

25 Years of Unprotected Rights

Case Studies prepared to mark the 25th anniversary
of Ireland's ratification of the International Covenant
of Economic Social and Cultural Rights (ICESCR)
on 8th December 2014

Case study 1 - Right to social security – Risk of destitution from state recovery of overpayment & need to broader state legal aid for people on low income (provided by FLAC)

FLAC represented 'Anna' in her appeal against a decision of the Department of Social Protection to stop her One Parent Family Payment and recover monies paid to her to date as an 'over-payment'. The Department claimed that Anna was cohabiting with her former partner and wasn't entitled to the payment. As evidence, it claimed that her estranged husband used her address, that his car had been spotted outside her residence and that she had ticked a box on a form indicating that she was living with someone. However, Anna said that her husband had been advised by the Department itself to use her address when registering their child's birth; the car had been registered using her address because she also used it. She had ticked the wrong box in the form by mistake; further, a previous report from a Department inspection had stated that there was no suspicion of cohabitation. The Appeals Officer agreed cohabitation hadn't been proven and allowed the appeal.

- The protection of the right to social security in Article 9 of the Covenant is vital in the area of overpayments, as the process of recovery, made easier by a recent change in Irish legislation, risks pushing people below the poverty line set by the State itself. As an overarching issue particularly for people on low incomes, the need to ensure access to justice for people on low incomes is also crucial, as in the case above 'Anna' would not have been capable of arguing her case unassisted. The Civil Legal Aid system does not extend to Social Welfare Appeal cases, meaning that organisations like FLAC must try and bridge the gap in legal protection."

Case study 2 - Right to housing (provided by Mercy Law Centre)

A family who is homeless is currently living in a hotel on the outskirts of Dublin – parents and two children. The children are in school in Dublin 12, where they were in school before they became homeless. The children have to get three buses per day to and from school. The family is surviving on Jobseekers Allowance. They live in two hotel rooms. They have no access to a kitchen. They cannot cook a meal. They have not been able to cook a meal since August. They have to eat out at all times and so frequently buy food and eat it in the street. There are no supermarkets nearby and so they have to get the bus into the city to buy affordable food. They are spending €50 to €60 in bus fares per week. The children always late for school. As the law stands, there is no legal entitlement for this family to secure housing in the immediate term which would allow them a normal family life for their children. The right to housing, if in law, could help secure this family more appropriate accommodation that would avoid damage to the children and this family, that is currently being caused by this situation. This case study is just one example of the crisis of families becoming homeless at the moment.

Case Study 3 – Right to health (provided by Irish Heart Foundation)

Stroke survivors need access to acute and community rehabilitation to make the best recovery possible, or to enjoy their highest attainable standard of health. In Ireland, where a person lives still dictates whether they receive the rehabilitation and support they need after leaving hospital. A 2014 national survey of stroke survivors living in the community by the IHF and RSCI showed survivors face chronic service deficits - one in three have no access to physiotherapy and half can't get any speech and language therapy or occupational therapy. Just 11% have access to psychological services, despite the often severe mental health impact of stroke. 36% pay privately for rehabilitation. Further research from the ESRI & RCSI for the IHF published this year shows there is currently poor resourcing of and wide regional variation in community and inpatient rehabilitation for stroke survivors in Ireland. The research found significant regional variation in stroke rehabilitation services, such as physiotherapy and speech and language therapy, length of hospital stay, availability of nursing home places, community rehabilitation staffing and the intensity of therapy delivered in different locations.

Stroke survivor living in the South-East of Ireland: *“When I left the national rehab hospital I was happy to be going home but I wasn't by any means fully recovered. When I was discharged from the rehab hospital, all the therapies stopped. I had a brief stint in a local hospital but after that, nothing. I haven't had any Physiotherapy since. I have had some Speech & Language therapy, but this was provided in the geriatric unit. I was told that*

because I'm not over-65 or under-5, they have nowhere to 'treat' me. I'm too young, but at the same time too old, to get the services and supports I might need... Really, I felt that once I left the rehab hospital I was just left to my own devices."

Case Study 4 – Right to work (provided by the INOU)

Over the past while Ireland has seen a return to employment growth however there is a particular regional and occupational spread to this growth and so in many parts of the country unemployed people regularly ask “*where are the jobs everyone is talking about?*” Added to this reality is the precarious and piece-meal nature of much of the work that is on offer. The INOU spoke recently with one unemployed man who was anxious to return to work and was delighted to take up a job offer. Unfortunately for him the work was in a town in the neighbouring county, the hours were piecemeal and he found he was unable to retain the job as it was costing him too much to travel. Basically he has a 100km round trip for three hours work. A key phrase in Article 6.1 is “*to gain his living by work*” which clearly this unemployed man could not: to realise this right it is imperative that Ireland creates and maintains decent employment.

Case Study 5 - Right to an adequate standard of living (provided by Age Action)

A member of Age Action in her late 70s told us about losing her medical card. I first got the medical card when I was 70. It allowed me to go to my doctor without having to pay so I didn't have to worry about forking out €40 or €50. If I thought that there was something wrong I could go...so it meant I would deal with my health issues before they became worse.

I am in fairly good health but there were a couple of things that I got because I had the medical card. I developed bunions on my feet and it pushed in my toe so I went to the orthopaedic clinic and they gave me a sort of a boot that was covered by the card.

Then various changes came in and earlier this year I got a letter in the post – the tone was very bad, very much telling you what would happen if you didn't tell the truth about your means. I was able to get all the details but I thought that for anyone in their 80s or 90s it was very frightening. Then I got a card with DV only – doctor visit only – on it. A lot of people who lost the full card went to politicians to get sorted, but I think this is wrong. Then I got another letter about applying again for the full card so off I went back to the bank, back to wherever, I

was the whole summer filling in forms! I have written them a long letter and I think it will work.

Really the medical card gives people confidence and security. But not the doctor visit card, like if I had an emergency I would have to pay €100 in A&E. I live alone and if I had to get home help I wouldn't be able to afford it. I have lived and worked and held down a very responsible job and paid taxes of 48p in the pound and in my 70s I am being victimised for living life responsibly.

“Getting older means I cannot do a lot of daily tasks like mowing the grass or washing the windows. Now I have to pay for these jobs that I used to be able to do myself”.

“We are extra careful now with our money. We try to save on electricity by only turning on lights in the rooms we are in. We save on the heat but often this means my wife stays in bed late or goes to bed early”.

“The loss of the telephone line rental allowance was not good. We are very reliant on our main telephone (landline) as most of our family live in the UK”

The **ESC Rights Initiative** is a network of prominent NGOs such as Age Action, Amnesty International Ireland, All Together in Dignity Ireland (ATD), Children Rights Alliance, Community Action Network, Equality and Rights Alliance, Free Legal Aid Centres (FLAC), Focus Ireland, Irish Heart Foundation, Mercy Law Centre, Community Law and Mediation, Pavee Point and the Peter McVerry Trust.