

Voice

Influencing Social Policy

The Citizens Information Board aims to influence policy developments by highlighting the concerns of service users as to the effectiveness of public and social services.

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Travel and Transport and Access to Social Services



A new Citizens Information Board (CIB) Social Policy Report to be published shortly deals with a range of issues experienced by the public in relation to travel and transport and access to social services. The report is based on feedback from Citizens Information Services (CISs) and community / voluntary disability advocacy projects funded by CIB. Among the issues highlighted in the report are:

- Lack of public transport in many rural areas and inability to avail of 'free travel'
- The continuing poor accessibility of some public transport, particularly outside the main cities
- Limitations of current transport and mobility support schemes
- Difficulties in getting transport to and from hospital services
- A heavy reliance on Supplementary Welfare Allowance Exceptional Needs Payments to cover the costs of transport to and from hospitals
- Transport and the cost of disability; people with disabilities regularly incur taxi costs in accessing services

- Impact of lack of appropriate transport on people with disabilities taking up employment or training opportunities
- Difficulty experienced by some people in accessing information about public transport, transport options and transport supports.

There is a need for greater equality of access to transport and mobility supports across all categories of disability and mobility deprivation. The difficulties experienced by people with the various transport/mobility support schemes suggest that they be reviewed with a view to achieving better resource efficiencies and greater integration. The schemes include the Mobility Allowance, the HSE Hospital Transport Scheme, the Disabled Drivers and Passengers (Tax Concessions) Scheme, the Free Travel Scheme and assistance under the Supplementary Welfare Allowance Scheme. The present situation where State funding is provided for a range of parallel and fragmented transport and mobility support initiatives frequently operating independently of each other is unlikely to be the best use of resources. (CIB previously called for the amalgamation of these supports in submissions).

The report suggests that in line with the Government's commitment to mainstreaming, the Department of Transport should take a lead role in bringing together the different government departments and statutory agencies in order to provide an integrated planning and implementation approach to accessible public transport, including the Rural Transport Programme. In developing a more integrated approach, further transport provision by voluntary organisations and the HSE and how these fit with the Rural Transport Programme should be included in the evaluation. Also, since sustainability is a key factor, public transport policy needs to be fully integrated with other policies – those in relation to spatial and regional planning, as well as education and health policies.

Policy Issues

Downturn

The effects of the downturn are being witnessed by CISs around the country, particularly in the number of clients seeking information about job loss and redundancies. In the first 6 months of 2009 there were over 400,000 callers to CISs. One in five social policy returns in this period related to employment rights issues. Cases have been reported by CISs of employers letting their

employees go without giving them their entitlements to redundancy, minimum notice or outstanding holiday pay. Employees have also faced long delays in seeking redress. Complaints are regularly received about the selection processes for redundancies used by employers.

Many centres have reported that those who are laid off temporarily or put on short time are being compelled by their employers to seek redundancy themselves rather than being made redundant by the employer; even though it is clear that a redundancy situation exists. In such situations, employees can lose out on pay in lieu of notice as they forfeit their entitlement to minimum notice if they seek redundancy.

In cases where workers are faced with a reduction in their hours or pay, employers are obliged to reach agreement with their workers before implementing any changes to their terms and conditions of employment. However, this does not always happen and changes to work practices may be implemented unilaterally without agreement from workers. In such situations workers do not always feel they are in a position to oppose the cuts. This is particularly the case where an employee is on a work permit.

The Employees (Provision of Information and Consultation) Act 2006 makes provision for an information and consultation forum to be put in place before redundancy offers are made. Collective redundancies come under the Protection of Employment Acts 1977-2007, which requires that both the Minister for Enterprise, Trade and Employment and employees' representatives should be consulted at least 30 days before being given notice of redundancy.

In response to the growing number of redundancies, the Government has introduced a €250 million scheme to subsidise jobs at risk in exporting companies to prevent lay-offs. In other European countries, companies are making increased provision for training to up-skill their workers during this period of reduced demand, or are adopting 'time-banking', whereby factories are closed for extended periods during which workers are paid and when work resumes, the workers pay back to the company in overtime work the hours they were paid. Paid career breaks are also being considered by companies as alternatives to redundancies.

ICI and CISs influence policy change

The Immigrant Council of Ireland (ICI) is a non-governmental organisation that promotes the rights

of migrants through information, legal advice and advocacy. It also supports CISs by providing a specialist helpline for complex queries in relation to work permits, long term residency, citizenship, family reunification and issues concerning those who are undocumented in the State. The information and feedback the ICI receives directly from CICs in turn helps inform ICI's policy submissions to the Irish Naturalisation and Immigration Service (INIS) and the Garda National Immigration Bureau (GNIB).

Following the enactment of the European Communities (Free Movement of Persons) Regulations 2006, staff at ICI noted a substantial increase in queries from CISs regarding the 'on the ground' consequences of these regulations and an increase in refusals of residency applications. This echoed the experience of ICI Information and Referral staff and seemed to represent a significant shift in how INIS deemed applicants to qualify. This issue was then raised with INIS by ICI at quarterly policy discussion and customer liaison forums held between INIS and NGOs working in the sector, resulting in clarification being received that INIS had imposed new criteria on applications. The primary thrust of the new criteria involved the requirement that EU applicants and their spouse must have resided together in another EU member state prior to entering the Republic of Ireland. The ICI and many legal professionals with expertise in immigration law viewed the imposition of these new criteria to be contrary to the freedom of movement provisions in the EU Treaty.

While the matter was being resolved in the European Court of Justice, CISs played a part in supporting applicants by assisting with the lodging of requests to appeal refusals and encouraging applicants to forward complaints to the European Commission offices in Dublin and Brussels, ensuring that cases were kept 'live' and that applicants were correctly pursuing their rights to family reunification. Following the ruling by the European Court of Justice that the Irish Government was in breach of EU law and had misapplied the Directive, CISs, in conjunction with ICI, supported applicants in seeking a review of decisions to refuse their residency application. In the vast majority of cases this resulted in positive determinations and the granting of residency.

In recent months, the tone and nature of enquiries received by the ICI helpline from CISs has shifted to include many issues relating to redundancy and people's long-term status in the state, with changes in the law on work permits causing particular concern. (Migrant issues

from CISs are regularly documented in the Social Policy Quarterly Reports on the CIB website). In response to the concerns raised by migrant organisations, the Government has now relaxed the period of time allowed for migrant workers to find new employment after they have been made redundant. Those who have lived in the State for under five years and possess a valid work permit are to be given six months to find a new job if they are made redundant, instead of three. In addition, non-EEA migrant workers who have worked in Ireland for five years under the work permit system will be granted permission to live and work in Ireland without the need to apply for another work permit.

Medical Assessment and Disability

The issue of medical assessments for various welfare payments has highlighted certain disparities in how people with a physical disability are assessed compared to those with an intellectual disability.

In February 2009, the Equality Tribunal found the HSE to have unlawfully discriminated against people with mental health and intellectual disabilities by failing to recognise these as being on a par with physical disabilities (Case reference ES/2006/0168, Issued 5 February 2009). One example presented to the Tribunal was of a girl with Down Syndrome who could not avail of the Mobility Allowance simply because she could use her limbs. It was submitted that it was her intellectual disability that restricted her mobility.

Under the Equal Status Acts discrimination is defined in terms of a person being treated less favourably than another person in a comparable situation. The equality officer in the case referred to said there was an obvious failure to assess the intellectual and cognitive capacity of the applicant in relation to her mobility and that the current clinical assessment does not, in its current format, allow for assessment that is compatible with the broad definition of disability as set out in the Equal Status Acts. An award of €1,500 was made to the complainant for the inconvenience caused and a recommendation issued to the Department of Health and Children that it examine all allowance schemes to ensure the assessment processes comply with the Equal Status Acts. A recommendation that the HSE reassess the complainant's application for the Mobility Allowance, taking into consideration her intellectual condition, was also made.

CISs, however, continue to report cases concerning people with cognitive and intellectual disabilities being

treated less favourably than people with physical disabilities. A disability advocacy project funded by CIB reported that a client, who suffering a stroke and as a result has reduced movement, was turned down for a Primary Medical Certificate (PMC) required for tax relief purposes on vehicles used by disabled drivers, as she did not meet the medical criteria. An appeal to the Disabled Driver's Medical Board of Appeal (DDMBA) was unsuccessful. The medical criteria focused heavily on the person's physical disability rather than on the overall level of her mobility. In another case a CIS highlighted the difficulty a client had using public transport because of intellectual and literacy problems. An application for a Companion Pass was turned down on medical grounds. Similar concerns have been raised about the medical assessment for Domiciliary Care Allowance for children with Autism. In the light of the judgment from the Equality Tribunal, it is important that the medical criteria for eligibility for benefits be compliant with equality legislation.

National Standards for Residential Care

The new National Standards for Residential Care Settings for Older People came into effect on 1st July 2009 and will empower the Chief Inspector of Social Services to inspect any designated centre for older people. A team of about 45 inspectors from the Health Information and Quality Authority (HIQA) will be responsible for monitoring standards in 600 nursing homes accommodating some 25,000 older people. The standards require that individual care plans are in place for all residents. The new regime will also require all nursing homes, both public and private, to be registered. Inspection reports are available on www.hiqa.ie. A submission on the draft standards was made by CIB in 2007 emphasising the need to protect the rights of residents.

In relation to the National Quality Standards on Residential Services for People with Disabilities, the Minister of State at the Department of Health and Children, John Moloney TD, said that due to current economic circumstances, a move to full statutory implementation of these standards, including regulation and inspections, would present significant challenges at this time but that a progressive implementation of the standards would nonetheless proceed. There are currently around 1,200 residential care facilities in Ireland serving an estimated 28,000 people with a disability. HIQA said it would develop an online self-assessment tool and guidance to support providers

in the implementation of the standards. CIB made a submission on the draft standards for people with disabilities in 2008, emphasising the importance of personal choice and access to advocacy services. These ideas have been incorporated into the new quality standards.

CIB Submissions

(a) Evaluation of Housing Adaptation Grant Schemes for Older People and People with a Disability

The Centre for Housing Research was commissioned by the Department of the Environment, Heritage and Local Government to undertake an evaluation of the three housing adaptation grant schemes:

- Housing Aid for Older People Scheme
- Housing Adaptation Grant Scheme for People with a Disability
- Mobility Aids Grant Scheme

These revised schemes were implemented in 2007 and the evaluation aims to examine the impact of the new regime on applicants and to identify any issues influencing the effectiveness of the schemes in meeting the housing needs of older people and people with a disability.

The experiences of users of CISs and CIPS and of the voluntary/community disability advocacy projects provided evidence for the submission made by CIB. Accessibility issues for both people with physical disabilities and people with sensory disabilities had already been reported in the research undertaken by CIB and DFI in 2007 (*The Right Living Space: Housing and Accommodation Needs of People with Disabilities*). Ongoing difficulties reported with the revised schemes include the inadequate level of the grants to cover adaptation costs, delays in processing applications, failure to prioritise according to medical needs, eligibility being based on means and not on need, the lack of a formal appeals system for applicants who are refused a grant, funding shortfalls resulting in many local authorities suspending the grant schemes, and people having difficulty getting information from their local authority about the status of their application. It was also reported that without the assistance of an advocate, some people would have found it very difficult to navigate their way around the schemes.

(b) Evaluation of the School Transport Scheme

A value for money review of the School Transport Scheme by the Department of Education & Science is set against a background of 137,000 pupils using the scheme each day at a cost of €196 million in 2009. The service is free for primary school children who qualify under the scheme. Eligible children in families who hold a medical card or children with special needs are also exempt from charges.

In the submission to the Department, CIB noted that the cost of transport services for children with special needs, who account for about 6% of the overall number of children carried, is around €53m annually, which equates to almost €6,450 per child, compared to approximately €1,110 for other children who use the scheme. In the light of the costs and based on complaints received about the hit and miss nature of some of the services for those with special needs, CIB proposed that the allocated funding for special needs children should go to the person and not the service, thus allowing parents greater flexibility in terms of meeting the school transport needs of their children.

Another issue identified by a number of CISs concerned those pupils who are forced to travel outside of their catchment area in order to attend school because there are no available places in their local school; there is no subsidy available to cover their transport costs. Problems were also identified with the transport service being provided on a first-come, first-served basis, with the result that a child who has a sibling at a same school may not be transported to that school under the scheme if there is no room on the bus.

Publications

(a) A Policy Framework for Addressing Over-indebtedness

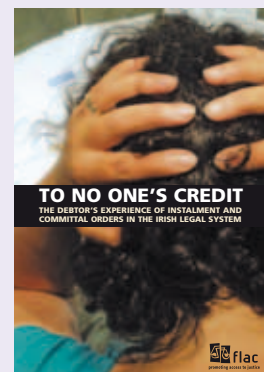


The problem of over-indebtedness has increased significantly as a result of the economic downturn and, according to the Combat Poverty Agency (CPA), requires a national strategy to deal with the issues arising for people unable to cope with their debt problems. In this discussion paper, prepared by Stuart Stamp for CPA, the policy responses by Ireland to over indebtedness are compared with other EU countries. (www.cpa.ie)

CPA estimates that approximately 10% of Irish households are over-indebted and suggests that over-indebtedness is on the increase, e.g. in 2008 there was a 30% increase in the number of queries to the Money Advice and Budgeting Service (MABS) compared to 2007. People on low incomes, lone parent families and larger households with children are most likely to experience over-indebtedness. Measures advocated in the discussion paper to complement the work of MABS and deal with the current crisis include: debt-settlement provisions to enable people to repay debts within a foreseeable period; personal insolvency schemes to assist those who are unable to do this; and alternative dispute resolution (ADR) as a more appropriate way of dealing with civil debt.

A Consultation Paper on Personal Debt Management and Debt Enforcement has recently been issued by The Law Reform Commission. MABS has also reached agreement with fourteen of the country's main lenders on a voluntary code for debt management.

(b) To No One's Credit: A study of the debtor's experience of Instalment and Committal Orders in the Irish legal system



During 2006, FLAC carried out research with clients of the Money Advice and Budgeting Service (MABS) on their experiences when debt enforcement procedures were invoked against them. The ensuing report, "*To No One's Credit*" (published in June 2009) explores the debt enforcement legal system in

the Republic of Ireland in the context of the personal experiences documented by the debtors taking part in the interviews. Arising from the findings of this new research, a number of recommendations for changes to the debt enforcement system are proposed, including the improvement of access to information and assistance for debtors, the reform of the debt enforcement by Instalment Order system and the removal of imprisonment in debt cases. (www.flac.ie)

N.B. Since the report was published, a High Court judgement ruled that fundamental deficiencies in section 6 of the Enforcement of Court Orders Acts 1940 breached a debtor's constitutional right to fair procedures. Section 6 provides, where a debtor is liable by virtue of an

The Citizens Information Board is the statutory body which supports the provision of information, advice and advocacy on a broad range of public and social services. It provides the Citizens Information website and supports the voluntary network of Citizens Information Centres and the Citizens Information Phone Service. It also funds and supports the Money Advice and Budgeting Service.

Head Office

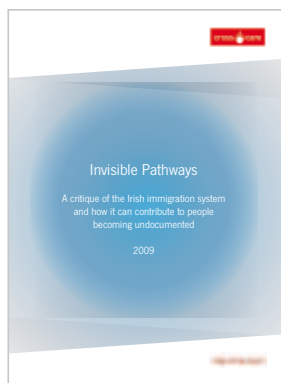
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instalment order to pay a debt and costs by instalments and fails to pay one or more instalments, the creditor may apply to the District Court for the arrest and imprisonment of the debtor. The High Court Judge Mary Laffoy, noted that section 6 allowed imprisonment of a debtor without any positive requirement that the District Court first decides whether non-payment was due to inability to pay before making an imprisonment order.



On foot of this ruling, new legislation passed by the Dáil before the summer recess means that debtors with the financial means to meet their payments can still be imprisoned, but those who do not have the means to pay their debts will not now face the threat of prison. (See *Relate*, September 2009, Vol. 36, Issue 12)

(c) Invisible Pathways: A critique of the Irish immigration system and how it can contribute to people becoming undocumented



A number of administrative issues and procedures which can result in Ireland's immigration system contributing to people becoming undocumented or obstructing their pathway to gaining legal status are documented in this publication from Crosscare's Migrant Project (www.migrantproject.ie).

The report, which contains 90 recommendations, has important

implications for immigration policy at this time as the Houses of the Oireachtas debate the Immigration, Residence and Protection Bill 2008. Among the issues highlighted are:

- Inaccessibility of various immigration status options
- Lack of clarity and transparency in application processes and procedures
- Inadequate or no responses by various agencies to people's status applications or requests for information
- Non-adherence to customer charters

- Inadequate planning, consultation, and dissemination of immigration policy and procedural changes

Similar issues have been highlighted by CISs in the past in relation to the lack of responses from the *Irish Naturalisation and Immigration Service* (INIS), problems with employment permits, immigrants losing their job and the length of time it takes to establish citizenship.

In response to the issue of becoming undocumented, the government has recently introduced a "bridging visa" scheme to regularize migrant workers who have become undocumented for reasons beyond their control, allowing them to apply for a four month temporary residence permit during which time they can apply to re-enter the work permit system.

(d) The Irish Housing System: Vision, Values, Reality



This policy paper from the Jesuit Centre for Faith and Justice, compiled by Dr. Michael Punch, analyses the housing boom in Ireland and critiques the values that underlay it. It maintains that housing was treated as a consumer commodity and an investment during the Celtic Tiger years rather than as a home and an integral part

of a local community. It calls for a new approach to housing policy in the future. (www.jcfj.ie)

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