



Research Matters

QUARTERLY



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Note from the Editors

Finn Keyes & Anna Visser

Welcome to the fourth issue of **Research Matters Quarterly**, the newsletter that provides Oireachtas Members and their staff with insights into recent and ongoing work of the Library & Research Service (L&RS). Our aim is to provide short, topical insights into some of the issues we are working on. This issue explores possible key issues for Parliament in 2019, including **climate change, Brexit, consent, social housing, voting rights and artificial intelligence**. As usual there is a research update from our colleagues in the PBO.

In this issue we are delighted to have an external contribution from UCD's Professor Michelle Norris on the topic of social housing.

As always, if you are interested in learning more about these, or any other topics, please do not hesitate to contact us on library.and.research@oireachtas.ie or by phone on 01 618 4701.

We would like to take this opportunity to wish all our readers a very Merry Christmas and a Happy New Year.

The Library & Research Service celebrates Dáil 100

21st January 2019 marks the centenary of the first sitting of Dáil Éireann. It presents an opportunity to promote greater understanding and interest in our national parliament. The L&RS will deliver four new resources as part of the Houses of the Oireachtas Centenary Programme.

Web-based bibliography of the Houses of the Oireachtas 1919 – 2019

This bibliography is a one-stop shop for research on the Houses of the Oireachtas. It brings together an authoritative list of published material including books, peer-reviewed journal articles, video and other

sources. The bibliography is fully searchable. Researchers and members of the public can access, download, use and export the bibliography in different ways according to their needs. It was compiled in partnership with the Department of Politics and Public Administration at the University of Limerick.

Treasures of the Parliamentary Library

The Parliamentary Library holds an important collection of historical material dating from the sixteenth century. We invited well-known Irish people from different fields to look at the treasures in our collection and choose their favourites. The result is an online exhibition on the Dáil 100 website that includes images, video and explanatory text compiled by our Librarians and Archivists. The majority of our historical collections have been digitised and are available for everyone online via our website.

History of the parliamentary library in 2 minutes

This 2 minute animated video tells the story of the development of the Parliamentary Library from a small collection of books to a modern library service with an extensive digital collection. It will promote the work of L&RS to the public and enable better public engagement with our Special Collections.

Documents Laid Metadata Analysis

Our collection of 'Documents Laid' offers a very distinct window on Irish social and political life since 1922. We're working on a project that will support scholarly engagement with the Documents Laid collection. Our Librarians have developed an open dataset that lists all documents that have laid before parliament since 1922. This dataset will be fully accessible to researchers, who can interrogate or analyse the Documents Laid collection in a new way, potentially bring to light new avenues of research.



Dáil 100
Éireann

Social housing rents

Professor Michelle Norris is Head of the School of Social Policy, Social Work and Social Justice in UCD. In this article she looks at how social housing rents are set, and provides an international comparative analysis of social housing rents.

Rents for social housing in Ireland are linked to the incomes of tenant households. This means that when the household income falls the rent is reduced and vice versa. This system which is commonly known as 'differential rents' has very significant benefits for tenants. It ensures rents are affordable for tenants and remain so even during periods of unemployment, falling earnings or transition from the workplace to retirement. In view of the low average incomes of local authority tenant households compared to the whole population, the 'anti-poverty' function of differential rents is a very important one.

Despite these benefits for individual tenants, the differential rents system has disadvantages for the social housing tenure as a whole. These disadvantages are evident if we examine the development of the social housing sector and also compare the Irish social housing sectors to social housing in other European countries which use different methods for calculating rents.

Social housing rents in Ireland were not always linked to tenants' incomes. When governments first got involved in subsidising social housing provision in the 1880s until the 1960s, rents were linked to the cost of providing the service (this system is known as 'cost rents'). Social house building was funded by borrowing at this time so in practice rents were set at levels which covered the cost of servicing these borrowings, and managing and maintaining these dwellings. In an effort to make social

housing affordable for very poor families, in the 1930s Cork City Council abolished cost rents and linked rents to incomes instead. Over the decades that followed, campaigning by tenants' organisations and rent strikes prompted several other local authorities to adopt this rent setting model and the *Housing Act 1966* required all local authorities to use it. This led to a reduction in revenue and was one of the factors that precipitated a decline in social housing. Over time, the use of income related rents contributed to making the borrowing based model of finance for social housing unviable, and led its abolition in the mid-1980s. Since then, local authority social housing provision has been funded mainly by capital grants from central government.

Internationally, income related rents in social housing are associated with lower levels of provision and more reliance on government funding for social housing (see Table 1). This is because income from income related rents is generally low and also unpredictable and therefore not adequate to support commercial borrowing, which is the main source of capital funding used to support social housing provision in most countries. For this reason, in most countries, social housing rents are linked to costs or a metric that reflects the costs of service provision like housing quality. Table 1 reveals that the European countries that operate this cost rent model have much larger social housing sectors than in Ireland and also greater private funding of these sectors. Primarily for this reason, borrowing for social housing in Austria, Denmark, the Netherlands and France is 'off balance sheet' (i.e. not categorised as part of public debt). To ensure rents are affordable to social housing tenants in these countries low income earners can apply for a housing allowance like Rent Supplement or HAP to subsidise their housing costs.

Table 1: Key Features of Social Housing Sectors in Selected Western European Countries

	Austria	Ireland	Netherlands	Denmark	France
% of households in social housing	24	9	32	19	16
Main source of capital funding	Private mortgage banks	Government grants	Private banks	Private mortgage banks	Non-profit loans funded by tax free savings.
Main source of revenue funding	Rents linked to the cost of housing provision	State (rents are income related and very low)	Rents linked to housing quality (except for new dwellings).	Rents linked to the cost of housing provision	Rents linked to the building and financing costs.

Decarbonising private transport

Maggie Semple is a Parliamentary Researcher (Agricultural and Environmental Science). In this article, she considers one of the key challenges for 2019 - decarbonising private transport.

The [Integrated Panel on Climate Change](#) (IPCC) has warned that “rapid and far-reaching transitions in land, energy, industry, buildings, transport, and cities” are needed if we are to keep temperatures below a 1.5°C increase. However, Ireland is not on track to meet our Greenhouse Gas emissions targets for 2020.

One-fifth of our GHG emissions are transport related and half of that comes from private cars. Electric Vehicles (EVs) have been identified as a key pathway to reduce emissions in the private car fleet and switching to an EV is an important way in which citizens can participate in the fight against climate change.

There are over 6,500 EVs on Irish roads (1% of private cars). The pace of take-up is accelerating but we are a long way from the Government’s goal of 500,000 EVs by 2030. The National Development Plan commits €200 million of funding to EVs and the Government has announced funding of €10 million for additional fast chargers.

Although the distance EVs can travel per charge is improving, range anxiety remains a deterrent to EV uptake. The island of Ireland has approximately 1,100 public charging points, provided by the ESB all of which are [mapped](#). A number of these are fast-charging but more are needed and the ESB will be adding super-fast charging hubs in 2019. While it is anticipated that most people will charge their EVs at home in their driveways at night, investment in upgrading and extending the public fast-charging network is vital to alleviate range anxiety and accelerate EV growth.

While the price differential that exists between EVs and non-electric vehicles is significant, it is expected to fall over time. Financial incentives can help to bridge the cost gap and include VRT relief, purchase grants (for battery and plug-in hybrid EVs), home charger grant, reduced toll fees and low motor tax.

EVs are only one part of the solution to low carbon personal transport. They do not alleviate congestion and land use for operation and storage. A multi-pronged approach is needed and could include:

- Encouraging car-pooling;
- Restricting/banning cars in city centres;
- Removing car parks and street parking; thereby creating space for pedestrians and cyclists and making city centres safer and more attractive for many;
- Electrifying, improving and extending public transport; and
- Making public transport cheaper.

There are many health benefits to decarbonising private transport – vehicle pollution is linked to heart and lung disease. City centre car bans reduce congestion and accidents, and promote physical activity. The environmental impacts include tackling climate change, improving air quality, and reducing noise pollution.

Accelerating usage of EVs will be a key part of the jigsaw of measures needed to help Ireland realise its climate change targets for 2020, 2030 and beyond.

Artificial intelligence and gender bias

Anna Visser is a Senior Parliamentary Researcher (Social Science). In this article, she discusses the challenges that Artificial Intelligence (AI) can present for overcoming bias and gender discrimination.

AI is the area of computer science that develops computers that behave like humans. The ambition is to produce machines that can apply skills such as reasoning, problem solving and decision-making. There are many technical and ethical challenges facing the development of AI, and one such challenge is the role of AI in reinforcing existing human prejudice.

AI learns by processing large amounts of data and where that data reflects existing prejudice, the results can exacerbate inherent inequalities. According to UCD researcher [Susan Leavy](#), if the “data is laden with stereotypical concepts of gender, the resulting application of the technology will perpetuate this bias”. For example, if you do

a Google image search for 'engineer' the results are mostly white men, while a similar search for 'assistant' results mostly in images of white women.

In recent years, there have been many high profile examples of the fallout of bias in AI. In October, [RTE news](#) reported that a computer programme Amazon was piloting to review CVs did not 'like' women because the "computer models were trained to vet applicants by observing patterns in CVs submitted to the company over a 10-year period". Similarly, the careers platform LinkedIn identified that highly-paid jobs were not displayed as frequently in searches on its website by women as they were for men.

Racial prejudice can also be "baked in" to AI. An investigation by [ProPublica](#) found that US software that assesses the risk of recidivism in criminals is twice as likely to mistakenly flag black defendants as being at a higher risk of committing future crimes than white defendants.

Commentators have suggested that a key challenge in overcoming bias is to ensure that those writing computer programmes are not themselves biased. [Alexa Gorman](#), a leading expert on bias in AI, has said that; "machines and algorithms will only be as diverse as the engineers and data scientists who build them". A policy brief by the [World Wide Web Foundation](#), suggests that there are three main ways in which practitioners and policy makers should respond to the challenge of gender bias in AI: (1) women need to be involved in the **design** of new technology so that it does not reproduce stereotypes; (2) new technologies need to be **implemented** in ways that reduce rather than exacerbate gender equality; and (3) digitisation strategies need to be cognisant of the **collateral effects** on work and advancement of women.

How AI evolves and develops is likely to be a significant challenge for policy-makers in 2019 and beyond, and ensuring that these developments play a positive role in overcoming bias and discrimination will be one of the central questions to be addressed.

The impact of Brexit on the Irish legal system

Michael O'Sullivan is a Parliamentary Researcher (Law). In this article he reports from the Law Reform Commission's Annual Conference on 14 November 2018.

The Conference was on the theme of 'Brexit and Law Reform in Ireland'. The keynote address was given by Gerard Hogan, Advocate General in the Court of Justice of the European Union, and formerly a judge of the Court of Appeal. Mr Hogan discussed how Brexit may shape the Irish legal system over the coming years.

Ireland and the UK operate a common law legal system that is substantially different from the civil law system of continental Europe. Common law is derived from precedents set by court decisions; the civil law systems of other Member States and the EU itself are code-based and tend not rely on judicial precedents as a source of legal rules or principles. Mr Hogan noted that, 45 years after accession, the UK and Ireland's systems were still distinctly different from those of other Member States and the EU itself.

Despite the distinct natures of common and civil law, EU membership had led to some cross-pollination between them. Mr Hogan cited the doctrines of proportionality, of abuse of rights, of legitimate expectations and of effective remedies as essentially civil law ideas that had become part of common law thinking and practice as a result of the influence of EU law.

Mr Hogan predicted that Brexit could result in an increase in civil law influences on Ireland's common law system, particularly in the context of contract law. He pointed to a 2011 proposal by the European Commission for a 'Common European Sales Law' and highlighted areas in which the proposed code would conflict with common law principles. These were a prohibition on damages for non-material harms such as distress caused by breach of contract (these are available in limited circumstances in common law countries); a general duty on parties to "act in accordance with good faith and fair dealing" (common law tends to restrict such requirements to cases such as certain

consumer contracts or insurance); allowing evidence beyond the written terms of the contract (this conflicts with the ‘parole evidence rule’), and a duty on parties to renegotiate obligations that become “excessively onerous”.

Mr Hogan said that Brexit could isolate Ireland’s common law tradition, while commercial and contract law could see further ‘Europeanisation’. Over time, Ireland may align more closely with civil law than common law; alternatively, in the same way that the US state of Louisiana has retained many of its French legal traditions, it might become an island of common law in a civil law Europe.

Consent and the law of rape: avenues for reform

Finn Keyes is a Parliamentary Researcher (Law). In this article he discusses problems identified in relation to consent in the law of rape, and the avenues for reform under consideration.

The law on sexual offences has come under scrutiny in recent times with the rise of the #MeToo movement and the Ulster Rugby rape trial earlier this year. A particularly important aspect of sexual offending, and in particular rape, is the question of consent.

Consent is a central element of the offence of rape. The prosecution must prove, beyond a reasonable doubt, not only that the woman did not consent to sexual intercourse, but that the accused either knew, or was reckless as to whether the woman did not consent. The result of this position is that, even where a woman does not consent, if the accused “honestly believed” that she was consenting, he will not be guilty of rape. It is important to note that rape is a gender-specific offence in Irish law - it can only be perpetrated by a man.

The crime therefore focusses heavily on the subjective experience of the man in the event, as opposed to the experience of the woman or indeed what a reasonable man ought to have realised in the circumstances. This definition of rape has been criticised as allowing indifference to the presence of consent to constitute a defence.

In July 2018, the Law Reform Commission published an Issues Paper on [*Belief Concerning Consent in Rape Law*](#). The Commission presented a number of options for reform, and sought views on these options from the public:

- **Honest and reasonable belief defence:** This would require an accused to show that he honestly *and reasonably* believed that the woman was consenting. This would create a hybrid of subjective and objective elements to the defence.
- **Reasonable steps defence:** This would require an accused to show that he took reasonable steps to ascertain consent in order to rely on an honest belief defence. This might include verbal communication or non-verbal cues.
- **Creation of secondary offence of gross-negligence rape:** This would create a secondary, lesser offence for a person who honestly but mistakenly believed that the victim was consenting.

The Commission is currently considering submissions from interested parties and the public at large and is expected to publish a final report in 2019. This final report, and continuing public controversy, is likely to prompt calls for renewed legislative action in 2019.

Voting for overseas citizens

Catherine Lynch is a Senior Parliamentary Researcher (Political Science). In this article, she discusses approaches to overseas voting taken in other European jurisdictions in light of the current proposal to extend the franchise in Presidential elections.

In 2019, the Oireachtas will likely be asked to consider the question of extending voting rights in Presidential elections to citizens living abroad. Ireland is at odds with other EU States in restricting the franchise for Presidential elections to resident citizens.

Political scientist, Lafleur, explains that political actors aim to balance the symbolic value of extending voting rights with the risks. Overseas voting presents risks to the integrity of the electoral process, especially when the diaspora is large. A large voting diaspora could dwarf the resident electorate,

particularly where voting by post or internet is permitted.

14 EU Member States hold direct elections for the Presidency. Eleven enfranchise overseas citizens (Ireland, Slovakia and Cyprus are the exceptions). In none of the eleven is the franchise dependent on when a citizen emigrated, though other regulations that have the effect of narrowing the franchise can apply. Where the diaspora as a proportion of the total population is large, the overseas voting regime tends to be more restrictive (Lithuania is an exception). Once Irish citizens born in Northern Ireland are included, the size of the Irish diaspora exceeds that in any EU Member State.

Postal voting, which provides for a more expansive franchise, is permitted in only three States - Austria, Lithuania and Slovenia. Of these, only Lithuania has a significantly large diaspora (approximately 20% of its resident population). Dual

citizenship, which increases the size of the citizen diaspora, is prohibited in all three. The remaining eight states hold 'in person' polling usually at diplomatic missions/consular posts.

'In Person' voting is more secure but it presents barriers that indirectly narrow the franchise. The location and number of overseas polling stations affects these barriers. For Romanian overseas citizens, restrictions on the number of polling stations abroad in the 2014 elections led to the closure of polling stations while citizens queued outside and ultimately to the resignation of the Foreign Minister. Low turnout of overseas voters in Finland is linked to the difficulty of travelling to polling stations. Similarly, Portuguese overseas citizens vote in person over a three-day period. Oireachtas Members will have to consider many of these questions as they consider extending the franchise in Presidential elections to Irish citizens living abroad.

Update from the PBO

Budget 2019 was a particularly busy time in the Parliamentary Budget Office (PBO). Our aim was to produce a collection of work to ensure Members were well prepared to engage effectively with Budget 2019. The PBO produced a series of pre-budget publications. We also held a Budget Information Stand, on 3 and 10 October, to engage with Members regarding our material and issues surrounding Budget 2019 more generally. In addition to our pre-budget material, following the announcement of Budget 2019, the PBO published a collection of Notes, Briefing Papers and infographics analysing the implications of the Budget and the material published alongside the Budget, including an initial analysis of Budget 2019 in the hours immediately following its publication. We followed this with a more substantial post-Budget 2019 review and an analysis of the Finance Bill. We further analysed Voted Expenditure allocations, and published an infographic on estimates of Exchequer revenue and gross current and capital expenditure ceilings for 2019. Recent PBO publications:

- * Pre-Budget 2019 Commentary
- * Quarterly Economic & Fiscal Commentary
- * Capital Gains Tax, Capital Acquisition Tax, Stamp Duty, & Local Property Tax Options
- * Pre-Budget 2019: Energy and Environmental Tax Issues
- * Pre-Budget 2019: Excise Tax
- * Pre-Budget 2019: Ready Reckoner
- * Budget 2019 – Issues for Members
- * Infographic 5 of 2018 – Estimates of Exchequer Revenue 2019
- * Briefing Paper 15 of 2018 – Budgetary Issues in the Finance Bill 2018
- * Budget 2019 – Analysis of Voted Expenditure Allocations
- * Note 21 of 2018 – Social Insurance Fund
- * Note 22 of 2018 – National Training Fund
- * Note 23 of 2018 – Local Government Fund and Vote 34
- * Note 24 of 2018 – Green Budgeting Initiative
- * Note 25 of 2018 – Performance Information

The PBO will be releasing forthcoming material on the Irish Strategic Investment Fund (ISIF), overheating in the Irish economy, and tax revenue volatility, among others.

Forthcoming L&RS publications

The L&RS publishes research reports and Bills digests that are publicly available on www.oireachtas.ie. Over the Autumn months, we published analysis of a broad range of Government and Private Members' Bills, along with research publications on the role of Approved Housing Bodies, sexual and reproductive health, sex education, Traveller accommodation, and combatting terrorism. In the coming months, alongside our legislative analysis service, L&RS research will publish research reports on:

- Data privacy and CCTV
- Administrative financial sanctions
- Energy transition
- Breastfeeding
- Maternity protection
- Youth mental health
- GP Cards for carers
- E-cigarettes
- School complaints procedures
- Policy analysis in Parliament

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Houses of the Oireachtas
Leinster House, Kildare Street
Dublin 2
www.oireachtas.ie
Tel: +353 (0)1 6183000 or 076 1001700
Twitter: @OireachtasNews

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