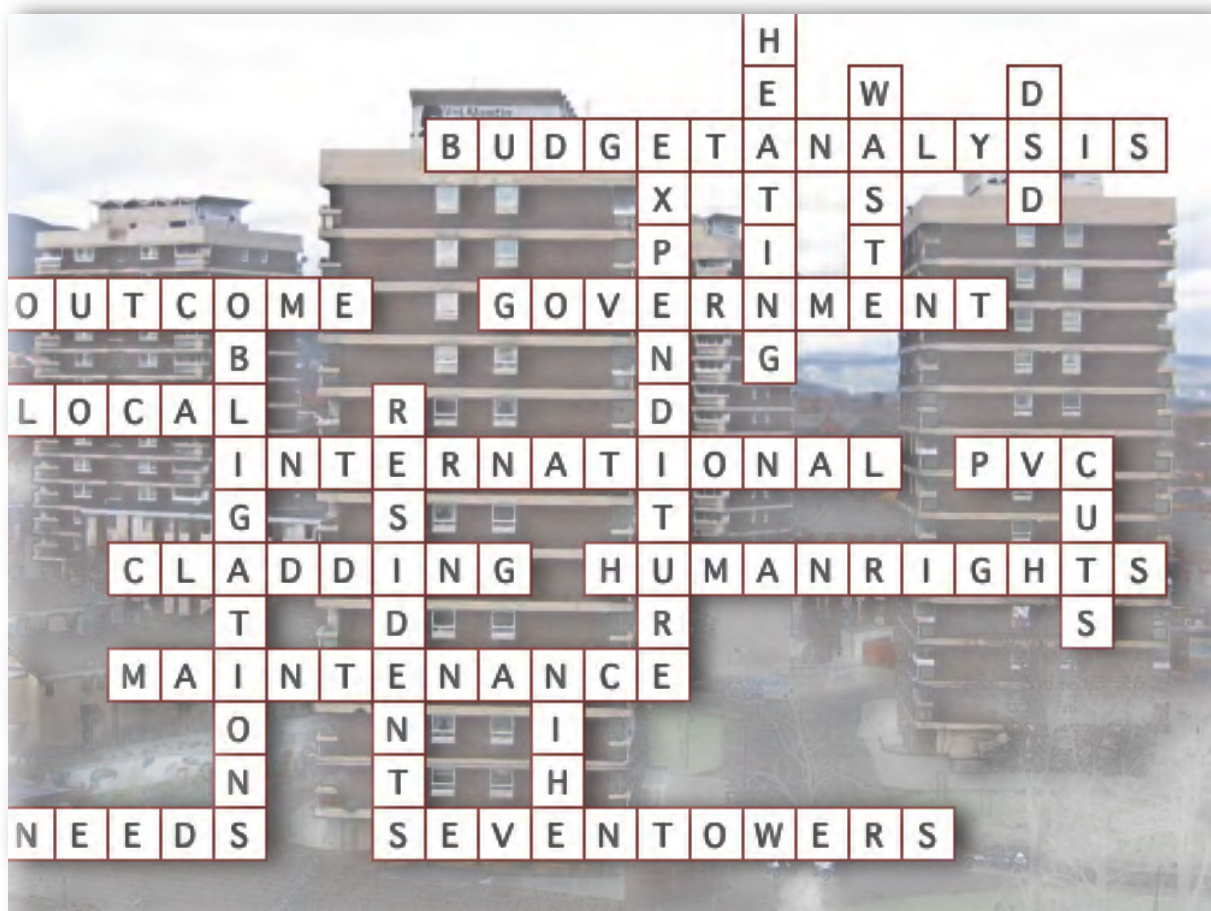


A Human Rights Budget Analysis of the Northern Ireland Housing Executive's current plans to clad the Seven Towers Flats



I. Introduction:



The Seven Towers (Carlisle Multi Storey flats) are located within the New Lodge area of North Belfast. The flats are managed by the Northern Ireland Housing Executive (NIHE), the service delivery body of the Department for Social Development (DSD); the body which has overall responsibility for housing in Northern Ireland.

The Seven Towers Residents Group has been working with Participation and Practice of Rights Project since 2006. They use a human rights based approach to campaign for change around identified problems which conflict with their right to an adequate standard of living. Using indicators and benchmarks the residents have been able to monitor whether their rights are being progressively realised or not.

The residents are currently monitoring the progressive realisation (or lack thereof) of six human rights indicators; the number of families in the Towers; the percentage of previously reported damp units still experiencing problems with damp; the percentage of residents who are dissatisfied with the economy seven heating system; the number of Towers passing the security systems check; the percentage of residents satisfied with the NIHE response to reported problems, and a dual pronged sixth indicator on participation in decision making and information transparency in decision making.

1.2 Setting the Context: Housing Need in North Belfast and failed investment:

According to the Northern Ireland Neighbourhood Information Service (NINIS), the Towers are located within an electoral ward which has been consistently rated as one of the most deprived in terms of unmet housing need in the whole of Northern Ireland.¹

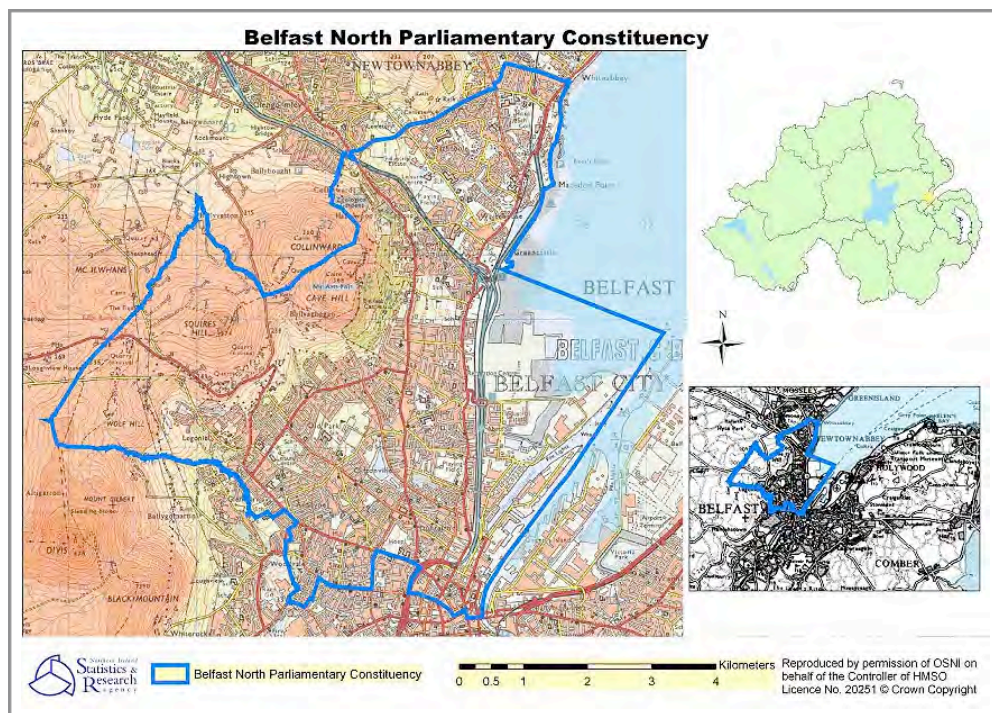


Figure 1: Map showing North Belfast (Source Northern Ireland Statistics and Research Agency)

In March 2002 Catholics made up around 80% of those in Housing Stress in North Belfast. Six years on the differential is slightly less. In March 2008 Catholics made up just over 70% of those in Housing Stress in North Belfast. This is despite a 7 year £133 million North Belfast Housing Strategy launched in 2000 which aimed to “tackle the high demand for housing in particular parts of North Belfast”

¹ New Lodge is ranked 3rd out of 582 in terms of overall deprivation across a number of indices by the NI Multiple Deprivation Measure 2010

As the table below identifies, a closer examination of these statistics tells a more alarming story. The slight lessening of housing inequalities between Catholics and Protestants in North Belfast cannot be attributed to the successfully targeting of inequality. Things have not got better for the Catholic Community. The number in Housing stress has risen steadily year on year since 2003.

The differential has been closed because Protestants are increasingly represented on the social housing waiting list. Since 2002 the numbers of Catholics on the waiting list increased by 23% while the number of Protestants waiting for social housing increased by 77%.

	2003	2004	2005	2006	2007	2008	2009
Catholic	689	681	803	831	885	879	851
Protestant	166	164	170	253	316	319	294
Total Housing Stress	968	951	1091	1212	1359	1474	1483
Total Housing Waiting List	1783	1802	2029	2024	2354	2501	2477

Figure 2: Information received from a Freedom of Information Request submitted by the PPR Project in 2009.

2. The Human Rights & Local Policy Context:



Having identified the local housing context for the NIHE's cladding proposal, it is critical at this juncture to identify the international human rights law which applies to accurately pinpoint the nature of the State's (in the case the Department for Social Development's) obligations towards the residents of the Seven Towers. It is from these standards that the Seven Towers Residents Group have based their indicators to monitor the progressive realisation of their economic and social rights.

2.1. The right to an adequate standard of living

The starting point in this discussion is of course, most prominently, Article 11 of the International Covenant of Economic, Social and Cultural Rights (ICESCR); the right to an adequate standard of living. Article 11 states that;

“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent”

2.2. The obligations of the State

Since the right to an adequate standard of living has been codified in the ICESCR, a Covenant which both the UK and Irish governments are signatories of, state parties are under an obligation to progressively realise this obligation i.e. continuously be taking steps to improve the situation with regard to housing.

Crucially, taking steps in itself, is not sufficient, these steps must show that the state is “moving as expeditiously and effectively as possible”² towards this goal.³ The obligation to progressively realise the right to housing is incumbent upon the fact that the state will do so to the extent of its “maximum available resources”⁴ and that even in times of economic constraint the most vulnerable will be protected⁵. There is also a stipulation that there are certain core values of the international human right to housing which are minimum core obligations i.e. should be in place immediately, these include non discrimination.

2.3. The components of the right to an adequate standard of living

The components of the right to an adequate standard of living in itself have also been further elaborated on by the UN Committee on Economic Social and Cultural Rights in their work, in this case through General Comment 4 which states that;

“...the reference in article 11 (1) must be read as referring not just to housing but to adequate housing. As both the Commission on Human Settlements and the Global Strategy for Shelter to the Year 2000 have stated: "Adequate shelter means ... adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost"⁶

The document also states that in regards to the issue of habitability;

“Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors”⁷

² Paragraph 9 of UN Cttee ESCR General Comment 3

³ See Sepúlveda, M. (2003) The Nature of the Obligations under the International Covenant on Economic, Social and Cultural Rights, Intersentia, ~p.315

⁴ Article 2(1) of the ICESCR

⁵ Paragraph 12 of UN Cttee ESCR General Comment 3

⁶ Paragraph 7 of UN Cttee ESCR General Comment 4

⁷ Ibid, paragraph 8(d)

As well as identifying that in relation to affordability;

“Steps should be taken by States parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels.”⁸

It is largely from these stipulations that the basis of the substantive issue based indicators have been set by the Residents Group; i.e. indicators which monitor heating, dampness and security concerns.

International law also makes provisions in relation to adequate housing which have specific relevance to the residents of the Seven Towers given their situation as a recognised vulnerable group given the level of deprivation they suffer, which underlines the necessity for monitoring by the group. For example, paragraph 11 of General Comment 4 states;

“States parties must give due priority to those social groups living in unfavourable conditions by giving them particular consideration”

Crucially, there is also a duty on the DSD and its service delivery body, the NIHE, to ensure the active and meaningful participation of the residents in its role to protect, promote and fulfil this obligation to an adequate standard of living;

“Both for reasons of relevance and effectiveness, as well as in order to ensure respect for other human rights, such a strategy should reflect extensive genuine consultation with, and participation by, all of those affected...”⁹

2.4. The identification of local policy in relation to housing fitness

The residents hold the NIHE and the DSD accountable in the first instance to the international human rights obligations which have been detailed above but also to the NIHE’s own standards as well as local policy on Targeting Social Need and the promotion of equality of opportunity which should be read in line with the international standards.¹⁰

⁸ Ibid, paragraph 8(c)

⁹ Ibid paragraph 12

¹⁰ The duty on public authorities to promote equality of opportunity is contained within section 75(1) of the Northern Ireland Act 1998

The NIHE's own standard, known as the Decent Homes Standard bears similarities to the components outlined in paragraph 8(d) of General Comment 4. It states;

“The Decent Homes Standard means that homes:

- Meet the statutory fitness standard – be structurally stable; be free from serious disrepair; be free from serious dampness; have adequate lighting heating and ventilation; have a suitably located kitchen, bathroom, WC etc.;
- Be in a reasonable state of repair;
- Have reasonably modern facilities i.e. some of the following: a kitchen (less than 20 years old); a bathroom (less than 30 years old); adequate insulation against noise etc.; and
- Provide a reasonable degree of thermal comfort.”¹¹ [emphasis added]

In order to assess compliance with this standard, the NIHE undertakes inspections, normal in the form of sample stock surveys, the most recent of which took place in 2009 and is known as the Savills Report.

Savills identifies 2.4% of NIHE stock (around 17,500 units) to be unfit in line with the Decent Homes Standard. This survey covered both vacant and occupied stock and the rate of unfitness in occupied stock was 1.5% (roughly equating to 10, 938 units).

3.1. The identification of the needs of the residents through participation.

The indicators set by the group are not restricted to the substantive issue based problems which threaten their right to an adequate standard of living, rather they also encompass process based monitoring. Through monitoring participation and accountability related concerns, a more holistic view of what the right entails is established and the residents are able to work towards tackling the root causes of long standing problems and not just the symptoms. Through participation, the Seven Towers Residents Group has collected data collected which demonstrates that;

¹¹ NIHE Decent Homes Standard http://www.nihe.gov.uk/index/about-us-home/our_objectives/decent_homes_standard.htm

- **45%** of the residents surveyed indicated they have had problems with dampness over the past two years, and that,
- **89%** of residents are unhappy with the heating with **85%** of these viewing the heating as too expensive

These statistics when read in line with the information produced by Savills which identifies 1.5% of NIHE stock as failing to meet the Decent Homes Standard strongly suggests that the Seven Towers complex, despite being home to some of the most vulnerable, is in the worst state of social housing in Northern Ireland.

4.1. The NIHE's cladding proposal:

Given the poor state of the Seven Towers, the residents expect that steps would be taken towards improvement and that such steps would be capable of demonstrating how they will measurably progress the right to adequate housing for those who live there in line with international standards.

In October 2007 the Seven Towers Residents Committee were briefed by the NIHE on plans to clad (fit a PVC rain screen to) the exterior of the Seven Towers. They have since been told that a tender has been issued to secure a contractor to start this work at a cost of £7.1 million.

To determine if such an expenditure is capable of meeting the residents needs which have been extensively identified through the work of the group, one needs to examine the November 2007 Economic Appraisal which charts the objectives for the initiative.

4.1.1. Analysing the economic appraisal

Economic Appraisal November 2007

Cost (p.10): PVC Cladding **£7,016,767**

Objectives (p.6 &11):

1. Upgrade Health & Safety of building (key issues falling masonry, refuse chutes and roosting pigeons)
2. Provide accommodation which meets the needs of the community (bring accommodation to current standards for the 384 tenants)
3. Protect investment already made in flats

4. Complement and support North Belfast Housing Strategy
5. Reduce future response costs of the external facades
6. Secure the roof areas to eliminate vandalism and reduce the future response maintenance of the roofs

Reasons for selecting PVC cladding as an option (p.14):

- Life expectancy of 30-40 years [not listed as an objective]
- PVC cladding will offer a consistent factory controlled colour finish [not listed as an objective]
- Will result in the reduction of response maintenance costs to the external facades and roofs of the blocks

4.1.1.1 Cladding to meet the needs of the residents?

Despite such a massive planned expenditure, the NIHE's plan for maintaining the Towers is at odds with both international standards and their own local Decent Homes Standard preferred. According to Savills cladding will not bring the properties up to the standard unless it is aimed at protecting the structural integrity of the building.

"We have undertaken a visual only inspection of the externals to all of these blocks and the structure appears to be generally in sound condition at the present time. We are aware that NIHE is of the view that the great majority of these blocks need to be overclad which will have the benefit of protecting the structure of the blocks and improving the thermal performance. This work is not essential in terms of Decent Homes assuming the structural integrity of the buildings is maintained. There is no evidence to suggest that, in the short term, there will be structural integrity issues. We recommend further due diligence to assess the condition of the structure of these blocks and to identify the work required to maintain them."(emphasis added)¹²

¹² p.26 NIHE Stock Condition Survey, Savills Report, May 2009

The residents have expressly been told by the NIHE that the structural integrity of the buildings is not in question. At a meeting with the NIHE on the 25th February 2010, the NIHE confirmed to the Seven Towers Monitoring Group that they are;

“...confident that the towers are currently structurally sound. External inspections used to be included in the 5-year External Cyclical Maintenance Scheme, but that period has been elongated, possibly to 12 years. The last ECMS included an ‘in depth look’ at the structure of each block.”

Since the buildings do not require cladding for their structural integrity, it would be hoped that the expenditure would tackle other elements of the residents right to an adequate standard of living as well as the Decent Homes Standard. To identify if/how the cladding can meet the needs of the residents and the state’s obligations to the residents under ICESCR, the group again asked for information from the NIHE at the same meeting in February 2010.

The Seven Towers Monitoring Group asked;

o. How is the proposed cladding of the Seven Towers expected to improve heat retention and/or reduce damp in the flats?

The NIHE response was;

- A. The cladding is not designed to do this; existing internal insulation (dry-lining + cavities) will prevent damp from within. The main aim of the cladding is to keep rain off the structure. The cladding ‘won’t greatly enhance insulation’

It would seem then that the cladding initiative, according to the NIHE, is not designed to meet any of the needs identified by the residents which have been based on International Human Rights Standards (e.g. dampness and heating) nor is it to address the structural integrity of the building which was a reasoning put forward by the Savills report as a reason to clad. It is inconceivable, from the information received from the NIHE, that this expenditure will be capable of

progressing the indicators used by the group or meeting the benchmarks that they have set.

The objectives listed in the Economic Appraisal raise various issues which are problematic, though the remit of this analysis will cover only the most crucial. Firstly, the selection of PVC cladding as the preferred option clearly does not meet the objectives as defined by the NIHE since it does not 'meet the needs of the community' (objective 2). The needs of the community have been made visible through the work of the residents and their engagement with the NIHE has ruled out the issues identified from being tackled through this expenditure.

Moreover, the health and safety implications of the issues raised by the residents (damp, heating, unsuitability for families, security concerns etc) which were evidenced in the residents evidence and the evidence of health and housing experts David Ormandy and Geoff Green at the People's Inquiry event in June 2010 will also not be met by the cladding initiative. Objective 1 will also be left unfulfilled since Health and Safety concerns were not identified through the participation of residents.

4.1.1.2. Cladding as a measure to protect previous investment?

Objective 3 aims to protect investment already made in the flats. To ascertain the level of investment already made by the NIHE in the Seven Towers flats, the PPR Project submitted a Freedom of Information request in August 2010¹³ asking for maintenance spend in the Seven Towers in the last decade.

Information received details maintenance spend in the nine year period between 2001-2010. The results are as follows;

A total of **£3, 319,000** was spent on maintenance in the nine year period which amounts to **£960** per year per flat.

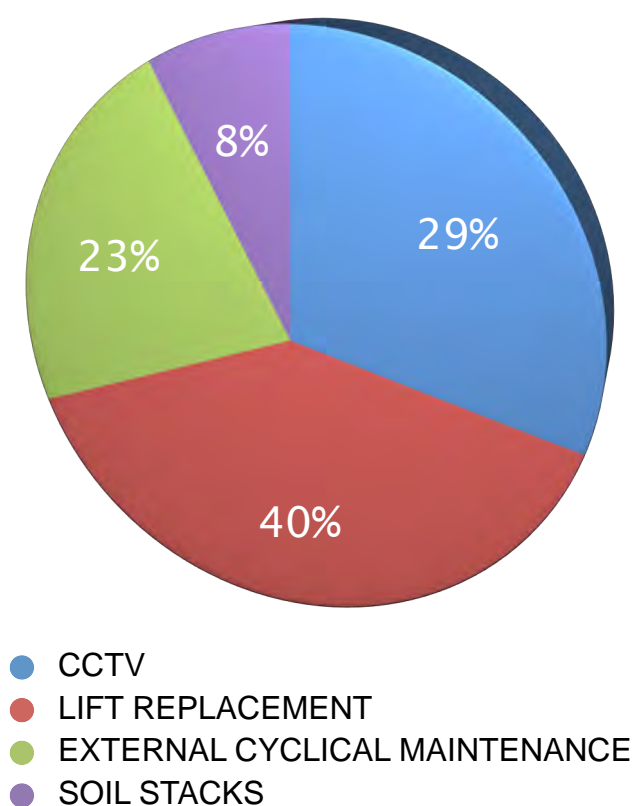
¹³ NIHE FOI analysis: 17th August 2010 re maintenance

- 3/8 questions completely unanswered
- 4/8 questions answered incompletely or incorrectly
- 1 question answered: re NIHE's own definitions of maintenance

Savills recommends that £700 per year per flat should be spent and that this should be subdivided to ensure that of the £700, £425 is spent on responsive maintenance and £275 on cyclical maintenance. (Savills report p28)

The FOI request asked that this information be broken down by category of maintenance i.e. reactive, planned, grounds, general so that accurate analysis could be made, the response received from the NIHE fails to do this. Instead the breakdown works out as follows;

Of the £3, 319,000 spent on maintenance between 2001-2010;



- £978,000 spent on CCTV (between 2002-2005)
- £1,332,000 on lift replacement scheme (between 2001-2005)
- £750,000 on External cyclical maintenance (between 2008-2010 no spend previous to this)
- £261,000 on soil stacks (between 2008-2010)

This expenditure fails to substantively relate to the needs of the residents or the absence of core components of the human rights standard in relation to the right to adequate standard of living. Clearly, previous investment was not aimed at the core problems facing residents since they were not involved in decisions taken about where or how to spend money. The Seven Towers Monitoring Group has previously asked for information relating to expenditure to correct problems relating to heating and dampness in the flats and was told that this information is unavailable (meeting with NIHE 25th February 2010).

Similarly, objective 4 of the cladding initiative is designed to 'complement and support the North Belfast Housing Strategy'. To identify previous expenditure under the North Belfast Housing Strategy the PPR Project submitted a Freedom of Information request in August 2010 and received the following information.

NIHE figures (table 3 of FOI response) indicate that in the last ten years the NIHE 's expenditure in North Belfast is £309,680,000 but the total amount spent on maintenance of any type is not detailed despite the FOI specifically requesting this information. From the table it can be deduced that expenditure was divided up in the following way (figures rounded):

- 59% on Housing Association Grants
- 14% on Revenue
- 9% on Land Acquisition / Area Renewal
- 9% on capital
- 9% on grants / group repair
- 0% on NIHE stock improvement

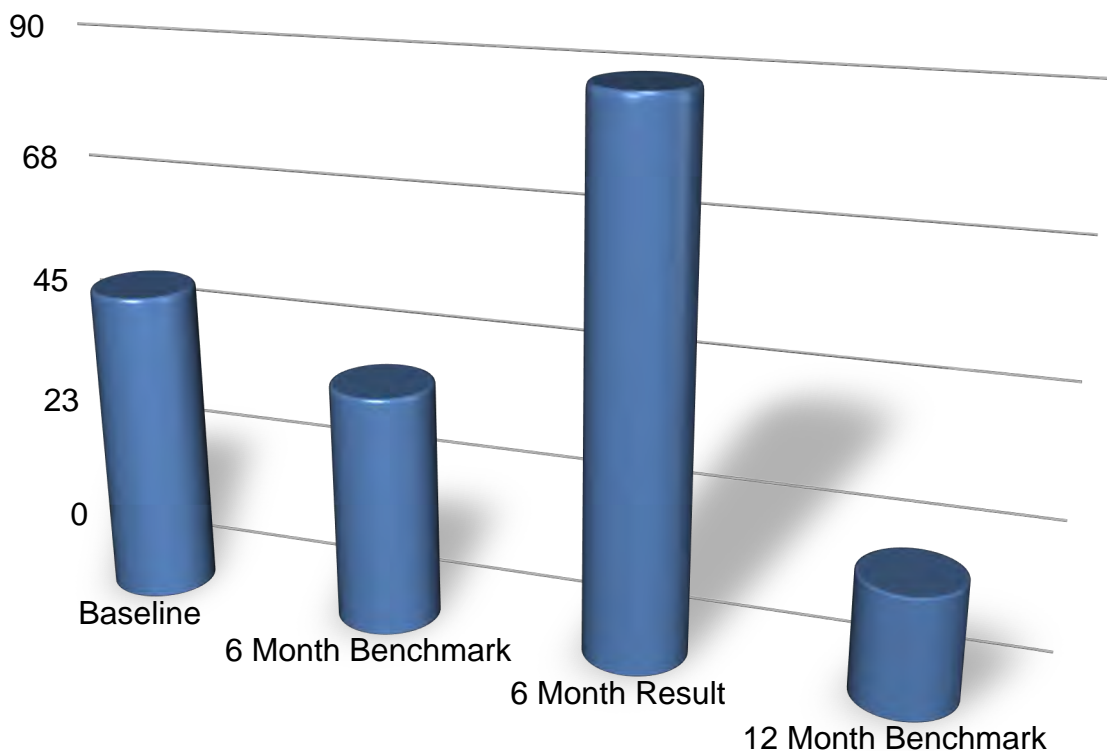
5.1. Assessing how the expenditure could be directed to meet the needs of the residents as identified through participation

Participation has made visible the needs of the residents that will not be met by this substantial expenditure; our focus should now turn to an identification of other ways in which this money could be spent with 'rights' outcomes and be capable of progressing the indicators set by the group.

As an example, one can use the indicator set by the group to monitor the problem the face with an inefficient and ineffective heating system.

Percentage of residents who are dissatisfied with economy seven heating:

Residents concern with the heating in the Seven Towers was well highlighted through their action research with survey results revealing that 51.8% of residents are unhappy with the current heating system. The main problems, according to the residents include ineffective emission of heat from the system, inability to control the time at which the heating comes on and goes off and exorbitant heating costs.



To ascertain current expenditure by the NIHE on heating improvements, the PPR Project submitted a Freedom of Information request in August 2010 and received information that in the period 2009/2010, the NIHE had spent £1,968,036 on heating improvement in North Belfast.

The response given by DSD Minister to a recent Assembly Question (AQW 8313/09) details the number of NIHE properties which still use Economy 7 heating in Northern Ireland as 10,654 and the number in North Belfast as 823 (the 2nd highest total of the 35 District Offices).

A further Assembly Question response (AQW 5611/10) confirms that a more efficient heating system – Natural Gas is available in North Belfast and that the average cost of installing gas in Housing Executive properties that previously had Economy 7 basic electricity is £5,204. Also the average cost saving for a property moving from Economy 7 basic electricity to natural gas is £193 per year.

Whilst it is recognised that there could be added complications with switching from Economy 7 to Natural Gas in the tower blocks compared to single storey buildings, the information enables calculations to be done to explore potential savings.

Average cost to the NIHE of removing Economy 7 and installing a more efficient heating system: £5,204 x 384 flats = £1,998,336 (which is 28% of the cost of the proposed cladding initiative which won't address any of the residents' needs)

Average saving to the tenant who moves from Economy 7 heating to Natural Gas is £193 per year x 384 flats = £74,112 saving for the residents of the Seven Towers.

This analysis has restricted its focus to the budgetary and human rights implications of the proposed scheme, it does not discuss the larger environmental and design problems associated with the initiative which have been articulated elsewhere.

The analysis does however, clearly demonstrate that the cladding initiative cannot be said to progressively realise the right to adequate housing as current proposals will not meet the residents' rights in relation to housing which is warm and free from damp as required by the Convention, furthermore it demonstrates a violation of the Covenant's imposition of the duty to abstain from taking any deliberately retrogressive measures. Consequently, the initiative places the Department for Social Development and its service delivery body the Northern Ireland Housing Executive in clear breach of their international human rights law obligation.

Sepúlveda's work on the nature of the state's obligations explains that a "deliberate retrogressive measure" means any measure that implies a step back in the level of protection to the rights contained in the covenant which is the consequence of an intentional decision by the state.¹⁴ The cladding proposal arguably meets this classification since the pvc nature of the product may pose greater fire risks to the occupants but more so since such a large expenditure on the Towers via this proposal will undoubtedly mean that there will be little other expenditure over the period since the Department's resources are finite. Given that the cladding will not progress their right to an adequate standard of housing, if the spending will also remove or limit the potential for other expenditure which would actually be capable of meeting the residents needs then it is a retrogressive measure. This analysis is also supported by the Maastricht Guidelines on the violation of Economic, Social and Cultural Rights which clearly establish that the adoption of any deliberately retrogressive measure that reduces the extent to which any economic social and cultural rights are guaranteed, constitutes a violation of the covenant.¹⁵

¹⁴ Sepúlveda, M. (2003) *The Nature of the Obligations under the International Covenant on Economic, Social and Cultural Rights*, Intersentia, p323

¹⁵ See Guideline 14 of the Maastricht Guidelines on the violations of Economic, Social and Cultural Rights.

It can categorically be stated, on the basis of the evidence presented that the scheme is not an example of the use of the maximum available resources as it would not meet with the definition of spending resources 'in the most expeditious and effective way possible'. The only viable remedy to the situation is to halt the scheme in its current form and reassess the design proposals and objectives in the view of local policy and international human rights law through the active and meaningful participation of residents.



Participation and the Practice of Rights (PPR) support disadvantaged groups to assert their right to participate in social and economic decisions which affect their lives. PPR currently works on issues including mental health, adequate housing, regeneration and the right to play with groups across the island of Ireland.

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