Centre for Environmental Justice
Community Law & Mediation

Submission to the public consultation on the revised Energy Poverty Action Plan

Introduction

Community Law & Mediation (CLM) is an independent community law centre and charity, working since 1975 with communities impacted by social exclusion, disadvantage and inequality. We provide free legal advice, advocacy, mediation and education services. In 2021, CLM established the Centre for Environmental Justice which works to ensure low income and marginalised communities are not disproportionately impacted by climate change or other environmental harms, and that environmental measures and climate action protect and build equality and social justice.

Access to adequate levels of energy is a precondition to the realisation of many rights, impacting our lives, health and living standards. It is essential to social inclusion and is increasingly connected to employment opportunities in Ireland, with many workplaces opting for a remote or hybrid approach, reducing the need for employees to relocate from rural to urban areas.

We welcome the publication, in 2022, of the Energy Poverty Action Plan and the current public consultation on a revised Plan.[1] However, the Plan contains no enforceable, measurable, or time-bound targets against which progress can be measured. This lack of legal safeguards undermines accountability and long-term political commitment towards the eradication of energy poverty.

Below we set out some key recommendations which we believe must be actioned to deliver an effective Energy Poverty Action Plan.

[1] Sincere thanks to India Ryan for her support in researching this submission.

Our recommendations in brief:

1. **A rights-based approach**: consult and collaborate, on an ongoing basis, with relevant households, communities, anti-poverty, housing, Traveller, disabled people's organisations, health, social justice and human rights bodies to ensure Ireland's energy poverty policy is fully poverty and equality-proofed.
2. Place the Energy Poverty Action Plan on a **statutory footing** to (1) clarify the responsibilities and roles of different government departments, local authorities and other agencies and public bodies involved in addressing energy poverty and (2) so that efforts to address energy poverty are not merely aspirational but enforceable.
3. Commence the drafting of **energy poverty legislation,** in consultation with key stakeholders, such as the ESRI and civil society, to ensure long-term political commitment towards the eradication of energy poverty.

We also set out a series of specific recommendations – which echo those of our colleagues in Friends of the Earth and others – for **a statutory Energy Poverty Action Plan**, prioritising structural measures that address the root cause of energy poverty and prevent prolonged reliance on fossil fuels:

4. **Widen the definition of "vulnerable customers,"** as set out under SI 463/2011, to include people with disabilities, children, the Traveller community, older people, and those who live with long-term health conditions.
5. **Address energy poverty and housing justice challenges in tandem** through a range of targeted measures including:
    - strengthening and expanding the National Retrofit Plan
    - expanding the Fully Funded Energy Upgrade Scheme to include properties in the private rental sector if the tenant is in receipt of HAP
    - targeting energy poverty in rural homes by setting up a dedicated retrofitting programme for households solely relying on solid fuel heating systems
    - Adopting rent affordability and enforcement mechanisms to ensure that housing costs do not undermine a household's capacity to meet its energy needs
    - Replacing the Caravan Loan Scheme so that a better standard of caravan/trailer can be purchase or rented.
6. **Address energy poverty challenges beyond the home**, including transport energy, through initiatives to enable people to shift away from car use and access greater connectivity and sustainable public transport services.
7. **Address the health impacts of energy poverty** by better tailoring the National Retrofit Programme to facilitate a move away from solid fuel burning.

A rights-based approach to addressing energy poverty

Energy poverty frequently presents as an issue at our free legal advice clinics, in tandem with housing, debt, health and employment problems.

The ESRI estimates that 29% of households are now living in energy poverty, a record high. A 2019 MABS report found that 77% of Travellers live in energy poverty, spending, on average, over 26% of their income on energy. The Irish Human Rights and Equality Commission identified migrants, one-parent families, youth, and those with disabilities as least likely to maintain the home warm - with a significant portion of these groups residing in the private rental sector.

Given the disproportionate impact of energy poverty on the most vulnerable and marginalised in our society, a rights-based approach to addressing energy poverty is vital. This means ensuring the people who are most affected have an opportunity to shape energy poverty policy and that their needs are protected and prioritised.

Energy poverty is multi-dimensional in nature and so requires a comprehensive response across multiple government departments, including Environment, Climate and Communications; Health; Housing, Planning and Local Government; and Social Protection.

The need for a Legislative Framework to Address Energy Poverty

Ireland's policy on energy poverty to date has been characterised by a lack of ambition and weak governance structures.

For example, the Energy Poverty Strategy in place from 2016-2019, and lapsed in 2019, only required the responsible Minister of State to report to the Cabinet and to the Minister for Communications Energy and Natural Resources. The Strategy furthermore provided for the establishment of an independent Energy Poverty Advisory Group, which never materialised. The Strategy then lapsed in 2019, creating a vacuum in accountability and in long-term planning and policy in relation to energy poverty. A replacement Energy Poverty Strategy was never developed.

The Energy Poverty Action Plan ('**EPAP'**), was published in 2022 as a non-statutory (i.e. non-binding) Plan designed to last no more than one year.

The 2022 EPAP contained a list of largely one-off, short-term measures, indicating a crisis-oriented response to energy poverty. This approach has been criticised by the European Commission, which emphasized in its October 2023 recommendations to EU Member States on Energy Poverty, the limitations of income support measures alone in achieving long-term structural impact. The Commission noted that:

> *"While income support measures provide valuable social safety nets, can be deployed swiftly and, when targeted, can provide immediate relief for affected households, they are likely not to result in a structural impact beyond the period of disbursement or application and can risk creating a lock-in effect on fossil fuels*

and dependence on subsidies. They also pose the risk of reducing public funding from more structural measures that are capital intensive, such as building renovations."

Instead, the Commission encouraged member states to prioritise structural measures that address the root causes of energy poverty and prevent prolonged reliance on fossil fuels, such as investments into energy efficiency and renewable energy. As noted in a Friends of the Earth Ireland report, one-off payments helped households deal with energy poverty in the short-term but did not address income inadequacy and the inaccessibility of Ireland's National Retrofit Program. It is critical that the forthcoming EPAP takes the recommendations of the Commission and Friends of the Earth Ireland into account.

The 2022 EPAP tasked the Economic and Social Research Institute ('**ESRI'**) with undertaking research on energy poverty. CLM understands that upon completion of the ESRI research, the DECC will consider the adoption of legally binding targets to address energy poverty. In the interim, it is CLM's view that the forthcoming EPAP should be placed on **statutory footing**. This would firstly serve to clarify the responsibilities and roles of different government departments, local authorities and other agencies and public bodies involved in addressing energy poverty. It would secondly establish that efforts to address energy poverty are not merely aspirational but enforceable. A statutory framework to address energy poverty would provide specific objectives, targets, and strategies for implementation.

At an EU-level, the Governance Regulation requires member states to include in their National Energy and Climate Plans a description of national objectives and timeframes on energy poverty and a description of financing arrangements to ensure policy implementation (see Articles 3, 4, 7 and Annex 1 of the Governance Regulation). The Governance Regulation further requires member states, when drawing up their NECPs, to: "assess the number of households in energy poverty, taking into account the necessary domestic energy services needed to guarantee basic standards of living in the relevant national context, existing social policy and other relevant policies, as well as Commission indicative guidance on relevant indicators, including geographical dispersion, that are based on a common approach for energy poverty. In the event that a Member State finds that it has a significant number of households in energy poverty, it should include in its plan a national indicative objective to reduce energy poverty." [Emphasis added].

Ireland's draft updated NECP cites the Energy Poverty Action Plan ("EPAP") as part of efforts to tackle energy poverty. However, the EPAP contains a list of largely one-off, short-term measures, indicating a crisis-oriented response to energy poverty, despite the fact that some 29% of the population were reported to have experienced energy poverty in 2022, the highest recorded rate. It is expected that energy prices will remain high for the foreseeable future. Instead, the Commission encourages member states to prioritise structural measures that address the root cause of energy poverty and prevent prolonged reliance on fossil fuels, such as investments into energy efficiency and

renewable energy. However, the draft updated NECP has not aligned with these recommendations. Although the EPAP is expected to be revised ahead of the National Budget 2025 (announced in October 2024 - after the deadline for submission of the final NECP in June 2024) it lacks enforceable, measurable, and time-bound targets against which progress can be measured. It is not placed on a statutory footing to ensure a genuinely whole-of-government approach. The lack of legal safeguards undermines accountability and long-term political commitment towards the eradication of energy poverty.

Under **s10(2)(c) of the Human Rights and Equality Act**, the Government should consult the Irish Human Rights and Equality Commission to examine the Energy Poverty Action Plan to "report its views on any implications for human rights or equality." This would ensure that a statutory EPAP would be equality and human rights-proofed. To ensure long-term political commitment towards the eradication of energy poverty, we further call upon the Government to commence the drafting of **energy poverty legislation** in consultation with key stakeholders, such as the ESRI and civil society. The Scottish Fuel Poverty Act should be reviewed by way of example, but improvements can be made on this legislation, such as the inclusion of Access to Justice provisions, and meaningful consultation with those with additional energy needs.

Recommendations for a Statutory Energy Poverty Action Plan:

Vulnerable Customers

The definition of "vulnerable customers," as set out under SI 463/2011, must be widened to include people with disabilities, children, the Traveller community, older people, and those who live with long-term health conditions. The Traveller community are disproportionately impacted by energy poverty, with 66% of those residing in mobile homes expressing worries about their electricity supply's safety, poor air quality from kerosene heaters, increased fire risks from nightly candle usage, and risks of food contamination due to inadequate refrigeration. The definition of "vulnerable customers" must also include children. St Vincent de Paul ('**SVP**') reported that 140,000 children are living in homes plagued by issues such as leaks, dampness and rot. Drawing on the data provided by the Growing up in Ireland report, the SVP found that 23% of the sample experienced one or more forms of energy poverty. Additionally, the research revealed that five-year-olds living in energy-poor homes are at a heightened risk of developing asthma and requiring antibiotics. Moreover, children from single-parent families or those with a disabled or unemployed parent face increased risks of experiencing energy poverty.

Energy Poverty and Housing Justice

Almost half (48%) of Ireland's housing stock is energy inefficient, with poorly insulated homes locked into fossil fuel dependence.[2] According to data from the Irish Green Building Council (IGBC), Ireland's construction and built environment sector accounts

[2] According to the Central Statistics Office, 48% of homes in Ireland have a BER rating between D-G – see here.

for 37% of the State's carbon emissions - the same proportion as agriculture. Irish homes are 60% more energy-intensive than the average EU home. Tackling energy poverty is, therefore, a critical part of Ireland's emission reduction efforts. As a result, measures taken to address energy poverty safeguard the rights of all citizens – not only the energy-poor.

As previously highlighted by CLM, in seeking to address the root cause of energy poverty, policymakers must confront Ireland's escalating housing crisis. The paucity of affordable, social and culturally appropriate homes in Ireland both creates and reinforces energy poverty, as it impacts where people can afford to live and the quality of homes people can afford to live in. This in turn impacts the health of individuals, communities, and future generations.

Unaffordable rental costs and lack of security of tenure in the private rental sector may generate and exacerbate energy poverty. While a Building Energy Rating (BER) is required to lease a residence, there is no minimum BER threshold below which a residence is considered unfit for letting. More than half (55%) of privately rented properties have a BER rating of D or less, with 20% rated F or G. Children in the private rental sector are twice as likely to experience energy poverty than those in owner-occupied homes. Moreover, landlord-tenant relations in the private rental sector are often "characterised by fear" and tenants may be reluctant to report issues such as dampness, mould, broken windows, or poor insulation to their landlord for fear of eviction, an increase in rent, or that their lease may not be renewed. Tenants may not have the time or money to fix such issues themselves. Research from the US shows that low-income households are five times more likely to be evicted than high-income households, and electricity disconnections are often a precursor to evictions - resulting in both housing and energy insecurity.

In June 2023, CLM was a signatory of the joint statement on energy poverty by 29 organisations, led by Friends of the Earth, and our recommendations, set out below, echo those of our colleagues:

1. Expand the Fully Funded Energy Upgrade Scheme:
    - To include properties in the private rental sector if the tenant is in receipt of HAP, contingent upon tenant protection and a long-term lease.
2. Replace the current caravan loan scheme:
    - To ensure increased financial support, better account taken of family size, and measures to ensure a better standard of caravan can be purchased. Rental Scheme and Rent to Buy options should be provided.
    - Mobile homes should be built to a residential standard in terms of heating and insulation, with a rating system similar to BER being adopted.
3. Strengthen the National Retrofit Plan:
    - Retrofit Ireland's entire social housing stock to a B2 standard this decade. As Friends of the Earth recommend, increased funding should be given to County Councils to retrofit their Social Housing Stock, beginning with the

least efficient properties first. This must include provision for proper oversight of the works, to ensure they are completed to standard and to ensure consistency across the board.

- Adopt targeted measures to ensure that low-income households, tenants, rural dwellers, and the Traveller community can avail of energy upgrades and SEAI grants, as per the recommendations of Friends of the Earth Ireland.
- Develop a tailored retrofit plan for the private rental sector. Protections for renters against "renovictions" is required.
- The European Commission recommends that member states address energy poverty by prioritizing investments in energy efficiency measures, particularly those that empower and enable vulnerable households to enhance their own energy efficiency and consequently their quality of life.

4. Target energy poverty in rural homes
    - By setting up a dedicated retrofitting programme for households solely relying on solid fuel heating systems.
5. Adopt rent affordability and enforcement mechanisms
    - To ensure that housing costs do not undermine a household's capacity to meet its energy needs, in line with the UN's International Covenant on Economic, Social and Cultural Rights.

Addressing energy poverty beyond the home, including transport energy

Beyond heating the home, the EPAP must also seek to address the use of fossil fuels across all sources of household energy consumption. For example, transport accounts for a significant portion of household energy consumption and related expenditure, accounting for 12.9% of Irish household expenditure as of 2018, and transport contributes the second largest share of Ireland's emissions at 19.1%. Households often face trade-offs between heating, eating, and allocating funds between domestic and transport energy expenses. While the Free Travel Scheme caters to those over 66 years old, people with disabilities, and their caregivers, its accessibility is contingent upon suitable transport services. A 2019 National Travel Survey revealed that half of respondents aged 18 and above never use bus or train transport due to service unavailability or routes not aligning with their destinations. While the Mobility Allowance Scheme once assisted those unable to walk or access public transport, it ceased taking new applicants in 2013, awaiting a replacement scheme yet to be devised or implemented.

Addressing the health impacts of energy poverty

In CLM's experience, those living in energy poverty, or at risk of falling into energy poverty, are more likely to burn solid fuels (or toxic waste) due to a lack of readily available and affordable clean energy alternatives. A report published by Friends of the Earth Ireland in

2022 found that measures provided by Ireland's National Retrofit programme are not adequately tailored to address this challenge.

Solid fuel burning is the primary source of particulate matter in Ireland. The Environmental Protection Agency ("EPA") notes in its State of the Environment Report that "air pollution is the single largest environmental health risk in Europe." 2,600 premature deaths are associated with fine particulate air pollution across the island of Ireland. Ireland has the third-highest death rate from lung disease in Europe, and the fourth highest rate of asthma in the world – the Asthma Society's figures show over 380,000 asthma sufferers in Ireland.

Many people living on the island of Ireland are exposed to air pollution levels well in excess of World Health Organisation ("WHO") air quality guideline levels. Air pollution is closely linked to respiratory illnesses, exacerbating conditions such as asthma, chronic obstructive pulmonary disease (COPD), and respiratory infections. The burning of fossil fuels, including natural gas, poses a number of health risks, including cardiovascular and respiratory conditions, bronchitis in children and adults, preterm births, low birth weight and even postneonatal mortality. The impacts of fossil fuel burning on climate change also create significant health risks, as noted by the Lancet Journal: "due to Europe's ageing populations, urbanisation, and high prevalence of chronic health diseases, European populations are globally the most vulnerable to heat.

Failure to adequately address Ireland's energy poverty crisis poses an ongoing risk to citizens' right to breathe clean air. Ambitious action to address energy poverty can protect community health at a local level, while delivering reductions in emissions consistent with Ireland's legally-binding carbon budget (2021-2025) per the Climate Action and Low Carbon Development Act.

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