

Working Notes Issue 38: Dying on the Streets

Retired Self-Employed

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A Penny-Pinching Pension Scheme

Social Insurance for self-employed persons was introduced in 1988. This was a progressive move, long overdue. Before the change, people who chose the option of becoming self-employed people were more at risk of insecurity and poverty in old age than those employed by others. Many thousands of self-employed, from small shopkeepers to bicycle repair men, were too poor to be able to negotiate their own personal insurance schemes and in old age they became a burden, grudgingly borne, on the state. In fact, notwithstanding the above title, many of the group on which this article focuses are not actually 'retired' since they cannot afford to retire. But they are at the age at which most of their fellow-citizens have retired.

The 1988 legislation was an attempt to change the situation. However, there was a sting in the small print of the legislation. Those who were aged 56 years and over in April 1988 were required to pay P.R.S.I. but could not qualify for the Old Age (Contributory) Pension. This was because they did not satisfy the standard requirement of having entered insurance at least 10 years before the pension age of 66 years.

This was such a glaring anomaly, that the government made a half-hearted attempt to rectify it in the Finance Act of 1999. This provided that the self-employed who have less than 10 years, but at least 5 years, P.R.S.I. contributions will qualify for half-rate old age contributory pension. This was not a wonderful improvement, but it was better than nothing. But, crucially, it left those who were aged 61 and over in April 1988 in receipt of no contributory pension whatsoever, even though they paid 100 per cent of their contributions when they were allowed to do so, i.e. from the age of 61 to 66, a period of less than 5 years.

The point must be made that if it is now considered a matter of justice that self-employed people should be allowed to pay P.R.S.I., then it was an injustice when they were not allowed to do so before 1988. It was not the fault of the poorer self-employed that they came to the end of their days uninsured. Thus the state should give them the benefit of any doubt in relation to any reasonable mechanism for correcting the situation.

Thus it seems quite reasonable that self-employed persons who happened to be older than 56 years in 1988 should at least be allowed to purchase the required number of years contributions at some appropriate rate. However the government has steadfastly refused to allow them to do this.

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Unfairness to a Vulnerable Group

The people affected by this policy are now over 68 years and many are over 70. For those living in rural areas the situation is particularly harsh because:

- In the sparsely populated areas there are few young or middle-aged women, so home helps and meals on wheels are not generally available.
- There is often no public transport (and therefore no free travel) within several miles. With the general increase in car numbers, travelling shops are a thing of the past. It is necessary to have a car, or to hire transport, to procure food, visit a post office or bank, or attend church.

For this particular age group paying for medicines is expensive. From July 1999 over £42 per month must be paid before the Drugs Refund Scheme will help.

It is unrealistic to regard the means-tested non-contributory old age pension as a just alternative to allowing those contributors aged 68-76 years to purchase their missing years of P.R.S.I. Experience has shown that old people who have saved money out of a meagre income consider the means test to be an invasion of privacy. Many will not subject themselves to this scrutiny, which is not required of many other categories of persons who are much younger and who receive State aid. Clearly many elderly contributors prefer to starve rather than reveal their private business or lie about their savings. In any case the rate of payment of non-contributory old age pension payable after means testing can be very low.

Effectively, the current regulations make distinctions between different groups of self-employed on grounds of age, which is contrary to the spirit at least of the most recent anti-discrimination legislation.

However even more striking are the distinctions made between the self-employed and other categories of citizens:

- A person who has been employed and paid P.R.S.I. for three years is allowed to buy P.R.S.I. to preserve their entitlement to pension. This provision is available regardless of means or income, provided one has not reached pension age.
- A widowed person can qualify for pension with only 3 years full P.R.S.I. paid, whether paid by self or spouse.

The Government's Response

The Department of Social Community and Family Affairs (DSCF) insist that there is no provision for retrospective payment of contributions to achieve entitlement to a contributory pension and that there are no plans to change existing arrangements.

The Department's only explanation for its age-related policy is that it wishes to ensure that entitlement to a pension is limited to those who have made some reasonable level of contributions to the Social Insurance Fund over a given period of time. The present policy shows great

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insensitivity, especially towards those contributors who are over 70 years of age and who paid 100% of their contributions in the years they were permitted to do so. They are powerless to change the 1988 provisions, which discriminated against them on the basis of age. The 1988 Act could have included the option to purchase P.R.S.I. for the required number of years. It did not do so, and the consequences for many elderly people have been years of worry about their old age, and frugal living as they eke out their savings.

During the years that these contributors have been given no chance to pay their shortfall in contributions, due entirely to their age in 1988, many of them have died. The rest are becoming older, weaker in physique, and isolated. The State on the other hand has made savings from the contributions they made and the pension they did not get. One dismissive gesture that was put in place in 1997 states:

In the event that a self-employed person has paid sufficient contributions to qualify for this new pension, the pension element (53%) of the paid PRSI contributions may be refunded, a facility which has been in place since 1997.

By implication this is an admission that there was an unfairness in requiring people to pay P.R.S.I. even though they would not gain a pension from it. Will the state now pay interest on these refunded appropriations, and make up for the loss in value through inflation?

A Law for the Rich and a Law for the Poor

Those elderly people who paid 100% of their contributions when they were allowed to pay, and who have no pension even though they are prepared to pay their shortfall, must marvel at the magnanimity of the State in respect of certain pensions:

- In 1999 legislation was rushed through to provide pensions to two judges who were alleged to have behaved improperly in office. There was no means test.
- In 2000 the Oireachtas legislated in regard to the pension of a third judge. His nine year's service was deemed to be regarded as fifteen for the purposes of the pension.
- In Partnership 2000 (negotiated in 1997) the right was granted to teachers, TDs and others to purchase (out of their retirement lump sum) P.R.S.I. pension entitlement for missing years
- In 1987 Civil Servants taking early retirement were granted up to 7 years free credit of contributions towards a pension.
- Government Ministers with only 3 years in office are entitled to a pension.

Incidentally, the State's new Old Age (Contributory) Pension 1999 has been much criticized for not being truly pro-rata. Those contributors with a shortfall of as little as 60 days (i.e. those who paid for 9 years and 305 days when they were allowed to contribute) do not receive even 9/10ths of the full Contributory Old Age Pension. They receive half instead. This 1999 provisions could easily have been set up as pro-rata by computer, since the Old Age Contributory Pension is a fixed sum.

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In the present period of economic prosperity, the next Budget should at least include the option for the former self-employed aged 68-78 years to purchase their shortfall. This is a compliant group, whose only faults are that they were over 56 years in 1988 and that they constitute too small and fragile a group to pose a threat to the government. They have been discriminated against since 1988 and time is running out for the State if it wishes to right this wrong.

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Introduction

During the summer two young men from overseas, both English-speaking and white, were taking part in a Catholic 'renewal programme' in Dublin. Part of the programme provided opportunities for getting in touch with the reality of poverty. The two men chose the option of staying in a hostel for the homeless overnight.

When the day came, they set off, separately, both 'dressed for the part'. But they never actually got to stay in a hostel. They spent the day walking the streets and standing in queues. They were turned away from some hostels because they were only looking for short-term accommodation or because the hostels had no emergency beds. They were directed to a homeless unit operated by the Health Board which directed them to another hostel where they were intimidated by young drug-users. At 9.30 p.m., still without accommodation, they gave up and went home, feeling very fortunate that they did have a home to go to.

When I recounted this story to people who work with the homeless none of them were surprised. Some of them estimated that there are about 250 hostel beds short in Dublin. As a society we were saying to about 250 people in Dublin each night, 'Sorry, but you have to sleep on the street' Yet almost everyone we consulted insisting that more hostel beds, while urgently needed, were not an adequate answer to homelessness. The situation is dire, but it is also complex.

Sleeping Rough

Although there are people to be found sleeping rough in a number of large Irish cities and towns, the problem is most acute in Dublin, and this article is devoted mainly to the problem in that city.

Estimates of the numbers sleeping rough in Dublin each night vary between 200 and 275[i]. If all of these people actually attempted to gain access to a hostel at the same time, only about a dozen of them would be successful, because there are so few emergency beds. There is a certain amount of circulation among the population sleeping rough. For instance one popular hostel operates a policy of allowing 'emergency' applicants to stay one night in four, with the likelihood that the other three nights are spent on the street.

Many of those sleeping rough never attempt to stay in a hostel. There are various reasons for this:

- Some do not have the energy or motivation to spend the day seeking accommodation, particularly as hostel staff may insist that they first visit the Homeless Unit in Charles Street.

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Many of these will have been discouraged by earlier lack of success or are disorganized and do not know how to access hostels. Many suffer from depression.

- Some are afraid of being beaten or robbed in a hostel and prefer to take their chances sleeping rough.
- Couples are separated in many hostels, and prefer to stay together on the street.
- A few are barred from hostels;
- Some are drug users. A heroin user may need to spend the day 'tapping' (begging for money), then finding a dealer, and then finding a place to 'shoot up'. This daily routine makes it difficult to spend time looking for a hostel bed.
- Most hostels do not allow clients to leave the hostel (except for some exceptional need) once they have booked in. This may be as early as 5 p.m. and at the latest about 8.30 p.m. Many people find this far too restrictive. Heavy drinkers are not allowed either to bring drink into the hostel, or to go out to a pub, so many prefer to sleep rough.
- Conditions in some hostels are still very unattractive, with only dormitory accommodation in some cases, especially for emergency beds, and little privacy. Since many hostel dwellers have psychiatric problems dormitories can be noisy and sometimes intimidating.
- The better hostels are relatively expensive, about £9 a night for an emergency bed. The Health Board will usually pay, but this involves a visit to Charles Street early in the day. Heavy drinkers or smokers, or drug users, will find it hard to put £9 aside for a bed.
- Some hostels insist on searching clients, and many object to this.
- Some homeless people keep dogs for company or protection, and these are not allowed in hostels.

Some of the hostels are homely, and do what they can to provide recreation for clients, such as snooker and videos. A few of the hostels have a strong religious ethos, though there is no evidence that this in itself makes the hostels unattractive. But some of these hostels are anxious to retain their independence, and are therefore reluctant to accept funding from public agencies that might improve their facilities, but could also put constraints on their style of operation. For instance, Dublin Corporation regards 8.30 p.m. curfews as unacceptable and would probably seek to change this if it offered funding. The commitment of volunteers in these hostels is huge.

At any rate, for all the reasons mentioned above, many people, about 250 in Dublin, are unable or unwilling to access hostels and for that reason end up sleeping rough. As stated, if they all did actually attempt to stay in a hostel, only a few would be successful.

Until recently one voluntary group in Dublin distributed blankets as part of a late night drop-in service. The pressure on this has been so great that in September it had to be discontinued, as the overnight supervisors could not handle it along with the rest of their duties. In the depth of winter

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the agencies provide a few extra emergency beds, perhaps 30 in all, but this winter things are looking particularly bad for rough sleepers.

Why the Shortage of Emergency Beds?

The shortage of emergency beds in hostels is due to the fact that currently very few single homeless people are being placed in permanent accommodation. This is causing back-up in the system. Long-term hostel beds are being occupied by people who should be living independently, and short-term and emergency beds are being occupied by long-term clients. In Cedar House, the principal provider of emergency places in Dublin, 45 of the 60 beds are occupied by regulars. The women's refuges are now full, and their long-term occupants are being referred to hostels instead of being placed in permanent accommodation.

The reason few single men are being placed is that, firstly, they were never a priority group for the local authorities, but, secondly, there is a severe shortage of suitable accommodation. In 1997 Dublin Corporation housed 160 (130 M; 30 F) hostel-dwellers in its own housing stock. In 1998 this figure had come down to 90 (77 M; 13 F), and in 1999 to only 30 (23 M; 7 F). One voluntary agency estimates that currently Dublin Corporation only houses one hostel-dweller per month on average. In spite of the pressure on housing, the number of homeless families housed by the Corporation in 1999 was still 80% of the number housed in 1997. The comparable figure for single people was only 35%. As Dublin Corporation increasingly runs short of accommodation, it is single people who are being squeezed out.

The pressure on local authority housing is currently enormous. Although the housing programme has increased substantially, demand outstrips supply. In 1996, 27,000 households in the state were assessed as in need of social housing; by 1999 this had risen to 39,000 families. Some local authorities, particularly Dublin Corporation, are rapidly running out of building land, and are also more likely to run into planning difficulties and local objections when they attempt to build, especially special purpose housing.

There is also a severe shortage of private rented accommodation, particularly at the lower end of the market:

- Because of the economic boom in Ireland many young people have moved to Ireland to work, many to low paid jobs in catering and retail. Dublin is a particular magnet for young workers from overseas and from other parts of Ireland. Most of these young workers seek private rented accommodation.
- The number of third level students seeking accommodation has been increasing. In 1988-89 there were 11,015 university students living in the private rented sector countrywide. By 1997-8 this figure had increased to 21,430.[ii]
- The increasing number of asylum seekers and refugees has put additional pressure on this sector. There were approximately 4,000 such families in private rented accommodation and a further 2,800 in bed and breakfast accommodation at the end of February 2000.

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- The dramatic escalation in house prices means that many young people who would formerly have bought houses or flats are now competing at the middle level of the private rented sector, with knock-on effects at lower levels.
- The demolition of large flat complexes by the Corporation is beginning to put pressure on the sector through a knock-on effect.

The end result of this pressure is plain to see on the streets of Dublin and other cities. The people at the very end of the queue end up sleeping in church porches, in doorways and in alleyways.

Which People end up on the Street?

People can end up on the street through sheer bad luck, but there are certain predisposing factors that increase a person's chance of becoming chronically homeless. Separation from wife or partner was the most frequently cited reason for homelessness[iii]. After leaving the family home, many were not able to afford private rented accommodation.

Many people working with the homeless cite alcoholism as the most common reason for homelessness. But alcoholism is often a factor in separation so the two factors can be interconnected. Alcoholics can lose control of their life and are often evicted by landlords for non-payment of rent or through barring orders. They may not be able to hold down a job and their disorganized life-style makes it difficult for them to secure accommodation. They may prefer to sleep rough because hostel curfews interfere with their drinking patterns.

One group with a high risk of becoming homeless are those who have been in care. This includes periods in reformatories or orphanages or in foster care. In one survey[iv] fifteen per cent of homeless men interviewed had been in care. People from a traveller background who were taken into care are at particular risk because they have become alienated from their own community.

People who spend periods in prison are also at risk of becoming homeless. Some prisoners do not declare the fact that they are homeless because they feel this may block their chances of temporary release. They then present themselves to referral agencies only on the day of release and do not always get a place to stay.

Apart from these factors, and the general shortage of accommodation, the increase in the numbers of homeless people has other, contemporary, reasons:

Drug addiction has led to many people leaving home or being evicted, and their chaotic lifestyle and lack of finance leads to many sleeping rough. Unfortunately if they have no fixed abode it is very difficult for them to get treatment, so their situation gradually becomes chronic

There has been an increase in family breakdown. Part of this is due to the introduction of divorce, but, additionally, spouses, especially females, are now more ready to take out barring orders against aggressive or violent spouses or partners, or to leave the household.

The number of evictions of tenants by local authorities has risen sharply because of the new anti-social legislation and the way it is interpreted.

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The economic boom has put upward pressure on rents and many people who could just about manage can no longer afford to pay.

Many landlords are doing very well providing accommodation for asylum seekers. The Health Boards pay top rates, and block book many facilities. In general asylum seekers are very good tenants, paying their rent regularly or having it paid for them. In this situation there is direct competition arising between homeless people and asylum seekers. Many landlords will not now accept deposits or rent allowances paid by the Health Board Homeless Unit, as they regard 'homeless' people as trouble, and there are plenty of asylum seekers and students to take their rooms. There is no sign of any agency block renting houses and apartments for the conventional homeless.

Health and Homelessness

Not all homeless people are sleeping rough. The term 'homeless' is used to cover many categories of people, namely:

persons living in temporary insecure accommodation,

persons living in emergency B&B accommodation, hostels, or health board accommodation,

victims of family violence

rough sleepers.

There are about 3,000 people in the former Eastern Health Board area who are homeless, with about 300 sleeping rough at any one time, though there is considerable circulation among this 300.

The health of people who sleep rough all or most of the time suffers more than those living in hostels. Unfortunately it is hard to determine this exactly, as the only surveys available have been carried out among hostel dwellers, most of whom only sleep rough occasionally. The Centre for Housing Policy in York estimates that many men who sleep rough live only until their mid to late forties. The prevalence of infection, physical disease, and particularly mental health problems are very high. Tuberculosis is very common among those sleeping rough, and younger men have high levels of HIV and hepatitis infection. Prolonged exposure to cold puts strains on the heart, and high levels of stress is associated with a raised incidence of cardiovascular disease and cancer.

But hostel dwellers too suffer from poor health. In the SLAN survey only 58% rated their health as good or excellent, compared with 84% in the general male population. In the York survey 55% of hostel-dwellers reported health problems.

In examining the health of homeless people, it is not easy to disentangle cause and effect. Sometimes an underlying health problem may be a major factor in making a person homeless in the first place.

In Ireland, a majority of hostel dwellers have mental health problems. A 1999 survey of hostel-dwelling men in Dublin[v] revealed that 64% suffered from depression, chronic anxiety, or other

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mental illnesses. This is much higher than comparable figures in the U.K. In a survey carried out by the Centre for Housing Policy in York only 21% of hostel dwellers were found to have mental problems.[vi] In a Northern Ireland survey the comparable figure was 37%[vii]. The difference may be due to the fact that people with chronic mental illnesses are better looked after in Britain. In Ireland the trend towards so-called 'community care' meant that many people were discharged from the traditional mental hospitals with nowhere to go, and no back-up from the health services. In the last couple of years there have been harrowing cases of people suffering from schizophrenia being evicted by local authorities onto the side of the street where they were immediately reduced to sleeping rough. Some of the hostels for homeless are effectively providing a service that the larger mental hospitals were doing a few decades ago. But hostel wardens also admit that they have had to bar some mentally disturbed clients because they are unable to handle them.

Alcohol addiction is also a problem. Again, for reasons that are less clear, it is much higher among hostel-dwellers in Ireland than in England. In Ireland the 1999 survey showed that 50% of hostel dwellers were dependent on alcohol, with 29% suffering severe dependence. The comparative U.K. figures are 16% (dependence) and 11% (severe dependence)[viii]. Hostel superintendents stated that alcohol abuse is a frequent reason for evictions in Ireland. People who abuse alcohol may annoy and abuse their neighbours, fail to maintain their houses or flats in good order, and are unable to pay their rent. Again, eviction may be carried out by local authorities, with no back-up from health or social services. In the U.K. there may simply be a more caring attitude towards those suffering from alcohol dependence than in Ireland, which accounts for the smaller numbers of them that end up on the street there.

Of course it goes without saying that being homeless is also likely to precipitate or aggravate alcoholism, depression or anxiety. Most homeless people wander the streets all day. This is true whether they are in a hostel or sleeping rough. Most hostels will not allow clients to stay between 10.00 a.m. and 6 p.m. In many cases hostels do not allow clients to leave any belongings in the hostel so that they are forced to spend the day "carrying their home in two carrier bags" until it is time for them to seek readmission to the hostel.

Homelessness of families is particularly hard on the children. For instance parents may be confined to one small room with young children for prolonged periods. Poor diet, stress, cold, damp, along with inadequate sanitation and food storage or preparation facilities increase the risk of health problems for all the family. There is an increased risk of accidents because of limited play space and difficulties in making things such as kettles and irons safe. Homeless children are reported as showing behavioural disturbance, depression, disturbed sleep, bed-wetting, toilet training problems, and violent mood swings. Stress among parents often leads to violence against their children.[ix]

One group of people not usually categorized as 'homeless' are members of the Travelling Community. Yet 6,500 of them live in unserviced sites on the side of the road. These lack access to regular refuse collection, running water, toilet, baths and showers, access to electricity and fire precautions. Needless to say, their health suffers in these conditions, and travellers have a notably lower life expectancy than the settled population. What is not often adverted to is the number of

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travellers who would much prefer to live in a house if they could get one. About 1,400 traveller households (representing about 8,800 of the traveller population) are currently seeking houses.[x] However it seems clear that they are not a priority homeless group, partly because the local public support which is needed to house them is lacking.

Role of Housing Associations

Professionals involved in the housing of the homeless assert that voluntary housing associations have a key role to play in providing accommodation for homeless people. Many housing associations, like HAIL or Focus, have the ethos of caring which is needed to make a success of a challenging task. However their role in this is hampered by the lack of support from government and various agencies. In the first place there is a shortfall in the capital provision in respect of single dwellings. Housing Associations often have to provide 5-10% of the capital cost of single dwellings, whereas they can generally secure almost 100% funding for family units.

More serious than this, however, is the fact that there is no defined stream of funding for the ongoing costs associated with housing homeless people. The support that many homeless people need to make a success of independent living is considerable. Many of them have multiple problems, such as depression or alcoholism, lack of funds, poor physical health, no domestic skills and so on. They usually need 'professional' befriending, support from mental health groups, attention from social and community workers and so on. Voluntary housing organizations such as HAIL are forced to devote considerable resources to fund-raising to provide the services needed for vulnerable tenants. Crucially, there are very few psychiatric social workers in Ireland. Although the will seems to be there on the part of state agencies to improve this situation, there are now serious recruitment problems. However, voluntary groups such as Schizophrenia Ireland and Aware could fill many of the gaps if the state would give them adequate funding.

The Mental Health Association of Ireland, through its local network, is one of the main providers of accommodation for people with mental health problems. It maintains hundreds of houses and flatlets in various parts of the country and is in a good position to give the kind of support its tenants require.

Nevertheless, given the lack of funding for housing and servicing single people, it is not surprising that most housing associations tend to concentrate their efforts on family housing, for which there is also strong demand.

What Can be Done?

Like many other problems in Ireland, the attitude of state agencies to people sleeping rough has been beset by fatalism. One hears comments like: 'You will always have people sleeping rough' or 'people sleep rough prefer it because they find it too difficult to live in a house' or 'It is all due to drink'. Sometimes structural rather than personal reasons are adduced, such as 'It is impossible to get sites for local authority houses'.

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Nevertheless it is striking how forcefully accommodation problems have been tackled in other cases. For instance, the Health Boards have managed to house with reasonable success about 15,000 asylum seekers in the past four years. The reason for this is that the government has decided that they will not have it said that they are leaving asylum seekers on the street. For one thing, if they did, the UN High Commissioner for Refugees would have something to say about it, and Ireland would get a bad international press. But there is no High Commissioner for Rough Sleepers. So the will is simply not there to find a solution to that particular problem.

Another accommodation problem that has been addressed with more vigour than rough sleeping is that of Affordable Housing. Because of house price inflation many young couples can no longer afford to buy their own house. As one aspect of this a system has been introduced whereby developers have to make available for low-cost housing up to 20 per cent of residential zoned land at 'existing use' value i.e. at the going rate for agricultural land if it was formerly used for agriculture. This required the passing of the Planning and Development Bill 1999, which was radical enough to be referred by the President to the Supreme Court. But nothing radical has been devised to address the problems of the mentally ill who are dying prematurely on our streets.

And if the problem is so intractable, why have other jurisdictions had more luck with it? For instance in London in 1991, just over 1,196 people were found sleeping rough on Census night. By February 1996, under an initiative of the Labour government, the figure had fallen to 270. This is about the same as the current number of rough sleepers in Dublin, which has only one eighth the population of London. In Glasgow, not only has sleeping rough been almost eliminated, but hostels are being closed as well, as people are rehoused in conventional accommodation. Finland is another country that has had spectacular success in tackling its serious homelessness problem. Much nearer home, there is no official evidence of anyone sleeping rough in Northern Ireland in recent times.[xi]

In order to address the problem of rough sleeping, a number of initiatives have to be addressed in parallel:

Firstly, there is an urgent need for some additional hostel beds to get people in from the cold and rain. Some of these would need to be 'wet' hostels, where heavy drinkers are tolerated, and something similar, such as 'crash pads' is required for drug addicts. There is also a particular need for family hostels.

Secondly, additional housing needs to be provided more urgently by Local Authorities and Housing Associations, in a variety of unit types, to allow people to move on from hostels into permanent accommodation. A number of initiatives have been taken by local authorities in this regard, but the pace is simply too slow. It is reckoned that about 500 people could move from hostels to conventional accommodation, if they were given adequate support. Housing Associations should have no disincentives put in their way in relation to the housing of single people. Accommodation, whether in hostels, conventional units, or rented accommodation, should also be provided or encouraged in the suburbs, as there is a drift of homeless people into the city centre, where they have no support networks.

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Thirdly, the planned support services need to be implemented with greater urgency. At the moment the Eastern Regional Health Boards are recruiting people for multi-disciplinary outreach teams to deal with homelessness. These would include a public health nurse, drug addiction worker, psychiatric nurse, and social worker. These will try to link the homeless with the mainstream health services. Action to prevent people becoming homeless in the first place is also to be a priority, with a named Health Board person coordinating responses of the agencies. This would, for instance, prevent the practice already alluded to where people suffering from schizophrenia are evicted on to the street for 'anti-social behaviour'. Particular attention needs to be paid to those being released from prison or discharged from psychiatric hospitals to prevent them drifting into homelessness. The general lack of treatment and resources for drug addiction is a wider issue that contributes greatly to homelessness.

Fourthly, in order to help people move on from hostels to conventional housing there is a pressing need for transitional housing, such as Cuas, the unit operated by the Simon Community in Dublin. In this type of small unit people are given a chance to prepare for reintegration through support such as counselling, help with addiction, and sheltered employment. There is also a need for more sheltered accommodation for specific groups, such as those suffering from mental illness.

Fifthly, the local authorities and health boards will have to rethink current policies in regard to eviction of families for anti-social behaviour. There are signs that this is already happening. Other solutions must be sought. Indeed, other solutions have to be sought where an 'anti-social' family owns their house, which happens more often now in local authority 'areas'. In this case they cannot be evicted. This is not in any way to understate the degree to which individuals from a few families can destabilize whole communities, for instance through drug-dealing or intimidation.

There are currently a few pilot schemes in train to try to help 'anti-social' families to deal with their problems. But at any rate, the policy whereby neither the local authority nor the Health Board have any responsibility to re-house an evicted family is simply unjust, because it amounts to a contemporary form of 'debtors prison' and puts peoples lives in danger. Moreover, innocent members of families can be badly damaged by evictions. And in some cases people evicted for 'anti-social' behaviour have simply been mentally ill. Some alternative accommodation must be offered to evicted families where, as generally happens, they cannot afford private accommodation. Being forced to move house is still a considerable sanction, and if their new accommodation is known, it is easier for drug-dealers to be tracked. There may also be the possibility of instituting some type of 'barring order' against an individual rather than evicting the whole family.

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Notes

[i] Recent studies have been carried out by the Dublin Simon Soup Run, Focus Ireland, Dublin Corporation, and the E.S.R.I. See Department of the Environment and Local Government, Homelessness - An Integrated Strategy for an official overview.

[ii] Emmet Oliver, 'Number of students renting accommodation doubles'. Irish Times, 11 September, 2000.

[iii] Anne Feeney et al., The Health of Hostel-Dwelling Men in Dublin, Royal College of Surgeons in Ireland and Eastern Health Board, March 2000, p.18

[iv] Anne Feeney et al., The Health of Hostel-Dwelling Men in Dublin, Royal College of Surgeons in Ireland and Eastern Health Board, March 2000, p.19.

[v] Anne Feeney et al., The Health of Hostel-Dwelling Men in Dublin, Royal College of Surgeons in Ireland and Eastern Health Board, March 2000.

[vi] Centre for Housing Policy, University of York, ' Health and Homelessness in London'. www.york.ac.uk.

[vii] McGilloway, Sinead and Michael Donnelly, The Impact of Environmental Factors on Mental Health. Health and Health Care Research Unit. The Queen's University, Belfast.

[viii] Gill B. et al., Surveys of Psychiatric Morbidity in Great Britain, Report No.7: Psychiatric Morbidity among Homeless People. London, HMSO. 1996.

[ix] Centre for Housing Policy, University of York, ' Health and Homelessness in London'. www.york.ac.uk.

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[xi] Committee on Economic Social and Cultural Rights, 'Implementation of the International Covenant on Economic, Social and Cultural Rights, - United Kingdom of Great Britain and Northern Ireland'. www.hri.ca

The Commission on the Private Rented Sector- A Reaction

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Table 2. COMPARATIVE PERCENTAGES (1991)

Country	Owner-Occupied	Private Rented	Social Housing	Other
Germany	38	36	26	0
Netherlands	47	17	36	6
Sweden	43	16	22	19 [co-op]
IRELAND (1995)	72	15	11	2

The reasons for the strength of the owner-occupied sector need not detain us. No doubt cultural and historical factors have led to a strong desire on the part of Irish people to own their dwelling rather than rent or lease it. Traditionally, government policy on housing has had two goals: to provide adequate housing for all, and to promote owner-occupation. As the '70s and '80s wore on, the latter goal began to take precedence to an excessive and unbalanced extent. The NESCS A review of housing policy (1988) was critical of governments' failure to protect the private rented sector. However, the government of the day, as reported in *The Irish Times* (15/3/89), stated that it would reject much of the report, and a spokesman later added that 'the overall government objective would remain that of promoting home ownership.'

However, the proportion of the stock which is owner-occupied appears to have levelled off in the '90s at around 80%. More striking is the increase, both absolutely and comparatively, in the size of the private rented sector since the beginning of the decade. While an absolute increase in the number of private rented dwellings is notable, it is not entirely surprising given the overall surge in house-building during the boom years of the decade; but that the growth should have been so proportionately greater than in the owner-occupied sector is striking.

In 1991, 81,400 households (8% of the housing stock) in 1991 belonged to the private rented category; according to Labour Force estimates, by 1997, 131,600 households (11%) belonged to that category. On the other hand, there is a marked decline since the 1960s, both proportionally and in absolute numbers, of the number of houses coming under the heading of social housing. All of these factors, as well as others, indicate an increased reliance on the market for provision of housing, whether for buying or renting.

The private rented sector is increasingly being utilised for housing people on low incomes. This is reflected in the steep rise in the amount of money paid in the form of rent allowance to tenants under the Supplementary Welfare Allowance (SWA): 2

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Table 3: Rent Allowances Paid

1989: £9m.

1991: £14.4m

1997: £75.3m.

1998: £88m

1999: £115m. (estimate)

At present, it is estimated that one third of all such private rented households are in receipt of SWA rent allowance.

Overall, from being a residual and declining sector, the private rented sector is growing and becoming more important.

The sharp increase in housing prices is well-documented elsewhere. Similarly, rents have risen steeply also. The growing interest of investors in the private rented sector has helped to increase the supply, but the demand considerably exceeds the supply.

Insecurity of Tenure

The Irish private rented residential sector is made up of a number of sub-sectors. A rapidly dwindling sub-sector is the old rent-controlled sector, which is regulated by the Housing Acts of 1982 and 1983. The particularly rigid form of rent control which governed such tenancies (involving indefinite security of tenure along with frozen rents) was deemed unconstitutional in 1981. The rest of the private rented sector has no form of rent control, and security of tenure is no more than from week to week. Some tenancies are based on leases, but these are rare and occur only at the upper end of the market.

Overall, the private rented sector is largely unregulated. In the 1990s, regulations were introduced governing the registration of such premises with the local authority, the maintenance of standards, and certain other details. The tenants' rights under these regulations include the following:

A notice to quit must be given in writing 28 days notice in advance.

The landlord must provide the tenant with a rent book, which must include names, terms, amount of rent, amount and purpose of deposit, and inventory of furnishings.

The landlord is to comply with the Standards in Housing Regulations Act 1993: proper repair, sink with hot and cold water, toilet and bath facilities, etc.

The landlord must register the dwelling with the local authority. 3

These rights are relatively new, but rather difficult to enforce. Threshold estimated in 1997 that less than 1 in 5 tenancies had been inspected by the local authority. In addition, it appears that only a minority (estimated varyingly at between 20-30% of landlords are registered.⁴ The current tax allowance for those under 55 is £500; but many landlords reluctant to take tenants who intend to claim it. In a number of cases, landlords gave notice to quit to tenants who asked the landlord's RSI.

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Overall, the group with the greatest interest in having the standards enforced, viz. tenants, have good reason to avoid being in any way involved. This is because tenants effectively lack security of tenure and may be required to quit for any or no reason.

Without the core-right of some security of tenure, enforcement of other rights is often impractical. This is a serious problem, as the Report acknowledges.

The Commission's Report

The Report of the Commission on the Private Rented Residential Sector⁵ reflects a growing awareness on the part of the government that the legislative framework dealing with the private rented sector⁶ has long been unsatisfactory and that recent trends indicate that the private rented sector will become more, and not less, important in future years.

There are two major issues concerning the private rented sector at present. The first is the shortage of suitable accommodation, whether for owner-occupation or for renting. The current supply-side bottleneck is not peculiar to the private rented sector. The second is the vexed issue of providing an appropriate balance of rights between landlords and tenants. Given the negative effects of rent control in the past, it is important that reforms undertaken with respect to the second issue should not be such as to deter investors in the market. Accordingly, while the focus will be on the second issue, the first issue's relevance must not be ignored.

Throughout, the Report takes pains to emphasize the importance of encouraging future investment in the private rented sector and hence the necessity of balancing this consideration with the need to improve the legal entitlements of tenants.

The Commission's Proposals

The Report's main proposals⁷ are: (1) to establish a Private Residential Tenancies Board, to deal with landlord-tenant disputes, and (2) to provide for security of tenure of up to 4 years for tenants who have completed 6 months' tenancy.

These proposals may seem modest enough but they were not unanimously accepted by the members of the commission. As the Report brings out (sects. 2.4 and 8.2), those seeking private rented accommodation vary greatly in their needs: they range from such relatively transitional groups as immigrants, workers who need to be able to move at short notice, and persons undergoing breakup in relationships, to more stable groups for lower-income single persons, retired persons who wish to shed ownership responsibilities. Thus, for instance, while a lease of some duration provides a measure of security of tenure, the reciprocal obligations on the tenant may be undesirable for short-term tenancies. It is, then, not easy to formulate far-reaching proposals which would be satisfactory to all.

The proposal for a Tenancies Board merits full support. The more disputes between landlords and tenants can be handled by such bodies instead of by the courts, the better. The Rent Tribunal set up

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to deal with the formerly rent-controlled tenancies has been quite successful, and something similar should be worked towards other tenancies.

The Report's proposal for improving security of tenure is modest⁸. It proposes that any tenant whose tenancy has lasted 6 months should be statutorily entitled to continue in occupation for up to 4 years. The landlord shall be entitled to recover possession during the 4-year period only if the tenant violates the agreement or the landlord wishes to sell or renovate the premises in such a way that vacant possession is required.

Additional Measures Needed

The Report suggests, almost in passing, that 'Safeguards, such as applying a burden of proof on landlords, will also need to be introduced to protect tenants from eviction in circumstances where the tenant has made a complaint or taken other action in pursuit of compliance with the provisions of the statutory regulations applying to the sector.'⁹

This is important, but underdeveloped. It is contained in the context of discussion of the landlord-tenant relationship during the 4-year period of security of tenure. Yet there is no reason for not applying the same principle to any time of tenancy. It is unreasonable that a landlord should be able to evict a tenant at any time simply because the tenant has sought to have his rights vindicated at law. It is unreasonable to the point of being an outright injustice that the law should allow a tenant to be evicted where the eviction arises from the landlord's breaking the law.

In line with the above, additional legislation could be proposed along the following lines:

Security of Tenure, Registration and Standards: Can we learn from the U.S.?

(1) In many US states, the courts will not grant possession of the premises to a landlord (apart from cases where the tenant has violated the agreement or the landlord needs to sell the property) within 6-12 months of any (successful) legal action by a tenant against a landlord for failure to maintain the premises or fulfil any other obligations. The courts will presume that a suit for repossession in such circumstances is vindictive.

Effectively, this means that a tenant who has successfully sued the landlord in court for failure to carry out repairs is entitled to a subsequent 6-12 months security of tenure. This should be introduced here. The fairness of such protection is obvious enough. In Ireland, the absence of any such protection at law is a significant deterrent to the tenant from seeking the proper maintenance of the dwelling to which he is entitled.

It is also reasonable to assume that the above-mentioned provision in US law factor helps to deter landlords from letting the property deteriorate. When the issue of enforcement of standards is raised, it is generally admitted that it is hard for the local authority to achieve this. Accordingly, serious thought should be given to the idea of giving the tenant, who is the person most negatively affected by the landlord's failure in this regard, an interest in drawing the courts' or the local authority's attention to this failure and protection against any subsequent victimization by the landlord.

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(2) Furthermore, in many US states, it is the tenant's obligation to report substandard sanitation conditions to the local authority. This tends to raise the likelihood that accommodation standards will be met. Again, failure to protect the tenant against vindictive eviction on foot of such reporting would be unfair and would severely discourage tenants from doing so.

It is recommended then that the obligation to report significant sewage or toilet disrepair or substandard sanitation to the local authority, and that, where the tenant has done so, he or she may not be served notice to quit until the premises has been inspected by the local authority. In the event of the local authority inspector upholding the tenant's claim, no notice to quit may be served until after court hearings. If the court convicts the landlord, then no notice to quit may be served for the following twelve months.

(3) Failure of the landlord to register the premises with the local authority could be dealt with effectively and cheaply by giving the tenant an incentive to ensure that it is registered. The incentive would be the automatic awarding of entitlement to a year's undisturbed possession.

No doubt many landlords will be appalled at such suggestions, and argue that they will deter investors. Yet these are not burdens placed on landlords generally.

Landlords can easily avoid such burdens by complying with the law on registration and standards.

It is important to note (as the Report does not appear to do) that failure on the part of landlords to register and to meet standards are an attack on the tenant's interests, and not just a general violation of the law. It is only fair then to ensure that tenants who seek to vindicate their rights are not victimized as a result; it is also good public policy to give tenants an interest in ensuring that the landlord's obligations are met.

If such provisions were enacted, one could assume that it would lead to an improvement in standards and an upsurge in registration by landlords anxious to avoid having to give tenant's an extra period of security of tenure. Those landlords who would feel most burdened by having to do so will know exactly how to avoid having to do so: comply with the law as it currently stands.

Rent Control

The Report holds (sect. 4.3.5) that it is mistaken to suggest that rent control per se is unconstitutional. Thus, where a reasonable balance between the interests of landlord and tenant have been struck, rent control could be constitutionally acceptable.

The historical context here is that of the Supreme Court decisions in the early 1980s, notably the Blake and Madigan cases, which struck down rent control as it then operated. The form of rent control involved was rent freeze, and was accompanied by indefinite security of tenure. In the interest of constitutionally protected property rights, the court struck down the Rent Restrictions Acts. The Report notes that in other cases the Supreme Court has balanced property rights against the principles of social justice, indicating its view that property rights may be restricted in the interest of the common good.

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Surprisingly, the Report does not note the strongest argument against the claim that rent control has been held to be unconstitutional. In its judgement in the Blake case, the court carefully and explicitly limited what it was rejecting as unconstitutional, holding that the particular kind of rent control involved (i.e. rent freeze) was unconstitutional when taken in conjunction with indefinite security of tenure, and indefinite security of tenure was unconstitutional when taken with rent freeze. This leaves open the possibility that either on its own could be constitutional.

Most people would accept that rent freeze is normally unreasonable, since it makes no allowance for inflation and rising market prices; and it would certainly deter any investor. However, many countries do employ (typically at the local authority level) a form of rent control, typically limiting rent increases to the annual increase in the overall consumer price index.

There seems to be no good reason why local authorities could not be given the legal power to introduce that form of rent control for a period of, say, up to 5 years, and thereafter renewable only annually. Such an instrument would be usable only under special circumstances, e.g. severe housing shortage leading to rent inflation. While there would be a certain risk of 'normalisation' of such an emergency measure (as happened in the case of the earlier form of rent control which was introduced as a temporary emergency measure during World War I, only to be made permanent in subsequent years), the fact that it would not be accompanied by long-term or indefinite security of tenure should suffice to ensure that the measure had no seriously negative impact on the supply side of rented accommodation. At the same time, the wider culture in the western world is (as the Report notes in chap. 3) moving away from institutionalised long-term rent controls and more towards encouraging investment. It seems unlikely that such measures would become permanent and damaging.

Whether this would be good policy is less clear; but the idea that such an approach has been held to be unconstitutional by the court's decisions concerning the Rent Restrictions Acts is quite unsupported, and if anything undermined, by the Supreme Court's judgements in this area.

Ethical Issues

At a time of major economic boom, with enormous growth in wealth for many groups in Irish society, it still has to be acknowledged that wealth-increase does not occur for all. Some groups are on relatively static incomes. When the economic boom (through the pressure it puts on an inadequate infrastructure) begins to move the cost of meeting a basic need beyond the reach of such groups, the public authority has a certain duty to help.

On the financial level, through the sharply increasing amounts of subsidy in the form of rent allowance, the public authority is meeting that need to some extent. However, since that subsidy goes directly to landlords, the public authority has reason to ensure that this subsidy is being well-used. To put it baldly: from a time (in the 1980s) when the state spent only a few million punts on such subsidy to today when the bill is well over £100 million and growing, the state has moved from having little invested in this sector to giving it a great deal. It too has an interest in ensuring that standards are met, as well as an obligation in justice to tenants who have very few rights, and none that are practically enforceable, for want of security of tenure, at law.

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The right to shelter is probably the most basic human right, after the right to life and bodily integrity; it is more basic than the right to work, the right to an education or health-care, since none of the latter can be met unless the right to shelter has been met.

Because over 80% of the population of the Republic live in owner-occupied accommodation, we are a nation of landlords, and think rather like landlords, in the sense that we tend to assume that owning a house or flat and having a home mean the same thing. In other words, we tend to think of the right to shelter as a kind of property right, rather than a human right. Our culture is uncomfortable with the idea that one's home may be owned by somebody else.

In 1989, the Jesuit Centre for Faith and Justice commented:

The homeless are not just those who have no roof over their heads: people in Simon hostels do have shelter, but they are still homeless people. The homeless are those who have no reasonably secure place to stay where they can establish what the average human being would call a home. A rough definition of 'home' is shelter plus security for a period of time. As a matter of justice it is not good enough that people in private rented accommodation merely have a roof over their heads; they need homes, in the sense of having a reasonable measure of security, so that they are not vulnerable to being moved on from week to week at the arbitrary will of the landlord. There is no particular reason why they must personally own property in order to have a home. A private rented dwelling is the landlord's house, but it is - or ought to be - the tenant's home. 10

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Notes:

1. Report of the Commission on the Private Rented Residential Sector: Department of the Environment, July 2000. References to this document will be abbreviated as 'Report'.

2. See Bacon II, 21/2.2.4.

3. As regards rent support, the tenant is entitled to (a) tax relief at standard rate for under 55 (marginal rate for over 55) to £500 (1,000) for single person, £750 (1,500) for widowed, £1,000 (2,000) for married person; and (b) if the tenant is on a FAS scheme, claiming social welfare or working part-time, s/he may qualify for rent allowance from the Community Welfare Officer or local health centre.

4. See Drudy, 34.

5. Hereafter referred to simply as 'the Report'; all page-references are to the Report, unless otherwise stated.

6. The report is not concerned with the private rented commercial sector, which is governed by different pieces of legislation.

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7. This phrase is generally to be taken as referring to the majority view of the commission.
8. See sect. 8.5.
9. Sect. 8.5.4 (emphasis added).
10. 'The shadowy world of private rented housing', *Doctrine and Life* 39, (May/June 1989).