is £172 per week (£9,000 annually), all before housing costs (See Figure 2).\(^\text{13}\)

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Figure 2: Relative Income Poverty in Northern Ireland 2011/2012

The long-term trend for relative poverty in Northern Ireland has remained fairly stable, with approximately one fifth of the population in relative poverty in any given year.\(^{14}\) This is a measure of whether those in the lowest income households are keeping pace with the growth of incomes in the population as a whole.\(^{15}\) However, Northern Ireland’s median income levels have seen a sharp decrease since 2009, which has increased the risk of relative poverty.\(^{16}\) This is reflected in recent statistics with relative poverty increasing between 2010-2011 and 2011-2012. Overall 378,900 people (21% of the population) in Northern Ireland were in relative poverty before housing costs in 2011-2012 (See Figure 3). This includes 94,500 children (22% of


children), 212,900 working age adults (20% of working age adults) and 71,600 pensioners (25% of pensioners).\textsuperscript{17}

![Percentage of Population Before Housing Costs](image)

\textit{Figure 3: Percentage of Population in Northern Ireland in Relative Poverty Before Housing Costs 2011/2012}

This rises to 405,600 in Northern Ireland in relative poverty after housing costs (22% of the population) (See Figure 4), including 119,200 children (27% of children), 241,400 working age adults (23% of working age adults) and 45,000 pensioners (15% of pensioners).\textsuperscript{18} Fewer pensioners are in relative poverty after housing costs, as most have paid off their mortgage and thus have comparatively low housing costs.\textsuperscript{19}


\textsuperscript{19} \url{http://data.jrf.org.uk/data/pensioner-poverty-time/} (Last visited 25 November 2013).
Paddy Hillyard offers a slightly higher poverty figure on the basis of a study conducted in 2008, which found 25% of the population in Northern Ireland to live in “hardship.” Hillyard referenced non-monetary indicators and adopted a conceptual model of material well-being to formulate these findings. This included considering ownership restrictions, social participation restrictions, economising, serious financial problems, self-ratings of standard of living, self-ratings of adequacy of income.

**Absolute Poverty**

Absolute poverty is defined as “a condition characterised by severe deprivation of basic human needs, including food, safe drinking water, sanitation facilities, health, shelter, education and

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20 Professor Paddy Hillyard, Dr Demi Patsios and Fiona Scullion, ‘Northern Ireland Living Standard Index: Development and Analysis Report’ (University of Bristol and Queen’s University Belfast, 2008), at 1.
21 Professor Paddy Hillyard, Dr Demi Patsios and Fiona Scullion, ‘Northern Ireland Living Standard Index: Development and Analysis Report’ (University of Bristol and Queen’s University Belfast, 2008), at 7.
information. It depends not only on income but also on access to services.”22 Within the UK absolute poverty is measured in monetary terms. A person in the UK is said to live in absolute poverty if the household’s “equivalised net for the financial year is less than 60% of the adjusted base amount, which is “the amount of median equivalised net household income for the… financial year beginning with 1 April 2010 [base year].”23 A base year has been set to measure whether those in the lowest income households are seeing their incomes rise in real terms.24

**Analysis**

In 2011/2012 the absolute poverty threshold for a couple with no children was an income of £264 per week (£13,800 annually) before housing costs.25 For a single person with no children the threshold is £177 per week (£9,200 annually), for a single person with children aged 5 and 14 the threshold is £317 per week (£16,500 annually) and for a couple with children aged 5 to 15 the threshold is £404 per week (£21,000 annually), all before housing costs (See Figure 5).

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Concerning the period April 2011 to March 2012 422,200 people (23% of the population) in Northern Ireland were in absolute poverty before housing costs in 2011-2012 (See Figure 6). This included 109,000 children (25% of children), which was an increase of 4% from the previous year. Further 234,600 working age adults (22% of working age adults) were found to be in absolute poverty before housing costs during this period, representing the highest level since records began in 2002-2003. In addition, 78,600 pensioners (27% of pensioners) were in absolute poverty before housing costs, which amounts to a 5% increase from the previous year and just 1% below the highest point on record, which was 28% in 2008-2009.

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After housing costs, 430,200 (24%) of the whole population of Northern Ireland were in absolute poverty (See Figure 7). This included 126,100 children (29% of children), 253,500 working age adults (24% of working aged adults) and 50,600 pensioners (17% of pensioners).\textsuperscript{29}

Persistent Poverty

Persistent poverty is often referred to as chronic poverty. It is poverty “experience[d] over many years, often over… entire lives.”\textsuperscript{30} It is also trans-generational – commonly passed on to the children of those who are suffering persistent poverty.\textsuperscript{31} It applies to people who are “always” or “usually” living below the poverty line.\textsuperscript{32} Those living in chronic poverty “die prematurely from preventable causes and experience multi-dimensional deprivation – hunger, under-nutrition, illiteracy, lack of access to basic services, and social isolation and exploitation.”\textsuperscript{33} Two particular groups of people can be distinguished as enduring chronic poverty. These are:

\textsuperscript{30} Available at http://www.chronicpoverty.org/page/about-chronic-poverty (Last visited 21 October 2013).
\textsuperscript{31} Available at http://www.chronicpoverty.org/page/about-chronic-poverty (Last visited 21 October 2013).
\textsuperscript{33} Available at http://www.chronicpoverty.org/page/about-chronic-poverty (Last visited 21 October 2013).
a) Those long term poor who are not economically active because of health, age, physical or mental disability.

b) Those who are economically active but unable to escape poverty because of terms of their employment, their lack of access to productive assets; or social barriers that mean they are discriminated against.34

As a result persistent poverty is “structural” and “underpinned by social, economic and political systems.”35

In the UK persistent poverty is defined as households that have been in poverty for “at least three of the survey years.”36 Survey years are “the calendar year that ends in the relevant financial year and the three previous calendar years.”37

Analysis

Experts have reported that in their experience poverty has a trans-generational element and therefore persistent poverty is common.38 In Northern Ireland 21% (before housing costs) live in persistent poverty, compared to 9% in Great Britain (GB).39 The main reasons for these high rates are:

- High levels of worklessness;
- High rates of disability and limiting long-term illness, especially mental ill-health;
- Low wages; and/or
- Poor-quality part-time jobs and obstacles to mothers working.40

Combined Low Income and Material Deprivation

A combination of low income and material deprivation provide an indicator that is not solely based on money. Within the UK low income is defined as a household that has an equivalised

36 Section 6(1), Child Poverty Act 2010.
37 Section 6(2), Child Poverty Act 2010.
38 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
net income for the financial year that is “less than 70% of the median equivalised net household income for the financial year.” Material deprivation applies to individuals who have a score of 25 or more. Indicators of material deprivation include:

- No outdoor space or facilities to play safely;
- Not enough bedrooms for every child 10 years or over and of a different gender;
- Inability to afford celebrations on special occasions;
- Inability to afford leisure equipment, such as sports equipment or a bicycle;
- Inability to afford at least one week’s holiday away for home with family;
- Inability to afford a hobby or leisure activity;
- Inability to afford having friends round for tea or a snack once a fortnight;
- Inability to afford to go on a school trip at least once a term;
- Inability to afford to go to a play group at least once a week;
- Inability to afford to attend an organised activity once a week;
- Inability to afford to eat fresh fruit and/or vegetables everyday;
- Inability to afford a warm coat;
- Inability to afford to decorate home;
- Inability to afford home insurance;
- Inability to afford savings of £10 a month or more;
- Inability to afford replacement for worn out furniture;
- Inability to afford to replace broken electrical goods;
- Inability to afford to spend money on yourself once a week;
- Inability to afford to keep the house warm; and/or
- Inability to afford to keep up to date with the bills.

**Analysis**

Figures from 2011/2012 indicate that 12% of children were in combined low income and material deprivation in Northern Ireland. This equates to 50,000 children. It represents a 1% increase from the previous year.

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42 Jonathan Kane and Ross Hume, ‘Households Below Average Income in Northern Ireland 2011/2012’ (Department for Social Development, 2013), at Table 7.8.
**Destitution**

Destitution is “poverty so extreme that one lacks the means to provide for oneself.”45 It is “the lack of means to meet basic needs of shelter, warmth, food, water and health.”46 It, in contrast to persistent poverty, emphasises the “severity of poverty”, not the “duration of poverty.”47

Section 95(3) of the Immigration and Asylum Act 1999 provides some indication of the statutory definition of destitution, though it does stipulate that the definition provided is “for the purposes of this section.” This Section states:

… a person is destitute if –

a) He does not have adequate accommodation or any means of obtaining it (whether or not his other essential living needs are met); or

b) He has adequate accommodation or the means of obtaining it, but cannot meet his other essential living needs.48

Section 44(6) of the Nationality, Immigration and Asylum Act 2002, which replaces Sections 95(2) to 95(8) of the 1999 Act clarifies that ‘other essential living needs’ is to be interpreted as “food and other essential items.”49 Therefore, within domestic law a person is destitute if “they do not have and cannot obtain both – a) adequate accommodation and b) food and other essential items.”50

The domestic and regional courts have provided some guidance for what would qualify as ‘other essential items.’ In *B v Romania (No 2)* (2013), the European Court of Human Rights (ECtHR) referred to destitution and the condition of a house.51 This case was an Article 8 (right to respect for family and private life) case against the Romanian authorities on how they had dealt with a woman who required psychiatric care and her children. When discussing the authorities’ decision to take the children into care the Court referred to the mother’s house being in “a state of destitution, without any lighting or food.”52

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48 Article 95(3), Immigration and Asylum Act 1999.
49 Section 44(6)(2), Nationality, Immigration and Asylum Act 2002.
50 Article 44(6)(2), Nationality, Immigration and Asylum Act 2002.
51 *B v Romania (No 2)*, Application No 1285/03, Judgment of 19 February 2013.
52 *B v Romania (No 2)*, Application No 1285/03, Judgment of 19 February 2013, at para 36 and 118.
The ECtHR in *MSS v Belgium and Greece* (2011) also referenced destitution and living conditions. It referred to “complete destitution” as “difficulty in finding food, no access to sanitary facilities etc.” The applicant, in this Article 3 (prohibition of torture) case:

...had immediately been placed in detention in a building next to the airport, where he was locked up in a small space with 20 other detainees, had access to the toilets only at the discretion of the guards, was not allowed out into the open air, was given very little to eat and had to sleep on a dirty mattress or on the bare floor.

English judge, Lord Hope, has also referred to those who “are frequently cold, tired, and hungry and have not had access to washing facilities” as being destitute. Varying degrees of “desperation and humiliation, as well as mental and physical illnesses” were also referenced.

**Analysis**

There are no dedicated figures for destitution in Northern Ireland. Experts have indicated that currently destitution is experienced mainly by non-UK nationals in Northern Ireland, particularly asylum seekers. However, experts have also indicated that, while they do not have the statistics to prove it due to data collection limitations, UK nationals are presenting as destitute. Experts have further warned that the changes in relation to welfare reform and austerity measures will increase the risk of destitution.

**Social Exclusion**

Poverty includes “social discrimination and exclusion.” Social exclusion is a forefront to a “person or group’s ability to participate in social, economic, political and cultural life and their relationships with others.” It:

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55. *MSS v Belgium and Greece*, Application No 30696/09, Judgment of 21 January 2011, at 34.
58. Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
59. Response from representative of Simon Community NI.
... involves the lack or denial of resources, rights, goods and services, and the inability to participate in the normal relationships and activities, available to the majority of people in society, whether in economic, social, cultural or political arenas. It affects both the quality of life of individuals and the equity and cohesion of society as a whole.\(^{63}\)

There are other important causal factors of social exclusion in addition to poverty “such as age, disability, ethnicity, gender and employment status.”\(^{64}\)

Within Northern Ireland social exclusion has been identified “as one of the most serious social issues of our time.”\(^{65}\) It affects individuals and families who:

... suffer from multiple social problems. They may, for example, be poorly skilled, unemployed, living on low income and coping with difficult home circumstances. They might live in poor housing and in areas blighted by crime. Those living in rural areas may have difficulties in accessing the types of services that other people take for granted.

Sometimes people’s problems are so numerous and the effects are so severe that it is impossible for them to lead what most people in Northern Ireland would consider to be normal every-day lives.\(^{66}\)

In essence, “social exclusion has to do with poverty and joblessness – but it is more than that. It is about being cut off from the social and economic life of our community.”\(^{67}\)

**Analysis**

Within Northern Ireland:

- 15% of parents are unable to give children pocket money,
- 7% of adults cannot afford a hobby or leisure activity,

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\(^{63}\) Ruth Levitas, Christina Pantazis, Eldin Fahmy, David Gordon, Eva Lloyd and Demi Patsios, ‘The Multi-Dimensional Analysis of Social Exclusion’ (Department of Sociology and School for Social Policy Townsend Centre for the International Study of Poverty and Bristol Institute for Public Affairs, University of Bristol, January 2007), at 9.

\(^{64}\) \url{http://www.poverty.ac.uk/definitions-poverty/social-exclusion} (Last visited 18 November 2013).


• 20% can no longer afford to spend a small amount of money on themselves each week,
• 30% of families cannot afford a holiday away from home,
• 12% of families cannot afford day trips once a month,
• 17% of children lack one participation item (birthday/Christmas celebrations, hobby/leisure activity etc),
• 17% of children lack at least one development item or activity (books, space to study, games, computer/internet, educational toys),
• 22% households with children do not have computer with access to the internet for homework,
• 25% had to borrow in the last year to pay for day to day needs 30% believe their households is little or a lot below the level of income necessary to keep their household out of poverty,
• 31% of working age adults unable to afford to make regular payments into an occupation or private pension,
• More than half of households struggling to keep up with household bills, and
• 7% of households have fallen behind with some or many of their bills.68

68 Available at http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly (Last visited 21 January 2014).
SECTION II: POVERTY AND HUMAN RIGHTS STANDARDS

Section I illustrates that poverty, in all its forms, is rising in Northern Ireland. Section II adopts a rights-based approach to poverty. It sets the foundations to assess the Executive’s attempts to tackle poverty in Section III. When referring to poverty and human rights standards two broad areas must be considered. The first is whether poverty so extreme that it constitutes destitution engages the ECHR? Secondly, which economic, social and cultural rights are engaged when considering poverty more generally? This section considers each of these areas in turn, before determining whether these international protections have been translated into domestic measures.

Destitution and the ECHR

By virtue of the Human Rights Act 1998, responsibility for non-compliance with the ECHR is directly applicable to State bodies, public authorities and private companies working in a public capacity.69 In recent years, a less traditional thinking has emerged that omissions or inactions by public authorities which contribute to poverty can constitute a violation of certain provisions of the ECHR. That is where the applicant has experienced a severe level of destitution.

The ECHR is a treaty which contains civil and political rights.70 Yet, rhetoric is emerging that provisions such as Articles 2, 3, 6, 8, 14 and Article 1 of Protocol No 1, contain positive socio-economic obligations in certain circumstances.71 Elizabeth Palmer has noted that “there has been progress towards a principles jurisprudence of positive obligations to provide for the basic human needs of vulnerable dependent individuals in a range of contexts, although the limits of State responsibility remain fluid and contested.”72 Furthermore, Colm O’Cinneide writes “State action or inaction which ensures that individuals become exposed to destitution, degrading living

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69 Section 6, Human Rights Act 1998.
conditions or similar manifestations of extreme poverty should in certain specific and limited circumstances be recognised as constituting a violation of the ECHR.” Yet O’Cinneide continues by acknowledging that the ECHR offers a “limited scope of protection” against destitution. This is on the basis that:

It appears that States will only be responsible under the ECHR for individuals becoming subject to extreme conditions of poverty where i) particular and distinct relationship of dependency exist between the State and vulnerable individuals who are subject to threats of their life or suffer degrading living conditions, or ii) where a ‘direct and immediate link’ exists between a particular type of State intervention and the maintenance of the essential core elements of a meaningful private and family life. In other words, the scope of the protection offered by the Convention appears to be limited to circumstances where particular State responsibility exists for the State of extreme poverty in question.

It is hard to measure destitution within Northern Ireland due to a lack of data. Experts have indicated that destitution in Northern Ireland is evident within the asylum seeker and refugee community, but statistics are lacking to measure the impact on UK nationals. Experts have also indicated that the proposed changes to welfare pose a “real danger” of others falling into destitution, particularly people with disabilities and those struggling with housing costs. This section considers the thresholds at which destitution engages the ECHR.

**Article 3 and Destitution**

Article 3 of the ECHR provides for freedom from torture, inhuman or degrading treatment or punishment. Article 15(2) of the ECHR recognises this as an absolute and non-derogable right.

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76 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
79 This is a right that cannot be interfered with under any circumstances. See also Article 4(2), International Covenant on Civil and Political Rights 1966.
The ECtHR confirms that Article 3 of the ECHR “prohibits in absolute terms torture or inhuman or degrading treatment or punishment, irrespective of the victim’s conduct.”

A minimum level of severity must be attained for an act to fall under the scope of Article 3 of the ECHR. The minimum severity required depends on the circumstances of the case and set out a number of factors that could be considered to ascertain whether a violation of Article 3 has occurred. These include: the duration of the treatment; the physical and mental effects of the treatment on an individual; and the sex, age and state of health of the victim. Furthermore, once the minimum threshold is achieved, the level of severity thereafter, will determine what kind of violation of Article 3 has occurred – is it torture or inhuman or degrading treatment.

In considering poverty and Article 3, the ECtHR has unanimously ruled that forcing people to live in dire conditions with many falling ill amounts to a violation of Article 3 of the ECHR. The Court considered:

… the treatment to be ‘inhuman’ because it was such as to arouse in the victims feelings of fear, anguish and inferiority capable of humiliating and degrading them. In considering whether a particular form of treatment is ‘degrading’ within the meaning of Article 3, the Court will have regard to whether its object is to humiliate and debase the person concerned and whether, as far as the consequences are concerned, it adversely affected his or her personality in a manner incompatible with Article 3. However, the absence of any such purpose cannot conclusively rule out a finding of a violation of Article 3.

Therefore, unlike torture, inhuman or degrading treatment does not require the conduct to be deliberate. Similarly the ECtHR has found:

[as regards the types of ‘treatment’ which fall within the scope of Article 3 of the Convention, the court’s case law refers to ‘ill-treatment’ that attains a minimum level of severity and involves actual bodily injury or intense physical or mental suffering. Where treatment humiliates or debases an individual showing a lack of

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81 Ireland v United Kingdom (1980) 2 EHRR 25, at para 162.
82 Ireland v United Kingdom (1980) 2 EHRR 25, at para 162.
84 Ireland v United Kingdom (1980) 2 EHRR 25, at point 4 of reasoning.
85 See also Kudla v Poland, Application No 30210/96, Judgment of 26 October 2013, at para 149-150.
86 See also Rammn v Finland, Application No 20972/92, Judgment of 16 December 1997, at para 55.
respect for, or diminishing, his or her human dignity or arouses feelings of fear, anguish or inferiority capable of breaking an individual’s moral and physical resistance, it may be characterised as degrading and also fall within the prohibition of Article 3. The suffering which flows from naturally occurring illness, physical or mental, may be covered by Article 3, where it is, or risks being, exacerbated by treatment, whether flowing from conditions of detention, expulsion or other measures, for which the authorities can be held responsible.\(^89\)

The key consideration for whether a violation of Article 3 of the ECHR has occurred is whether the circumstances reach a sufficient level of severity. Therefore, can destitution ever constitute a violation of Article 3? English judge, Lord Scott, in considering the stage at which the Secretary of State must provide or arrange for the provision of support for asylum-seekers, is of the opinion that:

\[\text{[i]t is not the function of Article 3 to prescribe a minimum standard of social support for those in need. That is a matter for the social legislation of each signatory State. If individuals find themselves destitute to a degree apt to be described as degrading the State’s failure to give them the minimum support necessary to avoid that degradation may well be a shameful reproach to the humanity of the State and its institutions but, in my opinion, does not without more engage Article 3. Just as there is no ECHR right to be provided by the State with a home, so too there is no ECHR right to be provided by the State with a minimum standard of living: ‘treatment’ requires something more than mere failure.}\(^90\)

Moreover, a counter-argument to destitution being read into Article 3 of the ECHR is that the ECHR’s main focus is civil and political rights, not socio-economic rights. However, the Court has reaffirmed that “there is no water-tight division separating [the sphere of social and economic rights] from the field of civil and political rights covered by the Convention.”\(^91\) This stance reflects that adopted in \textit{Airey v Ireland} (1979) where the Court ruled that:

\[\text{… the Convention must be interpreted in light of present-day conditions and it is designed to safeguard the individual in a real and practical way as regards those areas with which it deals. Whilst the Convention sets forth what are essentially civil and political rights, many of them have implications of a social or economic nature.}\(^92\)

However, English judge Lord Bingham states that Article 3’s application should not be automatically ruled out where destitution is concerned. He agrees that “as in all Article 3 cases,

\(^89\) Pretty v United Kingdom (2002) 35 EHRR 1, at para 52.
\(^90\) Regina v Secretary of State for the Home Department, ex parte Limbuela, [2005] UKHL 66, at para 46.
\(^91\) Budina v Russia, Application No 45603/05, Judgment of 18 June 2009, at section 3.
\(^92\) Airey v Ireland, Application No 6289/73, Judgment of 9 October 1979, at para 26.
the treatment, to be proscribed, must achieve a minimum standard of severity. However he warns that “in a context… not involving the deliberate infliction of pain or suffering, the threshold is a high one. [Yet] a general public duty to house the homeless or provide for the destitute cannot be spelled out of Article 3.”

English judge Baronness Hale proposes that the question is whether the degree of “suffering endured or imminently to be endured by these people reaches the degree of severity prohibited by Article 3.” She elaborated that:

\[\text{it is well known that a high threshold is set but it will vary with the context and the particular facts of the case. There are many factors to be taken into account. Sleeping rough in some circumstances might not qualify… But this is not a country in which it is generally possible to live off the land, in an indefinite State of rooflessness and cashlessness. It might be possible to endure rooflessness and for some time without degradation if one had enough to eat and somewhere to wash oneself and one’s clothing. It might be possible to endure cashlessness for some time if one had a roof and basic meals and hygiene facilities provided. But to have to endure the indefinite prospect of both, unless one is in a place where it is both possible and legal to live off the land, is in today’s society both inhuman and degrading. We have to judge matters by the standards of our own society in the modern world, not by the standards of a third world society or a bygone age.}\]

Furthermore, Lord Hope is of the opinion that States’ have positive and negative obligations under Article 3 of the ECHR. He states that:

\[\text{the prohibition is in one sense negative in its effect, as it requires the State – or, in the domestic context, the public authority – to refrain from treatment of the kind it describes [negative obligation]. But it may also require the State or the public authority to do something to prevent its deliberate acts which would otherwise be lawful from amounting to ill-treatment of the kind struck at by the Article [positive obligation].}\]

The ECtHR disagrees with Lord Scott. A breach of Article 3 of the ECHR was found in MSS v Belgium and Greece (2011) on the basis of the conditions of detention and destitution that the applicant experienced as an asylum seeker outside of detention. This decision hinged on the vulnerability of the applicant and the inaction of the State, as the Court remarked:

96 MSS v Belgium and Greece, Application No 30696/09, Judgment of 21 January 2011, at para
The Greek authorities have not had due regard to the applicant’s vulnerability as an asylum seeker and must be held responsible, because of their inaction, for the situation in which he has found himself for several months, living in the street, with no resources or access to sanitary facilities, and without any means of providing for his essential needs. The Court considers that the applicant has been the victim of humiliating treatment showing a lack of respect for his dignity and that this situation has, without doubt, aroused in him feelings of fear, anguish or inferiority capable of inducing desperation. It considers that such living conditions, combined with the prolonged uncertainty in which he has remained and the total lack of any prospects of his situation improving, have attained the level of severity required to fall within the scope of Article 3 of the Convention.

The case of Larioshina v Russia (2002) provided the basis for the findings in M.S.S. The applicant in this case claimed that she was receiving inadequate benefits. The Court ruled that the case was inadmissible, as the applicant had received what she was entitled to under domestic legislation and qualified that “in principle, [the Court] cannot substituted itself for the national authorities in assessing or reviewing the level of financial benefits available under a social assistance scheme.” Nevertheless, “the Court considers that a complaint about a wholly insufficient amount of pension and other social benefits may, in principle, raise an issue under Article 3 of the Convention which prohibits inhuman or degrading treatment.” This will be decided by assessing whether such damage has been caused to the individual’s “physical or mental health capable of attaining the minimum level of severity falling within the ambit of Article 3 of the Convention.”

In addition, the Court in Budina v Russia (2009) expanded this notion. This case concerned the claim of a Russian pensioner with disabilities who felt that the State pension she was offered was inadequate. Her claim was deemed inadmissible, but the Court did comment on whether such claims could constitute a violation of Article 3 of the Convention. The Court stated that:

[as regards the types of ‘treatment’ which fall within the scope of Article 3 of the Convention, the Court’s case-law refers to ‘ill-treatment’ that attains a minimum level of severity and involves actual bodily injury or intense physical or mental suffering. Where treatment humiliates or debases an individual, showing a lack of respect for, or diminishing, his or her human dignity, or arouses feelings of fear, anguish or inferiority capable of breaking an individual’s moral and physical resistance, it may be characterised as degrading and also fall within the

97 Larioshina v Russia, Application No 56869/00, Judgment of 23 April 2002.
98 Larioshina v Russia, Application No 56869/00, Judgment of 23 April 2002, at para 3.
100 Larioshina v Russia, Application No 56869/00, Judgment of 23 April 2002, at para 3.
101 Budina v Russia, Application No 45603/05, Judgment of 18 June 2009.
prohibition of Article 3. Moreover, it is sufficient if the victim is humiliated in his or her own eyes. Finally, in considering whether a treatment is ‘degrading’ within the meaning of Article 3, the Court will have regard to whether its object is to humiliate and debase the person concerned and whether, as far as the consequences are concerned, it adversely affected his or her personality in a manner incompatible with Article 3. Even the absence of a purpose cannot conclusively rule out a finding of a violation of Article 3.

Nevertheless, the ECtHR has warned that all circumstances must be taken into consideration. Even where the State authorities cannot be found to have imposed any direct ill-treatment on the application, a claim can be brought on the basis that “subsistence and livelihood is not sufficient for [an individual’s] basic human needs.” As such “the Court cannot exclude that State responsibility could arise for ‘treatment’ where an applicant, in circumstances wholly dependent on State support, found herself faced with official indifference when in a situation of serious deprivation or want incompatible with human dignity.”

The ECtHR has indicated the type of conditions that constitute a violation of Article 3:

… the applicants’ living conditions in the last ten years, in particular the severely overcrowded and unsanitary environment and its detrimental effect on the applicants’ health and well-being, combined with the length of the period during which the applicants have had to live in such conditions and the general attitude of the authorities, must have caused them considerable mental suffering, thus diminishing their human dignity and arousing in them such feelings as to cause humiliation and debasement. In addition, the remarks concerning the applicants’ honesty and way of life made by some authorities dealing with the applicants’ grievances appear to be, in the absence of any substantiation on behalf of these authorities, purely discriminatory. In this connection the Court reiterates that discrimination based on race can of itself amount to degrading treatment within the meaning of Article 3 of the Convention. In light of the above, the Court finds that the applicants’ living conditions and the racial discrimination to which they have been publicly subjected by the way in which their grievances were dealt with by the various authorities, constitute an interference with their human dignity which, in the special circumstances of this case, amounted to ‘degrading treatment’ within the meaning of Article 3 of the Convention [emphasis added].

104 See also Tyrer v United Kingdom, Application No 5856/72, Judgment of 25 April 1978, at para 32; Smith and Grady v United Kingdom, Application Nos 33985/96 and 33986/96, Judgment of 27 September 1999, at para 120.
106 Budina v Russia, Application No 45603/05, Judgment of 18 June 2009, at section 3.
107 Budina v Russia, Application No 45603/05, Judgment of 18 June 2009, at section 3.
108 See also East African Asians v United Kingdom (1973) 3 EHRR 76, at 5 and 32.
However, it has been stressed in *O'Rourke v United Kingdom* (2001)\(^{110}\) that an individual’s suffering must be due to State action or inaction, not an individual’s own volition, in addition to the requirement to reach a requisite level of severity, to engage Article 3 of the Convention. In that case the applicant had spent 14 months living on the streets, a situation which had become detrimental to his health. Yet in that case the applicant had been unwilling to accept temporary accommodation and refused two offers of permanent accommodation. The ruling in *Budina* confirmed this stating that any claims made must be substantiated and evidence must be provided that either the services are not offered, or when they are, that they are set up in a way which deems them categorically unavailable, as opposed to merely inconvenient and bureaucratic. For example, in *Budina* specifically the Court noted that:

> [t]he applicant’s income within the period in question was not high in absolute terms. However, the applicant failed to substantiate her allegation that the lack of funds translated itself into concrete suffering. On the contrary, in her observations the applicant explained that in 2008 her pension was enough for flat maintenance, food and hygiene items, but was not enough for clothes, non-food goods, sanitary and cultural services, health and sanatorium treatment. Of these latter items, it appears that the applicant was in fact eligible for free medical treatment. While she claimed in practice the paperwork for sanatorium treatment was prohibitive, she has not shown that essential medical treatment has, for that reason, been rendered unavailable.\(^{111}\)

Drawing from these various judgments, the Joint Committee on Human Rights argues that, within the UK there are cases of destitution that “in some cases reaches the Article 3 threshold.”\(^{112}\) It also goes a step further to state that the UK Government is practising a deliberate policy of destitution by “refusing permission for asylum seekers to work and operating a system of support which results in widespread destitution.”\(^ {113}\) Experts have confirmed that asylum seekers are the main group that are subject to destitution and there is a lack of evidence to prove that this condition extends to non-nationals.\(^ {114}\) However, experts have warned that welfare reforms, pension cuts and inaction regarding unemployment will result in an increased risk of destitution across the board.\(^ {115}\)


\(^{111}\) *Budina v Russia*, Application No 45603/05, Judgment of 18 June 2009, at section 3.


\(^{114}\) Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.

\(^{115}\) Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014; Response from representative of Simon Community NI.
To summarise, proving a case of destitution to be a violation of Article 3 of the ECHR is difficult, but not impossible. For a case to have a chance of succeeding the destitution must be due to State action or inaction, not of the individual’s own volition. There must be some damage to the individual’s physical or mental health, or the individual must be humiliated to the point that it diminishes their dignity. The damage must also satisfy a minimum standard of severity. Jurisprudence has shown that a case is unlikely to succeed unless the individual is particularly vulnerable. Furthermore, such hardship will be categorised as inhuman or degrading treatment, not torture.

**Article 8 and Destitution**

Article 8 of the ECHR provides for the right to respect for private and family life. This is a far-reaching, but qualified right\(^ {116} \) which the ECtHR has ruled to contain a positive obligation on the State to “take reasonable and appropriate measures to secure and protect individuals’ rights to respect their private life, which includes the right to physical and psychological integrity.”\(^ {117} \) It is the duty of the national authorities, in particular the courts, to interpret provisions of domestic law relating to personal integrity “in the spirit of the right to respect for private life under Article 8.”\(^ {118} \) The ECtHR confirms that “in the case of people in a vulnerable position, including people with disabilities, the authorities must show particular vigilance and afford increased protection in view of the fact that such individuals’ capacity or willingness to pursue a complaint will often be impaired.”\(^ {119} \)

There is no precedence for Article 8 to be applied in instances of destitution. To date all cases dealing with this interpretation of Article 8 have been in the context of detention\(^ {120} \) or deportation.\(^ {121} \) However, through the ECtHR reading the right to physical and psychological integrity into Article 8 there is the possibility of a State’s failure to tackle issues leading to destitution resulting in a violation of this right. Yet, as with Article 3, this would only be in the

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\(^{116}\) A right which is subject to limitations in certain circumstances.


\(^{118}\) Storck v Germany, Application No 61603/00, Judgment of 16 June 2005, at para 147.

\(^{119}\) B v Romania (No 2), Application No 1285/03, Judgment of 19 February 2013, at para 86. See also MB v Romania, Application No 43982/06, Judgment of 3 November 2011, at para 52; AMM v Romania, Application No 2151/10, Judgment of 14 February 2012, at para 56.

\(^{120}\) See for example, B v Romania (No 2), Application No 1285/03, Judgment of 19 February 2013.

\(^{121}\) See for example, N v United Kingdom, Application No 26565/05, Judgment of 27 May 2008.
most extreme cases. For such a claim to succeed it must be proven that the State’s failure to address an individual’s state of destitution was unlawful, that the failure was not brought about due to the preservation of a legitimate purpose and that the inaction was not proportionate. The ECtHR has also established that in order for Article 8 to be engaged there must be a “direct and immediate link” between the measures sought by the applicant and their private, family or home life.\textsuperscript{122}

What this means in practice was discussed in the English High Court case of \textit{R (in the application of Morris) v Newham London Borough Council [2002].}\textsuperscript{123} Jackson J in this case ruled “[a]bsent special circumstances which interfere with private or family life, a homeless person cannot rely upon Article 8.”\textsuperscript{124} In this case the local housing authorities had failed to provide suitable accommodation which resulted in the claimant being forced to live in grossly overcrowded conditions with her family. However, the application was dismissed on the basis that Article 8 of the ECHR does not impose a duty on a public authority to provide a home to a homeless person, the applicant had not been evicted from her accommodation by the public authority, she had not been separated from her three children, and the claimant’s health problems had not been sufficiently serious to give rise to breach of her rights.\textsuperscript{125} In contrast, a sufficient “direct and immediate link” was established in \textit{R (Bernard) v Enfield London Borough [2002].}\textsuperscript{126} In this case the husband and wife claimants had been provided with severely inadequate accommodation given that the wife was a wheelchair user with severe disabilities. Sullivan J ruled that the degree of severity did not satisfy Article 3 of the ECHR, but there was a breach of Article 8. This was on the basis that:

[s]uitably adapted accommodation would not merely have facilitated the normal incidents of family life… It would also have secured [the claimant’s] physical and psychological integrity… In short, it would have restored her dignity as a human being…

The Council’s failure to act… showed a singular lack of respect for the claimant’s private and family life. It condemned the claimants to living conditions which made it virtually impossible for them to have any meaningful private or family life for the purposes of Article 8.\textsuperscript{127}

\textsuperscript{122} \textit{Botta v Italy} (1998) 26 EHRR 241, at para 34.
\textsuperscript{123} \textit{R (on the application of Morris) v Newham London Borough [2002] All ER (D) 402.}
\textsuperscript{124} \textit{R (on the application of Morris) v Newham London Borough [2002] All ER (D) 402.}
\textsuperscript{125} \textit{R (on the application of Morris) v Newham London Borough [2002] All ER (D) 402.}
\textsuperscript{126} \textit{R (Bernard) v Enfield London Borough [2002] EWHC 2282.}
\textsuperscript{127} \textit{R (Bernard) v Enfield London Borough [2002] EWHC 2282, at paras 33-34.}
It could be contested that the same reasoning given by Sullivan J could be extended to those who are homeless; that State provision of a home would assist in securing the individual’s physical and psychological integrity. However, the Courts are hesitant to recognise this. The ECtHR has stated that Article 8 “does not guarantee the right to have one’s housing problem solved by the authorities.”128 The Court further provides that:

[w]hile it is clearly desirable that every human being have a place where he or she can live in dignity and which she can call home, there are unfortunately in the Contracting States many persons who have no home. Whether the State provides funds to enable everyone to have a home is a matter for political not judicial decision.129

Nevertheless, States are not awarded a carte blanche, other factors must be taken into consideration and balanced against any claim of a violation of Article 8 of the ECHR. These are the principles of margin of appreciation,130 proportionality and interests of a democratic society, all of which provide States with discretion. The margin of appreciation doctrine allows the ECtHR to take account the fact that each Contracting State is legally, culturally, historically and philosophically different. In some instances a State may be given broad discretion, otherwise referred to as a wide margin of appreciation. This is where it is felt that the State’s position is lawful, proportionate and justified in the interest of a democratic society, to protect public morals and/or to maintain public order. A wide margin is most common in cases where there is little or no consensus between the domestic positions of Contracting States. A narrow margin of appreciation refers to instances where States are awarded limited discretion, usually in cases where special circumstances exist or there is broad consensus on the issue between the Contracting States. How these principles are applied is discussed in the UK Supreme Court case of R (McDonald) v Royal Borough of Kensington and Chelsea [2011].

The UK Supreme Court in this case considered the removal of the applicant’s night care. The applicant had been left with severely limited mobility and other disabilities following a stroke. As a result she required the assistance of a night carer to assist her to the toilet multiple times during the night. This service had been provided as part of her care package, but the respondents

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130 The margin of appreciation doctrine allows the ECtHR to take account the fact that each Contracting State is legally, culturally, historically and philosophically different. In some instances a State may be given broad discretion, otherwise referred to as a wide margin of appreciation. This is where it is felt that the State’s position is lawful, proportionate and justified in terms of the interest of a democratic society, to protect public morals and/or to maintain public order. A narrow margin of appreciation refers to instances where States are awarded limited discretion.
proposed the use of incontinence pads or special sheeting instead. The respondent claimed this would provide the applicant with greater safety, independence and privacy. It would also reduce the cost of her care by £22,000 per annum. The applicant found it to be an affront to her dignity, because she is not incontinent. The UK Supreme Court’s 4:1 majority ruled that the applicant’s appeal should be dismissed. This was on the basis that:

[t]he wide margin of appreciation enjoyed by States in striking the fair balance… between the competing interests of the individual and of the community as a whole and in determining the steps to be taken to ensure compliance with the Convention, and indeed that this margin of appreciation is even wider when… the issues involve an assessment of the priorities in the context of the allocation of limited State resources.¹³¹

In other words, the UK Supreme Court felt that given the circumstances and limited resources available that the respondent’s decision was reasonable. The ECtHR has stated that the margin of appreciation will vary “according to the nature of the Convention right in issue, its importance for the individual and the nature of the activities restricted, as well as the aim pursued by the restrictions.”¹³² Therefore, the margin will “tend to be narrower where the right at stake is crucial to the individual’s effective enjoyment of intimate or key rights.”¹³³

An example of a case where the State is awarded a narrower margin of appreciation is offered by Marzari v Italy (1999).¹³⁴ In this case the applicant suffered from a rare disease that, at times, constrained him to a wheelchair. He claimed that his Article 8 rights had been infringed as he had been evicted and the alternative accommodation offered to him was unsuitable. The ECtHR held that “a refusal of the authorities to provide assistance in this respect to an individual suffering from a severe disease might in certain circumstances raise an issue under Article 8 of the Convention because of the impact of such refusal on the private life of the individual.”¹³⁵ Yet this was with the caution that:

… while the essential object of Article 8 is to protect the individual against arbitrary interference by public authorities, this provision does not merely compel the State to abstain from such interference: in addition, to this negative undertaking, there may be positive obligations inherent in effective respect for

¹³⁴ Marzari v Italy (1999) 28 EHRR CD175.
¹³⁵ Marzari v Italy (1999) 28 EHRR CD175, at 179.
private life. A State has obligations of this type where there is a direct and immediate link between the measures sought by the applicant and the latter's private life.\textsuperscript{136}

Consequently, the Court has established a test that:

\[ \text{[t]he Court must first examine whether the applicant’s rights under Article 8 were violated on account of the decision of the authorities to evict him despite his medical condition. It further has to examine whether the applicant’s rights were violated on account of the authorities’ alleged failure to provide him with adequate accommodation.} \text{\textsuperscript{137}} \]

Furthermore, Lord Chief Justice Woolf in the English Court of Appeal case, \textit{Anufrijeva v Southwark} [2003],\textsuperscript{138} ruled that there are “some circumstances in which a public authority will be required to devote resources to making it possible for individuals to enjoy the rights that are entitled to respect under Article 8.”\textsuperscript{139} However:

\[ \ldots \text{while [the ECtHR] has recognised the possibility that Article 8 may oblige a State to provide positive welfare support, such as housing, in special circumstances, it has equally made it plain that neither Article 3 nor Article 8 imposes such a requirement as a matter of course.} \text{\textsuperscript{140}} \]

Therefore, Lord Woolf concluded that:

\[ \text{Sullivan J was correct to accept that Article 8 is capable of imposing on a State a positive obligation to provide support. We find it hard to conceive, however, of a situation in which the predicament of an individual will be such that Article 8 requires him to be provided with welfare support, where his predicament is not sufficiently severe to engage Article 3. Article 8 may more readily be engaged where a family unit is involved. Where the welfare of children is at stake, Article 8 may require the provision of welfare support in a manner which enables family life to continue.} \text{\textsuperscript{141}} \]

Thus, if it can be proven that the destitution was a direct consequence of the State’s actions or inaction and led to an unfair burden that directly and immediately affected the individual’s family life, privacy and/or home, the applicant could have a case, particularly if a family unit or the welfare of a child is involved.

\textsuperscript{136} \textit{Marzari v Italy} (1999) 28 EHRR CD175, at 179.
\textsuperscript{137} \textit{Marzari v Italy} (1999) 28 EHRR CD175, at 179.
\textsuperscript{138} \textit{Anufrijeva v Southwark} [2003] EWCA Civ 1406.
\textsuperscript{139} \textit{Anufrijeva v Southwark} [2003] EWCA Civ 1406, at para 28.
\textsuperscript{140} \textit{Anufrijeva v Southwark} [2003] EWCA Civ 1406, at para 33.
\textsuperscript{141} \textit{Anufrijeva v Southwark} [2003] EWCA Civ 1406, at para 43.
Article 2 and Destitution

Article 2 of the ECHR concerns the right to life. It sets out that the State should take reasonable steps to prevent intentional and unintentional deprivation of life.\(^{142}\) The acknowledgement that this provision includes unintentional deprivation of life combined with the reality that extreme poverty, which can be a result of restrictive State policies and State inaction, can threaten life, potentially paves the way for a violation of Article 2 in certain cases.

Judicial consideration of destitution and Article 2 of the ECHR is limited and applications that have been made on that basis have been unsuccessful to date. Nevertheless, it is contended that in more extreme cases, a potential link does exist between destitution and Article 2 of the ECHR. In \textit{Wasilewski v Poland} (1999)\(^{143}\) the applicant claimed that the delay in his civil case against an insurance company was unreasonably long and was interfering with his access to adequate medical treatment and access to sufficient subsistence. In considering his claim that this interfered with his right to life, the ECtHR found the applicant's Article 2 claim to be inadmissible. The Court based this finding on its view that “neither Article 2 nor any other provision of the Convention can be interpreted as conferring on an individual a right to enjoy any given standard of living, or a right to obtain financial assistance from the State.”\(^{144}\) However, the Court did indicate that if the applicant had been exposed to “any danger to life or limb” it may bring the case “within the ambit of Article 2 of the Convention.”\(^{145}\) This approach was upheld in \textit{Sokur v Ukraine} (2002),\(^{146}\) a case where the applicant complained that the non-enforcement of a court decision in his favour violated Article 6 and, on the basis of his low standard of living, Article 2 of the ECHR. The Court ruled the Article 2 claim to be inadmissible. Yet, the Court indicated that the outcome may have been different if the applicant had shown that he suffered “such destitution as to put his life at risk.”\(^{147}\)


\(^{143}\) \textit{Wasilewski v Poland}, Application No 32734/96, Judgment of 20 April 1999.


The case of Öneryildiz v Turkey (2004)\textsuperscript{148} also indicates that instances where the State should have known that a risk to life existed and did not act reasonably can constitute a violation of Article 2. In this case the Turkish State was found to be responsible for failing to protect individuals living on a rubbish dump against the threat of a methane gas explosion, which claimed the lives of nine of the applicant’s relatives. The State was held responsible on the basis that it should have known the threat that existed and failed to take reasonable action. It is arguable that this approach could be transferred to how the ECHR applies to destitution. As O’Cinneide summarizes:

while the State has no general responsibility under Article 2 to provide an effective system of health care or to guarantee the lives of the poor, it may be under a specific responsibility in particular circumstances to protect the destitute against knowable threats to their life.\textsuperscript{149}

However, the Court in Burke v United Kingdom (2006)\textsuperscript{150} stressed that the risk to life must be “real and imminent.”\textsuperscript{151} In this case the applicant was concerned that the current medical guidance in the UK would permit the withdrawal of artificial nutrition and hydration (ANH) in circumstances which would lead to his suffering, and dying of, starvation and dehydration of which he would be aware throughout. The case was deemed inadmissible as the applicant did not succeed in “establishing that the applicable domestic law is such that he faces a real or imminent risk that ANH will be withdrawn in circumstances precipitating a painful death by thirst.”\textsuperscript{152}

Therefore, for a case claiming that destitution has led to a violation of Article 2 to have a chance in succeeding, it must be shown that i) the destitution was a result of State action or inaction, ii) the state of destitution posed a real and imminent risk to life and iii) the State was aware that a real and imminent risk existed and failed to take reasonable steps to counteract this.

\textsuperscript{150} Burke v United Kingdom, Application No 19807/06, Judgment of 11 July 2006.
\textsuperscript{151} Burke v United Kingdom, Application No 19807/06, Judgment of 11 July 2006, at para 1.
\textsuperscript{152} Burke v United Kingdom, Application No 19807/06, Judgment of 11 July 2006, at para 1.
Article 1 of Protocol No 1 and Destitution

Article 1 of Protocol No 1 of the ECHR provides for the protection of property. The ECtHR confirms that Article 1 of Protocol No 1 “does not guarantee a right to acquire property.” Instead, this provision comprises three distinct rules:

The first rule, set out in the first sentence of the first paragraph, is of a general nature and enunciates the principle of the peaceful enjoyment of property; the second rule, contained in the second sentence of the first paragraph, covers deprivation of possessions and subjects it to certain conditions; the third rule, stated in the second paragraph, recognises that the Contracting States are entitled, amongst other things, to control the use of property in accordance with general interest. The three rules are not, however, ‘distinct’ in the sense of being unconnected. The second and third rules are concerned with particular instances of interference with the right to peaceful enjoyment of property and should therefore be construed in the light of the general principle enunciated in the first rule.

Therefore ‘possession’ is key. In other words:

An applicant can allege a violation of Article 1 of Protocol No 1 only in so far as the impugned decisions relate to his ‘possessions’ within the meaning of that provision. ‘Possessions’ can be ‘existing possessions’ or assets, including, in certain well-defined situations, claims. For a claim to be capable of being considered an ‘asset’ falling within the scope of Article 1 of Protocol No 1, the claimant must establish that it has a sufficient basis in national law, for example where there is settled case-law of the domestic courts confirming it. Where that has been done, the concept of ‘legitimate expectation’ can come into play.

Furthermore, it has been established that Article 1 of Protocol No 1 contains a qualified right. This is a right that the State can lawfully interfere with in certain circumstances. The ECtHR states that for interference with this right to be compatible with Article 1 of Protocol No 1 it “must be lawful,” must “serve a legitimate public (or general interest” and must be “reasonably proportionate to the aim sought to be realised.” In addition, the person concerned must not bear “an individual and excessive burden.”

154 Arras and Others v Italy, Application No 17972/07, Judgment of 14 February 2012, at para 77.
156 Arras and Others v Italy, Application No 17972/07, Judgment of 14 February 2012, at para 77.
In recent times the ECtHR has begun to recognise social security and welfare payments as possessions or sufficiently related to the right to property to engage the principle of non-discrimination; the latter of which is discussed in greater detail under ‘Article 14 and Destitution’. However, whether a violation of these rights has occurred is only accepted in limited circumstances. The ECtHR has stated that “Protocol No 1 does not include the right to receive a social security payment of any kind.” Therefore, this provision does not place any restrictions on the Contracting State’s freedom to decide whether or not to have in place any form of social security scheme, or to choose the type or amount of benefits to provide under such a scheme. Nevertheless, the Court has also ruled that if a Contracting State has in force legislation providing for the payment as of right of a welfare benefit – whether conditional or not on the prior payment of contributions – that legislation must be regarded as generating a proprietary interest falling within the scope of Article 1 of Protocol No 1 for persons satisfying its requirements. Thus:

[In the modern, democratic State, many individuals are, for all or part of their lives, completely dependent for survival on social security and welfare benefits. Many domestic legal systems recognise that such individuals require a degree of certainty and security, and provide for benefits to be paid – subject to the fulfilment of the conditions of eligibility – as of right. Where an individual has an assertable right under domestic law to a welfare benefit, the importance of that interest should also be reflected by holding Article 1 of Protocol No 1 to be applicable.]

In other words, where the amount of a benefit is reduced or discontinued may constitute interference with possessions, but the circumstances of the case will determine whether that interference is justifiable. Furthermore, the ECtHR has stated that whether Article 1 of Protocol No 1 applies should not depend on how the benefits are financed. It expressed that in order to distinguish on the basis of whether the benefits were paid for out of the general taxation or a specific fund was “increasingly artificial.”

How this translates in the discussion surrounding destitution is that if an individual is experiencing destitution on the basis of changes to their social security or benefits, on which they

158 Stec and Others v United Kingdom, Application Nos 65731/01, 65900/01, Judgment of 6 June 2005, at para 55.
161 Stec and Others v United Kingdom, Application Nos 65731/01, 65900/01, Judgment of 6 June 2005, at para 51.
163 Stec and Others v United Kingdom, Application Nos 65731/01, 65900/01, Judgment of 6 June 2005, at para 50.
can prove that they were entitled to and completely dependent on for survival, the change potentially violates Article 1 of Protocol No 1. Yet the individual must prove that the State’s interference with this has been unlawful, is for an illegitimate purpose and is disproportionate. The individual must also prove that the measure that brought about the interference has imposed an individual and excessive burden. Jurisprudence of the ECtHR has further shown that this burden must be extreme and unfair. This last requirement is particularly difficult to fulfil. For example, the Court failed to find a violation in cases where a benefit was removed because the recipient no longer qualified, where pension payments were capped, or where payments were reduced by 60% or more. Nevertheless, it is not impossible.

In *Kjartan Ásmundsson v Iceland* (2004) a fisherman who was receiving a fisherman’s disability pension following an accident had his benefit seriously reduced when, due to a change to the rules, he was deemed to be able to work in other employment on-shore. The changes were brought about as a result of new financial pressures on the pension fund. A violation of Article 1 of Protocol No 1 had been found on the basis that the applicant had to bear “an excessive and disproportionate burden” that could not be justified “by the legitimate community interests” even with the wide margin of appreciation. The Court did note that “it would have been otherwise had the applicant been obliged to endure a reasonable and commensurate reduction rather than the total deprivation of his entitlements.”

In *Moskal v Poland* (2009) the applicant had been granted an early retirement pension to enable her to look after her child who had recurring health problems. After ten months the payment was stopped as the authorities realised they had made a mistake. The applicant was not expected to repay the monies paid to her in those ten months. Nevertheless, the ECtHR ruled that the abrupt ending of the applicant’s “sole source of income” and the potential risk “in view of her age and the economic reality of the country” of her having “considerable difficulty in securing new employment” constituted an unfair balance “between the demands of the general interest of

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164 *Wieczorek v Poland*, Application No 18176/05, Judgment of 8 December 2009.
170 *Moskal v Poland*, Application No 10373/05, Judgment of 15 September 2009.
the public and the requirements of the protection of the individual’s fundamental rights and that
the burden placed on the applicant was excessive.”

The 2011 case of *Lakicevic v Monenegro and Serbia*\(^{172}\) considered a change in the pension law for
part-time work. The applicants shortly after retiring returned to part-time work and continued to
claim their pensions. At the time this was legal. However, the law subsequently changed and it
became unlawful for persons to claim pensions while working part-time. Consequently the
applicants’ pensions were suspended and they were ordered to repay the monies paid to them
after the new law was enforced. The ECtHR ruled that the applicants were “made to bear an
excessive and disproportionate burden.” This was on the basis that the applicants experienced a
total suspension of their entitlements rather than “endure a reasonable and commensurate
reduction.”\(^{173}\) The outcome may also have been different if the “legislature had afforded them a
transitional period within which to adjust themselves to the new scheme.”

Further in *Apostolakis v Greece* (2009)\(^ {175}\) and *Klein v Austria* (2011)\(^ {176}\) the ECtHR ruled that certain
‘double penalties’ that lead to total deprivation of means of subsistence breach Article 1 of
Protocol No 1 of the ECHR. In *Apostolakis* the applicant who was receiving a criminal penalty
for fraud also had his pension and other social security rights removed. The Court found that
total deprivation of his means of subsistence breached his right to property.\(^ {177}\) Consequently, it
followed in *Klein* where the applicant had been stripped of his right to practice as a lawyer, and
therefore his pension, after becoming bankrupt, constituted a breach of Article 1 of Protocol No
1.\(^ {178}\)

**Article 14 and Destitution**

Article 14 of the ECHR provides for the right to freedom from discrimination. A violation of
Article 14 cannot be claimed without establishing that another substantive Convention right is

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\(^{171}\) *Moskal v Poland*, Application No 10373/05, Judgment of 15 September 2009, at paras 74 and 76.

\(^{172}\) *Lakicevic and Others v Montenegro and Serbia*, Application Nos 27458/06, 37205/06, 37207/06, 33604/07, Judgment
of 13 December 2011.

\(^{173}\) *Lakicevic and Others v Montenegro and Serbia*, Application Nos 27458/06, 37205/06, 37207/06, 33604/07, Judgment
of 13 December 2011, at para 72.

\(^{174}\) *Lakicevic and Others v Montenegro and Serbia*, Application Nos 27458/06, 37205/06, 37207/06, 33604/07, Judgment
of 13 December 2011, at para 72.

\(^{175}\) *Apostolakis v Greece*, Application No 39574/07, Judgment of 22 October 2009.

\(^{176}\) *Klein v Austria*, Application No 57028/00, Judgment of 3 March 2011.

\(^{177}\) *Apostolakis v Greece*, Application No 39574/07, Judgment of 22 October 2009.

\(^{178}\) *Klein v Austria*, Application No 57028/00, Judgment of 3 March 2011.
engaged. Therefore this guarantee has “no independent existence in the sense that under the
terms of Article 14 it relates solely to rights and freedoms set forth in the Convention.” 179
Nevertheless, it is possible for a claim to succeed on discrimination alone, even if the primary
violation has not been established or the actions have been found to fall within any of the
permissible exceptions to that primary right. 180 Thus, discriminatory actions or inactions by State
authorities that can lead to extreme poverty could be found to violate Article 14 of the ECHR, if
they also pose a threat to another substantive ECHR right. There is limited jurisprudence
available in this regard.

The case of Stec and Others v United Kingdom (2005) has established that “if a State does decide
to create a benefits scheme, it must do so in a manner which is compatible with Article 14.” 181 In
this case the applicants claimed that the different pensionable age of men and women amounted
to discrimination. The ECtHR deemed that no violation had occurred on the basis that the
actions of the authorities had been “reasonably and objectively justified” and that they were not
“manifestly unreasonable as to exceed the wide margin of appreciation allowed in such a field.” 182
Yet the Court did establish that when judging whether a violation of Article 14 has occurred “the
relevant test is whether, but for the condition of entitlement about which the applicant
complains, he or she would have had a right, enforceable under domestic law, to receive the
benefit in question.” 183 If the discrimination is based on one of the status’ expressly listed in
Article 14, and it can be proven that this discrimination has impacted on another right, such as
Articles 2, 3, 6, 8 and/or Article 1 of Protocol No 1 of the ECHR, the affected individual
potentially has a case. However, instances of discrimination that fall within the scope of “other
status” have a reduced chance of succeeding. For example, the case of Zubczewski v Sweden
(2010), 184 which considered the different benefits available on the basis of marital status, was
found to be inadmissible on the basis that States enjoy a wide margin of appreciation. 185 Yet the
ECtHR has confirmed that the margin of appreciation is not unlimited. 186 The State must offer
justification for the distinction. 187

182 Stec and Others v United Kingdom, Application Nos 65731/01, 65900/01, Judgment of 12 April 2006, at para 66.
183 Stec and Others v United Kingdom, Application Nos 65731/01, 65900/01, Judgment of 6 June 2005, at para 55.
At a national level the English Court of Appeal in Burnip, Trengove, Gorry v SSWP [2012] ruled that the new housing benefit regulations, specifically the bedroom tax, discriminated against persons with disabilities.\(^{188}\) Originally the regulations did not allow for an additional room to be paid for where a disabled person has a carer, or where two children cannot share a room because of disability. As a result of this ruling the regulations were amended accordingly. This case provides some guidance as to a case that would succeed.

**Article 6 and Destitution**

The right to a fair trial is set out within Article 6 of the ECHR. The ECtHR sets out that:

… although the legislature is not prevented from regulating, through new retrospective provisions, rights derived from the laws in force, the principle of the rule of law and the notion of a fair trial enshrined in Article 6 preclude, except for compelling public-interest reasons, interference by the legislature with the administration of justice designed to influence the judicial determination of a dispute.\(^{189}\)

Specifically related to social security and benefits the Court has noted that while such provisions are:

… liable to change and a judicial decision cannot be relied on as a guarantee against such changes in the future, even if such changes are to the disadvantage of certain welfare recipients, the State cannot interfere with the process of adjudication in an arbitrary manner.\(^{190}\)

However, there are a number of safeguards that have been read into Article 6 of the ECHR, which help ensure access to assistance for proceedings. These include free legal assistance and the right to an oral hearing.

It is true that the scope of these safeguards is limited. Article 6 “does not apply to all proceedings – only to those concerning the ‘determination of civil rights and obligations’ or ‘a criminal charge’.”\(^{191}\) Yet the ECtHR has expanded this approach to include the right of access to courts.

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\(^{188}\) Burnip, Trengove, Gorry v SSWP [2012] EWCA Civ 629.

\(^{189}\) Arras and Others v Italy, Application No 17972/07, Judgment of 14 February 2012, at para 42.

\(^{190}\) Arras and Others v Italy, Application No 17972/07, Judgment of 14 February 2012, at para 42.

or tribunals in public law disputes concerning most discretionary socio-economic entitlements.\textsuperscript{192} The ECtHR has focused particularly on the Article 6(1) guarantee that “everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.” \textit{Tfsayo v United Kingdom} (2006)\textsuperscript{193} has elaborated that this includes the tribunal being able to rehear the evidence, substitute its own views as to the applicant’s credibility or to order the decision to be taken by a different body.\textsuperscript{194} The applicant in this case was challenging the decision by a housing benefits review tribunal to not pay housing benefit to a non-English speaking asylum seeker on the basis that the applicant had not shown good cause for why she had not submitted her renewal claim on time. The ECtHR ruled that, even if the applicant had access to a judicial review hearing on appeal, the manifest lack of independence of the tribunal constituted a violation of Article 6(1).\textsuperscript{195}

Therefore, if it can be proven that a tribunal lacks impartiality and independence a claim could be brought under Article 6(1). Furthermore, if the decision has resulted in severe hardship or destitution a range of other Articles could also be engaged.

### Economic, Social and Cultural Rights

Poverty engages a range of economic, social and cultural rights (socio-economic rights). States are required to “take steps to the maximum of their available resources to achieve progressively the full realisation of economic, social and cultural rights.”\textsuperscript{196} When referring to full realisation this involves the State respecting, protecting and fulfilling that right. In summary:

> [t]he obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights.\textsuperscript{197}


\textsuperscript{193} \textit{Tfsayo v United Kingdom}, Application No 60860/00, Judgment of 14 November 2006.

\textsuperscript{194} \textit{Tfsayo v United Kingdom}, Application No 60860/00, Judgment of 14 November 2006, at paras 46–49.

\textsuperscript{195} \textit{Tfsayo v United Kingdom}, Application No 60860/00, Judgment of 14 November 2006, at paras 46–49.


\textsuperscript{197} Available at http://www.ohchr.org/EN/AboutUs/Pages/FrequentlyAskedQuestions.aspx (Last visited 21 January 2014).
States are judged in light of the maximum resources available, thus lack of resources does not justify inaction.\textsuperscript{198} States must prove that they are taking steps or making every effort to improve socio-economic rights, even when resources are scarce.\textsuperscript{199} These steps must be “deliberate, concrete and targeted as clearly as possible, using all appropriate means, including particularly, but not only, the adoption of legislative measures.”\textsuperscript{200} They include:

\begin{itemize}
  \item[a)] Assessing the enjoyment of socio-economic rights;
  \item[b)] Formulating realistic, achievable and effectively designed strategies and plans;
  \item[c)] Adopting the necessary laws and policies, which includes making available adequate funds;
  \item[d)] Regularly monitoring and assessing progress; and
  \item[e)] Establishing grievance mechanisms.\textsuperscript{201}
\end{itemize}

These steps should be non-retrogressive. This means that States should not allow existing protection to deteriorate without strong justification.\textsuperscript{202} Any deliberate retrogression measures “require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources.”\textsuperscript{203}

While respect, protection and fulfilment of rights are the responsibility of the State, the State does not necessarily have to have direct involvement at every level in realising the right involved. Yet it must step in where individuals are not able to enjoy their rights.\textsuperscript{204} For example, if an individual does not have adequate food at their disposal, the State must offer temporary food assistance.\textsuperscript{205} Furthermore, in line with the realistic approach that progressive realisation facilitates, States are under an obligation to offer services at “affordable prices,” not necessarily

free of charge. Direct or indirect costs should not prevent access to services or compromise the ability to enjoy rights. This does not impose a general obligation to offer services free of charge. However, in the interests of non-discrimination and human dignity which underpin socio-economic rights, including the right to an adequate standard of living, it can include the obligation to provide subsidised or free services for those who could not otherwise enjoy their rights.

Yet there are certain obligations that must be realised with immediate effect, otherwise known as minimum core obligations. Minimum core obligations are “incumbent upon every State Party” to the ICSECR, of which the UK is one. It has been acknowledged that there are occasions where States will not have the resources to satisfy their minimum core obligations. However, in such situations, proof must be provided that this is de facto the case to safeguard against unjustified non-compliance. The affected States must demonstrate that they have made every effort to use all available resources to satisfy, as a matter of priority, these obligations. Thus, “even where the available resources are demonstrably inadequate, the obligation remains for a State Party to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances.”

This sub-section considers what socio-economic rights relate to poverty and the extent of their application, with particular attention on what the minimum core obligations are.

Right to an Adequate Standard of Living

The right to an adequate standard of living is expressly set out in:

- Article 25 of the Universal Declaration of Human Rights 1948 (UDHR);

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The ‘right to an adequate standard of living’ is a broad term which requires clarification. In acknowledgement of this the CESCR has led discussions on the remit and specific obligations of this right. These discussions have been supported and developed by the United Nations (UN) Special Rapporteur on Extreme Poverty and Human Rights, UN Special Rapporteur on Adequate Housing and UN Special Rapporteur on the Right to Food. Reflecting the text of

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211 The UK signed the ICESCR on 16 September 1968 and ratified this treaty on 20 May 1976.
212 The UK signed the CRC on 19 April 1990 and ratified this treaty on 16 December 1991.
213 The UK signed the CEDAW on 22 July 1981 and ratified this treaty on 7 April 1986.
214 The UK signed the UNCRPD on 30 March 2007 and ratified this treaty on 8 June 2009.
216 Article 38(b), Statute of the International Court of Justice 1946.
Article 11 of the ICESCR, a number of components are contained within this right – the right to adequate housing,\textsuperscript{217} right to food,\textsuperscript{218} right to adequate clothing\textsuperscript{219} and right to water.\textsuperscript{220}

**Right to Adequate Housing**

In addition to its inclusion within provisions protecting the right to an adequate standard of living, the right to adequate housing enjoys its own specific protection within a number of human rights treaties. These are:

- Article 5(e)(iii) of the International Convention on the Elimination of All Forms of Racial Discrimination 1966 (CERD) and

The UK has ratified both without reservations against the relevant provisions.\textsuperscript{221} Furthermore, a number of soft law provisions aimed at tackling fuel poverty are relevant:

- European Council Directive 2009/72/EC concerning common rules for the internal market in electricity; and

\textsuperscript{218}‘CESCR General Comment No 12: The Right to Adequate Food (Art. 11)’, 12 May 1999.
\textsuperscript{221}The UK signed the Refugee Convention on 28 July 1951 and ratified this treaty on 11 March 1954. The UK signed the CERD on 11 October 1966 and ratified this treaty on 7 March 1969.

As a Member State of the European Union, the UK is bound by these Directives. Directives “lay down certain end results that must be achieved in every Member State. National authorities have to adapt their laws to meet these goals, but are free to decide how to do so.”

The right to adequate housing is the “right to live somewhere in security, peace and dignity.” It “applies to everyone” and extends to individuals and families regardless of “age, economic status, group or other affiliation or status or other such factors.” There are a number of freedoms and entitlements contained within the right to adequate housing. These freedoms include:

a) Protection against forced evictions and the arbitrary destruction and demolition of one’s home;
b) The right to be free from arbitrary interference with one’s home, privacy and family; and
c) The right to choose one’s residence, to determine where to live and to freedom of movement.

These entitlements are:

a) Security of tenure;
b) Housing, land and property restitution;
c) Equal and non-discriminatory access to adequate housing; and
d) Participation in housing-related decision-making at the national and community levels.

Adequate housing is more than supplying and making housing available, the housing itself must be adequate. The key criteria for determining whether housing is adequate are:

a) Legal security of tenure - it has been acknowledged that tenure takes a variety of forms. Yet, regardless of the type of tenure, “all persons should possess a degree of security of

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tenure which guarantees legal protection against forced eviction, harassment and other threats.\textsuperscript{229}

b) Availability of services, materials, facilities and infrastructure - certain facilities essential for health, security, comfort and nutrition must be offered for a house to be deemed adequate. For example, “safe drinking water, energy for cooking, heating and lighting, sanitation, washing facilities, means of food storage, refuse disposal, site drainage and emergency services.”\textsuperscript{230}

c) Affordability – the housing must be affordable and at “at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised.”\textsuperscript{231}

d) Habitability - the housing must be habitable, which means that it must provide inhabitants “with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors.”\textsuperscript{232}

e) Accessibility – the housing must be accessible to those entitled to it, including disadvantaged groups who “must be accorded full and sustainable access to adequate housing resources.”\textsuperscript{233}

f) Location - the housing must be in a place which “allows access to employment options, health-care services, schools, child-care centres and other social facilities.”\textsuperscript{234}

g) Cultural adequacy – the housing should “not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants.”\textsuperscript{235} Additionally, the house “must appropriately enable the expression of cultural identity and diversity of housing.”\textsuperscript{236}

Individuals must be protected against forced evictions.\textsuperscript{237} This is the:

… permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights.\textsuperscript{238}

\textsuperscript{229} “The Right to Adequate Housing (Article 11(1)): CESCR General Comment 4”, 13 December 1991, at para 8(a).
\textsuperscript{230} “The Right to Adequate Housing (Article 11(1)): CESCR General Comment 4”, 13 December 1991, at para 8(b).
\textsuperscript{231} “The Right to Adequate Housing (Article 11(1)): CESCR General Comment 4”, 13 December 1991, at para 8(c).
\textsuperscript{232} “The Right to Adequate Housing (Article 11(1)): CESCR General Comment 4”, 13 December 1991, at para 8(d).
\textsuperscript{233} “The Right to Adequate Housing (Article 11(1)): CESCR General Comment 4”, 13 December 1991, at para 8(e).
\textsuperscript{234} “The Right to Adequate Housing (Article 11(1)): CESCR General Comment 4”, 13 December 1991, at para 8(f).
\textsuperscript{235} “The Right to Adequate Housing (Article 11(1)): CESCR General Comment 4”, 13 December 1991, at para 8(g).
\textsuperscript{236} “The Right to Adequate Housing (Article 11(1)): CESCR General Comment 4”, 13 December 1991, at para 18.
The minimum core obligations in relation to adequate housing are to provide legal security of tenure, to effectively monitor the housing situation and to protect against forced eviction.239

**Right to Adequate Food**

The right to adequate food is provided for in:

- Article 11 of the ICESCR and
- Article 24(2)(c) of the CRC.

In addition, the UK has committed to uphold the Rome Declaration on World Food Security 1996.

The right to adequate food is defined as:

… the right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear.240

The CESCR states that “the right to adequate food is realised when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.”241 It should not be interpreted in “a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients.”242 As a socio-economic right it must be realised progressively, but “States have a core obligation to take the necessary action to mitigate and alleviate hunger… even in times of natural or other disasters.”243 This involves ensuring that food is adequately and sustainably available and accessible.244 What is meant by adequate is determined by “prevailing social, economic, cultural, climatic, ecological and other conditions.”245 Sustainability is the “notion of long-term availability

239 ‘The Right to Adequate Housing (Article 11(1)): CESCR General Comment 4’, 13 December 1991, at paras 8(a), 13 and 18.
240 Available at [http://www.ohchr.org/EN/issues/food/Pages/FoodIndex.aspx](http://www.ohchr.org/EN/issues/food/Pages/FoodIndex.aspx) (accessed 14 October 2013).
and accessibility,” in other words it calls for food security. This requires that food is accessible for present and future generations.\(^{246}\)

The core content of the right to adequate food includes:

a) The availability of food in a quantity and quality sufficient to satisfy dietary needs of individuals, free from adverse substances, and acceptable within a given culture;

b) The accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.\(^{247}\)

Therefore a number of minimum core obligations must be met:

1) Dietary needs - the diet as a whole must “contain a mix of nutrients for physical and mental growth, development and maintenance, and physical activity that are in compliance with human physiological needs at all stages throughout the life cycle and according to gender and occupation.”\(^{248}\) Consequently, measures must be taken that “maintain, adapt or strengthen dietary diversity and appropriate consumption and feeding patterns, including breast-feeding, while ensuring that changes in availability and access to food supply as a minimum do not negatively affect composition and intake.”\(^{249}\)

2) Free from adverse substances - requires food safety and “a range of protective measures by both public and private means” to be taken to “prevent contamination of foodstuffs.”\(^{250}\)

3) Cultural or consumer acceptability – implies the need to take into account non-nutrient-based values and informed customer concerns where the nature of accessible food supplies is concerned.\(^{251}\)

4) Availability – requires access to productive land or other natural resources for individuals to feed directly, or the implementation of “well-functioning


distribution, processing and marketing systems that can move food from the site of production to where it is needed.\textsuperscript{252}

5) Accessibility – refers to economic and physical accessibility.\textsuperscript{253} From an economic standpoint, personal or household financial costs associated with the acquisition of food for an adequate diet should be at a level which does not threaten or compromise other basic needs.\textsuperscript{254} Whereas physical accessibility is a reference to the need to make adequate food accessible to everyone, including the most vulnerable.\textsuperscript{255}

\textbf{Right to Adequate Clothing}

The right to adequate clothing is expressly set out within Article 11(1) of the ICESCR. Yet there has been little elaboration on what this entails. This is due to this right being “more than a physical necessity. It has cultural and religious elements, as clothing is often a visible expression of a person’s culture, customs, religion, belief or political opinion.”\textsuperscript{256} Yet, the CESCR has indicated that there are certain vulnerable groups who require special protection concerning adequate clothing. These are elderly persons with a view to assisting independence,\textsuperscript{257} persons with disabilities who should be guaranteed the clothing required for them to function fully and effectively in society,\textsuperscript{258} and workers who require protective clothing to minimise the risk of occupational accidents.\textsuperscript{259} With the exception of the latter, the special protections of these vulnerable groups are to be progressively realised.

\textbf{Right to Water}

The right to water recognised within:

\textsuperscript{256} Available at \url{http://www.humanrights.is/the-human-rights-project/humanrightscasesandmaterials/humanrightsonconceptsidesandliving/substantivehumanrights/therighttoanadequatestandardofliving/} (accessed 14 October 2013).
• Article 11(1) of the ICESCR;
• Article 14(2)(h) of the CEDAW; and
• Article 24(2) of the CRC.

The UK has ratified each of these provisions.

The CESCR elaborates that:

... water is necessary to produce food (right to adequate food) and ensure environmental hygiene (right to health). Water is essential for securing livelihoods (right to gain a living by work) and enjoying certain cultural practices (right to take part in cultural life).\(^{260}\)

Thus the CESCR has confirmed that the right to water:

...entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements.\(^{261}\)

It is a right that:

...contains both freedoms and entitlements. The freedoms include the right to maintain access to existing water supplies necessary for the right to water, and the right to be free from interference, such as the right to be free from arbitrary disconnections or contamination of water supplies. By contrast, the entitlements include the right to a system of water supply and management that provides equality of opportunity for people to enjoy the right to water.\(^{262}\)

It is established that the “right to water must be adequate for human dignity, life and health.”\(^ {263}\)

This requires a broad interpretation; it should not merely involve “reference to volumetric

quantities and technologies.” The adequacy of water required may vary according to difference conditions. Yet there are certain factors which must be applied in all circumstances. These are:

a) Availability – The water supply for each person “must be sufficient and continuous for personal and domestic uses.” This usually includes drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene.

b) Quality – The water required must be safe. It should also be of an “acceptable colour, odour and taste for each personal or domestic use.”

c) Accessibility – Water and water facilities and services “must be accessible to everyone without discrimination, within the jurisdiction of the State Party.” This includes physical accessibility, economic accessibility, non-discrimination and information accessibility.

On the basis of these factors, the CESCR has identified nine, non-exhaustive, minimum core obligations. These are:

i. To ensure access to minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease;

ii. To ensure the right of access to water and water facilities and services on a non-discriminatory basis, especially for disadvantaged or marginalised groups;

iii. To ensure physical access to water facilities or services that provide sufficient, safe and regular water; that have a sufficient number of water outlets to avoid prohibitive waiting times; and that are a reasonable distance from the household;
iv. To ensure personal security is not threatened when having to physically access to water;
v. To ensure equitable distribution of all available water facilities and services;
vi. To adopt and implement a national water strategy and plan of action addressing the whole population; the strategy and plan of action should be devised, and periodically reviewed, on the basis of a participatory and transparent process; it should include methods, such as right to water indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all disadvantaged or marginalised groups;
vii. To monitor the extent of the realisation, or the non-realisation, of the right to water;
viii. To adopt relatively low-cost targeted water programmes to protect vulnerable and marginalised groups;
ix. To take measures to prevent, treat and control diseases linked to water, in particular ensuring access to adequate sanitation.\(^{273}\)

**Additional Rights**

In reflecting the text of Article 25 of the UDHR the right to an adequate standard of living “cannot be viewed in isolation.”\(^{274}\) It draws from the “notion of human dignity” and principle of non-discrimination,\(^{275}\) and is interlinked with a range of other human rights.\(^{276}\) These include the right to work, right to education and right to social security.

**Right to Work**

The right to work is set out in:

- Article 23 of the UDHR;

Articles 1-4 of the European Social Charter 1961;
Article 6 of the ICESCR;
Article 7 of the ICESCR;
Article 5(e)(i) of the CERD; and
Article 11 of the CEDAW.

The UK has ratified each of these provisions, with the exception of the UDHR. Nevertheless, the UK is subject to the UDHR by virtue of customary international law. A reservation is against Article 6 of the ICESCR. This states that the UK has the:

… right to interpret Article 6 as not precluding the imposition of restrictions, based on place of birth or residence qualifications, on the taking of employment in any particular region or territory for the purpose of safeguarding the employment opportunities of workers in that region or territory.277

Other instruments to consider are the International Labour Organisation Conventions:

- No 29 on forced labour;278
- No 100 on equal remuneration for men and women;279 and
- No 111 on other forms of discrimination.280

The UK has ratified each of these.

The CESCR has established the link between the right to be able to work and living in dignity,281 thereby confirming its connection with the right to an adequate standard of living. It is not an absolute and unconditional right to obtain employment.282 It does include the specification that

278 International Labour Organisation No 29, Forced Labour Convention, 1930. This Convention was ratified by the UK on 3 June 1931.
279 International Labour Organisation No 100, Equal Remuneration Convention, 1951. This Convention was ratified by the UK on 15 June 1971.
280 International Labour Organisation No 111, Discrimination (Employment and Occupation) Convention, 1958. This Convention was ratified by the UK on 8 June 1999.
work must be “decent,” and encompasses all forms of work, “whether independent work or dependent wage-paid work.” It interlinks with Article 7 of the ICESCR by providing that the work must respect the “fundamental rights of the human persons as well as the rights of workers in terms of conditions of work safety… remuneration [and providing] and income allowing workers to support themselves and their families.” The Committee has also acknowledged that “high unemployment and the lack of secure employment are causes that induce workers to seek employment in the informal sector of the economy.” State Parties must take measures to protect, “to the fullest extent possible,” those who fall within this category and therefore have no protection. Overall the right to work demands three key elements – availability, accessibility, acceptability and quality. These key elements can be progressively realised, but it has been stressed that this “should not be interpreted as depriving States Parties’ obligations of all meaningful content.” There are also a number of core obligations, or “minimum essential levels”, of the right to work that must be immediately satisfied. These are:

a) To ensure the right of access to employment, especially for disadvantaged and marginalised individuals and groups, permitting them to live a life of dignity;

b) To avoid any measure that results in discrimination and unequal treatment in the private and public sectors of disadvantaged and marginalised individuals and groups or in weakening mechanisms for the protection of such individuals and groups;

c) To adopt and implement a national employment strategy and plan of action based on and addressing the concerns of all workers on the basis of a participatory and transparent process that includes employers’ and workers’ organisations. Such an employment strategy and plan of action should target disadvantaged and marginalised individuals and groups in particular and include

Right to Education

The right to education is provided for within:

- Article 26 of the UDHR;
- Article 13 of the ICESCR;
- Article 14 of the ICESCR;
- Article 10 of the CEDAW; and
- Article 24 of the UNCRPD.

The UK has ratified each of these, with the exception of the UDHR which the UK is bound to by virtue of customary international law. Regarding Article 24 of the UNCRPD the UK reserves:

…the right for disabled children to be educated outside their local community where more appropriate education provision is available elsewhere. Nevertheless, parents of disabled children have the same opportunity as other parents to state a preference for the school at which they wish their child to be educated.292

The right to education is also protected within the UNESCO Convention Against Discrimination in Education 1960. The UK has signed this Convention.

The Committee for Economic, Social and Cultural Rights elaborates that the minimum core obligations of this right are:

a) To ensure the right of access to public educational institutions and programmes on a non-discriminatory basis;

b) To ensure that education conforms to the objectives set out in Article 13(1);

c) To provide primary education for all in accordance with Article 13(2)(a);

d) To adopt and implement a national educational strategy which includes provision for secondary, higher and fundamental education; and

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c) To ensure free choice of education without interference from the State or third parties, subject to conformity with ‘minimum educational standards’ (Articles 13(3) and 13(4)).

**Right to Social Security**

The right to social security is contained within:

- Article 22 of the UDHR;
- Articles 12-17 of the European Social Charter 1961;
- Article 9 of the ICESCR;
- Article 5(e) of the CERD;
- Article 11 of the CEDAW;
- Article 13(a) of the CEDAW;
- Article 28 of the UNCRPD.

The UK has ratified each of these, with the exception of the UDHR. Nevertheless, the UK is subject to the UDHR by virtue of customary international law. It has placed a reservation against Article 11 of the CEDAW by reserving the right to apply all UK legislation in relation to pension schemes.

The International Labour Organisation has also established a number of social security conventions, which echo the United Nations counterparts. These are:

- Convention No 102 on minimum standards;
- Convention No 118 on equal treatment; and
- Convention No 157 on the maintenance of social security rights.

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295 International Labour Organisation Convention No 102, Social Security (Minimum Standards) Convention, 1952. The UK ratified Parts II (medical care), V (old age benefit), VII (family benefit) and X (survivors benefit) of the Convention on 27 April 1954. The UK excluded the terms relating to general provisions, sickness benefit, unemployment benefit, employment injury benefit, maternity benefit, invalidity benefit, standards for periodical payments and equal treatment of non-national residents.
The UK has not ratified the latter two treaties. It has only ratified part of Convention No 102. The parts it has accepted concern medical care, old age benefit, family benefit and survivors benefit. It has excluded the terms relating to general provisions, sickness benefit, unemployment benefit, employment injury benefit, maternity benefit, invalidity benefit, standards for periodical payments and equal treatment of non-national residents. Nevertheless, in practice the UK has introduced benefits which reflect the parts it has not ratified.

Social security provides a safeguard for individuals who are disadvantaged, have special requirements or experiencing a change of circumstance. It provides a system of support in such cases, which assists with ensuring that a basic and adequate standard of living is achieved and maintained. It also “plays an important role in poverty reduction and alleviation, preventing social exclusion and promoting social inclusion.”

In keeping with the right to an adequate standard of living, the CESCR has established that “the right to social security is of central importance in guaranteeing human dignity for all persons when they are faced with circumstances that deprive them of their capacity to fully realise” their rights. It encompasses:

[t]he right to access and maintain benefits, whether in cash or in kind, without discrimination in order to secure protection, not limited to, from a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; b) unaffordable access to health care; c) insufficient family support, particularly for children and adult dependents.

This extends to contributory or insurance-based schemes, non-contributory schemes, privately run schemes and self-help. Furthermore, the social security on offer must be available, adequate, accessible and non-discriminatory. The right to social security is subject to progressive realisation, but the State Parties must make “full use of the maximum available

resources” and there is a “strong presumption” that retrogressive measures are “prohibited.”  

State Parties are, at minimum, required:

a) to ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education. If a State Party cannot provide this minimum level for all risks and contingencies within this maximum available resources, the Committee recommends that the State Party, after a wide process of consultation, select a core group of social risks and contingencies;

b) To ensure the right of access to social security systems or schemes on a non-discriminatory basis, especially for disadvantaged and marginalised individuals and groups;

c) To respect existing social security schemes and protect them from unreasonable interference;

d) To adopt and implement a national social security strategy and plan of action;

e) To take targeted steps to implement social security schemes, particularly those that protect disadvantaged and marginalised individuals and groups

f) To monitor the extent of the realisation of the right to social security.

The Committee has acknowledged that the requirements under the right to social security carry “significant financial implications,” but the State Party “must demonstrate that every effort has been made to use all resources that are at its disposal in an effort to satisfy, as a matter of priority” the core obligations.

Yet, despite the range of obligations that the UK has bound itself to, the scope of the right to social security has been significantly limited by the domestic courts. Human rights claims tend to succeed on the basis of equality, not on the basis the UK being obliged to respect, protect and fulfil the right to social security or other human rights claims. The claims against the removal of library funds succeeded in the cases of R (Green and Others) v Gloucester County Council and Somerset Council [2011] and Lucy Williams and Nicholas Darrington v Surrey County Council [2012] as it was
deemed that such an action would indirectly discriminate against people with disabilities, women and the elderly. In addition, within the case of *W v Birmingham City Council* [2011] it was ruled that a change in policy to only fund critical needs, not the substantial needs of the applicant, was unlawful. Nevertheless, this was on the basis of discrimination. The Court clearly stated that it was accepted that “relevant articles in the ECHR did not add in substance to the heads of challenge already advanced.” Furthermore, in *R (McDonald) v Royal Borough of Kensington and Chelsea* [2011] the removal of the applicant’s night care was deemed lawful. Even though the action would remove the applicant’s independence and privacy, it was ruled that the State enjoyed a wide margin of appreciation on such issues. Moreover, maximum weekly caps on local housing allowance were deemed legal in the case *Child Poverty Action Group v Secretary of State for Work and Pensions* [2011].

**Domestic Measures**

Socio-economic rights are not directly provided for within domestic legislation. The Child Poverty Act 2010 provides protection against child poverty, thus indirectly promoting socio-economic rights. This Act legislates that child poverty should be reduced by 2020, but it is limited to setting broad targets, providing definitions of child poverty and demanding that strategies are developed. The Act does hold that free school lunches and milk should be provided to those children that are eligible; however it is not set out in rights language.

The Human Rights Act 1998 protects select socio-economic obligations indirectly through giving domestic effect to the ECHR. The ECHR contains civil and political rights. However, as the section on ‘Destitution and the ECHR’ illustrates, jurisprudence of the ECtHR has interpreted those rights to include limited socio-economic implications; specifically within Articles 2, 3, 6, 8, 14 and Article 1 of Protocol 1. Furthermore, Section 75 and Schedule 9 of the Northern Ireland Act 1998 indirectly promotes socio-economic obligations by placing a statutory duty on public authorities in Northern Ireland to carry out their functions in a way that has due regard to the need to promote equality of opportunity between: i) persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation, ii) between men and women.

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311 *R (McDonald) v Royal Borough of Kensington and Chelsea* [2011] UKSC 33.
314 Section 26, Child Poverty Act 2010.
generally, iii) between persons with a disability and persons without, and iv) between persons with dependants and person without. The St Andrew’s Agreement 2006 also imposes an obligation on the Executive to create an Anti-Poverty and Social Exclusion strategy. Consequently, the Executive has a range of strategies in place to combat poverty and social exclusion.

As set out with the Government Programme for 2011-2015:

- Social Investment Fund
- Social Protection Fund
- Child Poverty Strategy
- Economic Strategy
- Anti-Poverty and Social Inclusion Strategy
- Young People Not in Education, Employment or Training (NEET) Strategy
- Neighbourhood Renewal Strategy
- Benefits Uptake Strategy
- Investing for Health and its subset of public health strategies
- Bamford Action Plan 2012-2015
- Child Health Promotion Framework for Northern Ireland
- Health and Social Care Service Frameworks
- 10 Year Strategy for Children and Young People
- Victims Strategy
- Childcare Strategy
- NI Commissioner for Children and Young People
- Mental Capacity legislation
- Maternity Strategy
- Stroke Strategy
- National Institute for Clinical Excellence approved guidance for Health and Social Care Services
- Long term conditions policy framework
- Fuel Poverty Strategy

315 Section 75(1), Northern Ireland Act 1998.
316 Annex B, St Andrew’s Agreement 2006.
• European Social Fund Programme
• The Skills Strategy
• Count, Read: Succeed
• Rural White Paper
• Sustainable Development Strategy
• Regional Transportation Strategy
• The Investment Strategy
• Social and Affordable Housing Programme
• Older People’s Strategy
• European Priorities
• Racial Equality Strategy
• Gender Equality Strategy
• Sexual Orientation Action Plan
• Commissioner for Older People
• Play and Leisure Action Plan
• Dementia Strategy and Action Plan
• Physical and Sensory Disability Strategy and Action Plan

These strategies are in various stages. They will continue to be rolled out until 2015 and potentially beyond. Therefore, it is difficult at this stage to judge how they are performing. However the Northern Ireland Budget 2011-2015 has made it clear that the priority is to cut costs. This is in addition to the enacted Pensions Act 2012, the proposed Welfare Reform Bill 2013 and the Public Service Pensions Act 2013. These all involve a tightening of the public and private purse to the detriment of individuals, particularly the most vulnerable sections of society (children, people with disabilities, loan parents and pensioners). For many it will mean reduced income leading to hard choices and desperation. It could be the choice between food, fuel, clothing and/or paying rent/mortgage. It could also result in entering into a cycle of bad debt due to desperation, which credit card companies, payday loan companies and illegal loan sharks take advantage of. As experts have confirmed, it is the voluntary and community organisations

that have had to step in to offer support. This raises into question the longevity of even the most successful elements of these strategies. The pending Welfare Reform raises concerns that the already vulnerable will be made more vulnerable. The ‘Make Work Pay’ scheme has seen a number of potential employees gain additional skills. Nevertheless, it has created a culture of businesses taking advantage of such schemes and casting aside the proposed beneficiaries on completion. It has also increased the number of part-time workers, who lose the advantage of benefits and a living wage.

The OFMdFM developed the ‘Lifetime Opportunities: Government’s Anti-Poverty and Social Inclusion Strategy for Northern Ireland’ in 2006. This was at a time when Northern Ireland was experiencing a better financial situation, therefore raising the question of whether this strategy is still relevant. Erroneously the OFMdFM believe that “no human rights have been engaged in the development of this strategy. Therefore no human rights implications have been identified.”

First the strategy itself mentions introducing a revised curriculum that makes reference to human rights through the Education (Northern Ireland) Order 2006. Further, as this research advocates organs of the Executive are under an obligation to adhere to the right to an adequate standard of living, which also links to the rights to life, freedom from torture, equality and non-discrimination, family and privacy, property, social security and work. Judging by the poverty figures for Northern Ireland the State is not fulfilling its obligations, Section III investigates whether this is justified. There is also evidence to suggest that voluntary and community organisations increasingly have to step in to offer assistance. Experts feel that the Executive are content with this arrangement, State agents are even referring individuals to voluntary and community organisations for the assistance they should be providing. Section III considers these issues in greater detail.

321 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
322 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
SECTION III: APPLICATION OF HUMAN RIGHTS STANDARDS IN NORTHERN IRELAND

Section III considers what measures have been taken by the Executive to address poverty and fulfil its obligations under the rights identified in Section II.

Housing

Experts have indicated that there are a number of fundamental issues with housing in Northern Ireland that require addressing. These are the lack of affordable private rentals, lack of support for mortgage arrears, vast waiting lists and the wrong type of houses available. Consequently, voluntary and community organisations have had to step in to assist those in need. This is with some difficulty regarding funding. Experts have also highlighted that where the resources are available, restrictions imposed by funders or under-staffing prevents these organisations from reaching those most in need. As the subsequent sub-sections demonstrate these problems are persisting.

i. Social Housing

Provisions have been made in Northern Ireland to provide social housing. The Housing Executive and Housing Associations were established and developed under the Housing Executive (Northern Ireland) Act 1971, Housing (Northern Ireland) Order 1976 and the Housing (Northern Ireland) Order 2003. The Housing Executive is under a statutory duty to provide advice, assistance and/or accommodation to people who are homeless or threatened with homelessness. Housing Associations are non-profit organisations that rent properties to people on low incomes or with particular needs. They assist the Housing Executive to meet the demand for social housing. The Co-ownership Scheme was also introduced in 1978 to assist

323 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
324 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
325 Housing (Northern Ireland) Order 1988, as amended by Housing (Northern Ireland) Order 2003; Housing (Amendment) (Northern Ireland) 2010.
those who cannot afford it on their own on to the property ladder.\footnote{Available at \url{http://www.co-ownership.org/corporate-information/about-us/} (Last visited 22 January 2014).} This involves buying between 50\% and 90\% of the property and renting the rest from the Co-Ownership Housing Association. There is a cap on how much the property can be worth, this is currently £175,000.\footnote{Available at \url{http://www.nidirect.gov.uk/co-ownership-housing} (Last visited 22 January 2014).} All three of these bodies are public bodies and therefore subject to the ECHR, through the Human Rights Act 1998.\footnote{R (Weaver and Equality and Human Rights Commission) v London and Quadrant Housing Trust [2009] EWCA Civ 587.} This includes that the conditions of the housing should not threaten life,\footnote{Article 2, European Convention on Human Rights 1950.} and any decisions made should be non-discriminatory\footnote{Article 14, European Convention on Human Rights 1950.} and open to scrutiny.\footnote{Articles 6 and 13, European Convention on Human Rights 1950.} Section 75 of the Northern Ireland Act 1998 also places a statutory duty on public bodies to “promote equality of opportunity.”

There are certain groups that require special provisions – people with disabilities and travellers. Social housing will be adapted at no extra cost and usually with no increase to rent to meet the needs of the occupants with disabilities. For privately rented housing a Disabled Facilities Grant (maximum £25,000) or Home Repair Assistance Grant (maximum £5,000 over three year period) is available.\footnote{Available at \url{http://www.nihe.gov.uk/index/advice/adaptations.htm} (Last visited 4 February 2014).} For travellers that wish to remain nomadic two transit sites have been created in Northern Ireland. For travellers that wish to live on serviced sites in static mobile homes there are four serviced sites in Northern Ireland, which are gradually being upgraded. For travellers that wish to live in conventional housing, six group housing developments have been developed.\footnote{Available at \url{http://www.nihe.gov.uk/index/yh-home/advice_for_travellers/accommodation.htm} (Last visited 4 February 2014).}

The DSD recognises that despite all of these provisions, improvements are required. In its Housing Strategy for 2012-2017 it has stated that better housing management, better regulation, greater flexibility, continued fairness and new structures are required.\footnote{Department for Social Development, ‘Facing the Future: Housing Strategy for Northern Ireland – Action Plan 2012-2017’ (Department for Social Development, 2012), at 3.} The Department has pledged to deliver 8,000 social and affordable homes by 2015 and to implement new structures to support the improved delivery of housing services in Northern Ireland.\footnote{Department for Social Development, ‘Facing the Future: Housing Strategy for Northern Ireland – Action Plan 2012-2017’ (Department for Social Development, 2012), at 4.} Also, in April 2014 the Housing Executive is introducing a Tenancy Access Scheme. The aim is to introduce 1,200 permanent rental units that are affordable and will be subsidised through negotiation with local
landlords so that the rents are at social housing levels, enabling those on benefits to be able to afford the rent. Additionally, those on the Scheme will have access to housing support for up to the first year of the tenancy. This means that if the tenancy ceases through no fault of the tenant (e.g. the landlord sells the property or the property is in arrears), the tenant will be reinstated with full duty homeless status and found another house.

Rent assistance for those who are eligible is also offered through Housing Benefit.  

**Analysis**

Experts have emphasised that poverty is trans-generational. Therefore the origins of poverty predate the recession and the problems are more fundamental than the economic crisis.

The provision of social housing indicates a concerted effort by the DSD to fulfil its obligations in relation to the right to housing. Yet within the Budget 2011-2015 it was indicated that the proposed new structures would include reductions in the Housing Executive’s staff, running costs and maintenance spend. Therefore, there are concerns that the decision to implement new structures is a budgetary, as opposed to need focused, decision. Consequently, these changes are likely to negatively affect the number of houses available, standards of housing and accessibility to locations. Thus this indicates retrogression for Article 11 of the ICESCR. As a progressive right States are offered some leeway, including the possibility of retrogression. However, States must take steps to the maximum of their available resources to achieve progressively the full realisation of socio-economic rights. Retrogression must also not occur without justification, and generally lack of resources does not justify inaction.

The Department has pledged 8,000 new homes over five years, but it has been calculated that Northern Ireland requires 11,000 new housing units per year to accommodate the rising

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337 See the section on ‘Housing Benefit’.
338 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
339 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
341 See ‘Economic, Social and Cultural Rights’ in Section II.
population and trend towards smaller housing.\textsuperscript{342} This means that the right to adequate housing will not be fulfilled for 47,000 households over the five year period. The UN Special Rapporteur on Adequate Housing has noted this and called upon UK Governments to commit to “significantly increasing the social housing stock and a more balanced public funding for the stimulation of supply of social and affordable housing which responds to the needs.”\textsuperscript{343} The Special Rapporteur has also called for public sector land to be released only for social and affordable housing to be built, not to be sold to the highest private bidder.\textsuperscript{344}

The NIHRC has also warned that segregation within social housing must be taken into account, as sectarianism remains prevalent.\textsuperscript{345} This is backed by the CESCR and UN Special Rapporteur on Adequate Housing. They note that Catholics, specifically in North Belfast, are facing inadequate access to affordable housing.\textsuperscript{346}

Experts have welcomed the Co-ownership scheme, but have warned that it can have the negative implication of putting pressure on housing prices.\textsuperscript{347} Experts have also identified that the continued practice of land speculation is having similar effects.\textsuperscript{348}

For persons with disabilities, there is a risk that the potential increase in rent for substantial adaptations will negatively affect such individuals’ full enjoyment of the right to an adequate


\textsuperscript{347} Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.

\textsuperscript{348} Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
standard of living. As discussed in the below, persons with disabilities are particularly vulnerable to poverty and any additional costs can prove too much of a burden. Furthermore, Article 28(2)(e) of the UNCRPD provides that there must be “access by persons with disabilities to public housing.” With Article 28(1) of the UNCRPD continuing that the housing must be adequate, “and to the continuous improvement of living conditions” with “appropriate steps to safeguard and promote the realisation of this right without discrimination on the basis of disability.” This reflects the obligation under the right to adequate housing that it “must be accorded full and sustainable access to adequate housing resources.”

In relation to travellers the UN Special Rapporteur on Adequate Housing has highlighted a “shortage of sufficient, adequate and safe sites,” which is believed to be “part of the stigma and discrimination” regularly faced by Travellers from Governments and society as a whole. In addition to the principle of non-discrimination contained within Article 2(2) of the ICESCR, a obligation under the right to adequate housing is that the provision offered must be culturally adequate. It “must appropriately enable the expression of cultural identity and diversity of housing.”

In addition, the right to adequate housing includes the obligations to provide “energy for cooking,” “washing facilities” and “means of food storage.” However, experts from the voluntary and community sector have reported that they are regularly called upon to provide cookers, washing machines and fridges for the disadvantaged, including those accommodated in social housing. This raises concerns that the DSD is not fulfilling its obligations.

### ii. Homelessness

The broad definition of homelessness is persons who are roofless or live temporarily with relatives or friends. They have no legal right to occupy accommodation or have no reasonable

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349 See the section on ‘Social Security and Benefits’.
352 ‘The Right to Adequate Housing (Article 11(1)): CESCR General Comment 4’, 13 December 1991, at para 8(g).
354 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
355 Available at http://england.shelter.org.uk/get_advice/homelessness/homelessness_an_introduction/what_is_homelessness (Last visited 30 January 2014).
The Housing (Northern Ireland) Order 1988 places a statutory duty on the Housing Executive to respond to homelessness, but only for those who fit within the definition of “priority need.” These are:

a) A pregnant woman or a person with whom a pregnant woman resides or might reasonably be expected to reside;
b) A person with whom dependent children reside or might reasonably be expected to reside;
c) A person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;
d) A person who is homeless or threatened with homelessness as a result of an emergency such as a flood, fire or other disaster;
e) A person without dependent children who satisfies the Executive that he has been subject to violence and is at risk of violent pursuit or, if he returns home, is at risk of further violence;
f) A young person (defined as a person who has not attained the age of 21) who satisfies the Executive that he is at risk or financial exploitation.

Therefore, this creates a differentiation between those who present as homeless and those that are accepted as homeless by the Executive. In 2009/2010, 19,000 presented as homeless. The majority of those were single individuals and 6,000 were with dependent individuals. In 2010/2011 20,158 presented as homeless, but only 10,443 were accepted as homeless. Of those who presented as homeless in 2010/2011 it was a result of relationship breakdown for 28%, unreasonable accommodation for 25%, and loss of rented accommodation for 17%. In addition, 200 individuals were homeless as a result of defaulted mortgage payments and 361 due to intimidation.

The Housing (Amendment) Act (Northern Ireland) 2010 requires the Housing Executive to formulate and publish a homelessness strategy, which it did in 2012. Within this strategy it was promised that steps would be taken to:

- Eliminate long term homelessness and rough sleeping by 2020 through effective prevention mechanisms and enhanced inter-agency co-operation,

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357 Section 5, Housing (Northern Ireland) Order 1988.
• Prevention at forefront services,
• Improve access to affordable housing,
• Remove the need to sleep rough,
• Improve services to the vulnerable, and
• To broaden the definition of homelessness to rooflessness, insecure housing and inadequate housing.\textsuperscript{363}

Currently there are 20 Housing Executive hostels, 70 voluntary sector hostels and 800 private single let properties available to deal with homelessness in the short term. In 2011 39,891 individuals were on the permanent housing waiting list. Only 8,070 were allocated to the Housing Executive or Housing Association.\textsuperscript{364}

A Housing Options pilot scheme has been introduced to Northern Ireland. This aims to prevent people from becoming homeless in the first place by looking realistically at what the housing options are on an individual basis. It involves an advisor consulting with the individual about their specific circumstances. These include income, housing, access to debt and social problems. On the basis of the consultation the advisor will set out a list of realistic options specific to that individual. The focus is on prevention and providing affordable housing then and there, as opposed to placing the individual on a waiting list for housing assessment. It is too early to assess its success in Northern Ireland, but the scheme has proven successful in England and Scotland.\textsuperscript{365}

Analysis

The introduction of the present strategy is welcomed. The Executive is taking a positive step towards respecting, protecting and fulfilling its obligations under Article 11 of the ICESCR. Nevertheless, there are continued concerns at the lack of temporary and permanent accommodation available, even with the proposed changes. At present the DSD’s new homes pledge will continue to leave the needs of 47,000 households unaddressed.\textsuperscript{366} Additionally, comparing the waiting and allocation lists from 2011 it is clear that the system currently in place

\textsuperscript{363} Housing Executive, ‘Homelessness Strategy for Northern Ireland 2012-2017’ (Housing Executive, 2012).
\textsuperscript{365} Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
is inadequate. This is reflected in the figures from the Simon Community NI (See Figure 8), which indicate a significant rise in the number of referrals and average length of stay for those that are offered assistance.\textsuperscript{367}

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**Figure 8: Figures from the Simon Community NI 2008-2012**

It has also been highlighted that homelessness is trans-generational, illustrating a fundamental problem.\textsuperscript{368} However, in terms of the emergence of ‘middle class homelessness’, the Homelessness Monitor for England notes that “the expanding risk of homelessness is heavily concentrated, as always, on the poorest and most disadvantaged sections of the community.”\textsuperscript{369} These include “young, poor, renters, who are lone parents or single.” The Homelessness Monitor indicates that this experience extends to Northern Ireland with those who are middle class and losing their homes tending, in the words of a statutory sector informant interviewed as part of the research, “to rent in the better houses and selling their properties or downsizing.”\textsuperscript{370}

Experts indicate that many individuals are turning straight to the voluntary and community organisations for assistance, as they believe they do not have a chance of being assisted or will face extensive delays under the Housing Executive schemes.\textsuperscript{371} There are also reports of the public bodies automatically referring individuals to the voluntary and community sector, on this basis.\textsuperscript{372} In effect the voluntary and community organisations are doing the Executive’s job. As summarised by an expert, the voluntary and community sector is offering practical support to

\textsuperscript{367} Provided by a representative from the Simon Community.
\textsuperscript{368} Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
\textsuperscript{371} Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
\textsuperscript{372} Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
those most in need and are playing an advocacy role in calling for change. It is true that the State does not have to have direct involvement in ensuring that rights are vindicated, but it must step in where rights are not being realised. Experts believe that voluntary and community organisations are being taken for granted and that they are being used by the State. It is argued that reliance on the voluntary and community sector enables the State to ignore its statutory duties and enables a fudging of figures, as those referred to non-public bodies will not appear in the official statistics.

The voluntary and community organisations also have to deal with an increasing demand on very limited resources, which means that the assistance offered is usually only temporary. Such organisations are also limited in the assistance they can offer due to funding restrictions. There are cases where the beds may be available and have been paid for by external funders. However, the beds have been funded for a select group and therefore cannot be extended to those who need them. As a result there are occasions where beds are left empty, despite the demand. Insecurity of funds is also an issue. This is due to voluntary and community organisations relying on private donations, which fluctuate, particularly during times of recession.

A further issue is that current legislation limits the State’s obligations to provide housing to only those who are classified as in priority need. The right to adequate housing applies to everyone. By virtue of this stipulation, the State’s obligations extend to everyone. Furthermore, Article 2(2) of the ICESCR provides that:

> [t]he States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Some examples of those who are presenting as homeless in Northern Ireland, but are not necessarily covered by the statutory duty under the 1988 Order include those left homeless as a

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373 Response from representative of Simon Community NI.
375 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
376 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
377 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
378 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
result of mortgage default and those who have been released from an institution. It is reported that the numbers who are left homeless due to mortgage default has significantly and steadily risen since 2005. This is reflective of the hard times that have been created due to the recession and indicates the emergence of a new category of poverty stricken individuals and the lack of State assistance for such individuals. Furthermore, the neglect of those released from an institution raises concerns that the State is not providing sufficient provision to get this section of society back on its feet and reintegrated into society. Whether things have got to a level of increased destitution, which extends to UK nationals, is hard to judge due to a lack of data. Experts within the housing sector have stated that they have seen cases of destitution, that being a person without adequate accommodation or any means of obtaining it. Yet because their recording system does not include that categorisation, it is difficult to provide a figure. Experts have also highlighted that while the State provides a net for destitution in relation to food and health care, no such emergency assistance is available for housing.

It is proposed that the Executive could learn from the Scottish government. The Housing (Scotland) Act 1987, as amended, contains a broad definition of homelessness that is advocated by housing rights experts. It treats individuals as homeless even if they have accommodation, but the accommodation is not reasonable; for example, an individual staying on friends’ floors or with family. In addition, Homelessness (Abolition of Priority Need Test) (Scotland) Order 2012 abolishes the priority need test.

Affordability of housing is also an issue in Northern Ireland. It has been reported that record levels of young adults are living at home – 36% in Northern Ireland. This is not necessarily by choice, with stricter mortgage criteria, rising rents and higher unemployment making it difficult

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383 See the sections ‘Social Exclusion’ and ‘Social Inclusion’.
384 Response from representative at the Simon Community NI.
385 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
386 Section 24, Housing (Scotland) Act 1987.
387 This Order was facilitated by Section 2 of the Homelessness etc (Scotland) Act 2003.
to gain independence. Therefore, this issue engages the obligation for States to provide affordable housing. Experts emphasise that it is fortunate that Northern Ireland has maintained its tradition of a family network. If it were not otherwise there, those living at home would be homeless. However, family support is not always an option.

One of the impacts of the recession has been to increase the financial strain placed on families, which has caused a rise in relationship breakdowns and the number of lone parents. This in turn increases these households vulnerability to poverty and erodes the family unit. Furthermore, statistics imply that there is an increase in young adults who do not have access to family support. The Citizens Advice Bureau reports that the number of 17 to 24 year olds who are homeless has increased by 57% and those threatened with homelessness has increased by 49% since 2007 across the UK. The Simon Community NI has also seen a rise in under 25s turning to it for support and accommodation. In 2010/2011 35.7% of support they offered was to under 25s, this jumped to 49.2% in 2012/2013. The Simon Community NI also warns that the welfare reform is yet to show its full impact and they expect the number of under 35 singles seeking assistance to rise. This has been attributed to high unemployment fuelled by the recession, underemployment, higher house prices and inflated rent costs. The UN Special Rapporteur on Adequate Housing has indicated one step towards addressing this is to put “in place a system of regulation for the private rent sector, including clear criteria about affordability, access to information and security of tenure.”

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391 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.

392 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.


394 Response from representative at Simon Community NI.

395 Response from representative at Simon Community NI.


iii. **Housing Standards**

The Housing (Northern Ireland) Order 1992 places a statutory duty on public housing bodies to provide a certain standard of housing, such as – not overcrowded; adequate personal washing facilities, light; ventilation, facilities for storage; preparation and cooking; and facilities for disposal of waste water. Schedule 5 of the Housing (Northern Ireland) Order 1992 sets out that in order for housing to be deemed adequate it must:

- Be structurally stable;
- Be free from serious disrepair;
- Be free from dampness prejudicial to the health of the occupants (if any);
- Have adequate provision for heating, lighting and ventilation;
- Have adequate supply of wholesome water;
- Have satisfactory facilities in the house for the preparation and cooking of food, including a sink with a satisfactory supply of hot and cold water;
- Have a suitably located water closet for the exclusive use of the occupants (if any);
- Have, for the exclusive use of the occupants (if any), a suitably located fixed bath or shower and wash-hand basin, each of which is provided with a satisfactory supply of hot and cold water;
- Have an effective system for the draining of foul, waste and surface water.

Additionally, flats can be classified as unfit if the building or part of the building outside of the flat fails to meet any of the following requirements and is therefore unsuitable for occupation. The building must:

- Be free from serious disrepair;
- Be free from dampness;
- Have adequate provision for ventilation;
- Have an effective system for the draining of foul, surface and waste water.³⁹⁸

Similar obligations are placed on private landlords under the Private Tenancies (Northern Ireland) Order 2006.

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**Analysis**

These obligations are in line with Article 11 of the ICESCR. Yet despite these legal requirements:

- 4.6% of dwellings are unfit (20.5% of which are occupied),
- 49.3% of dwellings are in disrepair (25% of which are occupied), and
- 3.7% of Housing Executive or Housing Association dwellings are classed as non-decent.\(^{399}\)

Within Northern Ireland the three most common reasons for a property being classified as unfit in 2011 were:

- Unsatisfactory facilities for the preparation and cooking of food (26,300 dwellings)
- No, or unsuitably located, bath, shower or wash hand basin (24,600 dwellings)
- Serious disrepair (22,200 dwellings).\(^{400}\)

Experts have highlighted that the DSD is not providing access to ‘adequate housing resources’ for all disadvantaged groups. This includes cookers, fridges, washing machines and beds.\(^{401}\)

It has been found that those most vulnerable to inadequate standard of housing are:

- Those living in dwellings built before 1919 (35%)
- Those living in dwellings located in isolate rural areas (23%)
- Those living in households with household responsible persons aged 75+ (14%)
- Those living in households with an income less than £10,000 per annum (14%).\(^{402}\)

With the proposed budget cuts, which include reductions in the Housing Executive’s staff, running costs and maintenance spend,\(^{403}\) there are concerns that this will negatively affect the

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\(^{399}\) Northern Ireland Housing Executive, ‘Northern Ireland House Condition Survey’ (Northern Ireland Housing Executive, 2011), at 46.

\(^{400}\) Northern Ireland Housing Executive, ‘Northern Ireland House Condition Survey’ (Northern Ireland Housing Executive, 2011), at 49.

\(^{401}\) Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.

\(^{402}\) Northern Ireland Housing Executive, ‘Northern Ireland House Condition Survey’ (Northern Ireland Housing Executive, 2011), at 65.

number of housing available, standards of housing and accessibility to locations. All of which are obligations set by Article 11 of the ICESCR.

iv. Eviction Safeguards

A number of evictions safeguards are in place in Northern Ireland. A notice to quit must be given,404 followed by a notice of intention to seek possession if the tenants do not leave. A possession order must then be obtained from the court and if this is not adhered to then the landlord can apply for a warrant for eviction. Only at this point can the tenant be forcibly evicted.405 The landlord must have a valid reason for the eviction. Possibilities include the tenants are in arrears on rent payments, the tenants have been using the property for illegal purposes (eg selling drugs), or the landlord wishes to move back into the property.406 The Rents (Northern Ireland) Order 1978, Private Tenancies (Northern Ireland) Order 2006 and Housing (Amendment) Act (Northern Ireland) 2011 also provide for security of tenure and protection of deposits.

Analysis

The eviction safeguards are in line with international standards, but the limited assistance offered to those who are left homeless raises concerns.407 Furthermore, the analysis suggests that more needs to be done to provide and encourage affordable housing, which in turn would reduce the risk of eviction. This would be in line with the obligation for housing to be affordable and “at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised.”408

Food

There are extensive food standards regulations in place to ensure that food products are adequately labelled, prepared in adequate environments and that certain quality standards are met

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404 Section 14 of the Private Tenancies (Northern Ireland) Order 2006.
407 See section on ‘Homelessness’.
408 ‘The Right to Adequate Housing (Article 11(1)): CESCR General Comment 4’, 13 December 1991, at para 8(e).
for imports and exports.\footnote{An extensive list of food related legislation and regulations is available at http://www.food.gov.uk/multimedia/pdfs/enforcement/foodlawguide.pdf (Last visited 22 January 2014).} The recent horsemeat scandal has illustrated how these standards are not fool-proof and are not devoid of criticism.\footnote{‘Horsemeat scandal: Reputational damage to the NI food industry’, BBC News, 5 February 2013. Available at http://www.bbc.co.uk/news/uk-northern-ireland-21347222 (Last visited 22 January 2014).} There is little legal provision for access to food available. There are regulations in place to provide for free school meals. This is in line with the Child Poverty Act 2010. However, it has fallen to voluntary and community organisations to provide food to the most vulnerable groups in food poverty.

\textbf{i. Analysis: Free School Meals Provision}

The Department of Education’s plan to cut back on the cost of school meals\footnote{‘Budget 2011-2015’ (Northern Ireland Executive, March 2011), at 49. Available at http://www.northernireland.gov.uk/revised_budget_website_version.pdf (Last visited 22 January 2014).} threatens the availability and nutritional value of such vital meals, particularly for children who may be experiencing food poverty at home. Consequently, it threatens implementation of the minimum core obligations set by the right to adequate food, particularly to ensure dietary needs and accessibility.\footnote{Article 11, International Covenant on Economic, Social and Cultural Rights 1966; E/C.12/1999/5, ‘The Right to Adequate Food (Article 11)’ 12 May 1999, at para 9; E/C.12/1999/5, ‘The Right to Adequate Food (Article 11)’ 12 May 1999, at para 13.} Furthermore, free school meals are only available to a select few. The child must come from a household that is receiving certain benefits, tax credits or pension credit. The student must be full-time and still at school, which can include nursery children and sixth form students, but not students at further education level.\footnote{Available at http://www.nidirect.gov.uk/news-sept13-check-can-your-child-get-free-school-meals (Last visited 22 January 2014).} The option of assistance is not available to adults or children from households that are not receiving the required benefits, but are living in poverty. This raises further concerns related to the accessibility element of the right to an adequate standard of living\footnote{Article 11, International Covenant on Economic, Social and Cultural Rights 1966; E/C.12/1999/5, ‘The Right to Adequate Food (Article 11)’ 12 May 1999, at para 9; E/C.12/1999/5, ‘The Right to Adequate Food (Article 11)’ 12 May 1999, at para 13.} and the provision for non-discrimination on the basis of “social origin.”\footnote{Article 2(2), International Covenant on Economic, Social and Cultural Rights 1966.}

\textbf{ii. Emergency Provision}

No strategy exists for tackling food poverty in Northern Ireland.\footnote{Advice NI, ‘Turning the Tide: Growth of Food Banks in Northern Ireland’ (Advice NI, December 2013), at 7-8.} In recent years the lack of emergency food provision within Northern Ireland has been particularly evident. Advice NI
reports that there has been a “growth in food banks providing emergency assistance to increasing numbers of people across the UK,” including Northern Ireland. Food banks provide assistance for those who are in “a critical financial situation where there is no immediate support available from the social security or tax credit system.” The Executive has commended the food banks for their work and has encouraged the Minister for Social Development to “support and promote” their work. Yet, since this statement was made in October 2012, the food banks have seen no practical support from the local Government.

Analysis

PricewaterhouseCoopers report that Northern Ireland’s poorest households are £1,000 a year worse off than 10 years ago. This is due to a combination of soaring energy and food prices and a fall in the real value of wages. This has led to hard choices. Statistics from 2011/2012 illustrate that 4% of children lack one or more food items, 7% of adults lack at least one of the adult food items, 29% have ‘sometimes’ or ‘often’ skimped on food so that others in the household have enough to eat. The reality of these statistics is reflected in the emergence of food banks in Northern Ireland. Notably a large amount of Northern Ireland’s food banks have opened in North Down, which is a particularly affluent area. This indicates that a category of ‘middle class poor’ is emerging. However, it has been noted that the true extent of this category is hard to judge given the amount of pride involved, which can often lead to suicide or turning to alternative sources of money such as payday loans.

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422 Available at http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly (Last visited 21 January 2014).
423 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
424 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
These food banks are staffed and managed by voluntary and community organisations, and rely on private and corporate donations. Donations by corporations take the form of allowing food banks to collect in-store from their customers and on occasion making product and financial contributions. For example, as well as hosting food donations from customers, Tesco pledges to top-up any in-store food donations to the Trussell Trust by 30%. 427

Food banks can only provide emergency supplies on the basis of referrals and clients are limited in how often they can avail of the service. Storehouse limits clients to a maximum of six food parcels over a six month period. 428 Or Trussell Trust food banks can offer three days of emergency food on three consecutive occasions. 429 Between April and June 2013 the food banks in Northern Ireland fed 1,538 people. 430 Reasons for requesting assistance have been listed as delays in benefit payments (often due to administrative errors), low income, debt, sickness, homelessness, domestic violence, being turned down for a crisis loan, mental health issues and additions resulting in an inability to budget, and the pressure of debts due to payday loans. 431 It has also been reported that the rise of food banks is linked to unemployment, increasing underemployment, falling income and increases in the price of food and fuel. 432 This issue is exacerbated in Northern Ireland where food bills are predicted to be the joint highest in the UK with London, despite Northern Ireland’s average income being 36.6% of that in London. 433 All of these issues raise concerns as to whether enough is being done to tackle food poverty in Northern Ireland, that is, the “inability to access a nutritionally adequate diet and the related impacts on health, culture and social participation.” 434

The omission of a clear food poverty Government strategy indicates that the Government is satisfied with transferring its obligations on to voluntary and community organisations. Experts from the voluntary and community sector have also reported how Government bodies are actively referring individuals to their services. 435 This is usually after applicants for Crisis Loans and Community Care Grants have been turned down, leaving no more opportunities for State

432 Niall Cooper and Sarah Dumpleton, ‘Walking the Breadline: The Scandal of Food Poverty in 21st Century Britain’ (Church Action Poverty and Oxfam, May 2013), at 3.
434 Sharon Friel and Catherine Conlon, ‘Food Poverty and Policy’ (Combat Poverty Agency, Crosscare and the Society of St Vincent de Paul, April 2004), at 120.
435 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
assistance. Under the obligation to fulfil Article 11 of the ICESCR the Government is required to take positive steps towards the realisation of the rights therein. Leaving it up to voluntary and community organisations does not satisfy this obligation. It has been recognised that States do not necessarily have to have direct involvement if rights are being enjoyed, but it must step in where rights are not being respected, protected and fulfilled. Direct action that could be taken includes setting up State managed food banks and offering assistance to existing food banks. Indirect action includes addressing unemployment and underemployment, introducing the living wage, providing a more effective system for processing benefits and ensuring that any welfare reforms are fair and reflective of the cost of living.

iii. Long-term Provision

The Executive does not provide any long-term provision for tackling food poverty. It has fallen to the voluntary and community sector to create the Fareshare Scheme to address this lacuna. This involves setting up contracts within the local food industry to gather, store and distribute its surplus food to the homeless, those suffering from addiction and those experiencing social exclusion. This Scheme relies heavily on private donations and through charging community organisations a small fee for the food they get, but it does receive limited State funding. Unlike a lot of work done by this sector Fareshare receives around 25% of its funds from the Public Health Agency. The Food Standards Agency also offered funding for the first year of operation, but this was limited to the development, not running, of the scheme.

Analysis

The public funding is welcomed, but provides insufficient assistance. The provision of this scheme continues to be reliant on the voluntary and community sector, when it should be the Executive taking responsibility for ensuring food is accessible, available and sustainable. Additionally, experts report that while there is enough food to meet demand, there is not enough money to fund the staff and running of vans to distribute the food. Furthermore, Fareshare has gained extra assistance from corporations by taking advantage of the Landfill Tax. In return for their surplus food, the participating companies save money by not having to pay landfill tax

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437 Surplus food is food in the wrong packaging, close to expiration, overproduced and over-ordered.
438 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
on food that they could otherwise not sell. This equates to £80 per pallet of food.\footnote{Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.} Additionally, the company can use the contribution towards fulfilling its corporate social responsibility quota. While the assistance is welcomed, it has been noted that the motivation is economical, it is not part of a government policy or with the aim of combating poverty.\footnote{Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.} Therefore, the lack of direct action from the Executive in tackling food poverty raises concerns in relation to Article 11 of the ICESCR. The key area that requires addressing is economic accessibility. Individuals are in such dire financial situations that they often have to skip meals because it is a choice between eating and paying the bills, or between them and their children eating.\footnote{Available at http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly (Last visited 21 January 2014); Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.} Therefore, this issue also engages Article 27(3) of the CRC which requires that State Parties, of which the UK is one, “shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”

\section*{Heating}

Within Northern Ireland fuel poverty continues to be a concern. A satisfactory level of heating is defined as 21\degree C in the main living area and 18\degree C in other occupied rooms. A household is considered to be in fuel poverty if it is required to spend in excess of 10\% of its household income on all fuel use, in order to maintain a satisfactory level of heating. This includes the energy costs of heating space, heating water, cooking, lights and appliances.\footnote{Department for Social Development, ‘Warmer Healthier Homes: A New Fuel Poverty Strategy for Northern Ireland’ (Department for Social Development, March 2011), at 4.} According to the Northern Ireland House Condition Survey published in 2011, 42\% of households in Northern Ireland are in fuel poverty. This is a 25\% increase from the level of fuel poverty measured in 2001, but slight reduction from 44\% in 2009.\footnote{Northern Ireland Housing Executive, ‘Northern Ireland House Condition Survey’ (Northern Ireland Housing Executive, 2011), at Table 6.2.} Furthermore, 39\% of Housing Executive or Housing Association dwellings are in fuel poverty.\footnote{Northern Ireland Housing Executive, ‘Northern Ireland House Condition Survey’ (Northern Ireland Housing Executive, 2011), at Table 6.2.}
Statute has been introduced to deal with sustainable energy and climate change. This also has the potential to alleviate the effects and prominence of fuel poverty. These include:

- Sustainable Energy Act 2003;
- Climate Change Act 2008; and

Regulations have also been introduced to regulate gas and electricity markets, which assist in regulating the price for consumers. These include:

- Electricity and Gas (Billing) (No 2) Regulations (Northern Ireland) 2010;
- The Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011;
- The Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2013;
- The Gas and Electricity (Internal Markets) (Amendment) Regulations (Northern Ireland) 2013; and
- The Electricity and Gas (Market Integrity and Transparency) (Enforcement etc) Regulations (Northern Ireland) 2013.

They help ensure transparency, but do not necessarily assist with reducing energy prices to more affordable costs and thus reduce fuel poverty.

In 2004 the ‘Fuel Poverty Strategy’ was introduced to directly tackle fuel poverty. This Strategy sought to eradicate fuel poverty by 2016 by targeting available resources on the vulnerable households that are most in need of help. The DSD followed this Strategy with the ‘Warmer Healthier Homes Strategy’ in 2011. This Strategy redirects the approach towards building a partnership between departments to ease fuel poverty. With a change of circumstances since 2004, the Government has had to alter its approach to take into account the economic recession, rising unemployment, cuts to welfare expenditure and soaring energy costs, which has

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445 Ben Christman, ‘Eradicating Fuel Poverty in the UK’s Low Carbon Transition: Using the Law to Deliver Domestic Climate Justice’ (Queen’s University Belfast, PhD forthcoming October 2015), at Chapter 3.
significantly increased the number of people struggling to cover their energy costs.\textsuperscript{448} As a result, eradication of fuel poverty remains the overall aim, but is unlikely to occur by the original target of 2016.\textsuperscript{449} In formulating this strategy three main factors which contribute to fuel poverty have been identified. These are income, fuel price and energy efficiency.\textsuperscript{450} Consequently, key areas of action have been formulated. These are:

- Targeting of resources
- Improving energy efficiency
- Achieving affordable energy
- Building strong partnerships.\textsuperscript{451}

Within these key areas the DSD is seeking to:

- Effectively target available resources towards vulnerable households
- Set up a Warm Homes Scheme
- Deliver energy efficiency improvements to vulnerable households through the Northern Ireland Housing Executive Heating Replacement Scheme
- Introduce a pilot Boiler Replacement Scheme targeted at householders aged over 60
- Introduce demonstrator projects, which will see new homes built to higher minimum energy efficiency standards
- Introduce SMART meters within vulnerable households
- Promote existing Oil Stamp Saving Schemes
- Introduce an energy brokerage scheme to enable social housing providers to broker energy costs at a competitive rate for tenants
- Promote partnerships through the Inter-Departmental Group on Fuel Poverty to protect against fluctuating fuel prices.\textsuperscript{452}

An example of these strategies can be found by looking at the Warm Homes Scheme. Since 2001 this Scheme has been the main tool for the DSD in tackling fuel poverty. The Scheme has an annual target of installing energy efficiency improvements to 9,000 homes and has consistently met that target. It offers a maximum grant of £1,500 to people on certain benefits who own their own home or rent from a private landlord. Warm Homes Plus offers a maximum grant of £6,500 for those in receipt of qualifying benefits and require additional insulation or heating measures.\textsuperscript{453} The Scheme has helped improve the energy efficiency of nearly 120,000 homes and invested over £150 million in energy efficiency measures.\textsuperscript{454}

\textit{Analysis}

The DSD’s attempts to tackle fuel poverty are welcomed. However, experts have commented that the schemes are not reaching everyone that requires assistance.\textsuperscript{455} Lack of awareness is playing a key factor in this, with the schemes being opt-in as opposed to automatic.\textsuperscript{456} Moreover, the administrative process and pride are deterring people from applying, as is the upheaval which can arise from the insulation schemes.\textsuperscript{457} There is also a fear of overpayments and the sanctions that are attached. This fear is not always justified, but has been cultivated by the overemphasis on fraud, as opposed to entitlement.\textsuperscript{458}

Moreover, there is growing concern for the deficit in affordability that is being created by the rising fuel prices and falling household incomes. In 2008 Power NI reported that wholesale fuel costs had increased by over 100\%, which led to an increase of 33.3\% in electricity prices, including Economy 7 heating.\textsuperscript{459} In 2010, oil prices increased by 30\%.\textsuperscript{460} In 2011 Phoenix Gas increased its prices by 39\%, blaming rising wholesale fuel costs.\textsuperscript{461} It is acknowledged that the Chancellor of the Exchequer, George Osbourne, has introduced a freeze fuel duty until 2015 to

\textsuperscript{453} Department for Social Development, ‘From Fuel Poverty to Achieving Affordable Warmth: Public Consultation’ (Department for Social Development, February 2014), at 7.
\textsuperscript{454} Department for Social Development, ‘From Fuel Poverty to Achieving Affordable Warmth: Public Consultation’ (Department for Social Development, February 2014), at 7.
\textsuperscript{455} Response from a representative at Age NI.
\textsuperscript{456} Response from a representative at Age NI.
\textsuperscript{457} Response from a representative at Age NI.
\textsuperscript{458} Response from a representative at Age NI.
\textsuperscript{459} Available at http://powerni.co.uk/electricity-price-rise-result-of-rising-fuel-costs/ (Last visited 28 January 2014).
keep the cost of fuel down.\textsuperscript{462} Nevertheless, this keeps fuel prices around the current mark; it does not actively reduce the costs. It also does not ensure that vulnerable customers are not disconnected, as required by a number of European Council Directives.\textsuperscript{463} Interestingly, the European Court of Justice’s case \textit{Francovich v Italy} (1990)\textsuperscript{464} establishes that the UK could be liable to pay compensation to individuals who have suffered a loss as a result of the UK’s failure to implement a Directive into national law.

It has been reported that in order to attain the World Health Organisation’s levels of warmth and comfort, more than 33,000 homes in Northern Ireland in 2011 needed to spend more than a quarter of their income on heating and lighting in their homes.\textsuperscript{465} This means that 11\% households in fuel poverty are in either severe (need to spend 15-20\%) or extreme (need to spend more than 20\%) fuel poverty.\textsuperscript{466} Those who are most likely to be affected by fuel poverty are pensioners, people with disabilities and children.\textsuperscript{467} This is a result of requiring a greater amount of heat due to physical inactivity and the increased amount of time spent at home.\textsuperscript{468} It is also due to such households having lower incomes, which creates a link between those who are disadvantaged more generally and fuel poverty.\textsuperscript{469} Taking pensioners as an example, experts have noted that there is a misrepresentation with figures showing that pensioners are becoming better off. However, this is due to the national median income falling, which reduces the poverty threshold. Pensioners’ incomes are generally staying the same; it is the national figures that are changing.\textsuperscript{470} It is also due to a widening gap of prosperity among pensioners themselves.\textsuperscript{471} On the contrary, many older people have to choose between eating and heat; this includes skipping

\textsuperscript{464} C-6/90 and C-9/90, \textit{Francovich v Italy} (1990).
\textsuperscript{465} Christine Liddell, Chris Morris, Paul McKenzie and Gordon Rae, ‘Defining Fuel Poverty in Northern Ireland’ (University of Ulster, 2011), at 10.
\textsuperscript{466} Department for Social Development, ‘From Fuel Poverty to Achieving Affordable Warmth: Public Consultation’ (Department for Social Development, February 2014), at 7.
\textsuperscript{467} Marmot Review Team for Friends of the Earth, ‘The Health Impacts of Cold Homes and Fuel Poverty’ (Friends of the Earth and Marmot Review Team, 2011), at 9.
\textsuperscript{468} Noel Smith, Sue Middleton, Kate Aston-Brooks, Lynne Cox and Barbara Dobson with Lorna Reith, ‘Disabled People’s Costs of Living: More Than You Would Think’ (Joseph Rowntree Foundation, 2004), at 27.
\textsuperscript{469} Northern Ireland Housing Executive, ‘Northern Ireland House Condition Survey’ (Northern Ireland Housing Executive, 2011), at Table 6.2.
\textsuperscript{470} Response from a representative at Age NI.
\textsuperscript{471} Response from a representative at Age NI.
meals or switching the heat off altogether. This is reflected in the figures with 57% of people aged 60 plus and 66% of people aged 75 plus experiencing fuel poverty in 2011. Research by the Northern Ireland Pensioners’ Parliament finds that four in every five pensioners in Northern Ireland are worried about keeping warm. The Council for the Homeless Northern Ireland also reports distributing 250,000 meals to people in fuel poverty in 2013; this figure does not include those assisted by food banks.

From a health perspective, there is a strong relationship between cold temperatures and cardiovascular diseases, respiratory diseases and mental health problems. Cold housing also exacerbates existing conditions such as arthritis and rheumatism. Therefore, fuel poverty engages Article 11(1) of the European Social Charter 1961, which requires State Parties to “remove as far as possible the causes of ill-health.” The UK has ratified this provision, thus obliging the Executive to adhere to it. Furthermore, the minimum core obligations of the right to housing require affordable housing costs and availability of facilities, including heating. In addition, it has been identified that individuals dealing with fuel poverty are often drawn into social exclusion. This includes going to bed earlier and closing the curtains during the day.

Yet the persistently high levels of fuel poverty and its effects indicate that the DSD is not taking a robust enough approach towards eradicating fuel poverty. It has come to light that the self-referral aspect of the strategies in place is a key issue. For example, in relation to the Warm Homes Scheme, of the 80,000 referrals assessed “provided meagre evidence of targeting towards the most need.” That is despite the Fuel Poverty Strategy 2011 specifying that available

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472 Response from a representative at Age NI.
473 Response from a representative at Age NI.
475 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
476 Northern Ireland Housing Executive, ‘Northern Ireland House Condition Survey’ (Northern Ireland Housing Executive, 2011), at Table 6.2.
478 Article 11, International Covenant on Economic, Social and Cultural Rights 1966; “The Right to Adequate Housing (Article 11(1)’: CESCGR General Comment 4’, 13 December 1991, at para 8(b);
479 ‘The Right to Adequate Housing (Article 11(1)’: CESCGR General Comment 4’, 13 December 1991, at para 8(c).
479 Will Anderson, Vicki White and Andrea Finney, ‘Coping With Low Incomes and Cold Homes’ (Centre for Sustainable Energy, 2010), at 31-38; Ben Christman, ‘Eradicating Fuel Poverty in the UK’s Low Carbon Transition: Using the Law to Deliver Domestic Climate Justice’ (Queen’s University Belfast, PhD forthcoming October 2015), at Chapter 2.
resources should be effectively targeted towards vulnerable households. The Warm Homes Scheme is currently out for further consultation to see how this can be addressed.\footnote{Department for Social Development, ‘From Fuel Poverty to Achieving Affordable Warmth: Public Consultation’ (Department for Social Development, February 2014).}

Furthermore, experts have highlighted that Westminster offers more assistance to older people in England and Wales, and stress that the Executive should introduce similar measures. This includes a Warm Home Discount which provides a discount on the electricity bill,\footnote{Available at https://www.gov.uk/the-warm-home-discount-scheme/overview (Last visited 3 February 2014).} and the introduction of a social tariff system where energy suppliers offer discounts to pensioners and low income households.\footnote{Available at http://www.energychoices.co.uk/guides/social-tariffs-explained (Last visited 3 February 2014).} However, it has been highlighted that reliance on such privatised schemes leaves too much discretion to companies that lack social welfare expertise and also have financial interests in such schemes.\footnote{Ben Christman, ‘Eradicating Fuel Poverty in the UK’s Low Carbon Transition: Using the Law to Deliver Domestic Climate Justice’ (Queen’s University Belfast, PhD forthcoming October 2015), at Chapter 3.}

**Clothing**

There are regulations in place to ensure that a minimum standard of safety is adhered to for personal protective equipment in relation to work environments. In Northern Ireland these are the Personal Protective Equipment at Work Regulations (Northern Ireland) 1993.\footnote{A full list of employment legislation and regulations is available at http://www.lra.org.uk/index/employment_legislation/index_of_employment_related_statutes_for_northern_ireland/1977-1994.htm (Last visited 22 January 2014).} Pensioners and people with disabilities are awarded some financial assistance, but it is not necessarily geared towards clothing. Such schemes are provided for by the Financial Assistance Act (Northern Ireland) 2009. It may only provide some assistance towards enabling money that would otherwise be spent on fuel or rates, for example, to be used to buy adequate clothing.\footnote{For more information on the assistance available see the section on ‘Heating’.} There are also limited schemes in place to assist with buying school uniforms.

The School Uniform Grant or Clothing Allowance Scheme is available to pupils in primary, post-primary and special schools. It does not apply to pupils in attendance at nursery schools, nursery units or reception classes. The household which the child is from must also be receiving certain benefits, tax credits or pension credit. The assistance is only paid once during the school
year. It amounts to £35.75 for primary school, £51 for post-primary/special school under 15, £56 for post-primary/special school over 15 and £22 for post-primary/special school PE.\footnote{Available at \url{http://www.nidirect.gov.uk/index/information-and-services/parents/schools-learning-and-development/school-life-parents/school-uniform-grant.htm} (Last visited 22 January 2014).}

**Analysis**

The assistance available is minimal and has strict criteria. The recession has seen a number of people having to reassess their budgets and finding themselves in or facing poverty. If such people are not receiving the required benefits they are not entitled to any assistance. Even those receiving assistance will find that it is not enough as it only provides assistance to the child and for the specific reason of a school uniform, not everyday clothes. This has a detrimental effect on access to adequate clothing. For example, figures from 2011/2012 show that:

- 8% of adults cannot afford warm coat or two pairs of shoes
- 17% of people unemployed and looking for work cannot afford suitable clothes for an interview
- 7% of children lack one or more basic clothing items
- 4% of children lack either a coat or pair of properly fitting shoes
- 50% of adults continue to wear worn out clothing because they cannot afford to buy new clothes.\footnote{Available at \url{http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly} (Last visited 21 January 2014).}

Due to the lack of provision provided by the Executive, it has fallen to the voluntary and community organisations to address the clothing needs of society. As previously stated the State must step in where its inhabitants are not able to enjoy their rights.\footnote{E/2007/82, ‘Report of the United Nations High Commissioner for Human Rights’, 2-27 July 2007, at para 34.}

Therefore, not offering support in addressing these wider needs raises concerns under Article 11 of the ICESCR. Additionally, due to the fact that children are particularly vulnerable and that the requirement is not limited to school clothing, raises concerns in relation to the Executive’s obligation to provide “material assistance and support programmes” for clothing, as set out in Article 27(3) of the CRC.
Water

Concerted efforts have been made within Northern Ireland to improve the quality of drinking water, water more generally and the sewage system. This is in line with the Water and Sewerage Services (Northern Ireland) Order 2006.

Charges for non-domestic water and sewage use have been in place in Northern Ireland since 1 April 2008. The Northern Ireland Assembly has delayed the implementation of domestic water charges until 2016, ensuring that water for domestic use is accessible to all. This delay in charging for domestic use has been rolling since 2006 under the Water and Sewerage Services (Northern Ireland) Order 2006, the Water and Sewerage Services (Amendment) Act (Northern Ireland) 2010 and the Water and Sewerage Services (Amendment) Act (Northern Ireland) 2013.

Analysis

The delay in charging for domestic use of water and sewerage services is welcomed and ensures that those already under financial pressure or not subject to any more from an additional source. It is possible that the introduction of these charges would constitute retrogression for the right to an adequate standard of living. As set out in the introductory sections, the State must justify any retrogression and it must be shown that all measures available are used to the fullest to prevent this from happening. The fact that water charges were not in place at all pre-2008 and that they have been successfully delayed, indicates that they are a way to bolster the public purse and are not necessary for the purposes of providing water and sewage services. Furthermore, the proposed £160.9 million cuts to the Department of Regional Development by 2015 could pose problems for the continued improvement of water services and sewage facilities. The Executive should be careful that this does not amount to unreasonable retrogression.


Social Security and Benefits

The UK has a substantial social security and benefit system, which *prima facie*, covers all the core minimum obligations. However there are a number of proposed changes, which call this into question.

In February 2013 the Welfare Reform Act 2012 entered into force in England, Wales and Scotland, with limited provisions of the Act concerning decision powers extending to Northern Ireland. The Act saw the first complete overhaul of the benefit system in decades, which the Westminster state is aimed at “simplifying the welfare system and making sure work pays.”

The Act also seeks to make significant savings. This involved introducing a Universal Credit system; replacing Disability Living Allowance with Personal Independence Payment; introducing a Jobseeker’s Allowance Claimant Commitment; reassessing incapacity benefits recipients for Employment and Support Allowance; changing the Work Capability Assessment; making sure housing support is fair and affordable; and increasing penalties for benefit fraud.

The Welfare Reform Bill 2012 for Northern Ireland was presented to the Northern Ireland Assembly in October 2012, this Bill reflects its GB counterpart.

The Bill progressed at a steady pace to the Committee Stage (the third stage of seven), but has not progressed any further since April 2013. There are reports that this is due to a mix of internal political tensions and concerns for the bedroom tax. It has been reported that negotiations are continuing behind closed doors, but the Bill has made no movement publically.

Devolution enables Northern Ireland to introduce its own legislation in principle, but “in practice... the GB and Northern Ireland social security schemes are maintained in close

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492 Section 149(2), Welfare Reform Act 2012.
parity.” For example, as the Bill currently stands there is evidence of the Northern Ireland Assembly exercising some discretion, such as how the benefits are paid, but overall it maintains the same benefit system. This is driven by the fact that any shortfall that results from the differences must be made up elsewhere within the block budget given to Northern Ireland by Westminster. Consequently, the Northern Ireland Assembly has been under mounting pressure from Westminster to meet the enforcement deadline of Spring 2014. It has been stated that from January 2014 Stormont faces a penalty charge of £5 million for every month that the legislation is not passed. Further the UK Treasury has warned that if the Executive fails to follow the rest of the UK and agree to introduce welfare reform, the block grant given to Northern Ireland will be reduced to compensate for the lost savings that is predicted would result from the proposed reform. It has also been warned that this could lead to a potential £4 billion shortfall for Northern Ireland’s budget.

Using the current draft of the Bill, if is enacted it will result in a number of changes to the benefits and payment system within Northern Ireland. This will include:

- Introduction of Universal Credit
- Introduction of Personal Independence Payment
- Changes to Housing Benefit
- Introduction of a Benefit Cap
- Current Social Fund scheme to be replaced by the Discretionary Support Service
- Changes to Employment and Support Allowance
- Introduction of new Fraud and Error powers
- Introduction of Mandatory Reconsideration
- Introduction of further sanctions and hardship measures.

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501 Liam Clarke, ‘Bedroom tax deal wins Northern Ireland a four-year reprieve’, Belfast Telegraph, 4 October 2013.


These reforms will bring about significant changes to the welfare system in Northern Ireland. Commenting on the driving force behind these reforms, the Northern Ireland Welfare Reform Group supports the simplification of the social security system and offering assistance to people to move into and progress in work. However, it remains unconvinced that the proposals will deliver. This is on the basis that:

... Northern Ireland presents particular circumstances for welfare reform and arrangements to move people into employment. There is considerable evidence of multiple disadvantage and deprivation in Northern Ireland including lower average wages, higher fuel costs, lack of childcare provision, greater incidence of mental health, higher levels of disability and higher trends of economic inactivity. In addition, economic forecasts from a variety of sources all suggest that Northern Ireland will take longer to emerge from recession than Britain.

These reservations are supported by research commissioned by the Northern Ireland Council for Voluntary Action (NICVA). NICVA reports that “when the present welfare reforms have come into full effect they will take £750 million a year out of the Northern Ireland economy.” This is the equivalent to “£650 a year for every adult of working age” with the most deprived areas facing the biggest losses. Overall this will “widen the economic gap between Northern Ireland and GB, as well as richer and poorer parts of Northern Ireland.” Therefore, while these changes may provide short-term savings for the public purse, it will have a detrimental impact upon the local economy, and place individuals under greater threat of poverty and/or destitution. It will lead to individuals having to make hard choices and threaten their rights under an adequate standard of living. Research has identified the ways a person can be negatively affected by a reduction in funds. This research focused on the impact on persons with disabilities, but many of these impacts can apply more generally. They include, but are not limited to:

- Cutting back on heating;

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• Cutting back on food;
• Getting into further debt;
• No longer being able to afford their home;
• Placing the burden of care on children;
• Inability to replace broken equipment for persons with disabilities;
• Inability to cover travel costs;
• Reduced quality of life;
• Lead to social exclusion; and
• Affect independence.\textsuperscript{511}

Feedback from experts indicates that many already have to make hard choices due to the limited assistance that is already available, the high levels of unemployment and underemployment, and the budget cuts.\textsuperscript{512} This is reflected in the Poverty and Social Exclusion project’s findings that 22\% of adults in the UK have reduced their standard of living in the last two years.\textsuperscript{513}

Below is a description of each of the key changes and a summary of the concerns that have been raised.

\textit{i. Universal Credit}

Universal Credit introduces one single benefit for people aged 18 to 64 years old paid to each household. In certain circumstances, some 16 and 17 year olds will be able to claim it.\textsuperscript{514} Universal Credit is to be a regular payment encompassing a range of benefits, and emulating a salary payment. It is due to introduced to Northern Ireland in Summer 2014 and will replace:

• The means tested part of Jobseeker’s Allowance
• The means tested part of Employment and Support Allowance
• Income Support
• Child Tax Credits

\textsuperscript{512} Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
\textsuperscript{513} Available at \url{http://www.poverty.ac.uk/living-poverty/life-stories} (Last visited 3 February 2014).
• Working Tax Credits
• Housing Benefit (rent element only).\textsuperscript{515}

Those eligible for Universal Credit will include:

• those not working,
• those looking for work,
• those working in a low paid job, or
• those who are sick and not able to work.\textsuperscript{516}

Extra amounts may be available for:

• Child Benefit
• Rent
• Mortgage (depending on circumstances)
• Limited capability to work due to mental or physical health problems
• Caring for a severely disabled person.\textsuperscript{517}

\textit{Analysis}

The Minister for Social Development estimates that the introduction of Universal Credit will make 102,000 people better off, including lifting 10,000 children out of poverty.\textsuperscript{518} However, the evidence suggests that it will have disproportionately detrimental effects on others.

Universal Credit is to be paid to only one person. Therefore, in the case of a joint claim by a couple, the Department has the power to determine whether a payment is made to a nominated person or to a person “irrespective” of a nomination.\textsuperscript{519} In its advice to the Northern Ireland

\textsuperscript{519} Section 99, Welfare Reform Bill (Northern Ireland) 2012.
Assembly, the Northern Ireland Human Rights Commission (NIHRC) expressed concern “with respect to instances of abuse within the home and the possibility of a nomination under duress.”\textsuperscript{520} We continued that this stipulation “may result in restrictions on the more vulnerable member of the household, inhibiting their autonomous decision-making in respect of their financial needs and investments of their benefits.”\textsuperscript{521} This raises concerns in relation to the principles of non-discrimination within Article 13 of the CEDAW.\textsuperscript{522} In addition, it raises questions in relation to the best interests of the child, which is set out as paramount, within Article 26 of the CRC.\textsuperscript{523}

Consequently, in cases of abuse, the one payee requirement places the non-payee in a vulnerable position and could lead to a choice between destitution and abuse. Furthermore, in instances where the payee has no regard for budgeting, unlike their non-payee partner, this could lead to mismanagement of the benefits available and put the household at risk of poverty and/or destitution. Therefore, this proposal potentially negates a number of the minimum core obligations, including the obligations that a minimum essential level of benefit must be available to “all individuals and families,” social security must be protected from “unreasonable interference” and that social security must be accessible.\textsuperscript{524}

The Northern Ireland Welfare Reform Group has also expressed concern that the introduction of the Universal Credit would change the way that couples are treated where one is a pensioner and the other is working age, otherwise referred to as ‘mixed aged couples’. Currently if one partner in a couple has reached Pension Credit age they are treated as a pensioner couple for the purpose of means-tested benefits. This will continue for those already receiving Pension Credit, but future mixed age couples will be assessed under Universal Credit. In other words, pension credit contains no cap on savings, but Universal Credit will place a £10,000 cap on savings. Therefore, partners in a mixed age couple will be subject to the Universal Credit cap, as opposed to the Pension Credit relief.\textsuperscript{525} This could result in one member of a couple being well above pensionable age and still subject to work related requirements and claimant’s commitment

\textsuperscript{520} Northern Ireland Human Rights Commission, ‘Response on the Welfare Reform Bill 2012’ (NIHRC, October 2012), at 19.
\textsuperscript{522} Article 13, Convention on the Elimination of All Forms of Discrimination Against Women 1979.
\textsuperscript{523} Articles 26 and 27, Convention on the Rights of the Child 1989.
\textsuperscript{525} Bernadette Maginnis, ‘Briefing to Committee for Social Development’ (Age NI, 2012), at 4.
conditions required of their younger partner.\textsuperscript{526} It is estimated that this would result in mixed age couples where neither work receiving £100 less per week and the older person losing out on passport benefits such as free dental and optical care and full rate rebate.\textsuperscript{527} Additionally it has been claimed that the introduction of an upper capital limit to all benefits within this category, previously it did not include tax credits or pension credits, would “impact disproportionately” on the savings of older claimants.\textsuperscript{528} Placing such couples at a disadvantage raises concerns in relation to the minimum core obligation of the right to social security that provides for a “minimum essential level of benefits to all individuals and families that will enable them to acquire at least [inter alia] essential health care, basic shelter and housing… foodstuffs.”\textsuperscript{529}

Furthermore, under Universal Credit it is possible that an owner occupier will lose assistance with housing costs if they take any paid work.\textsuperscript{530} It has been highlighted that this measure would be a disincentive to owner occupiers accepting temporary, irregular work.\textsuperscript{531} Such a step could lead to regular employment and to penalise such an action goes against the ethos of introducing these reforms. It also negates the requirement that the opportunity of employment is accessible.\textsuperscript{532}

\textit{ii. Personal Independence Payment}

The Personal Independence Payment (PIP) is due to replace Disability Living Allowance (DLA) from Spring 2014 in Northern Ireland. It will apply to eligible people of working age (between 16 and 64 years old) who make a new claim. Similar to DLA, PIP will be a non-means tested benefit that will be available to people with disabilities whether they are in or out of work. PIP will be awarded based upon the individual, the impact of the disability or health condition, and the

\begin{footnotesize}
\begin{enumerate}
\item \textsuperscript{529} E/C.12/GC/19, ‘General Comment No 19: The Right to Social Security (Article 9)’, 4 February 2008, at para 59.
\item \textsuperscript{532} E/C.12/GC/18, ‘General Comment No 18: The Right to Work (Article 6 of the Covenant)’, 6 February 2006, at para 12.
\end{enumerate}
\end{footnotesize}
extent to which they are able to live independently. Special rules are applied to terminally ill claimants (those not expected to live longer than six months). 533

For new claimants there will be a three month qualifying period and the health condition or disability must be expected to last for a further nine months. In other words, the condition leading to the need for PIP must last 12 months or more. A new claim will be processed through a number of stages. First the applicant must contact the Social Security Agency with some basic details. If satisfied that the applicant meets the basic eligibility requirements they will be asked to fill out a ‘Tell Your Story’ form, which will be used to explain how the applicant’s condition affects their daily life. It is then up to a health professional to assess all the available evidence and possibly request a face-to-face, before a decision is reached regarding the applicant’s claim. 534 Claimants will be subject to a number of reassessments, with the exception of those diagnosed as terminally ill.

In monetary terms PIP will have a standard and enhanced rate. The Daily Living enhanced weekly rate is £79.15 and the standard weekly rate is £53. The Mobility enhanced weekly rate is £55.25 and the standard weekly rate is £21. 535

**Analysis**

The most recent figures show that 17% of the population in Northern Ireland have a disability. 536 Social security and/or benefit payments are the main source of income for 29% of individuals with a disability, compared to 15% of the overall population. 537 These figures indicate that any change to the benefit system will have a greater impact on people with disabilities and threaten the Executive’s obligations under Article 28 of the UNCRPD. Also people with disabilities that rely on benefits or work for the National Minimum Wage (NMW) have weekly incomes that are far below the amount they need for an acceptable quality of life. In 2004, the unmet weekly costs

for people with disabilities were between £200 (low to medium needs) and £230 (high to medium needs) for those relying on benefits and between £118 (low to medium needs) and £189 (high to medium needs) for those who work 20 hours at the minimum wage.\textsuperscript{538} As the analysis below illustrates, this deficit will worsen under the proposed changes, to the point that experts have warned could place those affected into destitution.\textsuperscript{539}

The replacement of DLA with PIP in Northern Ireland is set to save the Treasury £105 million per year.\textsuperscript{540} This translates to individuals who are currently living on DLA having to live on £2,000 less per year, on average.\textsuperscript{541} In order for people with disabilities to enjoy independence and social inclusion extra support, equipment and lifestyle modifications are usually required, which costs money. Consequently, for many any reduction in funds threatens their welfare, independence and ability to engage with society. It also puts people with disabilities at an even greater risk of poverty. The latest statistics indicate that 21% of children and 19% of individuals in families with at least one disabled member live in relative income poverty across the UK.\textsuperscript{542} This is before the proposed welfare changes are introduced to Northern Ireland.

It has been predicted that the cuts to the child disability additions and the Severe Disability Premium, to be introduced by Universal Credit, will leave disabled people and their families struggling to pay for basic essentials. For example, under this reform severely disabled people who do not have another adult to assist them will receive £28 to £58 less per week in support.\textsuperscript{543} In real terms this means cut back on food and heating, insecure housing and an increased burden on young carers.\textsuperscript{544} When compared to the rest of the UK, Northern Ireland is due to be the most affected. Figures indicate that 10.1% of working age adults is in receipt of DLA in

\textsuperscript{538} ‘Disabled People’s Costs of Living’ (Joseph Rowntree Foundation, 2004), at 1.
\textsuperscript{540} Christina Beatty and Steve Fothergill, ‘The Impact of Welfare Reform on Northern Ireland: A Research Paper’ (Centre for Regional Economic and Social Research, Sheffield Hallam University and Northern Ireland Council for Voluntary Action, October 2013), at 5.
\textsuperscript{541} Christina Beatty and Steve Fothergill, ‘The Impact of Welfare Reform on Northern Ireland: A Research Paper’ (Centre for Regional Economic and Social Research, Sheffield Hallam University and Northern Ireland Council for Voluntary Action, October 2013), at 14.
Northern Ireland; this is more than double the 4.9% in GB.\textsuperscript{545} From a human rights perspective, cutting back social security to the point that it no longer provides the “minimum essential level of benefits” such as “health care, basic shelter and housing… foodstuffs, and the most basic forms of education”\textsuperscript{546} disregards the right to social security and right to an adequate standard of living. It also disregards the principle of non-retrogression.

Rolling out these changes will primarily be facilitated by more stringent and frequent medical tests.\textsuperscript{547} The NIHRC has expressed concern that this will lead to “a focus on the medical model of disability rather than the social model of disability, which focuses on overcoming the societal barriers faced by people with disabilities.”\textsuperscript{548} This raises concerns for Article 19 of the UNCRPD.

Unlike DLA, PIP does not include an arrears system.\textsuperscript{549} Therefore, those in receipt of PIP who are wrongly held on remand do not qualify for their claim to be backdated for the entire period of the wrongful custody. This applies to persons held on remand with no sentence of imprisonment or detention, the charges are dropped, or their sentence is quashed. This qualifies as “unreasonable interference,” disregarding a minimum core obligation provided for by the right to social security.\textsuperscript{550}

\textbf{iii. Housing Benefit}

For those struggling to cover their housing costs a number of support mechanisms are available. These include Housing Benefits, rate rebates and fuel grants. Housing Benefit is an “income related social security benefit designed to provide support to those with low income and saving so that is removes or reduces a household’s liability for rent and rates.”\textsuperscript{551} It is proposed that in Spring 2014 Housing Benefit will be changed for Housing Executive or Housing Association

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tenants from 16 to 61 years of age. The changes will not apply to pensioners. The reforms include changes to local housing allowance, the introduction of a bedroom tax, rate rebate reform and deductions for non-dependents through the benefit cap. It has also been floated that under 25s will be unable to claim housing benefit, however this proposal is yet to be implemented anywhere in the UK.

Local Housing Allowance (LHA) is the housing benefit available to private sector tenants. The proposed changes to this scheme, which have been gradually phased in since April 2011, will see LHA based on the size, composition and location of the household. It will no longer be based on the actual rents, but on the median levels of rent within the localities. It bestows upon the tenant more choice. The tenant in receipt of LHA can choose to rent a cheaper place and keep the excess (to a maximum of £15 per week), or to rent a more expensive property and pay the excess.

Concerning rate rebates, around 20% of households, the poorest in Northern Ireland, pay no rates and a further 5% pay reduced rates. For example, a Lone Pensioner Allowance and Disabled Person Allowance are available. The Lone Pensioner Allowance, the equivalent to 20% rate reductions, is potentially available to ratepayers aged 70 or over and living alone. A reduction of 25%, Disabled Person Allowance, is available to households where the property has been suitably adapted or has additional features to meet the special needs of a resident disabled person.

At present over 220,000 households receive assistance through Housing Benefit with an average award of around £500. At the existing rate the total cost of the rebate scheme for this year

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552 See the section ‘Bedroom Standard’.
554 SN/SP/4957, Wendy Wilson, ‘The Reform of Housing Benefit (Local Housing Allowance) for Tenants in Private Rented Housing’ (House of Commons Library, 30 December 2013), at 3.
(2012/2013) is around £120 million. The UK Government at Westminster announced in its Spending Review 2010 that support for the Council Tax Benefit would be localised and expenditure reduced by 10% from April 2013. This will affect the rate rebate element of Northern Ireland’s Housing Benefit. Consequently, the Northern Ireland Assembly have to create a new scheme, within a reduced budget and continue to provide support for the most vulnerable. The options being considered are:

1) Maintain an equivalent to current level of support that fits within the new Universal Credit system.
2) Maintain an equivalent to current level of support but remove other forms of current support.
3) Maintain current levels of support for vulnerable groups and focus cut on remainder of claimants (pensioners, persons with disabilities, families with children under the age of six).
4) Top slice or taper support to match budget; either fixed for a spending review period or adjusted annually in line with uptake and budgetary forecasts.
5) Introduce a completely new income based scheme.

The consultation process was completed in December 2013 with no consensus as to the best approach. If changes are to take place they are to be rolled out from April 2014, with most not affected until 2015.

Within the reforms imposed in GB, direct payments of Housing Benefit have been removed in all, but the most vulnerable cases. This means that instead of rent being directly paid to the landlord, claimants are now responsible for that task. The intention within Northern Ireland is to

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retain direct payments as the default position, providing claimants with the option to move to indirect payments. This is a welcomed position.

The benefit cap is discussed in the section ‘Benefit Cap’.

**Analysis**

Housing Benefit is only available to a select few. Certain eligibility criteria must be satisfied and they are usually outside the reach of employed working age adults, irrespective of their financial struggles. Furthermore, the benefits offered are limited in how far they will stretch. Consequently, according to figures from 2011/2012, in Northern Ireland:

- Over 1/3 households fall below society’s minimum standards,
- 20% cannot keep their homes in adequate state of decoration,
- 10% of households are unable to afford damp-free homes,
- More than half household struggling to keep up with bills, and
- 43% cannot afford unexpected household bills of £500.

These figures are before the proposed changes are implemented. It is estimated that the changes to Housing Benefits will save the Treasury £85 million per year. This can be broken down to £55 million under LHA, £20 million due to the bedroom tax and £10 million through higher deductions on non-dependents. In real terms, affected households will lose an average of £1,000 per year, a figure which experts fear could place individuals into a state of destitution.

Significant changes have already occurred with the staged implementation of the changes to LHA and provide an example of the negative effects that the overall changes to Housing Benefit

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could have. From April 2011 LHA was capped at a four bed rate. This affected new claimants who lived in 5 to 7 bed private rented accommodation. The impact was that households lost between £14.42 and £79.73 per week. The LHA rate is now set at the 30th percentile value, this means that 36,000 households have had their benefit reduced by £7.50 per week and are competing for the cheapest 30% of the private rented sector. All new claimants, that are approximately 7,000 existing cases, will no longer be able to claim excess payments to meet the actual rent. The rate of non-independent deductions has been increased for all current and future claimants. These reforms were imposed upon existing claimants in January 2012 with the additional change that age rate for the Shared Room Rate was extended from 25 years old to 35 years old. The result has been that singles aged between 25 and 35 years in self-contained accommodation face a 50% reduction in their Housing Benefit, which equates to £26.28 per week. Overall, the most disadvantaged sections of society are expected to live on even less. Combined with the rising costs of living (food, fuel, transport and housing) the result will be to force new households into poverty and those already experiencing poverty into further hardship, potentially destitution. Not all sections of the voluntary and community sector are witnessing destitution among UK nationals, but experts within the housing sector have experienced such cases and have warned that with these proposed changes these cases will increase. Before these proposed changes are even introduced, households have to make choices between rent, food, clothing and fuel. Under an adequate standard of living and the principle of accessibility to the minimum essentials within the right to social security, these are choices that people should not have to make. Furthermore, any change that does occur should take into account the best interests of the child and be in line with the State’s socio-economic obligations within international human rights law. It should also ensure that it does not place those affected in a state of destitution or hardship that constitutes a violation of the ECHR.

574 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
575 Response from representative of Simon Community NI.
577 See Section II for further details.
The change that is causing the most concern is the introduction of the bedroom tax. In relation to the proposed withdrawal of housing benefit for under 25s, it has been warned that this will increase youth homelessness. This engages the right to adequate housing under Article 11 of the ICESCR.

**iv. Bedroom Standard**

A bedroom standard has been set to ‘estimate the occupation density by allocating a standard number of bedrooms to each household in accordance with its age, gender and marital status composition and the relationship between members.’ A separate bedroom is allocated to:

- Each married or cohabiting couple
- Any other person aged 21 or over
- Each pair of adolescents aged 10 to 20 of the same gender
- Each pair of children, regardless of gender, less than 10 years old
- An unpaired person aged 10 to 20 and an unpaired child under 10 of the same gender
- Unpaired child less than 10 years old.

This standard number of rooms is then compared with the actual number of bedrooms available. This standard does not take into account room size. For a household to be classified as overcrowded there must be a deficiency in the bedroom standard by one or more bedrooms.

In 2011 3% of households in Northern Ireland were overcrowded. This is a figure which has remained relatively unchanged in the last decade, but has declined from 7% in 1996.

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578 *See the section ‘Bedroom Standard’.*
580 Northern Ireland Housing Executive, ‘Northern Ireland House Condition Survey’ (Northern Ireland Housing Executive, 2011), at 29-30.
581 Northern Ireland Housing Executive, ‘Northern Ireland House Condition Survey’ (Northern Ireland Housing Executive, 2011), at 29-30.
582 Northern Ireland Housing Executive, ‘Northern Ireland House Condition Survey’ (Northern Ireland Housing Executive, 2011), at 29-30.
583 Northern Ireland Housing Executive, ‘Northern Ireland House Condition Survey’ (Northern Ireland Housing Executive, 2011), at 30.
584 Northern Ireland Housing Executive, ‘Northern Ireland House Condition Survey’ (Northern Ireland Housing Executive, 2011), at 30.
survey found that Northern Ireland had an under-occupation of 79% in 2011.\textsuperscript{585} This has fallen slightly from 81% in 2009, but overall this issue has been on the rise since 1996 when the proportion was 68%.\textsuperscript{586} In a bid to tackle this, a bedroom tax has been introduced.

The bedroom tax allows for one bedroom for each person or couple living as part of the household. Exceptions to this will be:

- A child aged 15 or under would be expected to share with another child of the same gender.
- A child aged nine or under would be expected to share with one other child aged nine or under, regardless of gender.
- A bedroom for a non-resident carer will be taken into consideration.
- Foster carers.
- Armed forces.\textsuperscript{587}

Under this new scheme, tenants who are under-occupying their household by one bedroom will see a reduction of 14% to their housing benefit and those who are under-occupying by two or more bedrooms will see a reduction of 25%. In monetary terms, on the basis of an average rent of £58.76 per week, a tenant who receives full housing benefit, but who is under-occupying by one bedroom, would have their Housing Benefit reduced by £8.25 per week. A tenant who is under-occupying by two or more bedrooms would experience a reduction of £14.70 per week. If a tenant’s Housing Benefit is cut, they will have to pay their landlord the difference.\textsuperscript{588}

It is noted that alternative assistance is available:

- Discretionary Housing Payment (though this is only short-term).
- Additional funding for people with disabilities and foster carers.
- Transfers or direct exchanges of homes will be made available.

\textsuperscript{585} Northern Ireland Housing Executive, 'Northern Ireland House Condition Survey' (Northern Ireland Housing Executive, 2011), at 30.
\textsuperscript{586} Northern Ireland Housing Executive, 'Northern Ireland House Condition Survey' (Northern Ireland Housing Executive, 2011), at 30.
\textsuperscript{588} \url{http://www.nihe.gov.uk/welfare_reform} (Last visited 2 December 2013).
• Plans to provide smaller homes for downsizing.\textsuperscript{589}

\textbf{Analysis}

Bedroom tax is one of the reasons why the Welfare Reform Bill for Northern Ireland has failed to progress.\textsuperscript{590} The UN Special Rapporteur on Adequate Housing has noted the negative impact of the introduction of the bedroom tax in England on the right to adequate housing. She has spoken of the:

\begin{quote}
…persons with physical and mental disabilities who have felt targeted instead of protected; of the grandmothers who are carers of their children and grandchildren but are now feeling they are forced to move away from their life-long homes due to a spare bedroom or to run the risk of facing arrears; of the single parents who will not have space for their children when they come to visit; of the many people who are increasingly having to choose between food and paying the penalty. Those who are impacted by this policy were not necessarily the most vulnerable a few months ago, but they were on the margins, facing fragility and housing stress, with little extra income to respond to this situation and already barely coping with their expenses.\textsuperscript{591}
\end{quote}

There are concerns that the bedroom tax would have a greater effect in Northern Ireland due to the larger number of people on disability payments, the size of families and the rate of child poverty.\textsuperscript{592} Under-occupancy affects 32,000 households in Northern Ireland; this includes 26,000 Housing Executive and 6,000 Housing Association properties.\textsuperscript{593} In addition to not being the most sensitive approach, the problem with the bedroom tax is that it fails to take into account that a spare room may be needed to accommodate a family member returning home, treatment or equipment.\textsuperscript{594} The English case of \textit{Burnip, Trengove, Gorry v SSWP} [2012] succeeded in getting the regulations changed to allow for an additional room to be paid for where a disabled person

\begin{footnotes}
\item 589 http://www.nihe.gov.uk/welfare_reform (Last visited 2 December 2013).
\item 592 Liam Clarke, ‘Bedroom tax deal wins Northern Ireland a four-year reprieve’, \textit{Belfast Telegraph}, 4 October 2013.
\end{footnotes}
has a carer, or where two children cannot share a room because of disability.\textsuperscript{595} However, Westminster has refused to accept that the \textit{Burnip} judgment extends to adults with disabilities, for example, a couple who is unable to share a bedroom due to the disability.\textsuperscript{596} This is a cause for concern, particularly in relation to the minimum core obligation that the housing must be habitable, which includes providing inhabitants “with adequate space.”\textsuperscript{597}

Furthermore, there is a scarcity of smaller dwellings in Northern Ireland, which reduces the opportunity for alternative accommodation to be sourced for those affected falling foul of the bedroom tax. The Northern Ireland Housing Executive reported in 2011 that apartments and flats accounted for only 8.7\% of homes in Northern Ireland.\textsuperscript{598} It has been reported that the Executive has been offered a four year reprieve in which to construct smaller homes.\textsuperscript{599} This would see benefit reductions being waived for existing tenants. However, this deal would still cost the Executive £17 million in the first year with a gradual reduction the following years as fewer tenants become eligible.\textsuperscript{600}

Experts have also warned that the bedroom tax will have a detrimental impact on childcare. It could force families to move away from their main source of childcare, such as grandparents, which will raise the cost of living further and threaten employability.\textsuperscript{601}

From a human rights perspective housing is to be affordable and “at such a level that the attainment and satisfaction of other basic needs are not compromised.”\textsuperscript{602} Experts indicate that the bedroom tax combined with the high levels of unemployment, underemployment, and other elements of the welfare reform are putting extra financial strains on households, many to the point of other basic needs being compromised.\textsuperscript{603} It is also the voluntary and community organisations that have to provide the additional support required, something which they are struggling to do given the demand and their limited resources.\textsuperscript{604}

\textsuperscript{595} \textit{Burnip, Trengove, Gorry v SSWP} [2012] EWCA Civ 629.
\textsuperscript{596} \url{http://www.disabilityrightsuk.org/bedroom-tax} (Last visited 16 January 2014).
\textsuperscript{597} ‘The Right to Adequate Housing (Article 11(1)): CESCR General Comment 4’, 13 December 1991, at para 8(d).
\textsuperscript{598} Northern Ireland Housing Executive, ‘Northern Ireland Housing Survey 2011’ (Northern Ireland Housing Executive, 2013), at Table 3.1.
\textsuperscript{599} Liam Clarke, ‘Bedroom tax deal wins Northern Ireland a four-year reprieve’, \textit{Belfast Telegraph}, 4 October 2013.
\textsuperscript{600} Liam Clarke, ‘Bedroom tax deal wins Northern Ireland a four-year reprieve’, \textit{Belfast Telegraph}, 4 October 2013.
\textsuperscript{601} Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
\textsuperscript{602} ‘The Right to Adequate Housing (Article 11(1)): CESCR General Comment 4’, 13 December 1991, at para 8(e).
\textsuperscript{603} Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
\textsuperscript{604} Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
v. **Benefit Cap**

A ‘benefit cap’ is expected to be introduced in Spring 2014 to bring Northern Ireland into line with the rest of the UK. This cap will prevent a household from receiving more than £26,000 per annum in benefits, irrespective of need. Benefit claims will be capped at £500 per week for couples and those with children, and £350 per week for single persons. 605 It will affect:

- Bereavement Allowance
- Carer’s Allowance
- Child Benefit
- Child Tax Credit
- Employment and Support Allowance (except where it is paid with the support component)
- Guardian’s Allowance
- Housing Benefit
- Incapacity Benefit
- Income Support
- Jobseeker’s Allowance
- Maternity Allowance
- Severe Disablement Allowance
- Widowed Parent’s Allowance
- Widowed Mother’s Allowance
- Widows Pension
- Widows Pension (age-related). 606

It will not affect:

- Disability Living Allowance
- Industrial Injuries Benefit

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• Personal Independence Payment
• War Widow’s or War Widower’s Pension
• Attendance Allowance
• Employment and Support Allowance (if paid with the support component)
• Armed Forces Compensation Scheme (Guaranteed Income Payments)
• Armed Forces Independence Payment
• War Pensions
• One-off Budgeting and Crisis Loans
• One-off Bereavement Payments
• One-off Cold Weather and Winter Fuel Payments.  

Analysis

It is predicted that the Benefit Cap will recover £1.7 million per annum in Northern Ireland. It is estimated that approximately 620 households in Northern Ireland will be affected, which will include 3,120 children. 10,600 households will be excluded because an adult in the household is in receipt of DLA. It is further estimated that 61% of households due to be capped will lose up to £50 per week and 25% will lose between £50 and £100 per week.

According to Iain Duncan Smith, the Secretary of State for Work and Pensions, “the benefit cap is a major step forward in creating a welfare State that actively helps people get back on their own two feet, instead of providing pay-outs.” It is also to be a “clear incentive for people to work… ensuring claimants know they are better off in work than on benefits.” However Lizzie Clifford, of the National Housing Federation, has warned that it could lead to those affected having to “face the stark choice of cutting back on essentials like food and heating or

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having to move long distances to look for cheaper places to live." Article 11 of the ICESCR has been interpreted to include economic accessibility to food, availability of heating, and housing in a location that “allows access to employment options, health-care services, schools, child-care centres and other social facilities,” as minimum core obligations. Therefore, introducing a benefit cap threatens the realisation of these minimum standards. Additionally, the cap should, but does not, take into account a claimant’s circumstances and vulnerability. For example, the additional difficulties that arise for carers, bereaved and those homeless or at threat of homelessness. It also threatens the social security rights of children and people with disabilities in particular, which disregards the Child Poverty Act 2010, Article 26 of the CRC and Articles 19 and 28 of the UNCRPD.

vi. Discretionary Support Service

Currently, if you receive certain benefits, you may be able to get a payment or loan from the Social Fund, which are meant to assist with the costs of unexpected or one-off expenses. Under the Welfare Reform Bill, parts of the Social Fund are due to be abolished and replaced by the Discretionary Support Service (DSS). This new service will offer grants and interest free loan payments for those on low income, in extreme hardship and experiencing exceptional or crisis situations. It is due to be introduced in Spring 2014 to Northern Ireland.

The parts to be abolished and replaced by the new system are Community Care grants and Crisis Loans for living expenses are to be abolished. Community Care grants are:

[n]on-repayable grants which are intended to support vulnerable people to remain in, or return to, the community; or to ease exceptional pressure on families. To be eligible applicants must be receiving an income-based benefit, for

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example Income Support or Pension Credit. They are commonly awarded a range of expenses including white goods and furniture.\textsuperscript{621}

Crisis Loans are:

Interest free loans to anyone (whether they are receiving benefit or not) who cannot meet a short term need in the event of an emergency or a disaster. A crisis loan should be the only means of avoiding serious damage or risk to the health of the applicant or a member of their family. Repayments are made directly from benefits where possible. Separate arrangements are in place for people who are not on benefits.\textsuperscript{622}

It is proposed that the DSS will be available in three situations:

- The need has arisen as a consequence of a disaster;
- An extreme, exceptional or crisis situation has arisen which presents a significant risk to health, safety or well-being of the applicant; and
- Access to discretionary support avoids or reduces major risk or life threatening circumstances.\textsuperscript{623}

The DSD is currently assessing responses to its consultation requests on the matter. However, it can be deduced that:

- Eligibility of the replacement system will be income-based;
- The lowest amount of money to meet the need will be awarded;
- A provision for goods rather than cash in certain situations is being considered;
- The maximum loan threshold will be reduced from £1,500 to £1,000;
- Amount to be granted will be based on the ability to repay within a 12 month period, which can be extended to 78 weeks in exceptional circumstances;
- Applicant must be resident of Northern Ireland;
- The need must not be able to be met from another source;

• The income threshold will be set with reference to the NMW. It will take into account the income of the applicant/applicant’s spouse and disregard certain benefits (Housing Benefit, Rates Relief, Disability Living Allowance/Personal Independence Payment, Attendance Allowance and Child Benefit).  

**Analysis**

The groups that will be most affected by these changes are the most vulnerable sections of society, primarily people with disabilities, pensioners and lone parents. Any changes must adhere to the Child Poverty Act 2010, Article 11 of the ICESCR, Articles 19 and 28 of the UNCRPD and Article 26 of the CRC.

A further concern is that those who do not qualify for such support will turn to other sources, such as payday loan companies or illegal loan sharks (including paramilitaries). The attractive advertising used and preying on vulnerable individuals has led to a spike in the use such options. Many are unaware of the high interest rates, which can reach as much as 6,000%. Others are in such dire straits that they adopt a ‘worry about it later’ attitude. The payday loan companies also continue to borrow to individuals, even if they know they cannot repay. Not enough research has been done to gauge the exact impact, but from what we do know, the result has been extremely worrying with many turning to food banks as a result. At present these companies are unregulated. Experts have also reported those in desperate financial situations turning to prostitution, which engages a range of other rights concerning exploitation and personal safety.

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626 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
629 Andy Sharman and George Parker, ‘George Osborne moves to impose cap on cost of payday loans’, Financial Times, 25 November 2013. Available at [http://www.ft.com/cms/s/0/3e3bab76-55a4-11e3-96f5-00144fcaedc0.html#axzz2rADK4fif](http://www.ft.com/cms/s/0/3e3bab76-55a4-11e3-96f5-00144fcaedc0.html#axzz2rADK4fif) (Last visited 22 January 2014).
630 Advice NI, ‘Turning the Tide: Growth of Food Banks in Northern Ireland’ (Advice NI, December 2013), at 7-8.
631 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
It was announced in November 2013 that payday loan costs were to be capped in 2014.\textsuperscript{632} This is a crucial step towards ensuring that the UK is honouring its obligations under Article 11 of the ICESCR. Fulfilment of the right to an adequate standard of living includes the requirement that States “must take positive action to facilitate the enjoyment of” this right.\textsuperscript{633} Those that take out payday loans are threatening their ability to live an adequate standard of living by placing themselves in irretrievable debt with excessive financial penalties. By the State not regulating the high interest rates that such companies are charging, it is complicit in this. This raises questions in relation to the Ruggie Principles, which promote fair business.\textsuperscript{634} In September 2013 the Westminster Government expressed its commitment to these principles.\textsuperscript{635} Capping interest rates is only one required step to promoting good business within this sector. The State should be looking to introduce more robust regulation measures such as developing codes of practice and creating a monitoring system.\textsuperscript{636} The State has the power to at least reduce the risk of such loans leading to an inadequate standard of living for the borrowers. Not only that, but under its obligation to fulfil the right to an adequate standard of living and the terms set by the Ruggie Principles it has a duty to take this action.

The Westminster Government has also setup a free and impartial money advice service to assist people with managing their money and reduce the need for emergency loans and credit card debt.\textsuperscript{637} The Executive does not have the power to regulate financial companies; however it can offer an alternative. One proposal that is being explored is to create a People’s Bank.\textsuperscript{638}

A further area of concern is the emergence of commercial pay weekly payments. Individuals agree to pay for a product on a weekly basis, over an extended period of time. By the end the


\textsuperscript{633} Available at http://www.ohchr.org/EN/AboutUs/Pages/FrequentlyAskedQuestions.aspx (Last visited 21 January 2014).


\textsuperscript{635} ‘Good Business: Implementing the UN Guiding Principles on Business and Human Rights’ (Secretary of State for Foreign and Commonwealth Affairs, September 2013).


\textsuperscript{637} Available at https://www.moneyadviceservice.org.uk/en/static/about-us (Last visited 30 January 2014).

\textsuperscript{638} Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
individual will have paid an inflated rate of the original price. If the individual misses any of the payments, even after the original price of the item has been paid back, the item can be seized.639

In addition, access to money in general has been criticised. It has been reported that “300,000 of the poorest people in Britain live at least 1km from a cash machine that does not charge for withdrawals.”640 Such charges contribute towards an individual’s inability to enjoy an adequate standard of living.

vii. **Fraud and Error Powers**

Benefit fraud is where a person deliberately takes benefit they know they are not entitled to. At present the Social Security Agency tackles fraud through the use of a Fraud Reporting Hotline and by implementing its powers to access information from employers. The Welfare Reform Bill proposes increasing the Agency’s powers. This essentially involves introducing tougher measures to deal with claimant fraud. This includes:

- Increased penalties
- Loss of benefit for longer periods of time
- Introducing new powers to allow recovery of debts directly from a person’s salary or wages.641

These new powers, which are due to be introduced in Spring 2014, will affect claimants who negligently failed to report a change in their circumstances or deliberately committed fraud.642

Experts have highlighted that there is an overemphasis on fraud, as opposed to entitlement. It is reported that this has contributed to the low benefit uptake in Northern Ireland. Consequently, the DSD has placed encouraging benefit uptake as a key priority since 2005 and has allocated

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639 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.


approximately £3 million annually towards improving uptake. This includes direct targeting, indirect targeting and community outreach.

Analysis

Experts are concerned that these new powers do not reflect the best interests of the child, which Article 3(1) of the CRC states should be the primary concern of “all actions concerning children.” Furthermore, there is concern that the timeline for sanctions is too harsh and could lead to hardship to a level that constitutes inhuman or degrading treatment. The CESCR has made it clear that the existing social security should not be subject to “unreasonable interference.” Therefore, any sanctions that are imposed must be reasonable and proportionate.

Overemphasis on promoting fraud as opposed to entitlement is disproportionate. For example, out of those surveyed by the Participation and Practice of Rights Project (PPR) only 2% were accused of fraud. Yet the impact has been to put eligible claimants off claiming benefits, often at a risk to their full enjoyment of the right to an adequate standard of living. This is reflected in the DSD making encouraging benefit uptake a key priority. It is estimated that people in Northern Ireland have lost out on up to £70 million, with many experiencing poverty as a result. Older people have been identified as particularly vulnerable, as well as people with a disability or illness, carers and families. In 2007 in Northern Ireland the uptake for State Pension (95%) and Winter Fuel Payments (90%) was high, but the uptake for State Pension Credit (67%), Pensioner Housing Benefit (58%), Carers Allowance (71%) and Attendance Allowance (45%) were lower. The moves by the DSD to address this issue are welcomed, but

647 See Section II for further details.
experts have stated that more needs to be done raise awareness and to address the disproportionate overemphasis on fraud.\textsuperscript{652}

\textit{viii. Sanctions and Hardship Measures}

Sanctions are in place for those who do not follow the rules of their benefit. These rules include:

- Availability for work – claimants are expected to actively look for work and make themselves available for work. This applies to most claimants.
- Work preparation – if claimants have a disability or health problem, which means they can only do limited work, they are expected to take reasonable steps to prepare for work and may be required to attend work-focused interviews.
- Keep in touch with the labour market – if a claimant is a lone parent or main carer of a child between one and five years old, they are expected to attend occasional interviews to plan for their return to work.
- Not available for work – this applies to claimants who are disabled or have a serious health condition that stops them from working or preparing for work. It also applies to lone parents or the main carer of a child under the age of one, or if the claimant has intensive and regular caring duties.\textsuperscript{653}

If these rules are not followed the Social Security Agency can freeze benefit payments for a certain length of time or deny benefits altogether. Claimants facing sanctions will be given the opportunity to explain the reason behind their actions. If deemed reasonable, for example a family bereavement or an urgent personal or domestic situation, the sanction will not be imposed. Claimants also have the right to appeal the decision to an independent tribunal. The Welfare Reform Bill adds little substance to sanctions, but seeks to clarify the rules surrounding them.\textsuperscript{654}

The Welfare Reform Bill also introduces new rules to ensure that people do not suffer as a result of loss of benefit. Anyone who loses benefits due to a sanction will be able to apply for a

\textsuperscript{652} Response from a representative of Age NI.
A hardship payment can be sought to cover the costs of rent, food, medical supplies or hygiene supplies. This is with the proviso that these payments are paid back.\footnote{655}{http://www.nidirect.gov.uk/index/information-and-services/money-tax-and-benefits/benefits-and-financial-support/welfare-reform-index/sanctions-and-hardship.htm (Last visited 2 December 2013).}

**Analysis**

The concerns are the same as for the new fraud and error powers. Experts have also identified people with a mental illness and people aged 50 plus as particularly vulnerable to a harsher sanctions system. This is on the basis that such people find it more difficult to satisfy the requirements set for job seeking, training and learning, and that no provision has been made for these difficulties. This increases the risk of sanctioning when the requirements are not fulfilled.\footnote{656}{Response from a representative at NIAMH.} For example, people with mental illness can find it harder to gain and hold on to employment due to employer insensitivity, lack of support and lack of awareness.\footnote{657}{Response from a representative at NIAMH.} Issues can also arise which cause claimants to be late or miss appointments, for which they currently and will continue to face sanctions. The PPR have reported that 37\% have received a sanction for being late or missing an appointment with 64\% not having enough information to make an appeal.\footnote{658}{Available at http://www.pprproject.org/content/right-workright-welfare-research-and-film-launched (Last visited 4 February 2014).} The impact of such decisions and obstacles will be exacerbated by the harsher sanctions which are due to be introduced. Further, experts have reported that people over 50 find it harder to gain new employment, primarily as a result of age discrimination.\footnote{659}{Bernadette Maginnis, ‘Briefing to Committee for Social Development’ (Age NI, 2012), at 5.} All of this engages the Executive’s obligations to promote equality of opportunity as provided for in Section 75 of the Northern Ireland Act and the range of non-discrimination provisions highlighted above.\footnote{660}{See in the section on the ‘Right to Work’.}

Additionally, the hardship payments will be recoverable under the new system, which effectively makes them loans. The recommendation that you must repay the payments places extra financial pressure on claimants at an already difficult time. It also equates to the sanction continuing beyond the set time. For example, an individual is stripped of their benefits, during which time they take out a hardship loan. Once the sanction period comes to an end the benefits are reinstated, but at a reduced rate due to the requirement to pay back the loan. Experts highlight
that this is a very real and debilitating scenario. It could make the recipient destitute and in a position of hardship that constitutes inhuman and degrading treatment.

ix. Introduction of Mandatory Reconsideration

At present if there is a dispute about a social security benefit decision it goes straight to the Independent Appeals Tribunal. The Welfare Reform Bill proposes introducing Mandatory Reconsideration. This means that if the claimant disagrees with the decision relating to their benefits they must ask the Social Security Agency to reconsider its decision before an appeal can be lodged with an independent tribunal. This is to enable the disagreement to be resolved at the earliest opportunity.

It is also proposed that a Direct Lodgement system be put in place for instances when the disagreement is not resolved internally and an appeal is the next step. Currently the appeal must be lodged through the Social Security Agency. This new step, which is not part of the Welfare Reform Bill, means that the appeal request does not have to go through the body that made the decision in the first place.

Analysis

Prima facie this appears to be a positive step and promotes the right to an appeal. However, in practice this new system must adhere to the obligations set out in Article 6 of the ECHR. This includes taking steps to improve access to information. As the PPR have reported 64% have been unable to make an appeal in the past due to lack of information.

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661 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
664 See Section II for further details.
x. **Employment and Support Allowance**

Employment and Support Allowance (ESA) is a benefit available to those with a limited capacity to work. It replaced the Incapacity Benefit and Severe Disablement Allowance in 2008. ESA can be income-related or contributory related. Claimants must be at least 16 years old and not yet reached State pension age. The amount of ESA that is paid depends on the claimant’s circumstances. For income-related ESA household income, pension and any savings of £6,000 or more is taken into account. It also depends on what effect the claimant’s disability has on their ability to work. The amount paid depends on the group that the claimant is placed in. Claimants who are able to work are placed in a Work Related Activity Group. Those within this group are expected to take part in Work-Focused Interviews and prepare for suitable work. Claimants with an illness or disability so severe that it affects their ability to work and are not expected to take part in any work are placed within a Support Group. Each claimant is subject to a Work Capability Assessment. This assessment can take up to 13 weeks before a decision is made on the claimant’s ability to work. During this time a single person under 25 is paid up to £56.80 per week and a single person aged over 25 is paid up to £71.70 per week. From week 14 of the claim a single person in the Work Related Activity Group is paid up to £100.15 per week and a single person in the Support Group is paid up to £106.50. Claimants may be able to get extra money for their husband, wife or civil partner if they get income-related ESA.

It is proposed that ESA will be amended in three ways. The first is to limit the amount of time ESA based on contributions can be paid to 365 days. This depends on the claimant’s circumstances. For example, time spent in a support group will not count towards the time limit. However, time spent being assessed does count. After the time limit has been reached the claimant ESA will be stopped, but the claimant will continue to get National Insurance credits. Second, there are special conditions that allow some young people to get contribution-based ESA, even though they have never paid National Insurance contributions. Under the proposed


reforms these special conditions will no longer apply.\footnote{Available at \url{http://www.nidirect.gov.uk/changes-to-employment-and-support-allowance} (Last visited 20 January 2014).} Thirdly, those who in the Work Related Activity Group who are not deemed to be making enough of an effort will be subject to sanctions.\footnote{See the section on ‘Sanctions and Hardship Measures’.}

\textbf{Analysis}

These reforms amount to an abrupt end to support for those who are unable to find work within the 365 day time limit or were eligible for the special conditions that are due to be removed. Two of the core minimum obligations of the right to social security are that it is accessible and not subject to “unreasonable interference.”\footnote{E/C.12/GC/19,'General Comment No 19: The Right to Social Security (Article 9)', 4 February 2008, at para 59.} Placing a limit, irrespective of need contravenes these obligations. It also raises the possibility of placing a household into poverty. This is particularly worrying for lone parents. This is on the basis that lone parents are not offered an additional premium and face the threat of sanctions if the claimant does not undertake sufficient work related activity,\footnote{Law Centre (NI), ‘Welfare Reform Bill (NI)’ (April 2010). Available at \url{http://www.lawcentreni.org/policy/consultation-responses/685.htm} (Last visited 20 January 2014).} something which can be hindered by childcare responsibilities for example. Furthermore, a dramatic drop in financial support either through reaching the imposed time limit or sanctions is likely to negatively impact upon the children within the household. Consequently, this threatens the child’s best interests, which is paramount according to Article 3(1) of the CRC.

The sanction element and the potential effect this has on the rights to social security and adequate housing are dealt with in the section ‘Sanctions and Hardship Measures’.

\textit{xii. Pension Reform}

The first major changes to the State Pension in Northern Ireland were introduced in April 2010. These were positive changes for women born on or after 6 April 1950 and men born on or after 6 April 1945 as they needed only 30 qualifying years of National Insurance contributions to get a full basic State Pension. Also a single qualifying year entitled the claimant to at least some basic State Pension. However, it saw those born before these dates maintaining the 39 qualifying year’s requirement. Further significant changes were brought about by the Pensions Act (Northern Ireland) 2012, which introduced an equalisation of pension age for men and women to 65.\footnote{Part 1, Pensions Act (Northern Ireland) 2012.}
Previously it was 60 years for women and 65 years for men. It also requires automatic enrolment.\textsuperscript{677} In other words, every employer must automatically enrol workers into a workplace pension scheme if the worker is aged between 22 and State Pension age, earns more than £9,440 per year and works in the UK.\textsuperscript{678}

The pension system is likely to change again with the Westminster Government looking to introduce a single-tiered pension for those that reach State Pension age after 6 April 2016.\textsuperscript{679} Under this proposed pension scheme potential claimants must have a minimum of 7 to 10 qualifying years to be entitled to a proportion of the full pension and 35 qualifying years to get the full pension.\textsuperscript{680} The pension age is also likely to be increased to 67 from 2026.\textsuperscript{681} In addition, a single pension rate will be set, which will be above the basic level of means-tested support and will increase each year in line with inflation.\textsuperscript{682}

Further changes have also been introduced to public service pensions under the Public Service Pensions Act 2013. This includes increasing the member contributions, switching to a Career Average Revalued Earnings, and linking the Normal Pension Age with the State Pension Age. This will apply to all members within ten years of their Normal Pension Age on 1 April 2012.

\textit{Analysis}

The differing number of qualifying years for those born at different times qualifies as age discrimination. Article 14 of the ECHR and section 75 of the Northern Ireland Act 1998 clearly states that age discrimination should not take place.

\textsuperscript{677} Part 2, Pensions Act (Northern Ireland) 2012.
\textsuperscript{678} Available at https://www.gov.uk/workplace-pensions (Last visited 20 January 2014).
The equalisation of the State Pension age will promote gender equality, but the increase, as opposed to decrease, in age will financially impact upon those 146,000 who face a delay in receiving their pension.683 As summarised:

increasing the State Pension Age will lead to corresponding increases in the minimum qualifying age for State Pension Credit and the winter fuel payment…

the upper age limit for the receipt of working age benefits, such as jobseeker’s allowance and employment and support allowance, will also increase.684

Currently the basic State Pension weekly rate for an independent individual is £110.15 per week.685 Winter fuel payments can be between £100 and £300.686 The rate for individuals over 25 years on Job Seekers Allowance is £71.70 per week687 and, depending on your circumstances, between £71.70 and £106.50 per week for Employment Support Allowance,688 with no entitlement to winter fuel payments. As a result of the equalisation, without taking into account the winter fuel payments, this can amount to a loss of between 3.3% and 34.9% in financial support per year. This loss will be even greater for couples if the increase in pensionable age to 67 is implemented, as men and women will both be affected. By bringing in a single tiered system the argument has been made that pensioners will be better off as a whole and the prosperity gap in retirement will be narrowed. However, the Institute for Fiscal Studies has reported that “most people would have to live to beyond age 100 to be better off overall.”689 The Pensions Policy Institute has calculated that the “proposed reforms to the NHS, Teachers, Local Government and Civil Service pension schemes will reduce the average value of the benefit offered across all scheme members by more than a third.”690

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Any loss in financial support can have a severe impact, particularly for those who may already be struggling financially. It can lead to hard choices such as whether to pay the food, fuel or mortgage bills. To reduce financial support in such a way that it fails to provide the minimum essentials (health care, basic shelter and housing, foodstuffs, heating) disregards the right to social security and right to an adequate standard of living. In the case of pensioners in particular it can also negatively impact upon the right to health, as provided by Article 11(1) of the European Social Charter 1961, State Parties must “remove as far as possible the causes of ill-health.” The UK has ratified this provision and thus the Northern Executive is obliged to refrain from carrying out acts that would defeat the object and purpose of the treaty.

**xii. Benefits during Hospital Stays**

After a certain period of time in hospital benefits may be stopped. This depends on the benefit claimed. Currently, DLA is stopped for those over 16 years old after four weeks in hospital, or 12 weeks for a child under 16. Attendance allowance will usually stop after four weeks in hospital. Carer’s Allowance can continue for up to 12 weeks during the stay of the person being cared for or carer in hospital, but if DLA or Attendance Allowance is also being claimed, the Carer’s Allowance will stop after four weeks. Incapacity Benefit will stop after 52 weeks in hospital. ESA can be affected after four weeks, if it includes additional premiums. Or if the claim is made as part of a couple, further changes may occur after 52 weeks in hospital.

Under PIP families will lose the right to retain Motability vehicles if they spend 28 days or more in hospital in any 365 day period.
**Analysis**

Experts have expressed concern at the PIP’s failure to take into consideration how often people with disabilities and complex needs have to stay in hospital. It has highlighted that Motability vehicles are often used as the only family car.\(^698\) Therefore, removal of this support risks a violation of Articles 19 (right to live independently and being included in the community), 20 (right to personal mobility) and 28 (right to an adequate standard of living and social protection) of the UNCPRD.

**xiii. Childcare Assistance**

Financial and practical childcare assistance is available to those who are working or going back to work.

Funded pre-school education is available in nursery schools, primary schools with nursery classes and some voluntary and private playgroup settings and day nurseries. This programme is targeted at children in the year immediately before they enter Primary One. For example, children who reach their third birthday on or before 1 July 2014 will be eligible for a funded place in September 2014. The application process is open to all children that fit this criterion. The assistance offered usually equates to at least 2.5 hours per day, five days per week for at least 38 weeks during the period September to June.\(^699\)

Tax credits are usually available to those who are responsible for at least one child or young person that normally lives with them. Those who are working, but earn low wages, may qualify for Working Tax Credit. Extra tax credits may be available for those who work and pay for childcare. Eligibility for tax credits depends on the claimants’ individual circumstances and annual income. For example, in the 2013/2014 financial year tax credits were usually available to:

- A claimant that has one child and their annual income does not exceed £26,000;
- A claimant that two children and their annual income does not exceed £32,000;
- A claimant that is single without children and their annual income does not exceed £13,000; or

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• A claimant that is in a couple without children and their annual income does not exceed £18,000.700

The income limitations do not apply to everyone. For example, a higher income limitation will usually be set for claimants with more children, who pay for childcare, have a disability or have a child with a disability.701

Parental leave is available to working parents who have been working for at least a year, for each child up until their fifth birthday or eighteenth birthday for a child with disabilities. Currently a parent can take up to 18 weeks for each of their children, or more if they have a child with disabilities. Unless it is set out in the individual’s employment package, the employer does not have to pay for this leave. To qualify the parent must be named on the child’s birth or adoption certificate, or have legal parental responsibility for the child. Those who are separated and do not live with their children still have the right to parental leave if they keep formal parental responsibility. Foster parents do not have rights to parental leave, but can request a flexible working pattern.702 The provision of parental leave provides job security, as opposed to a financial benefit, unless set out in the employment contract.

Parents with a child under 17 or child with disabilities under 18 have a right to request a flexible working pattern and the employer must consider the request seriously. This right is available to individuals who have worked for their employer for at least 26 weeks, is the parent/adopter/legal guardian/foster parent or their partner, has responsibility for the child’s upbringing and is making the application to be able to care for the child.703

A Job Grant is available to those who move directly from benefit into work of at least 16 hours. This includes starting a new job, increasing the hours worked or having a combination of jobs. The work must be expected to last for at least five weeks and the authorities must be notified within 21 days of starting work. A Job Grant may also be available to individuals where their benefits have stopped because their partner has started working at least 24 hours and as a result.

Furthermore, the claimant must have been claiming benefits for at least 26 weeks prior to the change of circumstances.\textsuperscript{704}

For individuals who claim, or their current live-in partner claims, Income Support, income-base Job Seeker’s Allowance or income-related Employment and Support Allowance, any child maintenance that is received does not affect the claimant’s benefits.\textsuperscript{705}

Where an employer offers to pay for the childcare of their employees, the employee is liable for tax and national insurance contributions on the aid given. This includes paying the employee cash for childcare, paying the childcare fees directly, or paying the child’s school fees. Employees can offer non-taxable assistance such as childcare vouchers, directly contracted childcare or workplace nurseries.\textsuperscript{706}

Lone parents, or partners of benefit claimants, who are participating in the Steps to Work programme are eligible for assistance with childcare costs. Assistance may also be available for the same groups participating in Training for Success and Pathways to Work programmes. A maximum of £130 per week for one child or £240 per week for two or more children will be paid for registered care. A maximum of £70 per week for one child or £100 per week for two or more children will be paid for care by a relative.\textsuperscript{707}

Statutory maternity leave is available for up to 52 weeks. Ordinary Maternity Leave is set at 26 weeks, during which period the new mother’s job, terms and conditions must remain the same. Additional Maternity Leave extends for a further 26 weeks where the new mother’s employment is secure, but not necessarily their original job.\textsuperscript{708} New mothers do not have to take all their statutory maternity leave, but must take two week of compulsory maternity leave after the baby is born, or four weeks for those who work in a factory.\textsuperscript{709}

\textsuperscript{704} Available at \url{http://www.nidirect.gov.uk/index/information-and-services/money-tax-and-benefits/benefits-and-financial-support/employed-or-looking-for-work/job-grant.htm} (Last visited 25 January 2014).

\textsuperscript{705} Available at \url{http://www.nidirect.gov.uk/index/information-and-services/parents/childcare/childcare-benefits-tax-credits-and-other-help-for-working-parents.htm} (Last visited 25 January 2014).

\textsuperscript{706} Available at \url{http://www.nidirect.gov.uk/index/information-and-services/parents/childcare/childcare-benefits-tax-credits-and-other-help-for-working-parents.htm} (Last visited 25 January 2014).

\textsuperscript{707} Available at \url{http://www.nidirect.gov.uk/index/information-and-services/employment/jobseekers/jobseekers-programmes/stepstowork/stwchildcarecosts.htm} (Last visited 25 January 2014).


Statutory paternity leave is available for two weeks. Additional paternity leave is available for up to 26 weeks. This can be taken 20 weeks after the child is born and must finish before the child’s first birthday. The current rate for additional paternity leave is £138.78 or 90% of the new father’s average weekly earnings, if that is less.  

Sure Starts aims to offer support to parents from pregnancy and give young children under four from the most disadvantage areas the best possible start in life. It aims to promote physical, intellectual, social and emotional development of pre-school children. The core services offered are:

- Outreach and home visiting,
- Family support,
- Primary and community healthcare and advice,
- Good quality play, learning and childcare experiences for children, both group and home-based, and
- Support for all children in the community, recognising their differing needs.

The types of services offered include, but are not limited to:

- Antenatal support and advice,
- Postnatal support including breastfeeding support,
- Programmes for babies and young children such as baby massage, baby yoga and play sessions,
- Programmes for parents such as parenting courses, nutrition, nurturing, fathers groups, support for ethnic minority families, and
- Health related support from midwives, health visitors and speech and language therapists.

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**Analysis**

Despite all that is on offer, a common theme is that the high cost of childcare is impacting on a household’s ability to enjoy an adequate standard of living.\(^{713}\) Therefore, the current assistance that is offered is not enough and does not reflect the real costs of childcare. This raises concerns in relation to Article 18 of the CRC which requires the State to:

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\ldots\text{ render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children…[and] take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.}
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Furthermore, Article 22(c) of the United Nations Declaration on Social Progress and Development 1969 requires “the establishment of appropriate child-care facilities in the interest of children and working parents.”

The fear is that the proposed changes, particularly the harsher sanction system, will place a greater financial burden on households. The proposed changes and cuts will reduce further the incomes of households. This makes childcare harder to pay for, which in turn impacts upon access to work. For many working this could or has led to parents having to give up work to look after their children.\(^{714}\) It could also lead to the removal of free or cheaper childcare, if the bedroom tax forces families to have to move, which in turn increases the cost of living.\(^{715}\) The impact of which is particularly prevalent for women, who traditionally bear the responsibility for childcare. In addition to potentially violating discrimination clauses such as Article 14 of the ECHR and Article 1 of the CEDAW, it also threatens Article 11(2)(c) of the CEDAW that states State Parties should take appropriate measures to:

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\ldots\text{encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities.}
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\(^{714}\) Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.

\(^{715}\) Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
Furthermore, Article 8 of the ECHR is engaged. The ECtHR has ruled that the right to protect private and family life extended to the right to seek employment on the basis that the majority of people in the course of their working lives “have a significant opportunity of developing relationships with the outside world.”\footnote{Campagnano v Italy (2006) 48 EHRR 43, at para 53.}

In addition, for those on benefits and able to work, the proposed changes have indicated that those with children will be expected to take steps to work after their child reaches a certain age. It is acknowledged that the State offers some provision for childcare in such situations, but given the cost of childcare this is unlikely to be enough. Yet those that fail to satisfy the requirements of their benefits will be subject to a debilitating sanction system under the proposed reforms. This leaves working age parents, particularly lone parents, in an impossible position. Do they risk the well-being of their child to attend an interview/work placement? Or do they risk losing their benefits? It has been highlighted that “many of the UK welfare reform proposals for both lone parents and working age couples with children are underpinned by the assumption of sufficient readily accessible and affordable childcare. This underpinning is simply not in place for Northern Ireland.”\footnote{Social Security Advisory Committee, ‘21st Century Welfare – A Response to the Department for Social Development from the Social Advisory Committee’ (2010), at 2.} Unlike in England and Wales,\footnote{Childcare Act 2006.} there is no strategy within Northern Ireland that imposes a duty on local authorities to identify and meet childcare needs.\footnote{Northern Ireland Human Rights Commission, ‘Response to the Welfare Reform Bill 2012’ (Northern Ireland Human Rights Commission, 2012), at 13.} Therefore, there is a clear gap in Northern Ireland’s provision for childcare.

\textit{xiv. Contractors}

The Work Capability Assessment was introduced in October 2008 by Sections 8, 9 and 10 of the Welfare Reform (Northern Ireland) Act 2008. The assessment is used to determine limited capability for work and limited capability for work-related activity. The purpose of the assessment is to judge whether individuals are entitled to Employment and Support Allowance and whether this support should be full or partial. If the proposed reforms to introduce Universal Credit and PIP are enacted, a new assessment for measuring work capability will be required. As part of this the new assessment is due to be contracted to outside of the DSD.
Analysis

An analysis of the pre-reform system in place in GB indicated a number of issues with the assessment system. It was found to be “impersonal, mechanistic and [to] lack clarity.”

However, assessments of the system in Northern Ireland have offered commendation for how decision makers are trained and empowered. This is attributed to the fact that the scale of operation is smaller in Northern Ireland, which reduces the complexity. It is also because there is a separate contract with the Health Assessment Provider (HAP) and the DSD has an in-house Health Assessment Adviser that oversees the HAP. Under the proposals Northern Ireland is due to be brought into line with GB by introducing an external contractor; the same contractor that has led to the above criticism. System reviewers do not feel that the change will negatively impact the process in Northern Ireland. However, there have been calls for annual reviews of performance and penalties for under-performance to be introduced to ensure that this is not the case and that “service delivery is about process and outcome.” This reflects the minimum core obligation of the right to social security, “to monitor the extent of the realisation of the right to social security.” The NIHRC has also emphasised that any private contractors that are performing functions for Government departments should be reminded that they are subject to the Human Rights Act 1998 by virtue of performing functions of a public nature. Therefore, their actions must be ECHR compliant.

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727 Section 6(3)(b), Human Rights Act 1998.
xv. Benefits and Non-Nationals

Article 42 of the Health and Personal Social Services (Northern Ireland) Order 1972 makes provision of services for “persons not ordinarily resident in Northern Ireland.” Nevertheless, the benefit system for non-nationals is complex.

European Economic Area (EEA) nationals must pass the habitual residence test to qualify for benefits. In other words a claimant must prove a “settled intention” to stay in the UK. This test will be made more complex by the pending requirement that the claimant must be actually resident in the UK for three months prior to the claim. Non-EEA nationals with indefinite leave to remain or settled status have broadly the same rights and entitlements to services as UK citizens and as a result can apply for welfare benefits and tax credits. The exception is those who have been awarded a right to remain as a result of another person formally agreeing to maintain and accommodate them. In this situation the potential claimant is excluded from some benefits for five years. It is uncommon for non-EEA nationals with limited leave to remain to get benefits.

Individuals are usually given limited leave to remain on the condition that they have no recourse to public funds while in the UK. Public funds in such a case include:

- Attendance Allowance
- Carer’s Allowance
- Child Benefit
- Child Tax Benefit
- Council Tax Benefit
- Disability Living Allowance
- Income-related Employment and Support Allowance
- Housing Benefit
- Income Support

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• Income-based Jobseeker’s Allowance
• Pension Credit
• Severe Disability Allowance
• Social Fund payments
• Working Tax Credit
• Local authority housing
• Homelessness assistance.  

However, immigration status does not affect eligibility for benefits that depend on National Insurance contributions or other work related work-related benefits. Nevertheless, the claimant must have gathered sufficient credit to be eligible. These include:

• Contribution-based Jobseeker’s Allowance
• Contributory Employment and Support Allowance
• State Retirement Pension
• Statutory Maternity Pay
• Statutory Adoption Pay
• Statutory Paternity Pay
• Statutory Sick Pay
• Maternity Allowance
• Industrial Injuries Disablement Benefit.  

Asylum seekers (persons awaiting a decision on an asylum application) are not entitled to non-contributory benefits like Income Support and Housing Benefit. An asylum seeker is not prohibited from claiming contributory benefits, but is unlikely to have the required National Insurance contributions to qualify. Asylum seekers are generally not permitted to work in the UK. That is unless they are still awaiting a decision on their asylum application after 12 months and even then the forms of employment available to them are limited.  

736 Available at
seekers are only entitled to cash support which ranges between £36.62 and £72.52 per week, depending on status.\textsuperscript{737} Those who have been granted refugee status, humanitarian protection or discretionary leave have broadly the same rights and entitlements to services as UK citizens and can apply for welfare benefits and tax credits.\textsuperscript{738} Refugees may also be entitled to an interest-free Refugee Integration Loan, but this must be paid back.\textsuperscript{739}

Since 1 January 2014 EEA migrants (including British nationals returning from abroad) must provide evidence that they have been living in the UK for at least three months before they can claim Jobseekers Allowance, Housing Benefit and Council Tax support.\textsuperscript{740} The Westminster Government has recently announced further reforms to the benefit system for non-nationals, which are to be introduced in April 2014. This includes the stipulation that only working EEA migrants (excluding UK and Ireland nationals) can claim housing benefit and workers who lose jobs will not be able to claim Jobseeker’s Allowance for six months.\textsuperscript{741} In addition, the Secretary of State for Welfare and Pensions has warned that “migrants whose grasp of English is so poor that they will struggle to find work could be denied benefits.”\textsuperscript{742}

In 2012 a pilot Emergency Fund was available to vulnerable migrants, destitute refugees and asylum seekers, those subject to trafficking and other identifiable vulnerable groups. This offered small amounts of money to help those experiencing issues with benefits, unemployment, family breakdown or domestic violence. This fund is to be introduced as an established policy from mid-2014.\textsuperscript{743}

\textsuperscript{737} Available at \texttt{http://www.ukba.homeoffice.gov.uk/asylum/support/cashsupport/currentsupportamounts/} (Last visited 20 January 2014).

\textsuperscript{738} Available at \texttt{http://www.turn2us.org.uk/information__resources/benefits/migrants/refugees.aspx} (Last visited 20 January 2014).

\textsuperscript{739} Available at \texttt{http://www.turn2us.org.uk/information__resources/benefits/migrants/refugees.aspx} (Last visited 20 January 2014).

\textsuperscript{740} Available at \texttt{http://www.turn2us.org.uk/information__resources/benefits/migrants/habitual_residence_test_hrt.aspx} (Last visited 20 January 2014).


Analysis

The right of migrant workers to social security is contained within Article 27 of the Migrant Workers’ Convention. The UK has not signed or ratified this treaty and is therefore not bound by it. Nevertheless, looking at what is set out in this Convention, it does provide for States to determine the terms for non-nationals. Yet the ICESCR, which does apply in the UK, clearly states that decisions concerning socio-economic rights should be made “without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” The CESCR confirms that the rights in the ICESCR “apply to everyone including non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation.” Furthermore, the Committee on the Elimination of Racial Discrimination sets out that “differential treatment based on citizenship or immigration status will constitute discrimination if the criteria for such differentiation… are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim.”

The complete removal of housing benefit for migrant workers and not for all non-workers is clearly a discriminatory decision based on nationality. The potential removal on the basis of language is also a case of discrimination. In addition to the provisions already highlighted, this violates the minimum core obligation, set out in the right to social security, “to ensure the right of access to social security systems or schemes on a non-discriminatory basis, especially for disadvantaged and marginalised individuals and groups.” Migrants, asylum seekers and refugees have been unfairly marginalised within the media and political spheres, often referred to as ‘job and benefit stealers’. In addition to the racist and discriminatory sentiment, these claims have proven to be untrue. As explained above, under current regulations not all non-UK nationals can claim benefits and, those that can, must satisfy set requirements. Furthermore, out of over 5.6 million people claiming working age benefits, only 7% are non-UK nationals.

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There has been a spike in the number of non-nationals claiming benefits, but the percentage overall remains relatively small. It has also been proven that those who are eligible to claim benefits are less likely to do so than UK nationals. Therefore, indicating that this decision is discriminatory and disproportionate. Before these changes were even proposed the European Commission had a case against the UK pending before the European Court of Justice claiming that the restrictions the UK was placing on non-British EEA nationals were discriminatory. This was on the basis of the habitual residence test, which is viewed as too strict by the European Commission. The case continues, with another potential claim on the basis of the new changes on the way.

A further obligation to take into consideration is that ECHR rights extend to everyone within the jurisdiction of the High Contracting Parties, this includes freedom from inhuman and degrading treatment, the right to physical and psychological integrity and property rights. Thus, the risk of these proposals placing a non-UK national into poverty, particularly destitution, must be taken into account. Research has indicated that this is very real risk as non-UK nationals, particularly refugees and asylum seekers, are currently identified as the group which are presenting as destitute. The reasons have been identified as the barriers to public funds and services, barriers to employment and administrative loopholes and delays that exist for non-UK nationals.

Experts have indicated that the biggest issue is the delays with tax credits, which averages at six months. For many refugee and single parent families, tax credits are the biggest income component. For example, due to the delays a refugee parent with six children is expected to live on £70 benefits per week while waiting for the tax credits to be processed. This money will have to cover bills, food and clothing for seven people. Yet if the parent has not been issued with a

752 Christian Dustmann, Tommaso Frattini and Caroline Halls, ‘Assessing the Fiscal Costs and Benefits of A8 Migration to the UK’ (Centre for Research and Analysis of Migration, 2009), at 10.
755 During the roundtable discussion with members of voluntary and charitable organisations on 23 January 2014 refugees and asylum seekers were identified as the clear cases of destitution that were presenting in Northern Ireland.
national insurance number, a process which can also be subject to delays, the parent will also be unable to claim benefits, leaving the family without any State assistance. The establishment of a permanent Crisis Fund should help fill this gap, but given its small amounts, it will be insufficient.

**Work**

Extensive legislation exists in Northern Ireland that reflects the core obligations of non-discriminatory, fair and equal treatment. These include, but are not limited to:

- Equal Pay (Northern Ireland) Act 1970,
- Sex Discrimination (Northern Ireland) Order 1976,
- Disability Discrimination Act 1995,
- Employment Rights (Northern Ireland) Order 1996,
- Race Relations (Northern Ireland) Order 1997,
- Shop (Sunday Trading) (Northern Ireland) Order 1997,
- Section 75 of the Northern Ireland Act 1998,
- National Minimum Wage Act 1998,
- Public Interest Disclosure (Northern Ireland) Order 1998,
- Working Time Regulations (Northern Ireland) 1998,
- Health and Safety Executive (Enforcing Authority) Regulations (Northern Ireland) 1999,
- Part-Time Workers (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000,
- Employment (Northern Ireland) Order 2002,
- Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2002,
- Working Time (Amendment) Regulations (Northern Ireland) 2002,
- Betting and Gaming (Northern Ireland) Order 2004,
- Employment Equality (Age) Regulations (Northern Ireland) 2006,
- Transfer of Undertakings (Protection of Employment) Regulations 2006,
- Pensions (No 2) Act (Northern Ireland) 2008,
- Agency Workers Regulations (Northern Ireland) 2011,
- Employment Act (Northern Ireland) 2011,
- Labour Relations Agency Code of Practice 2011, and
- Pensions Act 2012.

The extent of the legislation implies that Northern Ireland is actively working towards upholding its obligations under the right to work. However, the recession has presented new challenges, which threaten the right to work and by default the right to an adequate standard of living. The

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757 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
recession has caused unemployment to rise, increased the presence of underemployment and created a saturated job market. Everyone has been affected in some way. It has caused everyone to reassess their finances. Many who were financially secure are now facing poverty. For those who were already struggling, it has made things even more difficult. Therefore, the strategies that have been adopted to address these challenges require analysis.

i. Unemployment in Northern Ireland

The most recent statistics, for the period July to September 2013, demonstrate a decrease in the number of unemployed and economically inactive, while the number of employed increased.

The employment rate for working age adults (16-64 years) is estimated at 67.2%. This has seen an increase in 0.9% during this quarter period, but a decrease of 0.2% over the year. The employment rate in Northern Ireland also remains below the UK average of 71.8% and is the lowest rate among the twelve UK regions.

The unemployment rate for the period of July to September 2013 is estimated at 7.3%. This has decreased by 0.2% over the quarter and 0.4% over the year. It is also below the UK average of 7.6%, placing Northern Ireland sixth among the twelve UK regions. Those unemployed for one year or more has also decreased by 2.4% to 50.7% over the year, but the unemployment rate for 18-24 year olds has increased by 5.5% over the year to 24.7%.

Between November 2012 and October 2013 there were a total of 2,883 redundancies, which is a 10% increase from the previous year. There are 2,382 proposed redundancies and 802 outstanding redundancies (proposed, but not confirmed), which is a decrease of 45% and 56% respectively from the previous year.

Northern Ireland hosts the highest economic inactivity rate for 16-64 year olds in the twelve UK regions. The inactivity rate for this category stands at 27.4%, while the UK average is 22.2%. It is estimated that in Northern Ireland 27% are students, 26% are sick/persons with disabilities, 26% are looking after the family/home, 12% are retired and 9% are ‘other’ reason. Of those

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758 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
economically inactive in Northern Ireland it has been found 90% do not want to work, but the remaining 10% want employment and do not satisfy the full ILO job search criteria.\(^{762}\)

There were 698,390 jobs in Northern Ireland in June 2013. This was an increase of 5,230 jobs over the year. It represented an increase in jobs across the service and manufacturing sectors, but there was a decrease in jobs in the construction sector. The private sector saw an increase of 0.6% and the private sector saw an increase of 0.8% in jobs over the year.\(^{763}\)

**Analysis**

There is no absolute and unconditional right to obtain employment. However, the Executive should be taking active steps to enable the option of employment and that the right to an adequate standard of living is satisfied. This is provided for within Articles 6(1) and 11 of the ICESCR.

One of the main barriers to employment, particularly for the more disadvantaged sections of society, is lack of education. The capping of education fees is welcomed, but the existence of fees continues to provide a barrier to those who do not have the economic backing. A student loan system is in place that offers a low interest loan which is only paid back when the claimant can afford it,\(^{764}\) but it is still debt. Bursaries, scholarships and grants are also available for the select few,\(^{765}\) but these are hard to come by. They also tend to only cover part of the costs. This increases the social exclusion experienced by the more disadvantaged, which in turn acts as a barrier to education. Furthermore, just as lack of education is a barrier to employment, unemployment can be a reason for lack of education. Those who are more disadvantaged may have to leave school earlier than others to assist with household costs. Therefore, an element of inaccessibility exists, which threatens Article 13(2)(c) of the ICESCR.


Employment is not the only problem. Those with jobs, particularly service providers, are struggling to get paid.\textsuperscript{766} Article 23(3) of the UDHR provides that “everyone who works has the right to just and favourable remuneration.” This places an obligation on the State to step in to ensure just pay is given for work done. This obligation is further implied in the Ruggie Principles.\textsuperscript{767} Where private contracts are involved employees and service providers have recourse to the legal system, for which, if brought before a tribunal, there are no fees.\textsuperscript{768} Furthermore, it has been reported that even where tribunals succeed enforcement of awards is an issue. It is common for the guilty company to go into administration and reappear under a new name, thus avoiding liability for the awards demanded of the original company.\textsuperscript{769}

A further issue is that even where the NMW is paid by employers, this falls below the living wage.\textsuperscript{770} Therefore, leaving minimum wage workers’ families financially struggling and raising questions of whether the NMW satisfies Article 23(3) of the UDHR, even when it is paid.

An additional barrier to employment is the culture of social capital. That is where cronyism and nepotism are a prominent factor in the assignment of employment and there is an increased reliance on parents to provide support (eg pay for education, pay for internships, and give deposit of house). This issue affects all social classes.\textsuperscript{771}

\textit{ii. Government Strategy in Tackling Unemployment}

In tackling the recent spike in levels of unemployment in Northern Ireland the Department of Employment and Learning (DEL) has focused on raising the skills level of the workforce, improving productivity, increasing social inclusion and developing what Northern Ireland has to...
offer to the global marketplace. An 'Inquiry into Careers Education, Information, Advice and Guidance (CEIAG) in Northern Ireland' was setup to assess careers advice in Northern Ireland. The Inquiry confirmed that CEIAG required significant improvement.

Analysis of Northern Ireland’s economic makeup suggests that one of the reasons why Northern Ireland has been hit so hard is the size of its public sector, which equates to 32.3% of all employee jobs. This has resulted in a rebalancing of the economy towards higher value added private sector activity. The First Minister, Peter Robinson, has stated that “the only way to tackle unemployment issues is to provide more jobs, and doing that, of course, comes directly from the private sector.” This statement appears to transfer the State’s responsibility to ensure the opportunity of everyone to “gain his living by work which he freely chooses or accepts” to non-State actors. However, in his follow-up Mr Robinson highlighted a number of steps which the State have implemented to assist the private sector. This has included the Department of Enterprise, Trade and Investment developing incentives to encourage the economy, such as giving grants to local companies or encouraging foreign direct investment.

A further concern has been the lack of opportunity for young people. The DEL has responded by establishing the Youth Employment Scheme. This scheme provides help to “unemployed young people aged 18 to 24 to obtain work experience, develop additional skills and gain employment.” In November 2013, 1,038 young people were enrolled in the work experience programme, 898 in the skills development programme and 689 had started employment under the enhanced employer subsidy.

The Steps to Work programme assists people to find and sustain employment. It is available to anyone aged 18 or over, or 16 and above in the case of unemployed lone parents. Under this programme First Start was established. This is a 26 week waged initiative for young people aged 18 to 24 who have been unemployed for six months or more. It is reported that 18,000 young people have entered employment following participation on one of these schemes.\textsuperscript{780}

The Training for Success programme offers a guaranteed training place for all unemployed 16 to 17 year olds who do not wish to remain in, or are unable to benefit from, mainstream education or further education. This guarantee is extended to age 22 for young people with a disability and age 24 for those from an in-care background.\textsuperscript{781}

For people with disabilities Access to Work has been set up. This aims to “help people with disabilities who wish to take up employment, or who are in work and experience difficulties related to their disability.”\textsuperscript{782} The assistance offered includes communication support at an interview, special aids and equipment, adaptations to premises and equipment, support workers, assistance with travel costs, and provision of disability awareness training.\textsuperscript{783}

The Local Employment Intermediary Service (LEMIS) has also been established to help unemployed people in the community overcome the issues that may be preventing them from finding and keeping a job. It has branches throughout Northern Ireland, which aim to offer advice and support to 16 to 24 year olds NEET, homeless individuals, ex-offenders or ex-prisoners, individuals with a history of drug/alcohol abuse and care leavers.\textsuperscript{784}

In addition, the Government offers support to those out of work. Jobseeker’s Allowance is generally available to people of working age who are out of work or work less than 16 hours per week on average. To be eligible claimants must also be available for, capable of and actively seeking work. It can be contribution-based or income-based. Currently Jobseekers Allowance is set at £56.80 per week for 16 to 24 year olds, £71.70 per week for those aged 25 and over, and £112.55 per week for couples.\textsuperscript{785} Jobseekers Allowance is set to be replaced by Universal

\textsuperscript{782} Available at \url{http://www.nidirect.gov.uk/index/information-and-services/people-with-disabilities/employment-support/work-schemes-and-programmes/access-to-work-practical-help-at-work.htm} (Last visited 21 January 2014).
\textsuperscript{783} Available at \url{http://www.nidirect.gov.uk/index/information-and-services/people-with-disabilities/employment-support/work-schemes-and-programmes/access-to-work-practical-help-at-work.htm} (Last visited 21 January 2014).
\textsuperscript{784} Available at \url{http://www.nidirect.gov.uk/lemis} (Last visited 3 February 2014).
\textsuperscript{785} Available at \url{http://www.nidirect.gov.uk/jobseekers-allowance} (Last visited 21 January 2014).
Employment and Support Allowance is financial help for people who are unable to work because of illness or disability. It also provides personalised support to those who are able to work.

Analysis

Despite all of these schemes unemployment remains a major concern. This is reflected in research conducted by the PPR. The PPR found that:

- 72% of unemployed people, who were able to work, have not had a job in over a year.
- 64% of unemployed people who responded to the survey did not get a single interview for a job in the last six months.
- Only 5% of people surveyed got a job after participating in a government ‘back to work’ scheme.

These issues can be attributed to a number of factors. First, there is a lack of jobs. The number of vacancies is rising and unemployment is falling. However UK wide research, for the period October to December 2013, illustrates that 569,000 jobs were available, but 2.32 million were unemployed and looking for work.

Additionally, university degrees and courses at higher and further education colleges are not tailored to the needs of the economy, which means that few are able to get jobs despite their qualifications. The Mandatory Work Programme, or Steps to Work in Northern Ireland, has been heavily criticised. While on this scheme the claimant will receive £15.38 per week in addition to any other benefits they are entitled to. Depending on the number of hours given this can amount to below the NMW. It also amounts to inequality amongst the workforce with those

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786 For the impact of this see the section ‘Universal Credit’.
787 Further information on ESA and it proposed reforms are discussed in the section ‘Employment and Support Allowance’.
on the scheme being paid less than employees, despite doing the same job. This raises concerns in relation to Articles 6 and 7 of the ICESCR and the National Minimum Wage Act 1998. A case was brought against the scheme claiming it to be forced labour, but the English Supreme Court has fallen short of finding the schemes to be a violation of Article 4 of the ECHR. Instead it has been ruled that the regulations and their descriptions must be clearer. The Scheme has also come under fire for the lack of opportunities it creates. Employers have reportedly being using the scheme as a way of securing cheap labour. The scheme has also been criticised for the lack of consideration for the claimant’s existing skills and qualifications. This has been addressed to some extent by the Graduate Acceleration Programme, which aims to meet the needs of unemployed graduates. However, new graduates continue to experience difficulties due to lack experience, a situation which has worsened as a result of the saturated job market.

A further concern is the increased reliance on part-time employment. Part-time staff should get the same treatment as full time employees, but it often works out cheaper to employ part-time staff as many of the benefits are applied pro rata. Part-time contracts also enable employers to set a minimum number of hours that must be worked and the employer must provide per week. This can be built upon, depending on demand, but it places a lesser requirement on employers. This creates insecurity for those wishing to work more hours. The use of zero hours contracts have also risen by at least 100% across the UK since 2004. These place no obligation on employers to provide regular hours and arrangements can be changed with less than 24 hours’ notice. Furthermore, with the recession there has been a rise in competition within the job

796 Available at http://www nidirect gov uk/index/information and services/employment/jobseekers/jobseekers programmes /stepstowork/graduate-acceleration-programme.htm (Last visited 21 January 2014).
797 “Scraping by from Week to Week” – The Everyday Realities of Welfare Reform’ (The Community Foundation for Northern Ireland, 2013), at 2.
798 11% of firms with 100 or more employees used zero-hour contracts in 2004. This rose to 23% in 2011. 4% of Hotels and restaurants across the UK used zero-hour contracts in 2004. This rose to 19% in 2011. 1% of workplaces in the Education sector used zero-hour contracts in 2004. This rose to 10% in 2011. See Brigid van Wanrooy, Helen Bewley, Alex Bryson, John Forth, Stephanie Freeth, Lucy Stokes and Stephen Wood, ‘The 2011 Workplace Employment Relations Study: First Findings’ (The Workplace Employment Relations Study, 2011), at 10.
market, which increases the numbers who are willing to work part-time and/or on zero hours contracts. Therefore, part-time employment has been on the rise.\textsuperscript{799} This has enabled the authorities to skew the employment figures and gives the impression that the financial situation is improving.\textsuperscript{800} Those working over 16 hour weeks or earning more than the set Allowance rate are unable to claim Jobseeker’s Allowance. Thus those who no longer qualify for Jobseeker’s Allowance may be employed, but they are unlikely to be better off financially. This is reflected in the figures which show that the number of underemployed\textsuperscript{801} in the UK was 3.05 million in 2012.\textsuperscript{802} This has risen by 980,000 since 2008 and includes 24\% of part-time workers.\textsuperscript{803} Consequently, this has raised concerns about their standard of living and whether the Executive is taking sufficient steps to fulfil its obligations under Article 11 of the ICESCR.

Furthermore, experts have emphasised that in situations where ‘grassroots of economic recovery’ are emerging, it is the shareholders, not the workers that are reaping the benefits.\textsuperscript{804} This contributes to concerns for Article 11 of the ICESCR and the “just and favourable remuneration” element of Article 23(3) of the UDHR.

The LEMIS programme is welcomed assistance for individuals that face increased barriers to employment, such as homeless, ex-offenders, addicts and care leavers. However, it fails to tackle the root of the problems, such as social exclusion, lack of education and lack of support. It falls to the Executive to tackle these issues which are barriers to equal access to employment\textsuperscript{805} and enjoyment of the rights contained within Article 11 of the ICESCR. Yet the Executive has been slow to address these issues, with it often falling to the voluntary and community organisations

\begin{footnotes}
\item[801] Underemployment is where workers are highly skilled but working in low paying jobs, workers are highly skilled but work in low skill jobs and part-time workers that would prefer to be full-time. Available at http://www.investopedia.com/terms/u/underemployment.asp (Last visited 27 January 2014).
\item[804] Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
\end{footnotes}
to step in where their limited resources allow. This is illustrated by the lack of statutory bodies providing addiction services and assistance for ex-prisoners.

In addition, experts have called on the Executive to be cautious with the private contractors it employs. Delivery of the new work programmes is currently out to tender and it was raised that pre-tender contact with some of the applicants had caused concern. There was evidence that some of the agencies had been awarded contracts in GB and were boosting of a job well done, but research has indicated that this is not the case. Furthermore, concern has been expressed for the fact that these contractors would be responsible for sanctioning. It is the Executive’s responsibility to ensure that any agency it employs must comply with the Human Rights Act 1998 and act in an ECHR compliant manner. Furthermore, its actions must fall in line with the obligations set out in the right to an adequate standard of living and its complementary socio-economic rights.

**iii. Living Wage**

The average actual weekly hours worked in Northern Ireland for June to August 2013 was 32.8 hours, which is higher than the UK average of 31.7 hours. This translated to an average of 37.3 hours for full-time workers and 17.2 hours for part-time workers. In monetary terms, the median gross weekly earnings for all employees in Northern Ireland in April 2012 were £360.20. This represented an increase of 1.6%, but was still lower than the UK median of £405. Therefore, the work force in Northern Ireland is paid less for working longer. It is an employers’ prerogative to set the pay as long as it satisfies the NMW and honours the principles of equality and non-discrimination. Nevertheless, the minimum set requires reassessment. This section discusses the proposal to replace the NMW with the Living Wage.

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808 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.

809 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.

The dictionary definition of a ‘living wage’ is “a wage that is high enough to maintain a normal standard of living.”811 Kayte Lawton and Matthew Pennycook define it as a “wage rate that is necessary to provide workers and their families with a basic, but acceptable standard of living.”812 This acceptable standard of living is “socially defined (and therefore varies by place and time) and is often explicitly linked to other social goals such as the fulfilment of caring responsibilities.”813 It is different from the statutory NMW, which is the “minimum pay per hour almost all workers are entitled to by law.”814 The NMW is devised by looking at primarily the “prevailing labour market conditions.”815 That is, the “highest wage floor that is thought to be consistent with avoiding significant job losses in the lowest paying firms or sectors.”816 The cost of living is a contributing factor, but is of secondary consideration.817 This is unlike the living wage, which considers the cost of living first and foremost.818

The NMW has been made legally binding by the National Minimum Wage Act 1998. It is calculated, following advice by the Low Pay Commission, by the Chancellor of the Exchequer on a yearly basis and is enforced by the HM Revenue and Customs. The amount varies according to age and employment. For example an 18 year old apprentice is paid significantly less per hour than a 22 year old non-apprentice.819 The living wage is not legally binding and is currently calculated by the Centre for Research in Social Policy at Loughborough University. The idea is that a set minimum wage should apply irrespective of age and employment. It would also remove the need for workers to apply for benefits to top-up their wages and bring their income closer to that required for an adequate standard of living. Presently it is up to employers to voluntarily apply the living wage rate of pay.

Analysis

According to research conducted by KPMG in 2012, one in five workers in the UK is paid less than the living wage.820 Within Northern Ireland 24% of workers earn below the Living Wage, this is the highest proportion of people earning below the Living Wage within the UK.821 Presently the living wage for the UK (outside of London and including Northern Ireland) is £7.45 per hour.822 The current minimum wage per hour in Northern Ireland is £6.31 for workers aged 21, £5.03 for 18-20 year olds, £3.72 for 16-17 year olds and £2.68 for apprentices under 19 years old or over 19 and in the first year of apprenticeship.823 Those of compulsory school age are not entitled to a NMW.824 That leaves a deficit of between 15% (£1.14) and 64% (£4.77) per hour depending on age and employment.

Statistics released by the DSD concerning the period of April 2011 to March 2012, have uncovered that the average (median) income levels in Northern Ireland have decreased in real terms for three consecutive years.825 In 2011-2012 the average income was £372 per week before housing costs and £336 after housing costs, both of which are the lowest level since the introduction of the Family Resources Survey to Northern Ireland in 2002-2003.826 A possible reason for this is the continuing effects of the recession which have reduced the jobs, hours and wage packets available. However, the average income has also been allowed to be significantly reduced by law. This is a result of using NMW as a marker, as opposed to the Living Wage. Therefore, the UK would be significantly closer to satisfying its adequate standard of living obligations under Article 11 of the ICESCR and fair and just remuneration obligations under Article 23(3) of the UDHR and the Ruggie Principles, if it replaced the NMW with the Living Wage.

826 ‘Northern Ireland Poverty Bulletin 2011/2012’ (Department for Social Development Northern Ireland, 30 August 2013).
Social Inclusion

The Executive has identified that the focus for eradicating social exclusion and promoting social inclusion should be on creating opportunities, tackling disadvantage and improving health and well-being. The ways it seeks to do so are highlighted throughout this research. However, additional ones to consider are the plans to improve literacy and numeracy levels, to make at least one year pre-school education available to all, and to contribute £13 million towards tackling rural poverty and socio-economic isolation. Experts have identified rural poverty and improving access to education key requirements in tackling poverty and social exclusion. These are positive steps forward, but Northern Ireland has a long way to go before it achieves social inclusion for all. This is something which is required for the full enjoyment of a range of rights including the right to an adequate standard of living. It should also be noted that the Executive is subject to a special duty towards people with disabilities in relation to social inclusion. As Article 19 of the UNCRPD, which the UK is a party to, sets out:

States Parties to the present Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;

b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;

c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

i. Social Investment Fund

As part of its strategy in delivering social change, the Office of the First Minister and Deputy First Minister has ring-fenced £80 million. This money is referred to as the Social Investment

829 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
Fund and is due to run until March 2016. The aim of the Fund is to “make life better for people living in targeted areas by reducing poverty, unemployment and physical deterioration.”

It focuses on supporting communities to:

- Increase employment opportunities by addressing things such as educational underachievement, lack of skills, access to jobs and making it appeal for businesses to start up in areas which have suffered deprivation;
- Tackle issues such as mental and physical health, use of drugs and alcohol, becoming a young mother, young people’s involvement in antisocial behaviour and the ability of communities to work together which can all be associated with deprivation;
- Increase services in the community by improving existing facilities, making the environment better and providing additional facilities where needed and possible; and
- Address dereliction in order to make areas more appealing for investment and for those living there.

The fund is to be delivered in partnership with communities across nine social investment zones. Each zone will have a steering group with up to 14 members form the business, political, statutory and voluntary and community sectors. Areas which will be eligible for investment are those:

- Within the top 10% of the most deprived Super Output Areas on the Multiple Deprivation Measure 2010;
- Within the top 20% of the most deprived Super Output Areas on the key indicators of income, employment, education and health; and
- Which could provide independently verified and robust evidence of objective need linked to the four strategic objectives of the Social Investment Fund.

**Analysis**

The fund has faced criticism for its slow progress. Between March 2011 and February 2014 only £400,000 had been spent and that was on consultancy fees. Eighty-nine projects have been submitted across the nine zones and are currently going through a quality assurance review. In February 2014, 23 of these projects were granted approval, equating to £33 million. This leaves

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£46.6 million still to be spent, which the OFMdFM is determined to allocate. Yet, experts have expressed doubt that the fund will achieve its aim of social change on the basis of lack of in-depth understanding of what this means. From a human rights perspective to not use these funds and at the same time introducing cuts contravenes the requirement that the Executive takes “steps to the maximum of its available resources to achieve progressively the full realisation” of socio-economic rights.

**ii. Mental Health Issues**

Those who are unemployed and experiencing low income are more likely to suffer from mood disorders, develop an addiction and/or commit suicide. The Department of Health, Social Services and Public Safety (DHSSPS) has acknowledged this in its ‘Fit and Well Strategy’. It proposes tackling this by addressing rural poverty, unemployment and social exclusion, the strategies for which are discussed throughout this research. The Bamford Action Plan has also been introduced.

**Analysis**

Mental health and poverty are linked in two ways. First, mental illness can make accessing social security more difficult and therefore contribute to poverty. This engages the rights to an adequate standard of living, social security and work. If these rights were respected, protected and fulfilled it would reduce poverty and social exclusion, and in turn reduce the risk of mental illness. Experts have identified a number of barriers to accessing State protection through social security on the basis of mental health. These include:

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835 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
840 *See for example*, sections on ‘Social Exclusion’ and ‘Right to Work’.
- Lack of information about entitlement including lack of accessible communication for people with limited cognition due to their mental health condition and the effects of psychiatric treatment. This is possibly in addition to low levels of education and literacy.
- Poor communication skills and stigmatising attitudes on the part of staff within the DSD’s services.
- Media coverage that stigmatises both claimants and people who experience mental ill-health.
- Conditions which impact individuals’ motivation (eg depression), ability to process information, confidence and self-esteem.
- Mental health services not seeing it as one of their roles to support individuals to access their entitlements.
- Individuals who experience mental ill-health not being able to ‘perform’ for the State in terms of job seeking, training and learning. This results in sanctioning, which increases hardship.\(^{842}\)

A Live and Learn programme has been established to help improve access to information about social security. This provides training on social security and accessing entitlements. This initiative receives its funding from the Big Lottery Fund, which as a non-departmental public body qualifies as State support. Nevertheless, it has fallen to organisations within the voluntary and community sector, such as the Citizen’s Advice Bureau, Open College Network, NIAMH and South Western College to provide the training. Therefore, the overall inaction of the Executive to effectively address the difficulties people with a mental illness have in accessing and maintaining social security assistance engages the right to an adequate standard of living, right to work and right to social security. Articles 19 and 28 of the UNCRPD are particularly relevant.

Second, poverty can lead to mental illness. The stress and exclusion brought about by poverty and its effect on mental illness has been acknowledged by the DHSSPS for which it has made moves to address in its strategies.\(^{843}\) Mental illness is also linked to inadequate nutrition that can be a result of poverty.\(^{844}\) Nevertheless, experts are continuing to find that poverty, social

\(^{842}\) Response from a representative from NIAMH.
\(^{844}\) Mental Health Foundation, ‘Feeding Minds: The Impact of Food on Mental Health’. Available at http://www.mentalhealth.org.uk/content/assets/PDF/publications/Feeding-Minds.pdf (Last visited 3 February 2014).
exclusion and the resulting mental illness persist.\textsuperscript{845} The risk of mental illness linked to poverty also raises the issue of whether the right to life is engaged.\textsuperscript{846}

\textit{iii. Issues for Persons with Disabilities}

Persons with disabilities have been identified as a group which is particularly vulnerable to social exclusion.\textsuperscript{847} Awareness raising, participation in public and political life and access to information have been identified as three key areas that require addressing to ensure social inclusion for people with disabilities.\textsuperscript{848} These engage Articles 8, 9, 21, 29 and 31 of the UNCRPD. However, other areas are also relevant such as accessibility (Articles 20 and 21 of the UNCRPD), employment and employability (Articles 24 and 27 of the UNCRPD), adequate standard of living (Article 28 of the UNCRPD) and independent living (Article 19 of the UNCRPD). The OFMdFM has pledged to tackle these issues as a point of priority in its ‘Strategy to Improve the Lives of People with Disabilities 2012-2015.’\textsuperscript{849}

\textbf{Analysis}

OFMdFM’s disability strategy is welcomed. However, the Government’s programme for commitment in realising this is a combination of actions which have been pledged in other strategies aimed at dealing with education, employment and social inclusion more generally.\textsuperscript{850} These actions, if fulfilled, will benefit some persons with disabilities indirectly. Nevertheless, they are not aimed at tackling specific issues for disabled people. Consequently they do not adequately address these issues.

\textsuperscript{845} Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014; Response from a representative from NIAMH.

\textsuperscript{846} See Section II.


A change in attitude is needed. Experts have identified a number of positive steps that should be taken to assist a change of attitude and improve social inclusion these are:

- Raise awareness of the challenges faced by disabled people such as accessibility, lack of opportunity and extra financial strains.
- Adopt a social, not medical, model of assessment – including needs based assessment.
- Improve accessibility of buildings and transport.
- Introduce equal fares. For example, it is more expensive to hire an accessible taxi, than a non-accessible taxi.
- Offer more training and employment opportunities for people with disabilities.
- Politicians and society should meaningfully engage with people with disabilities.

Experts have welcomed the progress that has been made, particularly with the introduction of the UNCRPD. However, it is felt that the approach of the Executive in improving social inclusion for disabled people has been to complete a tick-box exercise, not to meaningfully address the issues. The concern regarding poverty is that the proposed welfare reforms and austerity measures are placing people with disabilities under extra financial strain and are doing so without taking into account the special needs of those affected. Consequently, this is amounting to retrogression for the right to an adequate standard of living and their rights under the UNCRPD more generally. Furthermore, it creates further barriers to social inclusion.

**IV. Promoting the Work of the Voluntary and Community Sector**

As part of promoting social inclusion, the DSD does offer a range of funding programmes that reflect its “responsibilities to work across Government for the voluntary and community sector as a whole.” These programmes aim to:

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• Support the regional infrastructure of the voluntary and community sector by funding organisations that provide services and support for the voluntary and community sector as a whole (except where it is the specific responsibility of another department);

• Support the local and sub-regional voluntary and community sector through the Community Support Programme, which is delivered by district councils;

• Support volunteering and active citizenship;

• Administer selected European programmes which focus on our objectives; and

• Deliver programmes to address the problem of weak community infrastructure.855

The current funding programmes are set out below.

Areas at Risk Pilot Programme

The Areas at Risk Pilot Programme was established in 2006 to “identify and intervene in areas at risk of slipping into a spiral of decline.”856 These include:

• ‘Interface’ areas that lie outside of Neighbourhood Renewal Areas;

• Areas in economic decline;

• Areas at ‘risk of decline’;

• Areas at risk of ‘descending into instability and crisis’ or areas in which there is a decline in community cohesion which threatens peace and stability;

• Areas where the loss of the service provided by organisations would have a significant negative impact on the local community.857

To ensure the communities participating in the programme meet the criteria a strategic partnership has been established, which is chaired by the Voluntary and Community Unit. These permanent partners are statutory bodies - the Belfast Regeneration Office, the Rural Development Office, the North West Development Office and the Northern Ireland Housing


Executive. Other statutory bodies are invited to join on an ad hoc basis when their expertise is required.\textsuperscript{858}

The objectives of the programme are to:

- Reduce the level, frequency and impact of interface violence within the community;
- Increase levels of economic activity within the targeted areas;
- Stabilise targeted areas to the point that the area is either no longer considered as an ‘area at risk’, or that the risk of the area slipping into decline is prevented;
- Increase community cohesion and capacity;
- Strengthen community infrastructure in those areas where it is weak; and
- Achieve a more sustainable approach to community participation and development.\textsuperscript{859}

The total amount available for this programme is £1 million per annum.\textsuperscript{860}

\textit{Community Support Programme}

The Community Support Programme aimed to “strengthen local communities, increase community participation and promote social inclusion through the stimulation and support of community groups, community activity and local advice services.” It involves collaboration between the DSD, the 26 District Councils of Northern Ireland, local community and voluntary groups and local advice organisations. Community Support Plans were developed by all District Councils between 2006 and 2009, with the plans extended to cover up to 31 March 2011.\textsuperscript{861} The funding for the programme in 2009-2010 was £20 million. It supported the provision of community centres, local advice services, resource centres, grants to community groups and the employment of staff in district councils.\textsuperscript{862}

\textsuperscript{858} Available at \url{http://www.dsdni.gov.uk/index/voluntary_and_community/funding_programmes/vc-areas-at-risk.htm} (Last visited 31 March 2014).
\textsuperscript{859} Available at \url{http://www.dsdni.gov.uk/index/voluntary_and_community/funding_programmes/vc-areas-at-risk.htm} (Last visited 31 March 2014).
\textsuperscript{860} Available at \url{http://www.dsdni.gov.uk/index/voluntary_and_community/funding_programmes/vc-areas-at-risk.htm} (Last visited 31 March 2014).
\textsuperscript{861} Available at \url{http://www.dsdni.gov.uk/index/voluntary_and_community/funding_programmes/vc-areas-at-risk.htm} (Last visited 31 March 2014).
\textsuperscript{862} Available at \url{http://www.dsdni.gov.uk/index/voluntary_and_community/funding_programmes/vc-areas-at-risk.htm} (Last visited 31 March 2014).
Regional Infrastructure Programme

The Regional Infrastructure Programme aims to support “core costs of regional infrastructure organisations involved in playing a supporting, co-ordinating or development role in relation to voluntary and community sector organisations, particularly in policy areas which are the responsibility of the DSD. It aims to facilitate the networking and the development of new work and organisations. For organisations to qualify they must provide a key service of support to voluntary and community sector organisations across Northern Ireland, which would not otherwise be available. These include:

- Representations and participation on behalf of their membership or sector;
- Advice, information and signposting;
- Public policy – consultation, influencing and changing public policy;
- Support for the community development process to enable people to contribute to issues, which affects their lives, and the communities in which they live through empowerment, inclusion, equity, partnership and collective action;
- Encourage collaboration between voluntary and community sector organisations; and
- Service delivery for member organisation across Northern Ireland.

The programme is not open to single-issue organisations or organisations where the lead policy responsibility lies with another Government Department. This programme is discretionary and therefore has not set funding level. Applications are subject to economic appraisal and budget availability.

Community Investment Fund

The Community Investment Fund aimed “to deliver a longer-term, strategic commitment to supporting community development.” It supported sub-regional, multi-neighbourhood organisations, or a co-ordination of smaller local community groups. The fund was only available

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through a single call for applications in Spring 2006. Thirty-six organisations were successful and benefited from £23 million worth of funding.\(^{867}\)

**Modernisation Fund**

The Modernisation Fund aims to “support voluntary and community organisations to modernise so as to allow them to become more sustainable and deliver new and better services in an era of change.”\(^{868}\) The programme worth £15 million is designed to:

- Improve access;
- Offer youth facilities provision;
- Promote partnership and collaboration;
- Promote cost reduction and income generation; and
- Develop good relations between and within communities.\(^{869}\)

The application process for this programme closed in October 2007. Over 60 projects were funded with all set to be completed by March 2015.\(^{870}\)

**Volunteer Bureau Initiative**

The Volunteer Bureau Initiative supports the network of 15 Volunteer Centres in Northern Ireland.\(^{871}\) These Centres:

- Promote volunteering;
- Recruit, support, train and develop volunteers;
- Initiative, develop and support volunteering opportunities;

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\(^{867}\) Available at: [http://www.dsdni.gov.uk/index/voluntary_and_community/funding_programmes/community_investment_fund.htm](http://www.dsdni.gov.uk/index/voluntary_and_community/funding_programmes/community_investment_fund.htm) (Last visited 31 March 2014).


\(^{871}\) Available at: [http://www.dsdni.gov.uk/index/voluntary_and_community/funding_programmes/vol_bureaux_init.htm](http://www.dsdni.gov.uk/index/voluntary_and_community/funding_programmes/vol_bureaux_init.htm) (Last visited 31 March 2014).
• Provide training and support to volunteer involving organisations;
• Encourage good practice.\(^{872}\)

This initiative offers over £1.1 million per annum in funding.\(^{873}\)

**Volunteering Small Grants Programme**

The Volunteering Small Grants Programme is available to organisations that do not have an annual income over £100,000 per annum and deliver at least one of the listed aims:

• Increase volunteer activity by groups under-represented in the volunteering population, including people not in paid work;
• Promote innovation
• Offer an increase in numbers of new volunteers; and/or
• Offer new approaches to involvement of volunteers.\(^{874}\)

The funding set aside for this programme is £600,000 for 2014/2015 with each eligible organisation receiving between £200 and £1,500.\(^{875}\)

**Analysis**

These programmes are welcomed and offer some assistance in promoting social inclusion. However, the financial assistance is time sensitive and set at a relatively low level. The purposes of each programme are also aimed at new developments; not a need based approach with the aim of assisting the community and voluntary organisations to fulfil their core functions. This is something which experts have highlighted as required.\(^{876}\) Instead voluntary and community organisations often feel abandoned and intense pressure due to the lack of Government assistance. From a human rights perspective, the question is whether the Executive is operating

\(^{872}\) Available at: [http://www.dsdni.gov.uk/index/voluntary_and_community/funding_programmes/vol_bureaux_init.htm](http://www.dsdni.gov.uk/index/voluntary_and_community/funding_programmes/vol_bureaux_init.htm) (Last visited 31 March 2014).

\(^{873}\) Available at: [http://www.dsdni.gov.uk/index/voluntary_and_community/funding_programmes/vol_bureaux_init.htm](http://www.dsdni.gov.uk/index/voluntary_and_community/funding_programmes/vol_bureaux_init.htm) (Last visited 31 March 2014).


\(^{876}\) Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
to the maximum of its available resources when challenging poverty and social exclusion? A closer analysis of the budget, which is outside the expertise of this report, is required to answer this. However, the feeling from experts is that the Executive is not doing all that it can and as a result it has unfairly fallen to the voluntary and community sector to try to the best of its ability and resources to offer the required support.877

877 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
CONCLUSIONS AND RECOMMENDATIONS

The Executive has introduced a number of favourable strategies, such as:

- the Social Investment Fund,
- investing £13 million in combating rural poverty,
- funding programmes for the voluntary and community sector,
- building 8,000 new units,
- introducing the Tenancy Access Scheme,
- running the Housing Options pilot scheme,
- enacting the Child Poverty Act 2010,
- offering allowances for combating fuel poverty,
- offering Steps to Work programmes,
- the Co-ownership scheme,
- providing a social security and benefit system,
- capping tuition fees,
- not introducing tribunal fees, and
- offering an Emergency Fund for non-UK nationals.

Nevertheless, the numbers who are living in poverty and not experiencing full enjoyment of their socio-economic rights is rising. The benefit of any scheme offered by the Executive is out-weighted by the persistent high levels of unemployment, increasing underemployment, rising costs of living, decreasing household incomes and persistent austerity measures. The poorer are becoming poorer, creating a greater risk of destitution. Also ‘middle class poor’ are emerging. For example, the couple who both had jobs and were issued with redundancy packages. In a short space of time the redundancy pay-out dries up and they are faced with having to sign on for benefits. In a climate of high unemployment and underemployment, the hope of a job is slim. Suddenly they have gone from two salaries to basic benefits, which have to cover all expenses, including a mortgage and car payments. Soon they are facing the possibility of house

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878 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
repossession. However, experts have noted that it is hard to judge the true extent of this development as pride often gets in the way of asking for help. \footnote{Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.}

Many are facing barriers to much needed State assistance as a result of ineligibility, administrative delays and cuts. These barriers will only solidify with the proposed welfare reforms. Consequently, an increased pressure is being placed on voluntary and community organisations to accommodate the surplus. It has been reported this is happening to the point that the Executive is taking voluntary services for granted and disregarding its responsibilities imposed by domestic and international laws. While the Executive does not necessarily have to have direct involvement in the realisation of socio-economic rights, it must step in where rights are not being enjoyed. These organisations are struggling to cope due to a lack of resources and State support more generally. They are also struggling due to the reduction in donations as a consequence of the recession. \footnote{Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.} Additionally, individuals are being forced to look elsewhere for assistance, such as payday loans, paramilitaries and prostitution, \footnote{‘Prostitutes and the recession: How David Cameron’s cuts are affecting British women’, \textit{The Independent}, 30 April 2013. Available at \url{http://blogs.independent.co.uk/2013/05/01/prostitutes-and-the-recession-how-david-cameron%E2%80%99s-cuts-are-affecting-british-women/} (Last visited 28 January 2014).} which often makes the situation worse.

From a human rights perspective, socio-economic rights, such as the right to an adequate standard of living, are to be progressively realised. However, this comes with a number of stipulations:

- Minimum core obligations should be given immediate effect;
- The Executive must take steps to the maximum of its available resources to achieve progressively the full realisation of socio-economic rights;
- Lack of resources does not justify inaction; and
- Retrogression should not occur, but if it does it should be a last resort and only with strong justification.

The discussion on destitution and the ECHR shows that in certain, limited circumstances extreme failures in adhering to these obligations poverty can amount to violations of the ECHR.
From the above discussion it is apparent that proving a case of destitution to be a violation of the ECHR is difficult, but not impossible. For a case to be deemed admissible:

- The destitution must be due to State action or inaction, not of the individual’s own volition.
- The individual must have experienced severe suffering or hardship as a result of the actions or inactions.
- The suffering must place an excessive, extreme and unfair burden on the individual.
- Any risk to life must be real and immediate, of which the State is aware.
- The interference must be unlawful, for an illegitimate purpose and disproportionate.
- The individual must be particularly vulnerable and where a family unit or child is involved the Court is likely to be more sympathetic.
- The individual must also have no recourse to an impartial and independent tribunal.

A further issue is the Executive’s failure to pay due regard to its human rights duties, and unfairly expecting voluntary and community organisations to fill the void. Moreover, the Executive is expecting the voluntary and community sector to do so with minimal support and limited consultation. Consequently, this has placed this sector under significant strain. Therefore, in addition to urging the Executive to change its attitude and proactively fulfil its human rights duties, the voluntary and community sector has proposed a number of recommendations to improve its relationship with the Executive. These include:

- Raise awareness of the work that is being done and needs to be done;
- Increase consultation and dialogue between the Executive and voluntary and community organisations;
- More cooperation across Government departments;
- Assess what is delivering social change;
- Subsidise childcare costs;
- Provide better access to education, particularly for disadvantaged;
- Offer an alternative to payday loans – eg People’s Bank;
- Provide for realistic consultation process – at present it is difficult to find the time to react to issues and respond to consultation requests;
- Adopt a rights based approach to social security and assistance;
• Do not rely so much on the GB model – do not be a slave to principle of parity, use powers where possible;

• Implement the Bill of Rights for Northern Ireland;

• Hold the Executive to account – do not let voluntary and community organisations give the Executive an out;

• More Northern Ireland specific research;

• Take a long-term, as opposed to short-term, approach;

• Extend access to formal credit;

• Introduce living wage;

• Better networking between voluntary and community organisations; and

• The Executive should take voluntary and community organisations more seriously – eg offer opportunity to make pre-budget statements on potential impact.882

882 Roundtable discussion with members from voluntary and community organisations based in Northern Ireland, 23 January 2014.
Appendix

Appendix I: Non-governmental Organisations Interviewed

• Age NI
• Council for the Homeless NI
• Crisis, London
• Law Centre NI
• Niamh Mental Well-being
• Northern Ireland Council for Voluntary Action (NICVA)
• Saint Vincent de Paul
• Save the Children
• Simon Community
## Appendix II: Adequate Standard of Living in Northern Ireland: Statistics

### Minimum Standards

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<tr>
<th>Statistic</th>
<th>Figure</th>
<th>Comparison</th>
<th>Source</th>
<th>Website</th>
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</thead>
<tbody>
<tr>
<td>Households in NI fall below society’s minimum standards</td>
<td>Over 1/3</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
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### Housing Conditions

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<tbody>
<tr>
<td>Households cannot keep their homes in an adequate state of decoration</td>
<td>20%</td>
<td>11% in 2002/3 survey</td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Live in damp homes</td>
<td>10%</td>
<td>4% in 2002/3 survey</td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
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### Finance

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<th>Source</th>
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<tbody>
<tr>
<td>Cannot afford unexpected household bills (of £500)</td>
<td>43%</td>
<td>33% in UK</td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Parents unable to give children pocket money</td>
<td>15%</td>
<td>6% in 2002/3 survey</td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Adults cannot afford a hobby or leisure activity</td>
<td>7%</td>
<td>5% in 2002/3 survey</td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
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<tr>
<td>Can no longer afford to spend a small amount of money on themselves each week</td>
<td>20%</td>
<td>15% in 2002/3 survey</td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Households unable to afford damp-free homes</td>
<td>10%</td>
<td>4% in 2002/3 survey</td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Families cannot afford a holiday away from home</td>
<td>30%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Families cannot afford day trips once a month</td>
<td>12%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Children lack one participation item (birthday/Christmas celebrations, hobby/leisure activity, club/social activities, outdoor leisure equipment)</td>
<td>17%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Children lack two participation items (birthday/Christmas celebrations, hobby/leisure activity, club/social activities, outdoor leisure equipment)</td>
<td>12%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Children lack at least one development item or activity (books, space to study, games,)</td>
<td>17%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
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</tr>
<tr>
<td>Households with children do not have computer with access to the internet for homework</td>
<td>22%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Had to borrow in the last year to pay for day to day needs</td>
<td>25%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Believe their household is a little or a lot below the level of income necessary to keep their household out of poverty</td>
<td>30%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Working age adults (320,000) unable to afford to make regular payments into an occupational or private pension</td>
<td>31%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Households struggling to keep up with household bills</td>
<td>More than half</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Households fallen behind with some or many of their bills</td>
<td>7%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
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</table>
### Food

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<th>Figure</th>
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</thead>
<tbody>
<tr>
<td>Children lack one or more food items (two/three meals a day, fresh fruit/vegetables, meat/fish/vegetable equivalent)</td>
<td>4%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Adults lack at least one of the adult food items (two/three meals a day, fresh fruit/vegetables, meat/fish/vegetable equivalent)</td>
<td>7%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Have ‘sometimes’ or ‘often’ skimped on food so that others in the household have enough to eat</td>
<td>29%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
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### Clothing

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<th>Source</th>
<th>Website</th>
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<tbody>
<tr>
<td>Adults cannot afford warm coat or two pairs of shoes</td>
<td>8%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>People unemployed and looking for work cannot afford suitable clothes for an interview</td>
<td>17%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Children lack one or more basic clothing items (warm winter coat, new/properly fitting shoes, new clothes, 4 pairs of trousers/leggings/jeans/jogging bottoms)</td>
<td>7%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Children lack either a coat or</td>
<td>4%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
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<tr>
<td>pair of properly fitting shoes</td>
<td></td>
<td></td>
<td>Exclusion UK 2011/2012 survey</td>
<td>research/northern-ireland-faring-badly</td>
</tr>
<tr>
<td>Adults continue to wear worn out clothing because cannot afford to buy new clothes</td>
<td>50%</td>
<td>Just over ¼ of population in 2002/3 survey</td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
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### Heating

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<th>Source</th>
<th>Website</th>
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<tbody>
<tr>
<td>Home colder than would have liked</td>
<td>40%</td>
<td>35% in UK</td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Households unable to heat their home</td>
<td>13%</td>
<td>3% in 2002/3 survey</td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Households facing severe problems with heating and cannot afford to heat their home</td>
<td>13%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Households little or much colder than they would have liked last winter</td>
<td>41%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Households turned heating down or off, or only partially heated their house, even though it was cold</td>
<td>46%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
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Multiple Deprivations

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<tbody>
<tr>
<td>Households are multiply deprived (lack three or more adult necessities - food, clothing, housing and social activities)</td>
<td>36%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Households are suffering deep levels of poverty (lack six or more adult necessities - food, clothing, housing and social activities)</td>
<td>19%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
<tr>
<td>Households are suffering very deep levels of poverty (lack ten or more adult necessities - food, clothing, housing and social activities)</td>
<td>7%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
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</table>

Stigma

<table>
<thead>
<tr>
<th>Statistic</th>
<th>Figure</th>
<th>Comparison</th>
<th>Source</th>
<th>Website</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adults felt embarrassed because of having low income</td>
<td>19%</td>
<td></td>
<td>Poverty and Social Exclusion UK 2011/2012 survey</td>
<td><a href="http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly">http://www.poverty.ac.uk/pse-research/northern-ireland-faring-badly</a></td>
</tr>
</tbody>
</table>
Appendix III: Northern Ireland’s Dwellings


Type of Households

<table>
<thead>
<tr>
<th>Households</th>
<th>2001</th>
<th>2006</th>
<th>2009</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>647,500 (100%)</td>
<td>705,000 (100%)</td>
<td>740,000 (100%)</td>
<td>760,000 (100%)</td>
</tr>
<tr>
<td>Urban</td>
<td>434,600 (67%)</td>
<td>493,800 (70%)</td>
<td>508,500 (69%)</td>
<td>529,700 (70%)</td>
</tr>
<tr>
<td>Rural</td>
<td>212,900 (33%)</td>
<td>211,200 (30%)</td>
<td>231,500 (31%)</td>
<td>230,300 (30%)</td>
</tr>
<tr>
<td>Owner Occupied</td>
<td>432,300 (67%)</td>
<td>468,900 (66.5%)</td>
<td>461,800 (62.4%)</td>
<td>469,100 (61.7%)</td>
</tr>
<tr>
<td>Private Rented (and Others)</td>
<td>49,400 (7.6%)</td>
<td>80,900 (11.5%)</td>
<td>124,600 (16.8%)</td>
<td>125,400 (16.5%)</td>
</tr>
<tr>
<td>Housing Executive</td>
<td>116,000 (17.9%)</td>
<td>93,400 (13.3%)</td>
<td>110,200</td>
<td>110,800</td>
</tr>
<tr>
<td>Housing Association</td>
<td>17,900 (2.8%)</td>
<td>21,500 (3.1%)</td>
<td>(14.9%)</td>
<td>(14.6%)</td>
</tr>
<tr>
<td>Vacant</td>
<td>31,900 (4.9%)</td>
<td>40,300 (5.7%)</td>
<td>43,400 (5.9%)</td>
<td>54,700 (7.2%)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Household Type</th>
<th>Owner Occupied</th>
<th>Private Rented and Others</th>
<th>Social Housing</th>
<th>All Households</th>
<th>Percentage of All Households</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult Households</td>
<td>180,000 (65.6%)</td>
<td>57,000 (20.8%)</td>
<td>37,400 (13.6%)</td>
<td>274,400 (100%)</td>
<td>39%</td>
</tr>
<tr>
<td>Households with Children</td>
<td>142,800 (62.4%)</td>
<td>50,900 (22.3%)</td>
<td>34,900 (15.3%)</td>
<td>228,600 (100%)</td>
<td>33%</td>
</tr>
<tr>
<td>Older Households</td>
<td>145,000 (73.2%)</td>
<td>14,900 (7.5%)</td>
<td>38,300 (19.3%)</td>
<td>198,200 (100%)</td>
<td>28%</td>
</tr>
<tr>
<td>All Households</td>
<td>467,800 (66.7%)</td>
<td>122,800 (17.5%)</td>
<td>110,600 (15.8%)</td>
<td>701,200 (100%)</td>
<td>100%</td>
</tr>
</tbody>
</table>
### Household Reference Person

<table>
<thead>
<tr>
<th>Age of Reference Person</th>
<th>Owner Occupied Household</th>
<th>Private Rented and Others Household</th>
<th>Social Housing Household</th>
<th>All Households</th>
<th>Percentage of All Households</th>
</tr>
</thead>
<tbody>
<tr>
<td>17-24</td>
<td>1,645 (6.5%)</td>
<td>14,547 (57.5%)</td>
<td>9,108 (36.0%)</td>
<td>25,300 (100%)</td>
<td>4%</td>
</tr>
<tr>
<td>25-39</td>
<td>91,600 (54.1%)</td>
<td>53,400 (31.6%)</td>
<td>24,100 (14.2%)</td>
<td>169,100 (100%)</td>
<td>24%</td>
</tr>
<tr>
<td>40-59</td>
<td>197,000 (73.4%)</td>
<td>36,500 (13.6%)</td>
<td>35,000 (13.0%)</td>
<td>268,500 (100%)</td>
<td>38%</td>
</tr>
<tr>
<td>60-74</td>
<td>120,700 (75.5%)</td>
<td>12,700 (8.0%)</td>
<td>26,500 (16.5%)</td>
<td>159,900 (100%)</td>
<td>23%</td>
</tr>
<tr>
<td>75 plus</td>
<td>56,900 (72.6%)</td>
<td>5,500 (7%)</td>
<td>16,000 (20.4%)</td>
<td>78,400 (100%)</td>
<td>11%</td>
</tr>
</tbody>
</table>

### Employment

<table>
<thead>
<tr>
<th>Employment Status of Household Reference Person</th>
<th>Owner Occupied Household</th>
<th>Private Rented and Others Household</th>
<th>Social Housing Household</th>
<th>All Households</th>
<th>Percentage of All Households</th>
</tr>
</thead>
<tbody>
<tr>
<td>Working</td>
<td>289,700 (76.5%)</td>
<td>65,400 (17.3%)</td>
<td>23,700 (6.3%)</td>
<td>378,800 (100%)</td>
<td>54%</td>
</tr>
<tr>
<td>Not Working</td>
<td>40,300 (30.4%)</td>
<td>43,000 (32.5%)</td>
<td>49,100 (37.1%)</td>
<td>132,400 (100%)</td>
<td>19%</td>
</tr>
<tr>
<td>Retired</td>
<td>137,800 (72.5%)</td>
<td>14,400 (7.6%)</td>
<td>37,800 (19.9%)</td>
<td>190,000 (100%)</td>
<td>27%</td>
</tr>
</tbody>
</table>

### Household Reference Person Not Working By Age

<table>
<thead>
<tr>
<th>Age of Reference Person</th>
<th>% of All Households</th>
<th>Number of All Households</th>
</tr>
</thead>
<tbody>
<tr>
<td>17-24</td>
<td>4%</td>
<td>25,400</td>
</tr>
<tr>
<td>25-39</td>
<td>24%</td>
<td>169,100</td>
</tr>
<tr>
<td>40-59</td>
<td>38%</td>
<td>268,500</td>
</tr>
<tr>
<td>60-74</td>
<td>23%</td>
<td>159,900</td>
</tr>
<tr>
<td>75 plus</td>
<td>11%</td>
<td>78,400</td>
</tr>
<tr>
<td>Housing Reference Person Not Working by Key Benefits</td>
<td>% of All Households</td>
<td>Number of All Households</td>
</tr>
<tr>
<td>-----------------------------------------------------</td>
<td>---------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td>Child Benefit</td>
<td>17%</td>
<td>115,400</td>
</tr>
<tr>
<td>Disability Benefit</td>
<td>14%</td>
<td>98,900</td>
</tr>
<tr>
<td>Incapacity Benefit</td>
<td>7%</td>
<td>51,800</td>
</tr>
<tr>
<td>Housing Benefit</td>
<td>19%</td>
<td>133,200</td>
</tr>
<tr>
<td>Income Support</td>
<td>9%</td>
<td>65,400</td>
</tr>
<tr>
<td>Child Tax Credit</td>
<td>11%</td>
<td>75,800</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Housing Reference Person Not Working by Annual Household Income</th>
<th>% of All Households</th>
<th>Number of All Households</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than £10,000</td>
<td>17%</td>
<td>118,400</td>
</tr>
<tr>
<td>£10,000-£14,999</td>
<td>29%</td>
<td>199,500</td>
</tr>
<tr>
<td>£15,000-£19,999</td>
<td>15%</td>
<td>108,000</td>
</tr>
<tr>
<td>£20,000-£29,999</td>
<td>15%</td>
<td>106,500</td>
</tr>
<tr>
<td>£30,000 or more</td>
<td>24%</td>
<td>168,900</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Housing Reference Person Not Working by Religion</th>
<th>% of All Households</th>
<th>Number of All Households</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protestant</td>
<td>52%</td>
<td>365,600</td>
</tr>
<tr>
<td>Catholic</td>
<td>38%</td>
<td>268,500</td>
</tr>
<tr>
<td>Mixed/Other/None</td>
<td>10%</td>
<td>67,200</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Housing Reference Person Not Working by Tenure</th>
<th>% of All Households</th>
<th>Number of All Households</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner Occupied</td>
<td>67%</td>
<td>467,800</td>
</tr>
<tr>
<td>Private Rented</td>
<td>18%</td>
<td>122,800</td>
</tr>
<tr>
<td>Social Housing</td>
<td>16%</td>
<td>110,600</td>
</tr>
</tbody>
</table>
## Household Income

<table>
<thead>
<tr>
<th>Gross Annual Income</th>
<th>Owner Occupied Household</th>
<th>Private Rented and Others Household</th>
<th>Social Housing Household</th>
<th>All Households</th>
<th>Percentage of All Households</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than £10,000</td>
<td>56,400 (47.6%)</td>
<td>28,400 (24.0%)</td>
<td>33,600 (28.4%)</td>
<td>118,400 (100%)</td>
<td>17%</td>
</tr>
<tr>
<td>£10,000-£14,999</td>
<td>106,200 (53.3%)</td>
<td>37,900 (19.0%)</td>
<td>55,300 (27.7%)</td>
<td>199,400 (100%)</td>
<td>29%</td>
</tr>
<tr>
<td>£15,000-£19,999</td>
<td>69,300 (64.2%)</td>
<td>22,300 (20.6%)</td>
<td>16,500 (15.2%)</td>
<td>108,000 (100%)</td>
<td>15%</td>
</tr>
<tr>
<td>£20,000-£29,999</td>
<td>82,600 (77.5%)</td>
<td>21,500 (20.2%)</td>
<td>2,400 (2.3%)</td>
<td>106,500 (100%)</td>
<td>15%</td>
</tr>
<tr>
<td>£30,000 or more</td>
<td>153,300 (90.8%)</td>
<td>12,700 (7.5%)</td>
<td>2,900 (1.7%)</td>
<td>168,900 (100%)</td>
<td>24%</td>
</tr>
</tbody>
</table>

## Religion

<table>
<thead>
<tr>
<th>Household Religion</th>
<th>Owner Occupied Household</th>
<th>Private Rented and Others Household</th>
<th>Social Housing Household</th>
<th>All Households</th>
<th>Percentage of All Households</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protestant</td>
<td>257,300 (70.4%)</td>
<td>48,600 (13.3%)</td>
<td>59,700 (16.3%)</td>
<td>365,600 (100%)</td>
<td>52%</td>
</tr>
<tr>
<td>Catholic</td>
<td>170,200 (63.4%)</td>
<td>54,000 (20.1%)</td>
<td>44,200 (16.5%)</td>
<td>268,499 (100%)</td>
<td>38%</td>
</tr>
<tr>
<td>Mixed/Other/None</td>
<td>40,300 (59.9%)</td>
<td>20,200 (30.1%)</td>
<td>6,700 (9.9%)</td>
<td>67,200 (100%)</td>
<td>10%</td>
</tr>
</tbody>
</table>
## Fitness of Dwelling

<table>
<thead>
<tr>
<th>Unfitness of Dwelling</th>
<th>2006</th>
<th>2009</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Unfit Dwellings</td>
<td>24,200 (3.4%)</td>
<td>17,500 (2.4%)</td>
<td>35,200 (4.6%)</td>
</tr>
<tr>
<td>Urban Dwellings</td>
<td>12,800 (53.1%)</td>
<td>8,000 (46.0%)</td>
<td>14,100 (40.0%)</td>
</tr>
<tr>
<td>Rural Dwellings</td>
<td>11,400 (46.9%)</td>
<td>9,500 (54.0%)</td>
<td>21,100 (60.0%)</td>
</tr>
<tr>
<td>Owner Occupied</td>
<td>7,500 (31.0%)</td>
<td>4,400 (25.0%)</td>
<td>4,576 (13.0%)</td>
</tr>
<tr>
<td>Private Rented and Others</td>
<td>2,200 (8.9%)</td>
<td>2,700 (15.5%)</td>
<td>2,499 (7.1%)</td>
</tr>
<tr>
<td>Social Housing</td>
<td>600 (2.5%)</td>
<td>100 (0.6%)</td>
<td>141 (0.4%)</td>
</tr>
<tr>
<td>Vacant</td>
<td>13,900 (57.6%)</td>
<td>10,300 (58.9%)</td>
<td>28,000 (79.5%)</td>
</tr>
</tbody>
</table>

## Tenure

<table>
<thead>
<tr>
<th>Tenure</th>
<th>Dwellings in Disrepair</th>
<th>Average Urgent Mean Repair Cost (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Dwellings in Disrepair</td>
<td>374,600 (49.3%)</td>
<td>1,888</td>
</tr>
<tr>
<td>Owner Occupied</td>
<td>209,300 (44.6%)</td>
<td>510</td>
</tr>
<tr>
<td>Private Rented and Others</td>
<td>65,800 (52.2%)</td>
<td>551</td>
</tr>
<tr>
<td>Social Housing</td>
<td>58,400 (52.7%)</td>
<td>192</td>
</tr>
<tr>
<td>Vacant</td>
<td>41,100 (75.0%)</td>
<td>20,190</td>
</tr>
</tbody>
</table>

## Location

<table>
<thead>
<tr>
<th>Location</th>
<th>Dwellings in Disrepair</th>
<th>Average Urgent Mean Repair Cost (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Urban</td>
<td>251,600 (47.5%)</td>
<td>876</td>
</tr>
<tr>
<td>Belfast Metropolitan Area</td>
<td>140,500 (52.3%)</td>
<td>986</td>
</tr>
<tr>
<td>District/Other Town</td>
<td>111,100 (42.6%)</td>
<td>763</td>
</tr>
<tr>
<td>All Rural</td>
<td>123,000 (53.4%)</td>
<td>4,215</td>
</tr>
<tr>
<td>Small Rural Settlement</td>
<td>63,300 (51.8%)</td>
<td>1,102</td>
</tr>
<tr>
<td>Isolated Rural</td>
<td>59,800 (55.2%)</td>
<td>7,723</td>
</tr>
<tr>
<td>Tenure</td>
<td>Non-Decency Rate 2001</td>
<td>Non-Decency Rate 2006</td>
</tr>
<tr>
<td>----------------------</td>
<td>-----------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>Owner occupied</td>
<td>23.4%</td>
<td>20.4%</td>
</tr>
<tr>
<td>Private rented and others</td>
<td>47.3%</td>
<td>26.5%</td>
</tr>
<tr>
<td>Housing Executive</td>
<td>49.5%</td>
<td>24.7%</td>
</tr>
<tr>
<td>Housing Association</td>
<td>7.4%</td>
<td>8.9%</td>
</tr>
<tr>
<td>Vacant</td>
<td>70.7%</td>
<td>49.5%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Dwelling Location</th>
<th>Non-Decency Rate 2001</th>
<th>Non-Decency Rate 2006</th>
<th>Non-Decency Rate 2009</th>
<th>Non-Decency Rate 2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban</td>
<td>32.3%</td>
<td>22%</td>
<td>14.5%</td>
<td>8.5%</td>
</tr>
<tr>
<td>Rural</td>
<td>30.6%</td>
<td>25.3%</td>
<td>16.4%</td>
<td>18%</td>
</tr>
<tr>
<td>All Dwellings</td>
<td>31.8%</td>
<td>23.0%</td>
<td>15.1%</td>
<td>11.4%</td>
</tr>
</tbody>
</table>

**Fuel Poverty**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner occupied</td>
<td>97,000 (22.8%)</td>
<td>148,000 (31.8%)</td>
<td>178,000 (38.9%)</td>
<td>190,000 (40.6%)</td>
</tr>
<tr>
<td>Private rented and others</td>
<td>21,400 (44%)</td>
<td>34,300 (44.1%)</td>
<td>67,800 (54.9%)</td>
<td>60,300 (49.1%)</td>
</tr>
<tr>
<td>Housing Executive</td>
<td>46,100 (40.1%)</td>
<td>37,800 (40.8%)</td>
<td>56,500 (51.4%)</td>
<td>43,900 (39.7%)</td>
</tr>
<tr>
<td>Housing Association</td>
<td>1,700 (9.9%)</td>
<td>4,500 (21.1%)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban</td>
<td>103,900 (25%)</td>
<td>152,900 (32.8%)</td>
<td>206,700 (42.8%)</td>
<td>206,000 (41.2%)</td>
</tr>
<tr>
<td>Rural</td>
<td>63,200 (32.5%)</td>
<td>72,700 (37.7%)</td>
<td>95,600 (45.8%)</td>
<td>88,200 (44%)</td>
</tr>
</tbody>
</table>
### Household Demographics

<table>
<thead>
<tr>
<th>Description</th>
<th>2011</th>
<th>2009</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Households with children (dependent child(ren) under 16, includes lone parent households)</td>
<td>228,620 (33%)</td>
<td>211,900 (31%)</td>
<td>188,300 (29%)</td>
</tr>
<tr>
<td>Older households (one or more people, at least one of whom is of pensionable age: 65+ for men, 60+ for women)</td>
<td>198,220 (28%)</td>
<td>203,900 (30%)</td>
<td>201,000 (31%)</td>
</tr>
<tr>
<td>Lone Adult households (non-pensionable, under 65 for men and under 60 for women)</td>
<td>160,700 (15%)</td>
<td>92,300 (13%)</td>
<td>92,900 (14%)</td>
</tr>
<tr>
<td>Households headed by a person who is not working (includes unemployed, permanently sick/disabled, looking after family/home, student)</td>
<td>132,400 (19%)</td>
<td>157,200 (23%)</td>
<td>130,200 (20%)</td>
</tr>
</tbody>
</table>

### Benefit Statistics

<table>
<thead>
<tr>
<th>Benefit</th>
<th>Number of Claimants in Northern Ireland (2013)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing Benefit</td>
<td>165,000</td>
</tr>
<tr>
<td>Incapacity Benefit</td>
<td>24,340</td>
</tr>
<tr>
<td>Income Support</td>
<td>62,270</td>
</tr>
<tr>
<td>Income Support and Disability Premium</td>
<td>31,030</td>
</tr>
<tr>
<td>Income Support and Pensioners Premium</td>
<td>330</td>
</tr>
<tr>
<td>Jobseekers Allowance</td>
<td>63,580</td>
</tr>
<tr>
<td>Multiple Disability Benefit</td>
<td>281,550</td>
</tr>
<tr>
<td>Pension Credit</td>
<td>92,980</td>
</tr>
<tr>
<td>Pension Credit and Disability Premium</td>
<td>36,210</td>
</tr>
<tr>
<td>Retirement Pension</td>
<td>298,490</td>
</tr>
<tr>
<td>Severe Disablement Allowance</td>
<td>9,230</td>
</tr>
<tr>
<td>Widows/Bereavement Benefit</td>
<td>3,760</td>
</tr>
</tbody>
</table>
Appendix IV: Poverty in Northern Ireland Statistics


UK Median Income Levels and Poverty 2011/2012

<table>
<thead>
<tr>
<th></th>
<th>Single person with no children (£)</th>
<th>Couple with no children (£)</th>
<th>Single person with children aged 5 and 14 (£)</th>
<th>Couple with children aged 5 and 15 (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Weekly</td>
<td>Annual</td>
<td>Weekly</td>
<td>Annual</td>
</tr>
<tr>
<td>UK Median Income (BHC)</td>
<td>286</td>
<td>14900</td>
<td>427</td>
<td>22300</td>
</tr>
<tr>
<td>NI Median Income (BHC)</td>
<td>249</td>
<td>13000</td>
<td>372</td>
<td>19400</td>
</tr>
<tr>
<td>Relative Poverty Threshold</td>
<td>172</td>
<td>9000</td>
<td>256</td>
<td>13400</td>
</tr>
<tr>
<td>Absolute Poverty Threshold</td>
<td>177</td>
<td>9200</td>
<td>264</td>
<td>13800</td>
</tr>
</tbody>
</table>
### Average Income in Northern Ireland 2002-2012

<table>
<thead>
<tr>
<th></th>
<th>Before Housing Costs (£)</th>
<th>After Housing Costs (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002/2003</td>
<td>401</td>
<td>360</td>
</tr>
<tr>
<td>2003/2004</td>
<td>411</td>
<td>371</td>
</tr>
<tr>
<td>2004/2005</td>
<td>404</td>
<td>376</td>
</tr>
<tr>
<td>2005/2006</td>
<td>406</td>
<td>374</td>
</tr>
<tr>
<td>2006/2007</td>
<td>407</td>
<td>370</td>
</tr>
<tr>
<td>2007/2008</td>
<td>417</td>
<td>380</td>
</tr>
<tr>
<td>2008/2009</td>
<td>420</td>
<td>380</td>
</tr>
<tr>
<td>2009/2010</td>
<td>415</td>
<td>373</td>
</tr>
<tr>
<td>2010/2011</td>
<td>398</td>
<td>357</td>
</tr>
<tr>
<td>2011/2012</td>
<td>372</td>
<td>336</td>
</tr>
</tbody>
</table>

### Relative Poverty in Northern Ireland 2011/2012 (Total Population: 1,810,900)

<table>
<thead>
<tr>
<th></th>
<th>Number of Population Before Housing Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population not in relative poverty</td>
<td>1,432,000</td>
</tr>
<tr>
<td>Population in relative poverty</td>
<td>378,900</td>
</tr>
<tr>
<td>Children in poverty</td>
<td>94,500</td>
</tr>
<tr>
<td>Working age adults</td>
<td>212,900</td>
</tr>
<tr>
<td>Pensioners</td>
<td>71,600</td>
</tr>
<tr>
<td></td>
<td>Number of Population After Housing Costs</td>
</tr>
<tr>
<td>--------------------------</td>
<td>------------------------------------------</td>
</tr>
<tr>
<td>Population not in relative poverty</td>
<td>1,405,300</td>
</tr>
<tr>
<td>Population in relative poverty</td>
<td>405,600</td>
</tr>
<tr>
<td>Children in poverty</td>
<td>119,200</td>
</tr>
<tr>
<td>Working age adults</td>
<td>241,400</td>
</tr>
<tr>
<td>Pensioners</td>
<td>45,000</td>
</tr>
</tbody>
</table>

**Absolute Poverty in Northern Ireland 2011/2012** (Total Population: 1,810,900)

<table>
<thead>
<tr>
<th></th>
<th>Number of Population Before Housing Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population not in absolute poverty</td>
<td>1,388,700</td>
</tr>
<tr>
<td>Population in absolute poverty</td>
<td>422,200</td>
</tr>
<tr>
<td>Children in poverty</td>
<td>109,000</td>
</tr>
<tr>
<td>Working age adults</td>
<td>234,600</td>
</tr>
<tr>
<td>Pensioners</td>
<td>78,600</td>
</tr>
<tr>
<td>Population Category</td>
<td>Number of Population After Housing Costs</td>
</tr>
<tr>
<td>----------------------------------------</td>
<td>------------------------------------------</td>
</tr>
<tr>
<td>Population not in absolute poverty</td>
<td>1,380,700</td>
</tr>
<tr>
<td>Population in absolute poverty</td>
<td>430,200</td>
</tr>
<tr>
<td>Children in poverty</td>
<td>126,100</td>
</tr>
<tr>
<td>Working age adults</td>
<td>253,500</td>
</tr>
<tr>
<td>Pensioners</td>
<td>50,600</td>
</tr>
</tbody>
</table>