



Houses of the  
**Oireachtas**  
Tithe an Oireachtais

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**An Tuarascáil ón gCoiste um Thithíocht agus Easpa Dídine**

Meitheamh 2016

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**Report of the Committee on Housing and Homelessness**

June 2016





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In April 2016, Dáil Éireann agreed to establish a Special Committee - the Committee on Housing and Homelessness - to review the implications of the problems of housing and homelessness, and to make recommendations in that regard. The Committee held its first meeting 20 April, and worked very intensively within a very tight timescale in order to meet the requirement to complete this report by 17 June 2016.

It was abundantly clear even prior to the Committee commencing its deliberations that tackling the shortage of housing supply and the related problem of homeless is one of the greatest challenges currently facing this country. The factors contributing to the problem are diverse and deep-rooted, and affect a variety of sectors – including central and local government, the financial sector, the building industry, the private rented sector, and the voluntary sector. The issues involved are complex and inter-linked. Most importantly however, the problem is causing severe hardship and distress to large numbers of households across the country. It is essential that all bodies and stakeholders involved assume responsibility, and cooperate fully and generously to responding to this immense national challenge.

The focus of the Committee has been to identify –

- how the obstacles that are currently impeding progress on the issues can be surmounted
- the specific actions that need to be taken to achieve urgent implementation of measures to address the problems involved

and in so doing, to inform and assist the actions planned under the Programme for a Partnership Government.

In this report, the Committee identifies a number of recommendations which it believes are a necessary part of the national response to the challenge. In particular, I call on the Minister for Housing, Planning and Local Government, Mr. Simon Coveney T.D., and other relevant members of the Government to carefully consider how they can give effect to the findings of this report.

I wish to thank all of groups and individuals who have assisted the Committee in its work, whether by way of written submissions or by making oral presentations. I would also like to thank Focus Ireland for facilitating a meeting between people who have experienced homeless and members of the Committee.

I would also like to thank the members of the Committee for their intensive work since the establishment of the Committee, as well as the staff of the Committee Secretariat and the Oireachtas Library & Research Service for their advice and assistance to the Committee.



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John Curran, TD  
Cathaoirleach  
17 June 2016

## Executive Summary

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A broad a range of factors are contributing both individually and in combination with each other to the current difficulties in relation to housing and homelessness.

Additions to the stock of social housing (comprising both local authority and Approved Housing Body housing) have fallen sharply from a peak achieved in 2007. There are many reasons for this, including the poor state of the national finances over that period and difficulties in relation to the physical planning and approval and procurement processes.

This has occurred at a time when the rate of completion of new housing generally has also been very low. This is despite of the existence of strong demand for such housing, particularly in Dublin. Because of demographic factors, this strong demand is likely to continue in the medium or long-term. There are a number of obstacles to the provision of housing at present – including the cost structure faced by the construction sector, difficulties of financing the cost of construction, the availability of land for construction, infrastructural issues, as well as difficulties of affordability and financing for the household.

There has been a substantial increase in the proportion of the population living in the private rented sector – much of this concentrated in the major urban centres. Furthermore, there has been an increased reliance on the private rented sector to meet demand for social housing through the use of a variety of State payments. However, in recent times, there has been a marked decrease in the number of properties available to rent and a corresponding increase in the cost of renting such properties. A variety of legal and regulatory issues arises in relation to this sector.

A significant number of households are also facing uncertainty as a result of being in arrears in relation to their home loans; this has the potential to add significantly to the numbers in need of social housing or indeed of becoming homeless.

The ability of the State to meet the cost of responding to the need for social housing is hampered by the application of domestic and EU fiscal rules (in particular the Fiscal Compact Treaty and the Stability and Growth Pact). The issue of whether borrowing by State bodies in relation to the provision of social housing would be deemed to be on-balance sheet or off-balance sheet is a key issue that determines how the State can respond to the challenge. In this regard, funding either provided or leveraged through NAMA, the Housing Finance Agency and the Credit Unions could have the potential to add to the funding already being made available for social housing through the Department of Housing, Planning and Local Government. At the same time, concerns arise in relation to an apparent slowness in relation to advancing proposals for social housing through the approval process and the use of funding already available through the Department.

NAMA has in recent years acquired a substantial number of houses and has offered a substantial number of these to local authorities; however, the authorities have, for a number of reasons, decided not to take the opportunity to acquire many of these. In addition, NAMA plans to fund over the next four years the delivery of a substantial number of housing units, particularly in the Dublin area.

The number of people affected by homelessness has increased substantially in recent years, and the public funding made available to meet the needs of those people has also risen substantially. There are essentially two broad cohorts among homeless people – those who cannot afford to meet the cost of homes, and those who have complex needs and require support to live independently. Analysis of the data reveals that almost 70% of homeless adults are in Dublin and that there has been increase in homelessness among families. Emergency accommodation is frequently not suitable for families, and it is also becoming more difficult to obtain.

People who seek assistance from local authorities and other bodies in relation to housing frequently experience a diverse range of related complex needs. This includes people with a disability, an addiction, or mental health issues, as well as young people and those leaving care, travellers, prisoners and asylum seekers. In such cases, the provision of standard housing on its own would be an incomplete response to the needs arising. A more complete response that gives consideration to such issues as the maintenance of socially inclusive and sustainable communities, and access to a full range of services and facilities is necessary.

Having considered the range of issues arising, the Committee has identified a large number of recommendations that need to be acted upon. It attaches particular importance to the following key recommendations, and calls on the Government, the local authorities and other State bodies to prioritise these.

### **Priority Recommendations**

- Increase the social housing stock (owned by local authorities and approved housing bodies) by at least 50,000 units (an annual average of 10,000 per year) through a programme of acquisition, refurbishment and new build.
- Reduce the Part 8 planning process from 8 to 6 weeks. Where there are unreasonable delays beyond the 6 weeks, emergency powers (such as the statutory provisions of section 179 of the Planning and Development Act) should be invoked. Also, encourage greater use of Part 8 for AHBs where appropriate as it is for local authorities for a period of 18 months.
- The Minister should consider the establishment of a Housing Procurement Agency with staff from the Housing Agency, NTMA, Department of Housing, Planning and Local Government, and the Department of Finance to assist local authorities and approved housing bodies to deliver their social housing programme through supports including funding and procurement.
- Introduce a system of rent certainty by linking rent reviews to an index such as the Consumer Price Index (CPI) and review annually.
- Increase security of tenure and protection from evictions for tenants by:
  - Introducing a scheme whereby a housing association or local authority can purchase a rental property from an exiting investor (Rent switch programme).
  - Increasing security of tenure from the current 4 year period.
  - Establishing legal safeguards to allow tenants to remain in situ during and after sale of property.

- Amend the Residential Tenancies Act to outlaw the sale of property as grounds for evicting a tenant, except in exceptional circumstances where severe financial hardship can be proven by the landlord.
- The Government should, at a minimum, before the summer Recess and as a matter of urgency, fully and quickly implement the programme for Government's strategy to deal with mortgage arrears.
- Subject to advice of the Attorney General, the Government should introduce legislation for a moratorium on home repossessions until such time as the Government's proposals are in place.
- Increase the use of long-term solutions to mortgage distress, including Mortgage-to-Rent (MTR), split mortgages, debt writedowns and downsizing.
- The Government should urgently seek flexibility from the European Commission on the application of the EU fiscal rules to the financing of social housing.
- The Government should provide the maximum possible direct Exchequer investment in the provision of social housing in the Capital Programme.
- The Government should establish an off-balance sheet funding mechanism to provide additional investment in social and affordable housing.
- The Government should seek to mobilise as quickly as possible, all possible sources of funding, including funding from the Housing Finance Agency, Strategic Investment Fund, the Irish League of Credit Unions and Irish Pension Funds, to increase the supply of social and affordable housing.
- Rent Supplement and Housing Assistance Payments should be increased to reflect current market rates, and appropriate legislative safeguards should be put in place to ensure rent certainty.
- Amend the *National Asset Management Agency Act 2009* (S.2 and S.10) to allow NAMA to be an agent for the provision of social and affordable housing.
- NAMA should use its cash reserves to tackle the housing and homelessness crisis.
- Reinstate the policy of ring-fencing 50% of local authority allocations to the priority list in Dublin and other areas where homelessness is acute. The policy should be reviewed every six months and should ensure that the needs of long-term homeless people are met.
- Ensure that no homeless shelters are closed until alternative accommodation is available elsewhere.
- Housing First should be significantly expanded and prioritise the long-term homeless.

- There should be increased resourcing for and improved coordination between HSE mental health services and homeless service providers to ensure that the needs of people with mental health issues are met within the homeless system.

## Methodology

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By Order of the Dáil on 14 of April 2016, the Committee on Housing and Homelessness was established for the purpose of reviewing the implications of the problems of housing and homelessness, and making recommendations on these. The Committee provided an interim report containing its proposed work schedule for consideration by the Dáil on 26 April 2016.

The first meeting of the Committee took place on 20 April 2016 and the Committee's fourteen members voted to elect Mr. John Curran TD to serve as Chair.

The Committee specified a number of key policy issues which it sought to explore and worked towards identifying key actions in each area. The Committee met every Tuesday and Thursday with a broad range of witnesses from each policy area. The list of witnesses who appeared before the Committee is shown in Appendix 4. The Committee also visited Focus Ireland where it met a number of current and former service users. The key points emerging from the meeting with the Focus Ireland service users is shown in Appendix 5.

This report summarises the evidence received and heard by the Committee, highlighting key areas and policies and recommended actions throughout the report.

The Committee was required to present this final report to the Dáil by 17 June 2016, on which date the Committee was dissolved.

## 1. Social Housing

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### Key Issues

The following obstacles to the provision of social housing have been identified over the course of the Committee's deliberations:

- The Irish Council for Social Housing state that social housing stock in Ireland is low (9% of overall stock) compared to the EU average (17%). A lack of building by local authorities, combined with an over-reliance on provision by the private sector, has led to a shortage of supply.
- Estimates by the Housing Agency suggest that up to one third of the population will need State housing supports.
- A dysfunctional housing market (unaffordable rents, unaffordable purchasing prices) increases the need for social housing and frustrates efforts to accommodate people in the private rented sector.
- Local authorities must give consideration to tenure mix (an appropriate balance between social, private, affordable, voluntary and special needs housing) in their housing schemes or when identifying acquisitions.<sup>1</sup>
- There has been a loss of technical, construction-related skills within local authorities, which is impacting on their ability to build.
- Planning, procurement and objections to social housing are causing delays.
- Financing of social housing by the State is restrained, as is all public expenditure, by the EU fiscal rules.
- The lack of residential building in the private sector means there is little social housing coming through Part V.
- Targets for social housing set out in *Social Housing 2020* rely heavily on provision by the private rented sector, as 75,000 units (68%) of total units are to be provided through RAS/HAP schemes. However, this sector is seen by some stakeholders to be a poor provider of secure accommodation for low income groups.
- Reliance on leasing schemes may displace renters.

### Recommendations

1. Increase the social housing stock(owned by local authorities and approved housing bodies) by at least 50,000 units (an annual average of 10,000 per year) through a programme of acquisition, refurbishment and new build.
2. The requirement to have a "mix of tenure" should not be a barrier to the provision of local authority housing. Where possible, a proportion of affordable housing is desirable,

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<sup>1</sup> See Department of the Environment, Community and Local Government Guidelines. (2007, p.22). *Quality Housing for Sustainable Communities* at <http://www.environ.ie/sites/default/files/migrated-files/en/Publications/DevelopmentandHousing/Housing/FileDownload%2C1979%2Cen.pdf>

but 100% local authority housing, accompanied by proper planning, open spaces and facilities, will often be necessary.

3. Reduce the Part 8 planning process from 8 to 6 weeks. Where there are unreasonable delays beyond the 6 weeks, emergency powers (such as the statutory provisions of section 179 of the Planning and Development Act) should be invoked. Also, encourage greater use of Part 8 for AHBs where appropriate as it is for local authorities for a period of 18 months.
4. Make better use of Strategic Development Zones to provide for social housing. The option of a higher Part V allocation in SDZs, as well as the use of Compulsory Purchase Orders (CPOs) in SDZs, should be explored.
5. The Minister should consider the establishment of a Housing Procurement Agency with staff from the Housing Agency, NTMA, Department of Housing, Planning and Local Government, and the Department of Finance to assist local authorities and approved housing bodies to deliver their social housing programme through supports including funding and procurement.
6. Fast-track legislation to regulate the AHB sector, so that it is more accountable. Also, improve AHBs ability to access finance.
7. As recommended by the Housing Agency, the Government should develop an overarching national two-year strategy to reduce vacancies in the general housing stock. Based on the national strategy, each local authority should perform an audit and produce an empty homes strategy with objectives, aims and actions needed to tackle the issue, with a view to acquiring significant numbers of vacant houses for local authority use to clear the housing waiting lists.
8. Carry out an urgent review of the Tenant Purchase Scheme.
9. Introduce an affordable cost rental model of housing provision that would accommodate those on lower incomes who do not qualify for social housing.
10. Introduce choice-based lettings nationally but efforts must be made to facilitate access by those with learning difficulties, poor literacy, poor ICT skills and those with limited access to the internet
11. Ensure that local authorities have appropriate staff to provide social housing.

## **Background**

Local authorities are the main providers of social housing (129,000 homes), with a smaller number of social housing provided by Approved Housing Bodies (AHBs) (30,000 homes).<sup>2</sup> Funding for social housing is allocated by the Department of the

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<sup>2</sup> See [http://www.icsh.ie/sites/default/files/attach/icsh-news/1038/icsh\\_infographic.pdf](http://www.icsh.ie/sites/default/files/attach/icsh-news/1038/icsh_infographic.pdf)

Environment, Community and Local Government (DECLG)<sup>3</sup> to local authorities around Ireland.

In addition to local authority and AHB housing, there are a number of schemes whereby the local authorities accommodate eligible people through the private sector; such as the Rental Accommodation Scheme (RAS), the Housing Assistance Payment (HAP) and the Social Housing Current Expenditure Programme (SHCEP), a new leasing initiative. In all 27,000 social housing units are provided through private sector leasing.<sup>4</sup>

### **Households qualifying for social housing support**

The most recent and reliable figures for the number of people on housing waiting lists in Ireland are from 2013. Under changes made by the outgoing Minister, the numbers on the housing list will be assessed every year, instead of every three years.<sup>5</sup>

As of 7<sup>th</sup> May 2013, there were 89,872 households assessed as qualifying for social housing support.<sup>6</sup>

Regionally, the five counties with the largest number of qualifying households are in Dublin housing authorities (31,814), Cork housing authorities (11,244), Kildare housing authorities (5,454), Galway housing authorities (4,570) and Kerry housing authorities (4,112).<sup>7</sup>

Single person households made up the largest household type (44%), followed by single adults with a child or children (30%). Seventy-five per cent of those with a housing need were living in the private rented sector.<sup>8</sup>

### **Social housing output 2004-2015**

Figure 1 shows completions and acquisitions of social housing units<sup>9</sup> from 2004-2015. The chart shows a reduction, in recent years, in the completion of social housing, which peaked in 2008 from 6,801 to a low of 459 in 2014. In 2015 there were more acquisitions (1,085) than houses built by local authorities or AHBs (476 combined).

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<sup>3</sup> Once the Ministerial order is signed this Department will be called the Department of Housing, Planning and Local Government.

<sup>4</sup> ICSH submission to the Committee.

<sup>5</sup> Department of the Environment, Community and Local Government. (2016). Laying the Foundations: Housing Action Report.

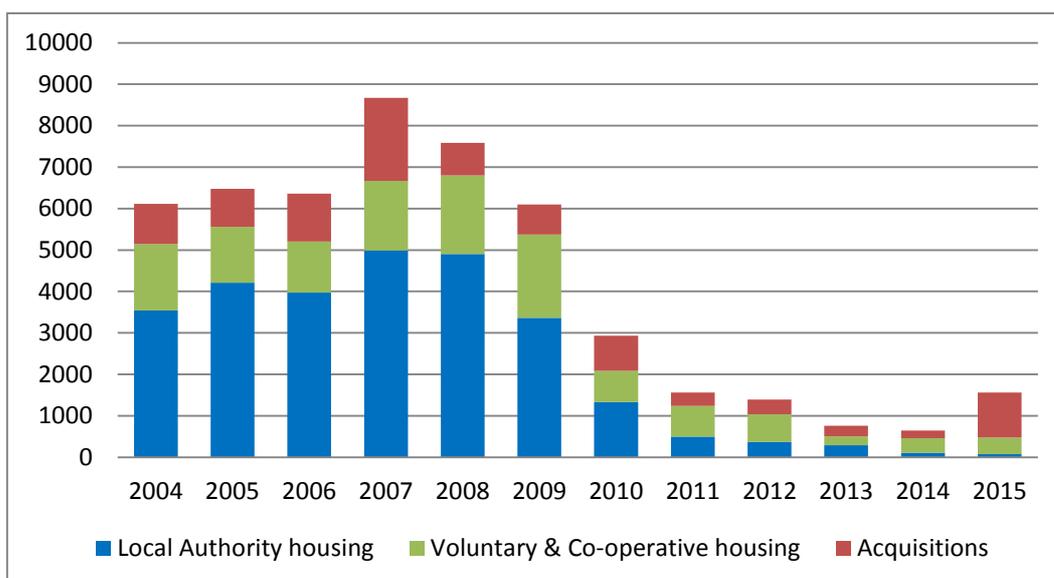
<sup>6</sup> Housing Agency (2013). [Summary of Social Housing Assessments 2013. Key Findings.](#)

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Completions include units acquired under Part V, Planning and Development Acts 2000-2015 for rental purposes/ acquisitions are by local authorities of second-hand houses.

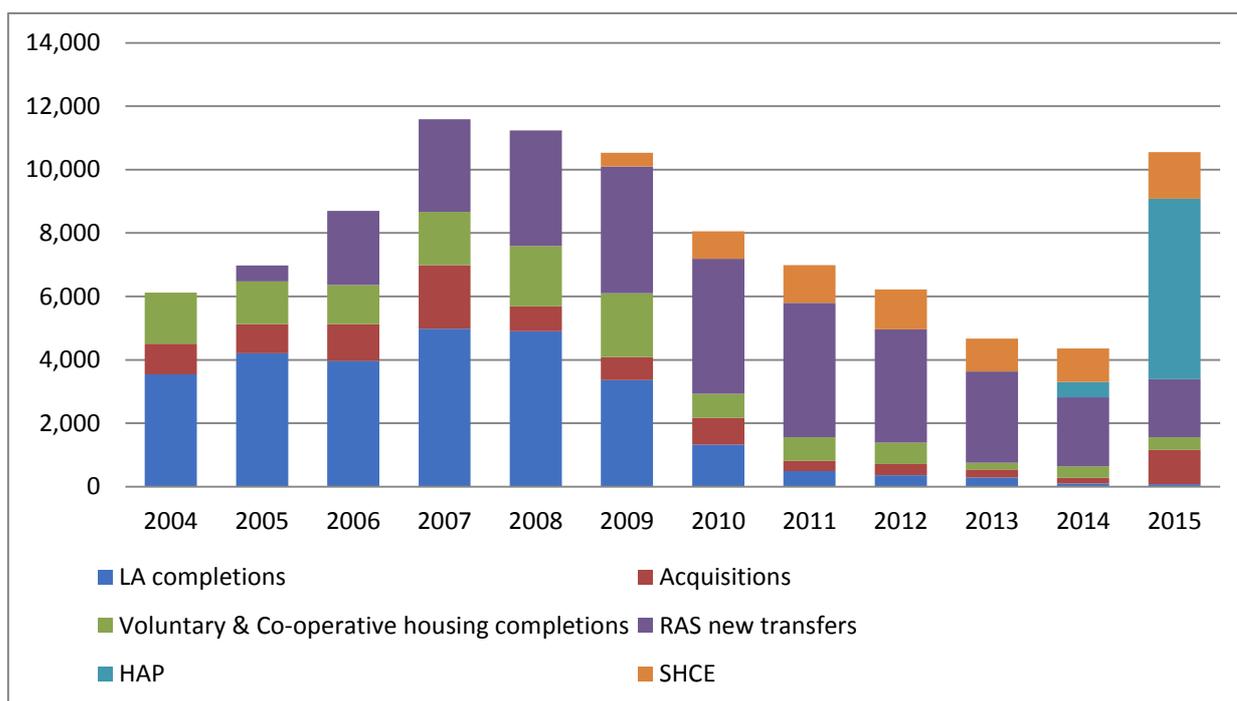
**Figure 1: Social housing completions and acquisitions 2004-2015**



**Source:** L&RS, based on DECLG (2016) statistics.

Figure 2 shows the entire spectrum of social housing output (including RAS, HAP and SHCEP) from 2005-2015. The chart shows the shift away from direct provision of housing by local authorities towards provision through private landlords in the form of RAS, HAP and the SHCE programme. The chart also illustrates the growing role of HAP since its introduction.

**Figure 2: Spectrum of social housing output 2004-2015**



**Source:** L&RS, based on DECLG (2016) statistics.

Local authority new builds have been decreasing since 2007 and in 2015 reached their lowest point since 2001.<sup>10</sup> The same is true of new builds in the private sector. The combined effect is a severe shortage of housing which puts pressure on the private rental sector.

### Capital and current budget for social housing

The Social Housing Strategy contains a capital investment programme of over €2.2 billion for social housing provision until 2017. This breaks down as follows:<sup>11</sup>

- Exchequer investment of €1.5 billion from 2015- 2017. To date €680 million has been allocated for the construction, turnkey and acquisition of **3,366 social housing units** in local authorities around Ireland (details of these units are contained in Appendix 2 of the Department's Housing Actions Report *Laying the Foundations* 2016).
- Public Private Partnerships (PPP) will be used to invest €300 million in the delivery of around **1,500 social housing** units by 2017. Approval of the first 500 was announced in 2015.<sup>12</sup>

<sup>10</sup> See submission by Social Justice Ireland.

<sup>11</sup> Figures available in foreword of *Social Housing Strategy 2020*.

- An off-balance sheet financial vehicle will provide €400 million from 2015 onwards to AHBs. The funds are expected to come from the sale of State assets, which is expected to leverage private finance and provide for at least **2,000 housing units** over the period 2016 to 2018.

When current expenditure is included, the total investment is €3.8 billion by 2020.

### Social housing targets

The DECLG target, as outlined in *The Social Housing Strategy 2020*,<sup>13</sup> is to provide:

- 35,000 new social housing units by 2020 (18,000 by 2017), through local authorities and Approved Housing Bodies (AHBs). Of these units 22,300 will be built or acquired, 11,000 will be leased and 2,300 will be provided through restoring voids.<sup>14</sup>
- In addition there is a target to meet the housing needs of 75,000 households, by the end of 2020, through the HAP and RAS schemes. 32,000 of these are to be provided by 2017.

The *Programme for a Partnership Government* (2016) acknowledges that it will be difficult to reach the HAP/RAS targets until the supply of new housing is increased.<sup>15</sup>

### Social Housing Strategy 2020 targets met to date (capital and current units)

In 2015, a total **4,382 of capital units** were provided (this figure includes 2,696 refurbished voids), while a total of **8,993 current units** were delivered through HAP, RAS and SHCEP.<sup>16</sup>

While the former Minister for the Environment, Community and Local Government, Mr Alan Kelly, T.D. told the Committee that the aim is to build or acquire 22,300 units for

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<sup>12</sup> Department of the Environment, Community and Local Government. (2016). <http://www.environ.ie/housing/social-housing/social-housing-strategy/minister-kelly-publishes-2015-social-housing-report>

<sup>13</sup> Department of the Environment, Community and Local Government. (2014). [Social Housing Strategy 2020](#).

<sup>14</sup> Figures provided to the Committee by Minister Alan Kelly, T.D. on 28 April 2016.

<sup>15</sup> A Programme for a Partnership Government. (2016). See [http://www.merrionstreet.ie/MerrionStreet/en/ImageLibrary/Programme\\_for\\_Partnership\\_Government.pdf](http://www.merrionstreet.ie/MerrionStreet/en/ImageLibrary/Programme_for_Partnership_Government.pdf)

<sup>16</sup> Department of the Environment, Community and Local Government. (2016). [http://www.environ.ie/sites/default/files/publications/files/social\\_housing\\_output\\_in\\_2015\\_-\\_addendum\\_to\\_main\\_report.pdf](http://www.environ.ie/sites/default/files/publications/files/social_housing_output_in_2015_-_addendum_to_main_report.pdf)

social housing by 2020, only 1,561 units were built or acquired in 2015.<sup>17</sup> Of these, just 476 were new builds.<sup>18</sup>

Speaking to the Committee on 28<sup>th</sup> April 2016, the then Minister said:

“If we were to produce a large volume of houses immediately in this year, they should have been planned three years ago. The simple fact is we did not have the money for it.”

The Minister went on to say that he expected the figure would be in the hundreds in 2016, in the thousands in 2017 and close to 10,000 in 2018. The Minister told the Committee that there are currently 5,000 houses in the process of being built across the country.

### **1. Ensure that local authorities return to direct building of social housing and that 50,000 new social housing units will be built up to 2020.**

A recent housing crash combined with contraction of public spending meant that both the private and public sector stopped building housing resulting in a shortage of available social housing units.

The Irish Council for Social Housing (ICSH) state that the current level of social rented housing in Ireland (9% of the total housing stock, i.e. 150,000 units) is very low compared to the EU average of 17%.<sup>19</sup> The ICSH recommend that the Irish social housing stock increase to at least 200,000 homes. Professor PJ Drudy says 30% of housing stock should be social housing.

The lack of supply at present is the result of years of under-investment in new builds by local authorities, who, after the collapse in house prices, focused on purchasing available properties rather than building. As reported by the County and City Management Association, presenting to the Committee on 26 April 2016:

“...it was not until last year that money was made available for actually going to construction.”

A NESC (2014) report argues that it is difficult to see how the scale of social housing required can take place without “substantial” local authority provision. The report states:

“The State now has considerable land resources that can be used for social housing. This consists of (i) land owned by local authorities; (ii) land owned by

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<sup>17</sup> Ibid.

<sup>18</sup> Department of the Environment, Community and Local Government (2016). <http://www.environ.ie/housing/social-housing/social-and-affordable/overall-social-housing-provision>

<sup>19</sup> Submission to the Committee from the ICSH.

the Housing Agency; (iii) land under the control of NAMA; (iv) land owned by other public bodies that might be suitable for social housing.”

However funding of social housing through local authorities will go on the State’s balance sheet, which is an obstacle because of the EU fiscal rules.

The importance of direct provision of new social housing by local authorities was stressed by the Association of Irish Local Government when they challenged the present over-reliance on the private housing market:

“...with population growth figures set to continue to rise and a high demand for housing, this will inevitably lead to both social housing and private housing clients competing for the same limited supply of units.”

## **2. Ensure that while building social housing, an appropriate mix of tenure is achieved in terms of private, social, affordable, voluntary and special needs housing.**

Local authorities are cognisant of over-concentration of social housing when looking at developing land. The City and County Managers Association state:

“On the question of whether to have 100%, 10% or 15% build-out, it depends on the site and its context. A small infill site in Dublin city, for example, could be built out by 100% because of the broader context and mix of properties in the general area, whereas a similar site in a town where there is a need for housing would not be so built out because there would not be a mix of tenure in the broader area and that might lead to the problems.”

Many stakeholders agree that an integrated community with a mix of social, affordable and private housing is positive for communities. Professor PJ Drudy told the Committee:

“Sadly, people in private estates do not like the idea of social housing and that is wrong. We need to move towards a model like that in Germany, France or the other European countries where there is much more integration.”

Part V of the *Planning and Development Act 2000* (amended in the *Urban Regeneration and Housing Act 2015*) places a requirement of 10% social housing in private developments of 10 or more units. The Department estimates, that by 2020 4,000 social housing units will be built, through Part V.<sup>20</sup> However the Committee has discussed whether or not it is possible to satisfy social housing need with only a 10% minimum allocation on private developments.

A mixed tenure public housing model may offer a faster means of producing social housing, while also providing for an integrated community.

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<sup>20</sup> For written answer on Tuesday, 6th October, 2015. Ref No: 34645/15

Dublin City Council have been developing a “land initiative” over the past twelve months. The intention of the land initiative is to produce social housing alongside owner-occupier housing, as well as housing targeted at families who do not qualify for social housing but are unable to afford to purchase a property. A Dublin City Council official told the Committee on 26 April 2016:

“We see the need for some form of affordable renting in the mix. We could have what we are calling public housing which would be a mixture of affordable rental and social housing, supplemented by units for purchase.”

The Housing Agency told the Committee:

“It is appropriate for local authorities and other public sector bodies to build on scale with a mix of housing, including people on social housing, private renting, people who purchase housing and affordable housing. We can do it and it has been done before.”

**3. Fast-track the planning process for social housing and reduce the Part 8 process from 8 to 6 weeks. Where there are unreasonable delays emergency powers (such as the statutory provisions of section 179 of the Planning and Development Act) should be invoked. Also, make the Part 8 planning process the same for AHBs as it is for local authorities for a period of 18 months.**

There is a balance to be struck between fast-tracking the planning process and responding to the housing crisis which is responsible in the long-term. The shortage of social housing in Ireland is acute and therefore any means of hastening the planning process for such houses should be explored.

The Institute of Professional Auctioneers and Valuers (IPAV) state in their submission to the Committee that:

“We are virtually unique in Europe in allowing a system of third party objections to planning. As a result, it now takes an average of 79 weeks from the initial planning application to the commencement of construction which is an inordinate amount of time and is perverse, given current and projected demand for housing.”

The Association of Irish Local Government urge a reduction in bureaucracy to allow a swifter tendering system. They also urge that An Bord Pleanála be examined, as they feel it is working too slowly.

The former Minister, Mr. Alan Kelly T.D. introduced a streamlined process for delivering social housing in smaller developments (15 units or less), to allow a faster turnaround time. The *Programme for a Partnership Government* commits to increasing the

threshold for the single-stage process from €2 million to €5 million (subject to agreement between Central Government and local authorities).<sup>21</sup>

Dublin City Council made Rapid Build Housing possible through exercising its powers under Section 179(6)(b) of the *Planning and Development Act, 2000* (Non requirement for full planning procedures by a local authority whereby a situation arises that “is necessary for dealing urgently with any situation which the manager considers an emergency situation calling for immediate action”).

When asked by a member of the Committee if it would be possible to have a branch of An Bord Pleanála which would fast-track the planning process for houses, so long as it was in the public interest and for a limited time, the Master of the High Court replied:

“I cannot see any difficulty with that. The situation with planning is that we could rewrite our planning laws overnight.”

The Minister for Housing, Planning and Local Government, Mr. Simon Coveney, T.D. has stated that he is considering using emergency powers which would:

“...bypass planning on publicly owned land, using rapid house building technology, using an infrastructure fund to open up sites, or [using] the State's land bank to get building under way...”<sup>22</sup>

The Minister also told the Committee that he is examining how to reduce time taken for Part VIII of the Planning and Development Regulations 2000-2015 (Public consultation schemes), while maintaining input from Councillors.

#### **4. Make better use of Strategic Development Zones to provide for social housing. The option of a higher Part V allocation in SDZs, as well as the use of Compulsory Purchase Orders (CPOs) in SDZs should be explored.**

A Strategic Development Zone (SDZ) is an area of land that is proposed to contain developments of economic or social importance to the State. The designation of a site as an SDZ is a decision made by the Government.<sup>23</sup>

NAMA told the Committee that it has had a positive experience working in the Docklands because of its status as an SDZ. NAMA said that this streamlines the process and avoids submitting revised appeals for planning permission where plans are changed.

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<sup>21</sup> A Programme for a Partnership Government. (2016). See [http://www.merrionstreet.ie/MerrionStreet/en/ImageLibrary/Programme\\_for\\_Partnership\\_Government.pdf](http://www.merrionstreet.ie/MerrionStreet/en/ImageLibrary/Programme_for_Partnership_Government.pdf)

<sup>22</sup> Irish Independent. Emergency powers will bypass planning to ease house crisis. See <http://www.independent.ie/business/personal-finance/property-mortgages/emergency-powers-will-bypass-planning-to-ease-house-crisis-34721261.html>

<sup>23</sup> <http://www.sdcc.ie/services/planning/strategic-development-zones>

NAMA expressed the view that designating the Irish Glass Bottle site in Ringsend as an SDZ would help to speed up the process of developing the site for a potential 2-3,000 housing units. The Government recently announced that it has approved plans to fast-track a special planning scheme for the glass bottle area.<sup>24</sup>

The Society of Chartered Surveyors Ireland (SCSI) told the Committee on 3 May 2016 that creating SDZs may be more time efficient than local area plans, regional planning guidelines and county development plans. By doing so:

“...a majority of the issues, which would be dealt with in a detailed planning application, could be dealt with upfront, leading to a more efficient use of resources.”

However, SDZs can also be time-consuming. The Housing Agency told the Committee on 28 April 2016 that local authorities have local area plans and master plans, which are a ‘stepped down’ version of SDZs but can be very effective if used properly.

**5. The Minister should consider the establishment of a Housing Procurement Agency with staff from the Housing Agency, NTMA, Department of Housing, Planning and Local Government, and the Department of Finance to assist local authorities and approved housing bodies to deliver their social housing programme through supports including funding and procurement.**

A number of stakeholders argue that a continuous pipeline of social housing is needed. This, they argue, could be aided by the co-ordination of land through a central agency. Speaking to the Committee on 12 May 2016, NAMA said:

“When centralised agencies with a specific purpose, such as the National Roads Authority...are assigned to such tasks...they make things happen...it may have merit, it is a Government policy decision.”

Sustained capital investment for the foreseeable future would also be required.

**6. Fast-track legislation to regulate the AHB sector, so that it is more accountable. Also, improve AHBs ability to access finance.**

### ***Regulation***

The previous Government (2011-2016) published the *General Scheme of a Housing (Regulation of Approved Housing Bodies) Bill 2015* that would better regulate the AHB sector, so that it can attract private investment.

It would make sense for this legislation to be fast-tracked if the sector is to be more accountable and attractive to private investors.

A benefit of provision of social housing through AHBs, over local authorities, is that it can be funded largely off balance-sheet. While local authorities receive funding directly from the State, AHBs use a mixed funding model of 30% state finance, with 70% loan finance.

In 2015 local authorities completed 75 units, while AHBs completed 401 units. Over the past ten years the slowdown in construction by local authorities has seen AHBs build more social housing than local authorities. From 2010-2015, AHBs have completed 3,144 housing units, while local authorities completed 2,655.<sup>25</sup>

A number of stakeholders have highlighted the role of AHBs in the provision of social housing and recommend that the State continue to develop partnerships with AHBs. The ICSH urge collaboration between AHBs and local authorities, as local authorities can bring sites and housing applicants, while AHBs can bring non-State financing and a housing management focus. Also, the ICSH highlight the role that AHBs could provide in providing the 'tenure neutral policy approach' introduced in 2011.<sup>26</sup>

Some members of the Committee have expressed the view that local authorities are better placed to provide social housing on the scale it is required. However, in some local authorities, where there is a lack of skills at present, it may be appropriate for AHBs to develop the land.

### **Finance**

The *Programme for a Partnership Government* (2016)<sup>27</sup> states that it will encourage the expansion of the AHB sector by establishing a central coordination support section in central Government which will have responsibility for increasing delivery by AHBs and co-ordinating policy implementation for the sector. The Programme also states that it will:

“...look to support housing associations in their establishment of a sector led special purpose vehicle to provide long term finance for the sector.”

This was recommended by the ICSH in its written submission to the Committee.

The Irish League of Credit Unions (ILCU) has proposed that the credit union movement could form a special purpose vehicle that would either:

- Invest in a state owned “financial vehicle” which would lend to Approved Housing Bodies to fund the development of social housing, or

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<sup>25</sup> Department of the Environment, Community and Local Government. (2016). Social housing output overview. See <http://www.environ.ie/housing/statistics/house-building-and-private-rented/construction-activity-completions>

<sup>26</sup> See <http://www.environ.ie/housing/social-housing/penrose-outlines-vision-social-housing>

<sup>27</sup> A Programme for a Partnership Government. (2016). See [http://www.merrionstreet.ie/MerrionStreet/en/ImageLibrary/Programme\\_for\\_Partnership\\_Government.pdf](http://www.merrionstreet.ie/MerrionStreet/en/ImageLibrary/Programme_for_Partnership_Government.pdf)

- Invest and lend directly to Approved Housing Bodies to fund the development of social housing.

With regard to the first of these options, the ILCU told the Committee on 5 May 2016 that it could not be considered as off the State's balance sheet; therefore the second option is of most interest to the State and is the subject of discussions between the League, the Department of Finance and the Department of the Environment, Community and Local Government (now Housing, Planning and Local Government), as well as the Central Bank.

In response to these proposals, the Minister for Finance Mr. Michael Noonan, T.D. told the Committee that they would have to get approval by the Central Bank which will not: "...allow the credit unions to get involved in speculative activity that would put those savings at risk in any way."

Acknowledging this, the ILCU told the Committee that they are working towards lending perhaps €1BN of their €9-10BN, with Central Bank approval.

The Housing Agency recommends increasing the size of the AHB sector by incentivising vocational groups to use pension funds to develop low cost housing for members.

The NTMA told the Committee on 31 May that it is looking at setting up a vehicle to buy houses on behalf of AHBs, using funds from the Ireland Strategic Investment Fund or private capital. These would then be leased to AHBs, so that there is a rental income. The NTMA told the Committee:

"That would be an income producing vehicle and asset, and would, of course, crucially be off-balance sheet."

The NTMA also told the Committee that part of the Strategic Investment Fund mandate is to attract co-investors.

NOVAS recommend that accelerated Capital Advance Leasing Facility (CALF) payments to AHBs be frontloaded so that AHBs can better invest in social housing. The organisation told the Committee that it is still awaiting full payment from the State proportion of the funding, despite having purchased properties more than 12 months ago.

The Department of the Environment, Community and Local Government *Housing Actions Report* (2016) stated that it will introduce a mechanism to allow for the agreement of multi-annual CALF funding programmes with AHBs. The objective is to provide more certainty to AHBs with regard to their funding requirements.

This initiative will operate on a pilot basis with five AHBs in 2016 with the objective of broadening the initiative in 2017.

**7. As recommended by the Housing Agency,<sup>28</sup> the Government should develop an over-arching national two-year strategy to reduce vacancies in the general housing stock. Based on the national strategy, each Local Authority should conduct an audit and produce an empty homes strategy with objectives, aims and actions needed to tackle the issue.**

The Housing Agency presented the Committee with briefing material relating to vacant housing and commented that:

“If the State was to target the utilisation of some categories of vacant properties, it could give a much needed boost to housing supply in the short term and relieve some of the pressures on supply...”

The Census figures for 2011 show a vacancy rate of 14.5%. The reasons for such vacancy may include the occupier being in care, or homes which are repossessed by lending institutions. A report published by the Housing Agency in May 2016, using Census 2011 figures, found that there are 7,995 vacant houses and 16,321 vacant apartments in Dublin city centre.<sup>29</sup> The report also shows that there were over 50,000 vacant homes in Cork, Dublin and Galway cities and suburbs combined. However, it will not be until new Census figures are released that a clearer picture will emerge.

The Housing Agency recommends that the level of empty homes be monitored so that appropriate units can be utilised quickly. A similar programme, they argue, has been successful in dealing with unfinished housing estates and local authority void properties.

The 2015 National Housing Survey found that out of 668 unfinished developments nationally 2,542 dwellings are complete and vacant.<sup>30</sup>

In relation to local authority voids, the Committee was told by the County and City Management Association that while the management of voids has improved in local authorities nationally, there are still a number of local authorities for which it is a problem, due to “...reasons unique to those areas.”

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<sup>28</sup> <http://www.housing.ie/getattachment/Our-Publications/Latest-Publications/16-05-17-Vacant-Homes-Paper-Housing-Agency.pdf>

<sup>29</sup> Housing Agency. (2016). Tackling empty homes: Overview of vacant housing in Ireland and possible actions. See <https://www.housing.ie/getattachment/Our-Publications/Latest-Publications/16-05-17-Vacant-Homes-Paper-Housing-Agency.pdf>

<sup>30</sup> The report can be accessed at this link [https://www.housing.ie/getattachment/Our-Services/Unfinished-Housing-Developments/2015-National-Housing-Survey/Progress-Report-on-UHDs-Dec-2015-\(final\).pdf](https://www.housing.ie/getattachment/Our-Services/Unfinished-Housing-Developments/2015-National-Housing-Survey/Progress-Report-on-UHDs-Dec-2015-(final).pdf)

A report by the National Oversight and Audit Commission (NOAC) (2014) found that average re-letting times and costs, across local authorities, varied from six to twenty-five weeks where major works were not required and from €9,000 to €23,000 per unit.<sup>31</sup>

The County and City Management Association also said that there are some derelict sites in towns and villages around the country, which may offer opportunities for development. When prompted, the Association said that there may be scope in towns and villages to incentivise owners of commercial premises to refurbish part of their units for residential purposes. The Association clearly says that any incentives should only be offered to those who make such properties available to rent.

The Peter McVerry Trust told the Committee on 26 May 2016 that it had identified a number of voids which it reactivated over a number of weeks, having been given control of the land by the local authority. An example is 11 units at Hogan Court in Dublin, the renovation of which was funded by the Construction Industry Federation (CIF).

The *Programme for a Partnership Government* (2016) states that it will incentivise local authorities to return more vacant social housing units to use by linking exchequer funding for local authorities with better performance in estate management. It also states that it will publish regular statistics on their performance in this regard.<sup>32</sup>

## **8. Carry out a review of the Tenant Purchase Scheme**

The County and City Management Association told the Committee that a new tenant purchase scheme was introduced in January 2016. The scheme is open to tenants of local authority houses (available for sale under the scheme) who have been in receipt of social housing support for a minimum period of one year and have a minimum reckonable income of €15,000 per annum.

There is concern among some stakeholders that tenant purchase schemes may weaken communities, as those who are able to buy could eventually leave. Acknowledging these concerns, the County and City Management Association said:

“The tenant purchase scheme has been linked with that over many years. It affords people in communities - strong people - the opportunity to stay within that community but to own the home.”

Some stakeholders disagree with this scheme as it reduces social housing stock at a time when stock is particularly low. Speaking to the Committee, Professor PJ Drudy told the Committee:

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<sup>31</sup> National Oversight and Audit Commission. (2014). Performance Indicators in Local Authorities.

<sup>32</sup> A Programme for a Partnership Government. (2016). See [http://www.merrionstreet.ie/MerrionStreet/en/ImageLibrary/Programme\\_for\\_Partnership\\_Government.pdf](http://www.merrionstreet.ie/MerrionStreet/en/ImageLibrary/Programme_for_Partnership_Government.pdf)

“I disapprove totally of flogging off social housing because all that does is reduce the stock. We are acquiring houses at market prices and flogging them off at a discount price. That makes no sense to me.”

The Society of Saint Vincent de Paul are concerned about the pressure that home ownership may place on some people:<sup>33</sup>

“Households on lower incomes are likely to struggle with the additional costs of home ownership, such as home insurance, local property tax, maintenance etc and may be at risk of going into mortgage arrears because of these costs.”

However other stakeholders believe it is right for social housing tenants to have the option (in some cases) of owning their own homes. The Association of Irish Local Government (AILG) states:

“Home ownership is, we believe, an aspiration that should be afforded to all social housing tenants.”

The *Programme for a Partnership Government* (2016) retains the Tenant Purchase Scheme and leaves discretion for local authorities to limit the disposal of certain types of social housing.

### **9. Introduce an affordable cost rental model of housing provision that would accommodate those on lower incomes who do not qualify for social housing**

In a cost rental model, a housing provider raises the finance to provide accommodation and charges rents that are sufficient to cover capital costs, as well as on-going maintenance and management costs.

The *Social Housing Strategy 2020* states that the cost rental model avoids exposure to rising market rents and could ease demand for social housing:

“The Strategy highlights the need to examine how greater security and stability might be created for tenants and the scope to use resources in HAP and leasing budgets to support new off-balance sheet provision of social and affordable or cost rental mechanisms.”

PJ Drudy advocated the cost rental model when he spoke to the Committee on 10 May stating:

“The State would effectively regulate rents and the gardaí, teachers, nurses and so on who rent the homes would have security of tenure and standards would be good.”

Likewise, the ICSH advocated this approach to the Committee, saying:

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<sup>33</sup> Written submission to the Committee.

“We believe this would meet the needs of people who are starting off, such as teachers or nurses who are on lowish incomes, but cannot get a mortgage.”

The *Programme for a Partnership Government* states that it will develop a “cost rental” option for low income families as recommended by NESC. The programme does not given any targets in this regard.<sup>34</sup>

**10. Introduce choice-based lettings nationally, but efforts must be made to facilitate access by those with learning difficulties, poor literacy, poor ICT skills and those with limited access to the internet.**

Choice Based Letting (CBL) is a system of managing housing offers to those on waiting lists and is seen as particularly useful with units which are difficult to let.<sup>35</sup> A report by the Chartered Institute of Housing lists the benefits of CBL as:

- greater customer choice;
- more efficient;
- increased engagement and interaction between customers and housing providers; and
- better acceptance rates.

The report notes however that efforts must be made to facilitate access by groups with difficulty accessing the information, such as those with learning difficulties, poor literacy, poor ICT skills and those with limited access to the internet.<sup>36</sup>

The former Minister for the Environment, Community and Local Government, Mr. Alan Kelly, T.D. invited all local authorities to consider the introduction of a CBL allocation system to allow social housing applicants to choose properties themselves from available Council stock.<sup>37</sup> He told the Committee:

“Choice-based lettings should be brought in nationally for all local authorities. There should be a national system. The example in Cork is excellent, and I complimented the two individuals who ran it, but we should introduce the process nationally. It is evidence-based and a good policy.”

CBL has been used in some parts of Dublin and Cork.

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<sup>34</sup> A Programme for a Partnership Government. (2016). See [http://www.merrionstreet.ie/MerrionStreet/en/ImageLibrary/Programme\\_for\\_Partnership\\_Government.pdf](http://www.merrionstreet.ie/MerrionStreet/en/ImageLibrary/Programme_for_Partnership_Government.pdf)

<sup>35</sup> Dublin City Council. Choice Based Housing Lettings. See <http://www.dublincity.ie/main-menu-services-housing/choice-based-housing-lettings>

<sup>36</sup> McPeake, J. Effective Void Management in Ireland. See <https://www.housing.ie/getattachment/Our-Publications/Latest-Publications/CIH-Voids-Practice-Guide-final-Web.pdf>

<sup>37</sup> For written answer on Wednesday, 6th April, 2016. Ref No: 6060/16

**11. Ensure that local authorities have appropriate technical staff to provide social housing.**

Many stakeholders have highlighted the loss of technical, construction-related staff in local authorities. The Association of Local Government in Ireland recommends that funding be provided (within the capital costs of housing projects) for the recruitment of short-term technical staff, so that there are no delays in housing projects due to a lack of professional expertise. The group also recommend that the shared services model within local authorities be used for design and planning teams that could then provide their services across county boundaries to other local authorities.

### Key Issues

- The overall tenure mix of housing is changing, with rental increasing strongly as a share of the total, especially in Dublin and other cities. The proportion of private rental has increased over the years and currently accounts for 20% of housing. In Dublin city, tenure is now equally divided between ownership and rental.<sup>38</sup>
- The profile of renters in Ireland is broadly in line with other European countries, with the majority of tenants in Ireland under 35 and single. Those in receipt of rent supports form a large proportion of the rental sector.
- Over 90% of rental properties in Ireland are provided by small-scale landlords and it is estimated that around one-third are 'accidental landlords'. Approximately 20.9% of residential mortgage accounts for buy-to-let (BTL) properties were in arrears at the end of 2015.
- According to Daft.ie, the average rent nationwide has risen by just over one third since bottoming out in late 2011 and is just 3% below the early 2008 peak. The rent index compiled by the ESRI for the Residential Tenancies Board indicates that nationally, monthly rent levels were 0.5% higher in Q1 2016 than the previous quarter, and on an annual basis, rents were 8.6% higher than Q1 2015. Disposable income, meanwhile, is slightly below the 2008 peak but has been rising since 2014.
- Most homeless families are coming from the PRS (this is dealt with in Chapter 7).
- According to the CSO's Survey on Income and Living Conditions for 2014, the "at risk of poverty rate" for those in private rented housing increased between 2013 and 2014, with almost a fifth of such households at risk of poverty. This is higher than the corresponding owner-occupier figure.
- There were just 3,082 rental properties on the market nationwide at the start of May 2016, the lowest on record, with just 1,100 properties available to rent in Dublin. There was an increase in the average rent nationwide of 9.3% in the year to March 2016. Average rent nationwide has risen by 34% since their lowest point in 2011.<sup>39</sup>
- Some stakeholders suggest renting will be a much more common choice for Irish households in the future and that it should no longer be predominantly viewed as a short term option. This is important in terms of tenure mix and devising an

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<sup>38</sup> As the Housing Agency finds.

<sup>39</sup> As Daft.ie finds in its rental report.

overall future housing strategy.

## Recommendations

1. Develop and publish a national strategy specifically for the PRS to address long-term rent certainty, increase affordable supply, improve the quality of accommodation and professionalise the industry.
2. Introduce a system of rent certainty by linking rent reviews to an index such as the Consumer Price Index (CPI) and review annually.
3. That Rent Supplement and Housing Assistance Payments be increased to reflect current market rates.
4. Increase security of tenure and protection from evictions for tenants by:
  - Introducing a scheme whereby a housing association or local authority can purchase a rental property from an exiting investor (Rent switch programme).
  - Making 4 year tenancies the norm, instead of 1 year as currently is the case, and explore the introduction of 10 year and life tenancies.
  - Establishing legal safeguards to allow tenants to remain in situ during and after sale of property.
  - Amend the Residential Tenancies Act to outlaw the sale of property as grounds for evicting a tenant, except in exceptional circumstances where severe financial hardship can be proven by the landlord.
5. Address specific needs regarding student accommodation including by creating a Government Student Housing Strategy, within 12 months, in consultation with the USI that sets out long-term solutions, goals and timelines focused on the provision of appropriate on-campus or near-campus, new build, student accommodation sensitive to the needs of local communities and providing funds to hire a Student Housing Officer.

## Background

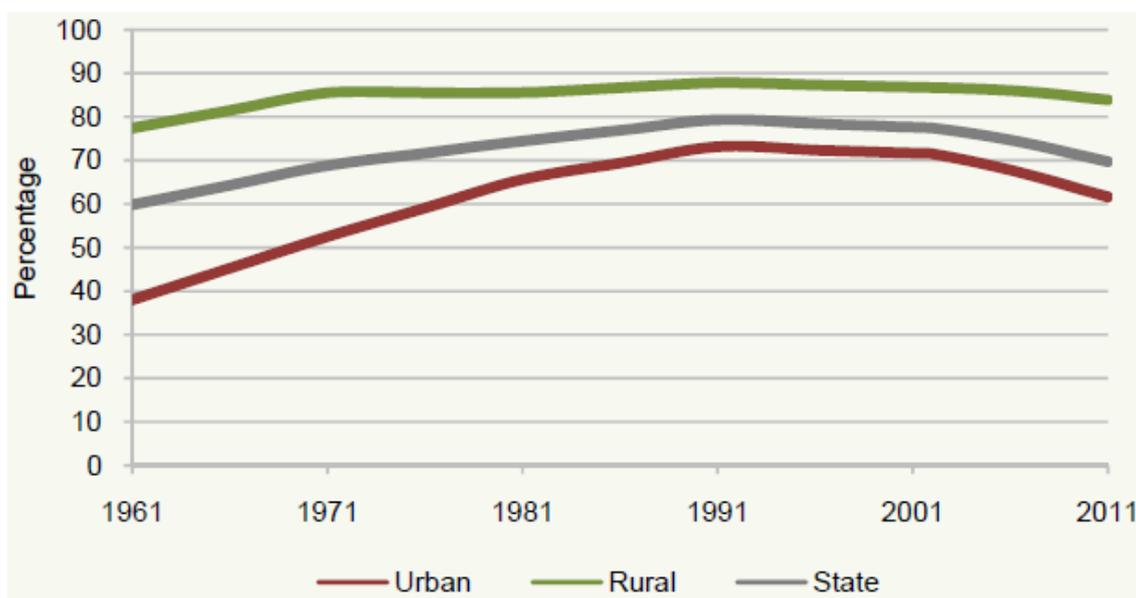
The private rented sector (PRS) is one of the three main sectors comprising the housing market, together with owner-occupier and social housing. Demands on this sector in Ireland have increased significantly in recent years as home ownership has declined (see Figure 3 below).<sup>40</sup> One in five households are now in the private rented

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<sup>40</sup> In its submission to the Committee, the Housing Agency explains that the number of owner-occupiers as a proportion of all private households reached a peak of 80% in 1991, but declined every year thereafter.

sector compared to one in ten in 2006.<sup>41</sup> The Housing Agency explains that one third of private rental receives State support.<sup>42</sup>

**Figure 3: Home ownership rates in urban and rural areas, 1961 – 2011**



**Source:** Census 2011 Profile 4, *The Roof over our Heads* (p. 13). Available at <http://www.cso.ie/en/census/census2011reports/census2011profile4theroofoverourheads-housinginireland/>

In its submission, Threshold explains the role of the PRS at present and why the view of the PRS must reflect current realities rather than past experiences where it might not have been considered a longer term option:

“Given the smaller relative size currently of the social rented sector the majority of long-term renters will, at least in the short term, be living in the PRS. This means that there can be no return to the past where the PRS was regarded as a short-term housing option for students, couples saving to buy a home, and poorer people”.

Census data from 2011 shows that 305,377 households were renting from a private landlord in 2011, representing 19% of all permanent private households. Much of the shift towards renting in recent times has been concentrated in Dublin, Cork, Limerick and Galway and rented accommodation is most likely to be located within the main urban centres. In Dublin city, tenure is now equally divided between ownership and

<sup>41</sup> Housing Agency (2015) *National Statement of Housing Supply and Demand 2014 and Outlook for 2015-17*. Available at <http://www.housing.ie/News/Current-News/Increasing-Demand-for-Housing-Requires-Significant.aspx#>

<sup>42</sup> Housing Agency (2016) *Submission to the Committee on Housing and Homelessness*. Available at <http://www.oireachtas.ie/parliament/media/committees/32housingandhomelessness/Housing-Homelessness-Committee-HA-Combined-Submission-Revised.pdf>

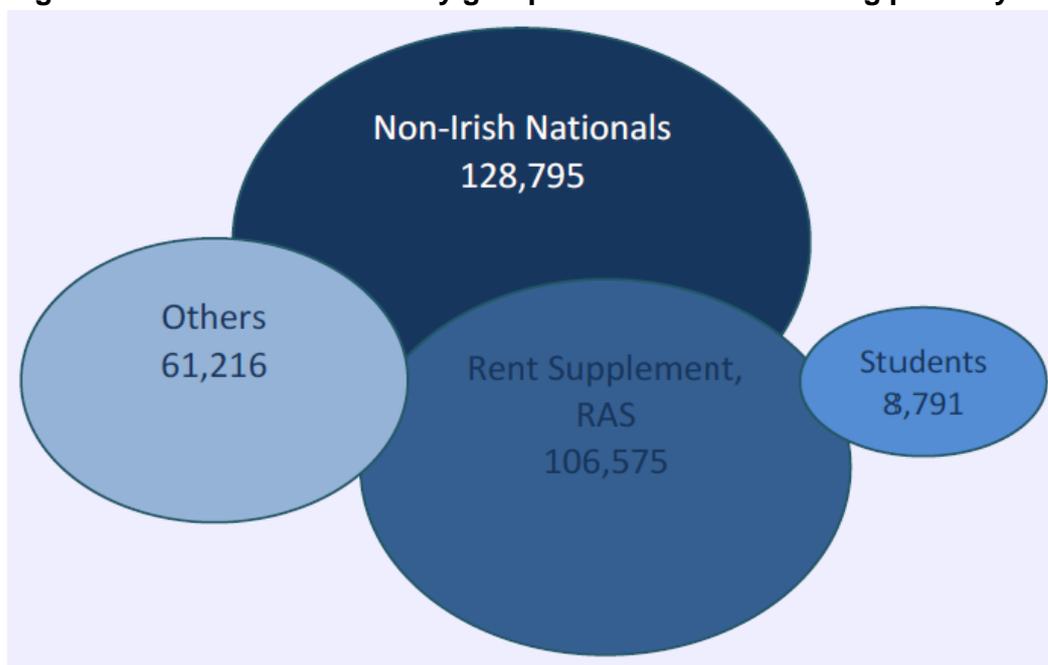
rental.<sup>43</sup> Apartments were the most popular type of privately rented accommodation (85,000), followed by semi-detached houses (83,000).<sup>44</sup>

#### *Profile of renters and landlords in Ireland*

The National Economic & Social Council (NESC) explains that “the composition of tenants in the rental sector and the financial position of landlords explain many of the features of the sector and are relevant in considering its future”.<sup>45</sup> Accordingly, a brief overview of both tenants and landlords in Ireland is presented below.

The Irish private rental sector is dominated by two large groups - migrants and those in receipt of rent supports (see Figure 4). It also comprises a relatively small group of students and a larger group of “others” who do not fit into the three other categories.

**Figure 4: Estimations of the key groups of households renting privately**



**Source:** NESC (2015) *Ireland's Rental Sector: Pathways to Secure Occupancy and Affordable Supply*. Page 20.

**Notes:** RAS is the Rental Accommodation Scheme. NESC explains it presented this information as a Venn diagram rather than a pie chart because there is some overlap between the “non-Irish nationals”, “students” and “Rent supplement, RAS” groups in that people may, for example, belong in more than one group such as a non-Irish national who is also a student.

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<sup>43</sup> Housing Agency (2016) *Submission to the Committee on Housing and Homelessness*.

<sup>44</sup> NESC (2015) *Ireland's Rental Sector: Pathways to Secure Occupancy and Affordable Supply*. Available at [http://files.nesc.ie/nesc\\_reports/en/141\\_Irelands\\_Rental\\_Sector\\_MainReport.pdf](http://files.nesc.ie/nesc_reports/en/141_Irelands_Rental_Sector_MainReport.pdf)

<sup>45</sup> NESC (2015) *Ireland's Rental Sector: Pathways to Secure Occupancy and Affordable Supply*. Page 22. Available at [http://files.nesc.ie/nesc\\_reports/en/141\\_Irelands\\_Rental\\_Sector\\_MainReport.pdf](http://files.nesc.ie/nesc_reports/en/141_Irelands_Rental_Sector_MainReport.pdf)

The profile of the Irish rented housing sector is broadly in line with other European countries and the majority of tenants are under 35 years old and single.<sup>46</sup> In 2014, 63% of all those renting were aged 18-34 and 61% were single.<sup>47</sup> The number of families renting increased between 2006 and 2011 from 22% of families with pre-school children to 35% and from 18% of families with primary school children to 29% renting.

Data from Census 2011 shows 42% of all households renting privately were households headed by a foreign national.<sup>48</sup> It also demonstrates that when looking at type of occupancy by nationality, variations emerge between UK nationals resident in Ireland and the other non-Irish groups. Specifically, home ownership was the more probable occupancy status for the former whilst the latter mainly lived in rented accommodation.<sup>49</sup>

According to the CSO's Survey on Income and Living Conditions (SILC) for 2014, there was an increase in the "at risk of poverty rate" between 2013 and 2014 for those who are in private rented housing, with almost a fifth of such households at risk of poverty.<sup>50</sup> This is higher than the corresponding owner-occupier figure.

Turning to landlords, the NESC explains that Irish landlords are predominantly small-scale: 65% rent one property, and 26% rent 2 to 3 properties. Estimates suggest that around one-third are 'accidental landlords', in that they are renting a property due to inheritance, or are unable (or unwilling) to sell it due to negative equity. The NESC also states that some landlords with mortgage arrears are now renting themselves.

There is institutional investment in Ireland in the form of Real Estate Investment Trusts (REITs), which are estimated to own 1,500 rental properties, mostly in Dublin. According to the 2015 NESC report, projections suggest that this could grow to 15,000 properties or 2% of the market in five years. There are also around 3,000 purpose built student accommodation units and at least 4,000 lodgers renting a room in another person's owned principal private dwelling.

#### *Numbers of available properties to rent*

The latest Daft.ie rental report (published on 10<sup>th</sup> May 2016) shows that there were just 3,082 properties on the market nationwide at the start of May 2016, the lowest on

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<sup>46</sup> Housing Agency (2015) *National Statement of Housing Supply and Demand 2014 and Outlook for 2015-17*.

<sup>47</sup> Information provided on the profile of tenants and landlords is sourced from NESC (2015) unless otherwise stated.

<sup>48</sup> There may, however, be Irish nationals living in these households headed by non-Irish nationals.

<sup>49</sup> Profile 4, *The Roof over our Heads* (p. 19). Available at <http://www.cso.ie/en/census/census2011reports/census2011profile4theroofoverourheads-housinginireland/>

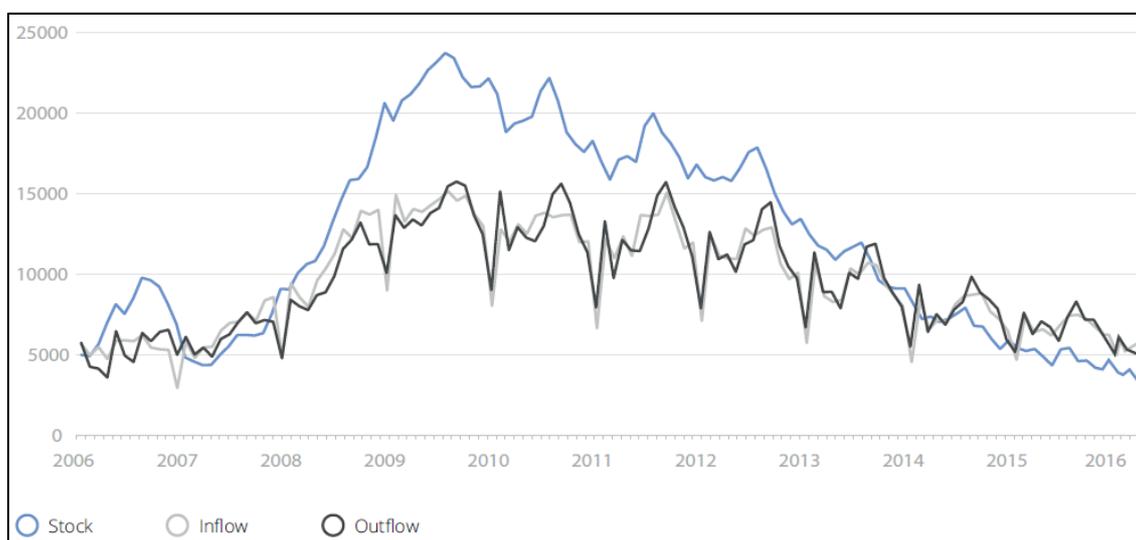
<sup>50</sup> CSO Survey on Income and Living Conditions (SILC), 2014 results. Available at <http://www.cso.ie/en/releasesandpublications/er/silc/surveyonincomeandlivingconditions2014/>

record.<sup>51</sup> This compares to a peak of nearly 24,000 in mid-2009 and over 7,200 two years ago (see Figure 3 overleaf).

Other highlights of the Daft.ie rental report include:

- There were just 1,100 properties available to rent in the capital on May 1<sup>st</sup>, a new record low for the series which started in 2006.
- Slightly more than 700 homes were available to rent in Leinster on May 1<sup>st</sup>, the lowest figure on record since the series began in 2006.
- Fewer than 700 homes were available to rent in Munster on May 1<sup>st</sup>, the lowest figure since early 2006.
- Fewer than 600 homes were available to rent in Connacht and Ulster on May 1<sup>st</sup>, the lowest figure since early 2007.

**Figure 5: Rental properties on the market nationwide, 2006 – 2016**



**Source:** Daft.ie (2016) *The Daft.ie Rental Report, An analysis of recent trends in the Irish rental market 2016 Q1*. Available at <http://www.daft.ie/report/ronan-lyons-2016q1-rental>

**Notes:** The index is based on asking rents for properties advertised to let on Daft.ie. Figures are calculated from econometric regressions, which calculate changes in price that are independent of changes in observable measures of quality, such as location, or bedroom number.

#### *Rent inflation*

According to Daft.ie, there was an increase in the average rent nationwide of 9.3% in the year to March 2016. The report describes this as representing “a remarkably persistent rate of rental inflation, with the average annual increase in rents since the

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<sup>51</sup> Daft.ie (2016) *The Daft.ie Rental Report, An analysis of recent trends in the Irish rental market 2016 Q1*. Available at <http://www.daft.ie/report/ronan-lyons-2016q1-rental>

second quarter of 2014 being 9.6%” although it does note a shift in the composition of rental inflation, away from Dublin and towards the other cities in the rest of Leinster in particular. The report also explains that the average rent nationwide has risen by just over one-third since bottoming out in late 2011 and is just 3% below the early 2008 peak. Disposable income, meanwhile, is slightly below the 2008 peak but has been rising since 2014.<sup>52</sup> Table 1 provides more detail on average rent and year-on-year change in rents across Irish cities.

**Table 1: Average rent and year-on-year change in the year to March 2016**

	Average rent	Year-on-year change (%)
Dublin city centre	€1,455	8.3%
Dublin north city	€1,365	9.3%
Dublin south city	€1,581	8.7%
Dublin north	€1,225	10.2%
Dublin south	€1,663	7.4%
Dublin west	€1,301	11%
Cork	€1,003	16%
Galway	€900	12.7%
Limerick	€792	12.4%
Waterford	€687	11.1%

**Source:** Compiled from data in Daft.ie (2016) *The Daft.ie Rental Report, An analysis of recent trends in the Irish rental market 2016 Q1*.

The rent index compiled by the ESRI for the Residential Tenancies Board indicates that nationally, monthly rent levels were 0.5% higher in Q1 2016 than the previous quarter, and on an annual basis, rents were 8.6% higher than Q1 2015.<sup>53</sup> Rents in Dublin grew by 0.2% in Q1 2016 when compared with Q4 2015, and were up 8.7% compared with Q1 2015.

#### *The present role of the PRS in terms of social housing and homelessness*

State supports for certain persons in the private rented market play an important role in Ireland’s overall social housing provision. There are a number of State support schemes which operate in the private rented sector in Ireland; Rent Supplement (RS), the Rental Accommodation Scheme (RAS), and the Housing Assistance Payment

<sup>52</sup> See Quarterly Institutional Sector Accounts Non-Financial, Quarter 4 2015 and Year 2015 (Preliminary). Available at <http://www.cso.ie/en/releasesandpublications/er/isanf/institutionalsectoraccountsnonfinancialquarter42015/>

<sup>53</sup> The PRTB Rent Index 2016 Quarter 1. Available at <http://www.prtb.ie/search-results/news/article/2016/06/09/latest-data-from-rtb-quarterly-rent-index>

(HAP).<sup>54</sup> In its opening statement to the Committee, the Department of Social Protection outlines its view of the focus or intended focus of these three supports:

“The strategic policy direction of the Department is to return rent supplement to its original purpose of being a short-term income support scheme mainly for people who are unemployed. To achieve this, the Government has effectively two initiatives to deal with long term reliance on rent supplement. The Rental Accommodation Scheme (RAS) which is in operation since 2004 and the more recent Housing Assistance Payment (HAP) which has been in operation since 2014 and is a key pillar of the Social Housing Strategy 2020 and Pathways to Work 2016 to 2020”.<sup>55</sup>

It is estimated that around 99,000 households receive State support for housing in the private rented sector, or 96,207 (32%) of all RTB registered tenancies.<sup>56</sup> These figures exclude dwellings let by local authorities as well as properties which are managed by AHBs. The State has been described as “a significant funder of activity in the private rental sector, with over one half of all rents received by private landlords coming from Rent Supplement, the Rental Accommodation Scheme and other schemes, at an annual cost to the Exchequer of over €500m”.<sup>57</sup>

Of particular interest to the Committee is whether the rates of Rent Supplement and the Housing Assistance Payment should be raised to reflect changes in the rental market.

Mr. Eugene Cummins of the CCMA told the Committee that the Housing Assistance Payment (HAP) has supported a large number of households already, describing its benefits as follows:

“Since its introduction, the housing assistance payment, HAP, has supported 8,000 households in the private rented sector across 19 local authorities with a target of 10,000 for this year. Increased rent supports on a case by case basis in HAP and rent supplement are now in place to reflect market conditions.”

The Committee was also told that there was an issue regarding the waiting times for money from welfare authorities for use on deposits. By the time the deposit is approved, the property is rented out to somebody else, so those seeking this approval are at an immediate disadvantage in the rental market.

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<sup>54</sup> HAP is operational in 19 of the 31 local authority areas.

<sup>55</sup> Department of Social Protection Opening Statement to the Committee. Available at <http://www.oireachtas.ie/parliament/media/committees/32housingandhomelessness/DSP-Opening-Statement-SWA-24-May-2016.doc>

<sup>56</sup> DKM Economic Consultants (2014) *Future of the Private Rented Sector* (prepared for the Housing Agency on behalf of the Private Residential Tenancies Board). Available at [http://dkm.ie/en/news/dkm\\_reports\\_on\\_private\\_rented\\_sector\\_published1](http://dkm.ie/en/news/dkm_reports_on_private_rented_sector_published1)

<sup>57</sup> Department of the Environment, Community and Local Government (2014), *Social Housing Strategy 2020: Support, Supply and Reform* p.x-xi. Available at [http://www.environ.ie/sites/default/files/publications/files/social\\_strategy\\_document\\_20141126.pdf](http://www.environ.ie/sites/default/files/publications/files/social_strategy_document_20141126.pdf)

What is of primary concern is whether an increase in Rent Supplement would result in an increase to market rents as well, so it is very cautious on recommending an increase. However, the Committee was told in some submissions it received that Rent Supplement increases could be targeted based on need.

In his appearance before the Committee, Dr. Ronan Lyons suggested a system of housing subsidies, which he argued would bridge the gap between a person's income and the cost of their rent. Such a subsidy, it is argued, would be based on the market principle that a tenant should not pay more than one-third of their disposable income on accommodation. In his Opening Statement submitted to the Committee, Dr. Lyons noted that the "golden rule of housing affordability is that a household shouldn't spend more than roughly one third of its disposable income on accommodation".<sup>58</sup>

### **Obstacles in the private rented sector**

In his submission to the Committee, Professor P.J. Drudy highlighted both the potential role of the private rented sector in addressing housing issues in Ireland and three problem areas for tenants:

"The private rented sector could play an important role in resolving the current housing crisis in Ireland. However, significant changes would be required. From the point of view of tenants three fundamental problems can be identified. These are high rents, insecurity of tenure and poor standards".

In addition, other commentators on the sector have identified issues of concern for landlords, such as tax treatment of rental income.

Obstacles in the private rented sector, which have been identified over the course of the Committee's deliberations and from other sources, include, but are not limited to, the following:

- The lack of a national plan for all categories of housing as highlighted by the Housing Agency;
- Shortage of supply of properties to rent, particularly in urban areas. This, in turn, is leading to rising rents;
- Levels of rents and rent affordability issues, which may make renting an unsustainable option for some;
- The time-lags involved in the provision of new stock;
- A regulatory framework which Threshold states "does not support long-term renting";
- Changes in household composition (specifically the trend towards smaller household size), which means that the future housing requirements might not match current stock;

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<sup>58</sup> Dr. Ronan Lyons, *A Right to a Home for All: Towards a Housing Strategy for Ireland, 2016-2020*, Submission to the Committee, 31 May 2016.

- Social housing in Ireland makes up a lower percentage of households (9%) than in a number of other European countries. This means there is what the former Minister for the Environment, Community & Local Government Alan Kelly TD called “a considerable reliance” on the PRS for the provision of social housing in Ireland; and
- The need for greater clarity around how the Constitution impacts on property rights, and what this might mean for future policy initiatives (including any potential legislation).

## Policy options

Key issues in relation to the PRS centre around issues of the lack of availability of properties to rent, affordability of rent and rent certainty, security of tenure, and supply side incentives and supports to increase the supply of affordable rental housing.

The Committee considered a range of policy options that would increase the availability of affordable properties to rent. In addition, policy options around the long term concerns of both tenants and landlords, with the latter relevant in terms of supply were considered. This sentiment is reflected in the Threshold submission which states:

“We need a strategy that recognises and supports the PRS as a long-term housing option, by taking into account the need of tenants for security and certainty and the needs of landlords to be treated fairly as a business”.

The majority of current renters are said to view it only as a short-term option, with inability to afford buying a house the main reason for renting.<sup>59</sup> As such, tenants may potentially be affected by issues related to other housing sectors considered by the Committee, e.g. *Private housing*. Sherry FitzGerald also suggest, for example, that the trend of investors off-loading investment properties is having a “debilitating impact” on the rental sector.<sup>60</sup>

## **Develop and publish a national strategy specifically for the PRS to address long-term rent certainty, increase affordable supply and improve the quality of accommodation in the PRS by professionalising and incentivising landlords**

### *National Strategy for the PRS*

It is over 15 years since the last strategic review of the PRS took place (Commission on the Private Rented Residential Sector, 2000). Threshold (a national housing charity) has long advocated a national strategy for the PRS focused around the issues of security of tenure and affordability.

<sup>59</sup> Housing Agency (2015) *National Statement of Housing Supply and Demand 2014 and Outlook for 2015-17*. Available at <http://www.housing.ie/getattachment/News/Current-News/Increasing-Demand-for-Housing-Requires-Significant/National-Statement-of-Housing-Supply-and-Demand-2014-and-Outlook-for-2015-2017.pdf>

<sup>60</sup> Sherry FitzGerald (2016) *Moderate price inflation in opening quarter, but increasing evidence of a market in crisis*, Statement by Marian Finnegan, Chief Economist. Available at <http://www.sherryfitz.ie/news/2227>

In its opening statement to the Committee, Threshold highlighted the need for a separate strategy for the sector. In its view, it is critical that the PRS now has a national strategy of its own, that is:

“adequately resourced and has clear targets to address issues like long-term rent certainty, increasing affordable supply, improving the quality of rented housing, promoting institutional investment and dealing with the difficulties in the buy-to-let sector”.

It believes the development of a strategy would allow for the views of all stakeholders to be considered to achieve a fair balance between the interests of tenants and landlords alike. The Residential Tenancy Board believes a strategy for the rental sector is:

critical to bring certainty to tenants and landlords on the long-term future of this sector whilst acknowledging that it will not magically solve the much wider supply pressures experienced in all sectors of the market.<sup>61</sup>

In terms of other reforms, Threshold proposes setting up “a **strategic framework** for the planning, organisation, monitoring and long-term funding of housing information, advice and advocacy services in Ireland within the new Department of Housing”.

#### *Affordable rental scheme model*

There appears to be relatively broad consensus on the need for some form of an affordable rent model to provide long-term affordable residential accommodation for low to moderate income key-worker households in urban areas of high demand. This type of model is discussed in the Department for the Environment, Community and Local Government’s document *Stabilising Rents, Boosting Supply* and was raised by stakeholders during the Committee’s work.

During its deliberations, the Committee heard about proposals intended to assist specific groups in society in the context of the PRS. In his submission to the Committee, Professor P.J. Drudy recommended that a “cost-rental” model of housing for rent for those currently ineligible for public housing (e.g. nurses, guards, teachers etc) should be implemented by the government as a matter of urgency.

The Irish Council for Social Housing (ICSH) recommended that policy makers support an intermediate affordable rental model earmarked at 75-80% of market rent to promote the development of mixed tenure neighbourhoods.

Threshold recommends the roll-out of an affordable rental scheme model nationwide whereby rental properties can be offered to low income workers at below the market rate. Threshold notes that the previous Government committed to developing an affordable rental pilot project in 2016, where the overall objective of an affordable rental

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<sup>61</sup> Residential Tenancies Board (RTB) Opening Statement to the Committee. Available at <http://www.oireachtas.ie/parliament/media/committees/32housingandhomelessness/Committee-on-Housing-and-Homelessness-RTB-statement-11.05.2016.docx>

programme would be “to provide long-term affordable residential accommodation for low to moderate income key-worker households in urban areas of high demand.” This pilot is currently being progressed in the Dublin area and Threshold believes there is a need for this programme to be rolled out nationwide to ensure that low-income workers are no longer at risk of homelessness.

It is worth noting that under the heading of "A New Model for Affordable Rental", the current Programme for Government commits the Government (on page 23) to developing a “cost rental” option for low-income families:

“It is clear that the social housing sector will remain under pressure unless we reform our wider housing sector. There needs to be more options beyond full State social housing or full private home ownership or rental. European countries with more stable, affordable and socially inclusive housing systems generally provide modest support for large-scale provision of secure rental accommodation, mostly by non-profit bodies, in which rents reflect costs, not the maximum that market pressures will sustain.

To this end the new Government will introduce a new model of affordable rental by working with housing associations and local authorities to develop a “cost rental” option for low-income families, as recommended by the NESC. The new Minister for Housing will provide leadership, work with all relevant stakeholders, and will set out in the Action Plan for Housing, a roadmap to implement the cost rental model. The Minister will set out a plan on how we will scale up the number of cost rental housing units in the years ahead. Cost rental will help to keep rental costs manageable for tenants and allow them to avoid future rental increase shocks. (First 100 days)”.

The previous Government introduced a number of legislative changes to address some of the issues in the market, including new rent certainty measures whereby rent cannot be reviewed more than once in any 24 month period.

#### *Increasing supply of rental properties by professionalising and incentivising landlords*

In Ireland, the lack of supply of properties is an issue, including for those in the PRS. Increasing rent prices would suggest that demand for properties to rent is greater than supply. In this context, and bearing in mind Ireland’s growing population, increasing the number of available rental properties would appear to be an important issue facing policy makers.

The Residential Tenancies Board (RTB) explains that the growth of the PRS is influenced by a number of factors including the rise in migration and one-person households, and notes the significance of shifting demand and what this means for housing policy:

“This means there is an increasing demand for rental accommodation. It is particularly important to recognise these shifting demand patterns, as they suggest that a significant part of our society will rent rather than own their homes. Therefore, we need to consider not just the much recognised need for more supply, but specifically the need for more supply of rental accommodation”.

Threshold discusses the potential of promoting institutional investment in promoting affordable supply. In this context, it outlines in its submission what it sees as the advantages of attracting institutional investors (by which they mean long-term institutional investors rather than investment funds ('vulture funds')):

“Institutional investors, such as pension funds and insurance companies, are interested in very long-term investments. They prefer longer-term tenants, as reletting and refurbishing properties is costly. Institutional investors can also bring more professional management practices and contribute to the supply of accommodation in high-demand areas”.

In its submission, the Housing Agency highlights the need to reduce the price of housing to ensure the best price to the State and the price to buy and rent. In its submission to the Committee, the Housing Agency recommended increasing Build-to-Let and that measures be taken to professionalise landlords by incentivising larger landlords. This could be done through targeted tax measures.

As was previously noted, Ireland has a not insignificant number of ‘accidental landlords’. In tenants’ interests and with a view to Ireland catering for those who wish to rent long-term, professionally developed and managed units are important.

The submission of the Irish Property Owners Association’s (IPOA), which represents property owners in the private rental sector, submission to the Committee sets out what they view as the key issues impacting on the private rental sector at present and recommendations on each of these areas which are banking, taxation, legislation and other points. These are reproduced below from the IPOA submission.<sup>62</sup>

- Urgent revision of Central Bank lending rules.
- Real action on excessively high mortgage interest rates.
- Mortgage Interest Relief restored to 100%
- Legitimate expenses to be allowed.
- Law to be amended to reflect the fact that the buy-to-let sector is a business.
- Consideration should be given to the reintroduction of targeted Capital Allowance Schemes for investment in appropriate, quality housing in areas of high demand.
- Reduce and simplify existing legislation in the sector.
- Allow bedsits with bathrooms designated for the sole use of the unit.
- Review HAP and Rent Supplement systems.
- Allow an exemption from Income Tax for Long-Term Letting.
- Refurbishment funding required.

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<sup>62</sup> Irish Property Owners Association (IPOA) submission to the Committee. Available at <http://www.oireachtas.ie/parliament/media/committees/32housingandhomelessness/IPOA-SUBMISSION-TO-HOUSING-COMMITTEE-MAY-2016.docx>

## **Introduce a system of rent certainty by linking further rent reviews to the Consumer Price Index (CPI)**

Landlords and tenants agree on the amount of rent payable for a property at the start of a tenancy. In the PRS, the rules governing the procedures that private landlords must follow if they wish to raise the rent are set out in Part 3 of the *Residential Tenancies Act 2004* and have recently been amended by the *Residential Tenancies (Amendment) Act 2015*. Despite the recent introduction of rent freezes, the need for a more long-term approach to regulating rents has been highlighted by, for example, Threshold in its submission.

In its opening statement to the Committee, Threshold emphasised the affordability issue in the PRS, which it noted is increasingly the tenure of choice, as well as being the only option for those excluded from social housing and owner occupation:

“a growing affordability crisis for low-income households living in the private rented sector (PRS) has become the main cause of family homelessness. Despite recent regulatory changes, the PRS remains unaffordable and insecure”.<sup>63</sup>

Threshold and other stakeholders have a number of proposals to support low-income households and prevent homelessness. These are discussed in Chapter 1.

In his submission to the Committee, Professor P.J. Drudy strongly argued for the introduction of **rent regulation**<sup>64</sup> in Ireland (**where rents increase in line with inflation** or a reasonable percentage increase and allow for improvements). In his view, this is the practice throughout Europe and there is no evidence that rent regulation has resulted in an exodus of landlords. A similar proposal was previously made by the National Economic & Social Council (NESC). In its 2015 report, the NESC identified four elements of a secure occupancy model for Ireland, including introducing a system of rent regulation to provide greater certainty for tenants and landlords through “a mechanism for disciplined market-sensitive rent adjustment”.<sup>65</sup>

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<sup>63</sup> Threshold's Opening Statement to the Committee. Available at <http://www.oireachtas.ie/parliament/media/committees/32housingandhomelessness/Threshold-opening-statement-final-19th-may-2016.doc>

<sup>64</sup> There is an important distinction between rent regulation and rent control. Professor Drudy explains that “rent regulation” is the norm in countries such as Germany, France, Belgium, the Netherlands, Denmark and Sweden. This allows rent increases in line with inflation or some reasonable percentage increase and taking into account additional costs involved in improving the quality of rented accommodation. In contrast, rent control was a rigid form of “first generation” “rent ceiling” or “rent freeze” which existed in Ireland, Europe and the United States for the period from the first World War up to the 1970s.

<sup>65</sup> NESC (2015) *Ireland's Rental Sector: Pathways to Secure Occupancy and Affordable Supply*. Available at [http://files.nesc.ie/nesc\\_reports/en/141\\_Irelands\\_Rental\\_Sector\\_MainReport.pdf](http://files.nesc.ie/nesc_reports/en/141_Irelands_Rental_Sector_MainReport.pdf) In its report, the NESC notes that “in international housing analysis and policy, the concept of secure occupancy is used, rather than traditional forms of rent control”.

Threshold maintains that economic evictions arising from unaffordable rent increases are the main cause of family homelessness in the PRS.<sup>66</sup> The recent rent freeze introduced as part of the *Residential Tenancies (Amendment) Act 2015* will provide some relief to tenants but this is only a temporary measure with a sunset clause after 4 years. Threshold, therefore, states that a more long-term approach to regulating rents is needed. In this context, it has also proposed the introduction of rent certainty, whereby future rent increases in areas of high rental inflation are linked to changes in the cost of living<sup>67</sup>:

“This model of regulating rent is the norm in many developed European economies. Rent certainty measures are an essential component of a well-regulated housing market, and benefit both landlords and tenants by ensuring that rent increases (and indeed decreases) are foreseeable, predictable, and reasonable. Rent certainty should be introduced as soon as is possible”.<sup>68</sup>

Specifically, Threshold recommends amending the *Residential Tenancies Act 2004* to provide for rent certainty as to the rate of increase in rents.

#### **Increase security of tenure and protection from evictions for tenants by:**

- **Introducing a scheme whereby a housing association or local authority can purchase a rental property from an exiting investor (Rent switch programme)**

Security of tenure is often a serious concern for current and prospective tenants. A key issue in this regard can include cases of eviction where the property is sold.

The Irish Council for Social Housing (ICSH), in its submission to the Committee, recommends that policy makers support measures to promote security of tenure in the private rented sector by:

“Supporting those insecure private sector tenants with the development of a ‘rent switch programme’ to enable housing associations to step in where investors, receivers or funds want to exit or sell those rental properties. This rent switch programme could prevent families or households becoming homeless”

and

“Enhancing security of tenure is essential for the Housing Assistance Payment (HAP) to be an effective means of delivery for tenants”.

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<sup>66</sup> Threshold submission to the Committee.

<sup>67</sup> <http://www.threshold.ie/news/2015/06/15/thresholds-proposals-for-rent-certainty/>

<sup>68</sup> Threshold submission to the Committee.

- **Increasing security of tenure from the current 4 year period to indefinite duration**

As a rented property is a home for a tenant, secure occupancy of the dwelling is likely to be a key issue from a tenant's perspective. At present, tenants are generally protected in their property for up to four years. Some commentators, including the NESC, have however suggested the Ireland should move towards a system where leases are effectively indefinite.<sup>69</sup> This issue was also raised by some stakeholders.

The suggestion of increasing security of tenure from the current 4 year period to indefinite duration is proposed by Threshold in its submission, which states:

“the current level of security for tenants in the PRS is not sufficient and should be increased”. This could be done by removing the four-year limit on Part 4 tenancies, so as to create indefinite periods of tenure security.<sup>70</sup>

- **Establishing legal safeguards to allow tenants to remain in situ during and after sale of property**

A landlord can end a tenancy if they intend to sell within 3 months. They must provide a signed statutory declaration that this is the case.<sup>71</sup> There has been some commentary recently on sales of rented properties and what this means for tenants.

In this context and in order to ensure continuation of tenancy upon the **sale of a rented property**, Threshold recommends introducing legal safeguards to give residential tenants, similar rights to the tenants of commercial properties, to allow them to continue in their tenancy during and after the sale of a rented property.

As part of the Committee's work, it looked at the issue of Investment Funds (also known as 'Vulture Funds') and recent cases in Tyrrelstown (Dublin 15). In its submission, Threshold, who worked with the tenants in Tyrrelstown, states that:

“The number of rented households facing a loss of their home due to the proposed sale of the property by the landlord, lending agency or investment fund is becoming a growing concern

[...]

This is set to become an even more serious issue in the next few years as a significant amount of distressed mortgaged properties have been purchased by non-bank entities such as large investment funds, who have a business model of selling on these assets within three to five years”.

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<sup>69</sup> See NESC (2015) *Ireland's Private Rental Sector: Pathways to Secure Occupancy and Affordable Supply*.

<sup>70</sup> Threshold submission to the Committee.

<sup>71</sup> See Threshold website at <http://www.threshold.ie/advice/ending-a-tenancy/how-your-landlord-may-end-your-tenancy/>

FLAC recommends the imposition of a moratorium on the acquisition of properties with tenants who are not in arrears:

“It is also apparent that a number of tenants who are not in arrears of rent are being evicted as a result of commercial events outside their control and this may be likely to increase as a result of the purchase of impaired loans secured on properties by investment or ‘vulture’ funds. The imposition of a moratorium on the sale of such assets and the resulting eviction of the tenant/s involving (temporary) amendment to the residential tenancies legislation should be examined”.

In the case of a landlord’s property being **repossessed or a receiver appointed**, Threshold suggests that a change in the law is required to protect tenants in these cases. Specifically, the legal definition of ‘landlord’ needs “to be changed to explicitly include both lending institutions and receivers so that the rights established under landlord and tenant law cannot be undermined or ignored as is currently the case”.

In its submission Threshold explains the context in which tenants in cases of repossession can be evicted without means of redress, and how policy changes could address this:

“Amending the definition of ‘landlord’ would impose a requirement on a lender that has commenced repossession proceedings to terminate a tenancy in the manner provided for by the *Residential Tenancies Act 2004*. It would also impose a responsibility for repairs and the return of the tenant’s deposit upon the expiry of the tenancy”.

Threshold is also seeking the introduction of a code of conduct on buy-to-let mortgage arrears, which introduce a transparent process for those involved including tenants and ensure that financial institutions respect and uphold tenants’ rights.

Concerns around people being in effect evicted into homelessness were raised by other witnesses who appeared before the Committee. In particular, Fr. Peter McVerry, proposed that this should be illegal until alternative accommodation is available:

“I would like to see legislation preventing anybody - local authorities or banks - from evicting people into homelessness. I do not believe that young people leaving residential care should be allowed to leave into homelessness. We had one young 18 year old who was discharged from residential care on his 18th birthday. It was a Friday afternoon, he had no money in his pocket and there was no accommodation arranged for him. That should be illegal. It should also be illegal for the local authorities to evict Travellers from unofficial halting sites until alternative accommodation is available. It should be illegal for the banks and the vulture funds to evict families into homelessness until alternative accommodation is available. If the mortgage to rent option and the inability to evict people into

homelessness was in place, I believe the banks might accept their moral responsibilities".<sup>72</sup>

The former Minister for the Environment, Community & Local Government, Alan Kelly TD, raised the issue of Article 43 of the Constitution (which deals with private property) and the balance between the rights of the individual regarding property rights and the common good during his meeting with the Committee. In response to a question from the Chairman of the Committee on whether "if there had been an amendment to the Constitution on a right to housing, does the Minister feel decisions he and the Government made could and would have been somewhat different?", the former Minister responded in the affirmative and stated that they would have been more equitable and the better good served. He did, however, caution that:

"we need to condition that statement. As it would depend on what was changed in the Constitution, one cannot give a definitive answer but I would say 'Yes'".

### **Address specific needs regarding student accommodation including by creating a Government Student Housing Strategy**

As noted previously, students are one of a number of key groups in the PRS. The Union of Students in Ireland has stated that "the unaffordable rental sector is forcing students out of college" and has accordingly called on "the Minister for Housing, Planning and Local Government, Simon Coveney and the Dáil's Committee on Housing and Homelessness, to consider the student accommodation crisis".<sup>73</sup> It made a submission to the Committee, containing a number of recommendations including:

1. "For the Minister for Housing with the Committee on Housing and Homelessness to create a Student Housing Strategy in consultation with the USI that sets out long-term solutions, goals and timelines. This should be similar to the Social Housing Strategy and Homeless Strategy.
2. To provide funding €90,000 to hire a Student Housing Officer that will work with the USI and liaise with relevant stakeholders to fulfil certain tasks.
3. Minister for Housing with the Committee on Housing and Homelessness to create a Student Housing Strategy in consultation with the USI to facilitate and support the creation of an Irish Student Union Housing Trust that will act as a corporation set up by the USI to tackle the student accommodation crisis in order to alleviate the pressure from the private rental market".<sup>74</sup>

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<sup>72</sup> Committee on Housing and Homelessness debate, 26<sup>th</sup> May 2016. Available at [http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/WebAttachments.nsf/\(\\$vLookupByConstructedKey\)/committees-20160428~CHH/\\$File/Daily%20Book%20Unrevised.pdf?openelement](http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/WebAttachments.nsf/($vLookupByConstructedKey)/committees-20160428~CHH/$File/Daily%20Book%20Unrevised.pdf?openelement)

<sup>73</sup> See press release available at <http://usi.ie/funding/the-union-of-students-in-ireland-said-unaffordable-accomodation-forces-students-out-of-college-with-rents-over-e1000-a-month-nationwide-for-the-first-time-since-the-economic-crash/>

<sup>74</sup> Union of Students in Ireland (USI) submission to the Committee.

The Minister for Housing, Planning and Local Government, Simon Coveney T.D. told the Committee that Government action is focusing on a number of areas, including ensuring that most of the additional houses and apartments are affordable and meet the needs of all sectors of society, including students (as well as older persons and the increasing proportion of 1-2 person households). The Minister also told the Committee that solutions to provision of student accommodation include on-campus accommodation and that addressing this issue could free up rental units for others in the PRS:

“Statistics from the recent HEA study indicate a deficit of about 25,000 in formal student accommodation. There is private and public student accommodation provision. Approximately 25,000 students are accommodated in the private rental sector. They are living in homes that could house families. We should consider creating a dramatic increase in the on-campus and near-to-campus student accommodation. The solutions to student accommodation lie in rapid-build technologies, modular units and so on. Student accommodation is quite different from a family home. Some of the solutions could be put in place much more quickly than conventional housing and could free up a significant number of places over a short space of time”.<sup>75</sup>

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<sup>75</sup> Committee on Housing and Homelessness debate (2 June 2016) available at [http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/WebAttachments.nsf/\(\\$vLookupByConstructedKey\)/committees-20160602-CHH/\\$File/Daily%20Book%20Unrevised.pdf?openelement](http://oireachtasdebates.oireachtas.ie/Debates%20Authoring/WebAttachments.nsf/($vLookupByConstructedKey)/committees-20160602-CHH/$File/Daily%20Book%20Unrevised.pdf?openelement)

### 3. Private Housing

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#### Key Issues

- The number of houses built nationally by the private sector has declined by 85% from 2004 to 2014, with a national decline of 90% in the social housing sector. The number of new house completions peaked at 93,019 in 2006 and has declined significantly in subsequent years.
- It is estimated that an average of almost 21,000 additional residential units per year is required over the period covering 2015 – 2017 in order to keep up with demand. Dublin, in particular, requires additional housing units.
- The Housing Agency state that 14% of private housing stock in Ireland is vacant (based on Census 2011 figures). The Agency recommends that this is better managed.
- Projected future housing demand is most pronounced in the Greater Dublin Area regions of Dublin and the Mid-East, which accounts for almost half of the units of identified demand by the Housing Agency.

#### Recommendations

1. Develop a national policy on land use that identifies and plans for the correct quantity of housing, mix of housing, different tenure and sizes to meet needs. Examine measures to increase the supply of land. This could include using tools such as the land mapping undertaken by the Housing Agency.
2. As part of an output target for total housing, set national targets for private housing and social housing.
3. Conduct a review of the planning process within 12 months with a view to accelerating the pace of house building.
4. Ensure the provision of necessary infrastructure to facilitate the development of land for housing. In particular, the provision of infrastructure in the four Dublin local authority areas, at a cost exceeding €160million, should be provided.
5. Identify sites which that planning permission but are not being built on and introduce a stronger vacant site levy, to be introduced in Budget 2017. Also implement a tax on vacant homes, as discussed by the Housing Agency.
6. Request that the Housing Agency make an annual audit of private construction costs and compare these with other jurisdictions, with a view to making

recommendations to Government aimed at making private housing more affordable. In making its recommendations, the Housing Agency should look at costs of construction, the cost of financing, development levies, the cost of compliance, levels of VAT and other issues that they may deem relevant to bringing down the cost of housing.

7. Introduce a pilot scheme regarding the operation of the building control regulations and the related system of certification to establish if a model of building control similar to that used in the UK could result in a substantial reduction in the cost of building control and inspection.
8. Increase supports to first time buyers particularly to assist them in raising the necessary deposit, for example, by introducing a special savings scheme with safeguards to ensure the scheme does not increase the cost of purchasing. The Central Bank review of mortgage lending rules should have special regard for people in the rental sector, who must pay rent at the same time as complying with the Central Bank mortgage requirements should they wish to purchase a property, putting them in a particularly difficult financial position.
9. Explore how the use of compulsory purchase might increase supply.
10. Implement the recommendations of the Housing Agency in their Report on Vacant housing including:
  - Identifying all the vacant properties in the country and also the reason they are vacant including short term and long term reasons;
  - Developing a council-by-council strategy to address vacancies with objectives, aims and actions needed to tackle the issue;
  - Incentivising renovation and renting of vacant properties through targeted grant taxation measures.
11. In conjunction with the potential use of CPOs (see above), promote urban regeneration and renewal of town centre sites, including through the provision of emergency legislation.

## **Background**

Housing supply is a key aspect of housing policy. The shortage of housing supply has been central to the housing debate in Ireland in recent years, and it remains perhaps the single most important challenge in the residential property market.

In this context, reports that the stock of houses available for sale are at particularly low levels are both noteworthy and concerning.<sup>76</sup> According to Sherry FitzGerald, the available stock is at an all-time low, with just 26,800 units (or 1.4% of the private housing stock) for sale in January 2016.<sup>77</sup> This represents a 13% reduction on the figure for January 2015. Daft.ie also

recently commented on supply issues, stating that the stock of properties on the market in the country in April 2016 was at the lowest level since February 2007.<sup>78</sup>

In addition, there is a degree of pent up demand in the market as some potential buyers were either unable or unwilling to buy during the boom and following recession. It has been suggested that this is equally true for the private rented sector, where demand is now expected to be higher than it would otherwise have been, following the introduction of the new Central Bank regulations on residential mortgage lending.<sup>79</sup>

### *Government policy – Construction 2020*

Launched in May 2014, *Construction 2020* sets out a package of measures agreed by the previous Government aimed at stimulating activity in the building industry.<sup>80</sup> It consists of 75 action points “to ensure that necessary and sensible development can take place, and that it is not held back by unnecessary obstacles”.<sup>81</sup> A number of government departments are responsible for the delivery of the actions set out in strategy, including the Department of Housing, Planning and Local Government).

### *Structure of housing provision*

The structure of housing provision between public “non-market” provision and market provision by developers and builders has undergone a significant transformation in recent decades. Table 2 illustrates that market provision increased its share from 67% in 1975 to 95% in 2014. In his submission to the Committee, Professor P.J. Drudy noted how housing provision in Ireland is now “almost market driven-nature” for homes to buy or rent. The *Social Housing Strategy 2020: Support, Supply and Reform*,

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<sup>76</sup> Irish Times (2016) *Property market is ‘in crisis’ - Sherry Fitzgerald*. Available at <http://www.irishtimes.com/business/economy/property-market-is-in-crisis-sherry-fitzgerald-1.2606187>

<sup>77</sup> Sherry FitzGerald press release, “Moderate price inflation in opening quarter, but increasing evidence of a market in crisis”. 11th April 2016. Available at <http://www.sherryfitz.ie/news/2227>

<sup>78</sup> Daft.ie (2016) *The Daft.ie House Price Report*, An analysis of recent trends in the Irish residential sales market 2016 Q1. Available at <http://www.daft.ie/report/q1-2016-daft-houseprice-report.pdf>

<sup>79</sup> Society of Chartered Surveyors Ireland (SCSI) / DKM (2015) *Irish Construction Prospects to 2016*. Available at [http://dkm.ie/en/news/dkm\\_publishes\\_scsi\\_construction\\_prospects\\_report\\_2015\\_2016](http://dkm.ie/en/news/dkm_publishes_scsi_construction_prospects_report_2015_2016)

<sup>80</sup> Available at <http://www.merriestreet.ie/en/wp-content/uploads/2014/05/Construction-Strategy-14-May-20141.pdf>

<sup>81</sup> Department of the Environment, Community and Local Government webpage, ‘*Construction 2020, A Strategy for a Renewed Construction Sector*’ – Department’s role. Available at <http://www.environ.ie/housing/construction-2020-strategy/construction-2020-departments-role>

published in November 2014, does however contains a target of 35,000 new social housing units being delivered by 2020. This changing structure of housing provision in Ireland forms a significant part of the context in which the current housing policy debate is taking place.

**Table 2: Market and non-market housing provision, 1975 - 2015**

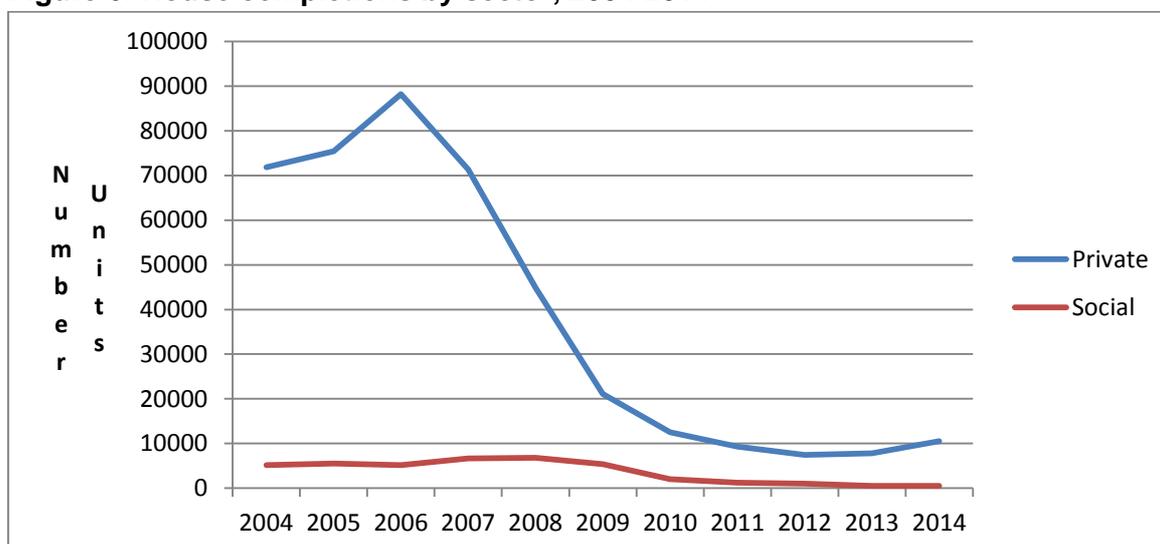
Year	Market	%	Non-market	%
1975	18,098	67	8,794	33
2005	75,398	93	5,559	7
2014	10,501	95	515	5

**Source:** Professor P.J. Drudy submission to the Committee, *The Housing Problem and the Case for Rent Regulation in the Private Rented Sector*.

*House completions over the last ten years*

Figure 6 shows a national decline of 85% in the number of houses built by the private sector from 2004 to 2014, with a national decline of 90% in the social housing sector.

**Figure 6: House completions by sector, 2004-2014**



**Source:** L&RS (2016)

A breakdown by house type by year is available from the Department of the Environment, Community and Local Government website (see Table 3). It highlights the scale of the reduction in the total number of new homes built over the last number of years. It also shows variation in the percentage of apartment built over the period.

**Table 3: New houses completed by type, 2005 – 2016**

Year	Individual house		Scheme house		Apartments		Total	
	Number	(%)	Number	(%)	Number	(%)	Number	(%)
2005	20,362	25.3%	42,160	52.3%	18,035	22.4%	80,557	100%
2006	22,806	24.5%	50,267	54.0%	19,946	21.4%	93,019	100%
2007	19,663	25.3%	39,273	50.6%	18,691	24.1%	77,627	100%
2008	17,386	33.9%	21,127	41.2%	12,811	25.0%	51,324	100%
2009	12,065	45.7%	9,207	34.8%	5,148	19.5%	26,420	100%
2010	7,914	54.2%	4,600	31.5%	2,088	14.3%	14,602	100%
2011	6,526	62.3%	2,614	24.9%	1,340	12.8%	10,480	100%
2012	5,162	60.8%	2,333	27.5%	993	11.7%	8,488	100%
2013	4,730	57.0%	2,649	31.9%	922	11.1%	8,301	100%
2014	5,171	46.9%	3,595	32.6%	2,250	20.4%	11,016	100%
2015	6,071	47.9%	4,954	39.1%	1,641	13.0%	12,666	100%
2016 - first 3 months	1,237	39.3%	1,263	40.2%	644	20.5%	3,144	100%

**Source:** Department of the Environment, Community and Local Government Housing statistics page. Available at [http://www.environ.ie/sites/default/files/attachments/a5-completions-by-type-1994-date\\_1.xlsx](http://www.environ.ie/sites/default/files/attachments/a5-completions-by-type-1994-date_1.xlsx)

**Notes:** "Individual House" is where connection is provided to separate detached house. "Scheme House" is where connection is provided to two or more houses. "Apartments" is where all customer metering for the block is centrally located.

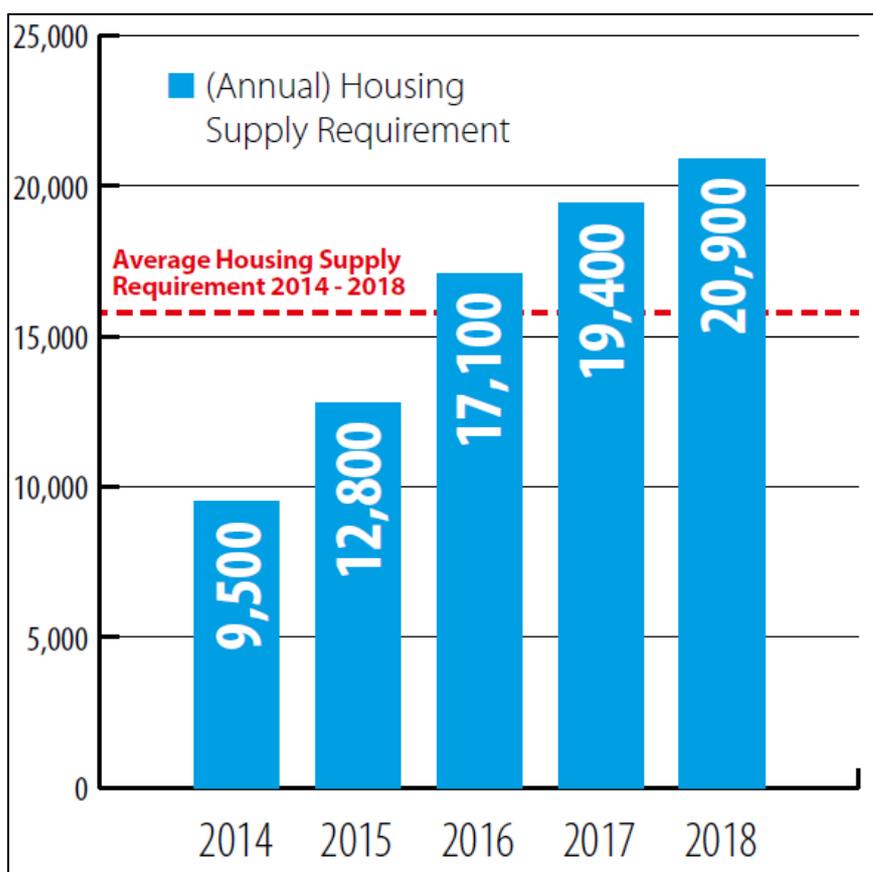
#### *Housing requirements for the future*

An ESRI study in 2014 stated that, based on likely future demographic trends, 25,000 housing units per annum are required over the next 15 years to meet the underlying demand in the Irish market.<sup>82</sup> The Housing Agency has stated that an average of almost 21,000 additional residential units per year is required over the period covering 2015 – 2017 in order to keep up with demand.<sup>83</sup> It also estimates that a minimum of 35,433 new units are required across Dublin local authorities from 2014-2018.

<sup>82</sup> ESR (2014) *Alternative Scenarios for New Household Formation in Ireland*. ESRI Special Article. Available at [https://www.esri.ie/pubs/QEC2014SPR\\_SA\\_Duffy.pdf](https://www.esri.ie/pubs/QEC2014SPR_SA_Duffy.pdf)

<sup>83</sup> Housing Agency (2015) *National Statement of Housing Supply and Demand 2014 and Outlook for 2015-17*. Available at <http://www.housing.ie/getattachment/News/Current-News/Increasing->

**Figure 7: Estimated housing supply requirements in urban areas, 2014 - 2018**



**Source:** Housing Agency (2015) *National Statement of Housing Supply and Demand 2014 and Outlook for 2015-17*. Page 19.

*Regional distribution of demand for private housing*

Projected demand is most pronounced in the Greater Dublin Area regions of Dublin and the Mid-East, which accounts for almost half of the units of identified demand.

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[Demand-for-Housing-Requires-Significant/National-Statement-of-Housing-Supply-and-Demand-2014-and-Outlook-for-2015-2017.pdf](#)

**Table 4: Breakdown of Housing Demand by Region 2014 - 2018**

Region	Projected population increase 2011 - 2018	2011 housing stock from CSO	No. of additional housing units required 2014 - 2018
Dublin	44,056	527,665	37,581
Mid-East	25,707	202,842	11,999
Midlands	9,476	118,896	3,992
South East	7,911	220,861	3,997
South West	11,103	301,242	7,559
Mid-West	9,662	168,562	5,496
West	8,731	208,544	4,580
Border	10,515	245,043	5,164
<b>Total</b>	<b>127,161</b>	<b>1,993,655</b>	<b>80,368</b>

Source: Housing Agency (2015), p. 25.

#### *Future requirements and housing mix*

According to the Housing Agency, future housing requirements will be influenced by changes in the size of the population, household formation and household size.

The average household size in Ireland has fallen significantly over recent years, from an average of 3.04 in 2002 to 2.77 in 2011. Projections undertaken for the Housing Agency indicate that the national population will increase by over 170,000 between 2011 and 2018 and that the average household size will decrease from an average of 3.04 persons in 2002 to 2.67 in 2018.<sup>84</sup> There have also been changes in household composition such as the 19% increase in 'one person' households and the 18% increase in 'lone parent with children' households between 2006 and 2011. The Housing Agency has explained that an increasing population and a declining household size will both increase demand for housing units.

In its meeting with the Committee, the County and City Management Association highlighted that "changes in household composition and a trend toward smaller household sizes mean that the type of housing we will need will be different from the current stock". In addition, the Housing Agency flagged that:

"the reality is that 75% - three quarters - of the housing requirement for the country is for households of three persons or fewer. All the recent publications of

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<sup>84</sup> Housing Agency (2015) *National Statement of Housing Supply and Demand 2014 and Outlook for 2015-17*.

the agency ask people to draw attention to the dramatically different types of houses that will be needed into the future, not just the numbers”.

It is important to ensure that the right type of housing is provided. The Housing Agency also drew attention to the experiences of Spain and Germany which emerged from housing crisis to build homes to buy only to realise too late that people mainly wanted homes to rent.

#### *Cost of construction in Ireland*

The Society of Chartered Surveyors Ireland (SCSI) published a report on 18<sup>th</sup> May 2016, which found that the overall cost to build a three-bedroom semi-detached residential home in the Greater Dublin area is just over €330,000.<sup>85</sup> Construction costs come to €150,000, representing 45% of the total house cost (see table 5 below). The main elements of the remaining €180,000 cost related to non-construction factors, namely land and acquisition costs (17%), a margin of nearly €38,000 (11%) and VAT (12%).

**Table 5: Elemental analysis - 3 bed semi-detached house, gross internal floor area 1,214 Sq.ft / 113 Sq.m**

Element		€	€PSF	€PSM	% of total
<b>Construction costs (per house )</b>					
Housing building cost	(A)	122,251	101	1,084	37%
Siteworks within site curtilage	(B)	10,000	8	89	3%
Site Development	(C)	18,000	15	160	5%
<b>Construction cost (A) + (B) + (C)</b>		<b>150,251</b>	<b>124</b>	<b>1,332</b>	<b>45%</b>
<b>Other costs (per house)</b>					
Professional fees		5,500	5	49	2%
Levies		11,750	10	104	4%
Land and acquisition costs		57,500	47	510	17%
Sales and marketing costs		8,200	7	73	2%
Finance cost		20,002	16	177	6%
Margin		37,980	31	337	11%

<sup>85</sup> Society of Chartered Surveyors Ireland (2016) *The Real Cost of New House Delivery*. Available at <https://www.scsi.ie/documents/view?id=885>

The information presented in the SCSI report is based on a study of a number of live house building projects with a minimum of 30 units currently under construction in late 2015 and early 2016 in the Greater Dublin Area.

VAT	39,310	32	349	12%
<b>Total house cost:</b>	<b>330,493</b>	<b>272</b>	<b>2,930</b>	<b>100%</b>

**Source:** SCSi (2016) *The Real Cost of New House Delivery*. Page ii.

**Notes:** The report assumes a finance cost of 10% on all borrowing. Details of the methodology used by the SCSi are outlined in the report on pages 4 to 7.

Breaking the elements down further, the study explains that the largest single cost of any house is land cost, which they put at €50,000. They state that:

“The site cost of €50,000 is considered substantially less than the market value of sites in some Dublin suburbs where site values can be 25/30% of the expected sale value.

While the “bricks and mortar” costs analysed in our study were relatively constant across the projects around the Greater Dublin area, the cost of development land is a significant variable in the provision of housing. Land is a finite resource and debate is ongoing about the necessity to maximise this resource by developing high density & high rise schemes as opposed to traditional housing estates”.

#### *Affordability of private housing*

The SCSi report also provides a case study of a couple both earning the average industrial wage and have a combined salary of €74,000. The deposit requirement under the Central Bank of Ireland rules, based on the average price, will require savings of c. €35,000. Using the permitted maximum multiplier of 3.5 times salary, this means a maximum loan amount of €259,000 which, coupled with the deposit, would allow the couple to purchase a property up to €294,000.

From the SCSi study, it can be seen that the current total cost to provide the average house exceeds the amount this couple can borrow by €36,493. The SCSi states that:

“it is clear that there is a serious financial viability issue in the provision of housing and with particular emphasis in urban areas, where the demand is highest, but where land prices are also at their highest”.

#### **Obstacles to affordable provision of private housing**

Obstacles in the private housing, which have been identified over the course of the Committee’s deliberations and from other sources, include but are not limited to the following:

- The lack of a national plan for all categories of housing as highlighted by the Housing Agency.
- It was suggested that there are a number of impediments to new housing supply, including all in construction costs exceeding the market value of the new house and availability of ready-to-go serviced land for development. Some

stakeholders, including the CIF, also suggested that the current mortgage lending rules are also having an impact on the private housing market.

- Other supply constraints identified include access to finance for construction firms, certain planning practices and regulations, and infrastructural issues such as, for example, water and transport, which may hold up development of sites. Issues around access to land for development, development contributions and vacant sites were also raised by some stakeholders.
- Demand for housing continues to outstrip supply, particularly in the Dublin region. According to the CCMA, of the 12,666 housing completions in 2015, a little over one-fifth (23%) were located in the four Dublin local authorities where the demand for housing is particularly acute.
- The need for substantial infrastructural investment (i.e. roads, water, wastewater or schools for new communities) if new houses are to be built. In terms of local authorities and infrastructure, lands are zoned but not serviced in many instances.

### **Policy options**

A lack of available and affordable homes is, therefore, a major issue facing policy makers. It is important that the right policies are now pursued in order to stimulate supply in the right way. The urgency around this has been highlighted by many stakeholders, including Dr. Ronan Lyons:

“It is serious, chronic and getting worse and therefore requires government action. This action should be focused not on trying to drive prices further up, so as to stimulate supply, but rather to drive costs down so that they are in line with our incomes in the same way that the Central Bank now requires house prices to reflect our incomes.”<sup>86</sup>

Policy needs to strike a balance between addressing the cost of providing housing and having sustainable borrowing levels when seeking to increase the supply of new units. Measures taken should improve supply, but not add to house price inflation. As the Housing Agency stated to the Committee:

“Actions to increase supply must maintain a focus on providing the right types of accommodation while also making housing affordable to buy or to rent. We say to the committee and anybody who will listen that affordability is the real challenge. There is no point in us building houses for people concentrating on supply if house supplies cannot be afforded. That would be a tragedy.”

The County and City Management Association, which highlights the need for “a multi-faceted approach” to tackle the complex issues around housing, explains in its submission that the immediate concern for local authorities is the supply and demand situation, and stressed that unless the private sector return to building properties

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<sup>86</sup> Daft.ie (2016) *The Daft.ie House Price Report*, An analysis of recent trends in the Irish residential sales market 2016 Q1.

immediately, the problem, including homelessness is going to get worse. As such, all sectors of housing have a role to play in resolving the current situation.

**Develop a national policy on land use that identifies and plans for the correct quantity of housing, mix of housing, different tenure and sizes to meet needs. Examine measures to increase the supply of land. This could include using tools such as the land mapping undertaken by the Housing Agency.**

There are a number of issues that can impact on land and housing supply, including estimates of current and future housing needs, profitability of building and Development Contributions. An effective land management system is an important part of policy on land and housing supply.

A number of stakeholders touched on the need to properly plan for future housing needs. The Housing Agency, for example, recommends identifying and planning for the correct quantity of housing, mix of housing, different tenure and sizes to meet needs in its submission.

A recurring theme during the Committee's meetings was that of land use and management, with some stakeholders identifying a need for better and more co-ordinated land

Management. The former Minister of Environment, Community & Local Government, Mr Alan Kelly, TD, stated –

“I agree with Deputy Canney's remarks on the area of land management. He asked me what my recommendations would be and I thank him for asking that. I will do that at the end. I have more than two, by the way. We need better land management. It is a critical issue and it needs to be more co-ordinated. My colleague has maps in respect of the volume of sites and zonings available across Dublin. There are 27,000 houses with planning permission in Dublin. There are also another 20,000 with very little that has to be done. They will probably get planning because the services are there. That is 50,000 houses that can be made available pretty quickly. That raises certain issues. We must find ways in which actively to develop such land”.

#### *Using the Housing Agency land mapping tool*

In this context, there are certain tools available that could assist with this process. The Housing Agency, for example, has mapped local authority land and from this identified large available sites which could help in meeting targets set for housing output:

“The Housing Agency has mapped all the local authority housing lands and lands under land aggregation. The local authorities have assessed that. The striking aspect of much of that land is that some sites are very large and in order to use them, we have to build on scale. The Deputy is right, we need a mix of housing for people of different income levels and affordable housing across the board. We also need to build on the small sites. The land mapping shows several large sites and if we want to meet the targets, we have to build on those and provide housing for a range of income groups.”

## **Examine measures to increase the supply of land**

The SCSi in its 2016 report (on page 11) suggested a number of ways in which policy makers could increase the supply of land:

“A variety of measures are available to our policy makers to ensure that land is made available to facilitate the supply of new housing including taxation measures such as a reduction in Capital Gains Tax, an earlier introduction of the Vacant Site Levy and a more progressive approach by Local Authorities to lead on the provision of infrastructure and services to locations where housing need is most acute”.

On the issue of land, Professor PJ Drudy stated in his submission to the Committee that:

“Since land is a key requirement for housing, the government should have a long-term strategy of land acquisition. A substantial land tax or capital gains tax should be imposed on “unearned” price increases of land zoned and serviced for housing”.

## **As part of an output target for total housing, set national targets for private housing and social Housing**

The former Minister Alan Kelly TD suggested that clear targets be set for housing output, including both private and social housing, making use of the housing needs assessment:

“first, as a country we need to set output targets for total housing, both social and private.

[...]

I believe the housing needs assessment, which will state how many people are in need of housing and will happen year-on-year, is needed to manage the process and the decision-making into the future because we are shooting in the dark. We have the 2013 figures and then we have the 2015 figures, but nobody knows if the latter are accurate or not because they are taken from local authorities and for all the reasons I outlined earlier”

## **Conduct a review of the planning process within 12 months with a view to accelerating the pace of house building**

The SCSi identified the availability of housing land as an issue in terms of private sector output. It had specific ideas on how the planning system could be improved in terms of streamlining and providing for independent reviews of operation of the planning process:

“In summary, we suggest the planning system needs to be streamlined in order that when measures like SDZs are undertaken throughout Ireland, this would be the planning process, rather than local area plans, regional plans and then county plans every seven or eight years. This is a real area that can be focused

upon. Moreover, the society suggests all this could be under the auspices of an entity - such as a housing Minister of a type - in which one would have a full-time professional Civil Service that would support it, would take those work streams and apply itself to it and which would report back to a central entity

[...]

We believe there should be an independent review of the operations of the planning process. We believe there should be some sort of incentivised structure put within the process whereby those seeking planning are incentivised to produce the right information as determined by the review of the process and there should be a responsibility on and accountability by the authority to work within that process so it is a two-way street in terms of how it should work. There should be appropriate resourcing of systems. The authority has been there for a long period and any review would probably turn up a need for resourcing. That does not always mean more people but perhaps more skilled people and the required systems.”

One of the Committee members (Deputy Ruth Coppinger) suggested that “streamlining the planning process is obviously something we need emergency legislation for to speed up building”.

### **Ensure the provision of necessary infrastructure to facilitate the development of land**

Some stakeholders raised the issue of the need for the provision of necessary infrastructure (such as water etc). For example, the SCSI stated the following regarding the provision of infrastructure by Local Authorities:

“In terms of local authorities and infrastructure, lands are zoned but not serviced in many instances. There are impediments to getting that servicing in place. It is about facilitating the delivery of infrastructure to allow it to happen. In respect of facilitating development, it is never one solution but rather a variety of them that is required. One solution that has been proposed by our members - this was used in the 1960 and early 1970s - would involve local authorities providing the infrastructure to individual sites and areas of sites, on a large scale, being licensed out to smaller builders who would build a certain section of housing units. Therefore, one has diversity in terms of supply and competition in terms of deliverability yet there is no over-reliance on one or two key large players. That was used to a certain extent in that period and worked quite well”.

### **Identify sites which have planning permission but are not being built on and introduce a stronger vacant site levy**

The issue of ‘land hoarding’ was discussed at the Committee meetings, with stakeholders having different views on whether or not this is happening or the extent to which this might be an issue. The Committee heard there may be different reasons as to why land is not being built upon. For example, Mr. Brendan McDonagh, Chief Executive of NAMA stated that just 5% of 20,000 units that could be provided by the land sold to developers since the start of 2014 has been delivered upon:

“Members ask why the people who bought it did not build on it. Sometimes people might be looking for revised planning or waiting for a new county, area or development plan. Sometimes there might be an issue in respect of densities, a revised planning application and seeking more semi-detached houses rather than apartments, which requires a new planning application. Infrastructure constraints are certainly there. One of the largest issues - from looking at transcripts, we know the committee has discussed it - is people buying land and effectively looking for a higher rate of return”.

On the issue of ‘land hoarding’, the CIF suggested reasons as to why sites might not be developed, including planning or financial issues:

“There have been suggestions about how to curb hoarding of sites and how to encourage people sitting on those sites to offload them. We would certainly favour such development generally. However, the reason that a number of sites are not being developed is not because somebody is sitting on them or as Deputy Coppinger said, that the individuals are on strike. It means there is a planning issue, a financial issue in terms of not being able to afford or not being able to draw down the finance to develop it, or far more likely there is an infrastructure issue in that there is not water supply, wastewater services or there is no road access to the sites. That was the past and I do not think we will see that in the future.”

In this context, the former Minister of Environment, Community & Local Government discussed the vacant site levy, which will impose a charge for unused land from 2018 with the Committee. The purpose of a levy is to introduce a disincentive to a landowner for leaving a site vacant for many years. The former Minister stated:

“With regard to the vacant site levy, I fundamentally believe we have to address the issue of hoarding land because, basically, it is just being left there. The number of underdeveloped sites between the two canals in this city is incredible. I wanted to instigate certain powers in respect of local authorities to address that, and I wanted to do it fairly quickly. On foot of the constitutional issue and the advice I received, however, I had to push it out and, for proportionality reasons, I was obliged to drop the percentage”.

The Programme for Government (PfG) published in May 2016, includes a commitment (on page 25) to monitor and benchmark the use by local authorities of the new “Vacant Site Levy” which is due to take effect from 2018. This is intended to deter “land hoarding”.

**Request that the Housing Agency make an annual audit of private construction costs and compare these with other jurisdictions, with a view to making recommendations to Government. Review the costs of construction including financing, development levies and VAT elements of the costs.**

### *Annual Audit of construction costs*

In his submission to the Committee, Dr. Ronan Lyons recommends a “transparent, government-sponsored audit of construction costs for a small number of typical dwellings, and follow-on action plan”. This could assist in identifying specific issues in relation to construction costs:

“Again, as indicated above, an independent and government-supported audit of the costs of building homes will identify whether changes in safety certification or features such as lifts and car parking spaces are indeed significant contributors to Ireland’s construction costs per square metre being so far out of line with other countries”.

### ***Review aspects of the costs of construction***

The Government could audit construction costs as suggested above. Policy proposals in relation to construction costs include reviewing components of the cost such as:

1. VAT on construction
2. Financing cost issues
3. Development levies

Many of the witnesses that appeared before the Committee raised the issue of construction costs and its impact on the housing situation in Ireland at present. For example, the County and City Management Association told the Committee during its meeting on 26<sup>th</sup> April 2016 that “we need to make every aspect of housing provision more affordable, including the cost of land, construction, labour, financing etc”. The former Minister for the Environment, Community and Local Government also discussed construction costs and outlined some of the measures taken to date:

“We also need to face up to the cold hard truth that, with the cost of constructing a new home now being significantly higher than second-hand prices in most parts of the country, we are going to have to improve the economics for the private market to supply badly needed additional homes.

[...]

Reductions in local authority development contributions, a streamlining of Part V social housing requirements, more consistent application of minimum apartment standards and, recently, a targeted development contribution rebate scheme have together reduced the input costs by anything from €20,000 to €40,000, depending on whether apartments or houses are being constructed. We need to go further”.

- ***Increasing the scale of housing development***

The Housing Agency, in its appearance before the Committee, identified land costs and building at scale in the context of construction costs in Ireland:

“One of the big issues, and this is a new thing for people to think about in Ireland, is scale. [...] but the reality is that the smaller the scale, the less easy it is to achieve economies of off-site construction and large scale purchasing. One of the main things we are saying is that for public and many other types of housing, with a transition to building at scale - I am talking about building in units of 500 at a go - one starts to get dramatic decreases in costs of things such as labour and mobilisation of skills and skilled labour..”

According to the CIF, the construction industry’s large problem is the cost of construction compared with what the market is in a position to offer for a house. On the issue of scale they stated:

“The other thing is that there is no speculative building of 100 houses [...] The chances are that one would build a showhouse, show it and somebody would come along. As soon as one has a deposit and a contract signed, one will build on and on. The bank would certainly not allow one to build an extra ten houses over and above what one has until the contracts are signed. That is probably not such a bad idea, but we need to speed up the process. If we intend to build on a large scale, it needs to be sped up in a big way.”

The CIF suggested that due to lack of scale “there is massive pressure around at the moment” and did not see much scope to reduce labour costs or materials. It told the Committee that Ireland fares well on a comparison of hard construction costs on a per square foot basis with the UK but that houses in Ireland tend to be 20% larger here:

“It is the other soft costs which are out of line with those pertaining in the UK. In the UK, there is a 0% VAT rate and there would not be the same extent of development levies and so forth. We were anxious to address this issue over the past 12 to 18 months. The hard construction costs are broadly in line on a square foot basis, but it is the other related issues that are causing the difficulties, including size”.

The CIF suggested that there is spare capacity amongst builders but that house building is not currently viable leading some builders to pursue other work. They suggested that the capacity is, however, there with some builders under-employed:

“Builders are finding work other than building houses because it is not economically viable to build a house in most cases

[...]

Standard house building, which most small family builders used to engage in, is unviable at the current prices, given the costs the builder must incur and the prices available.

[...]

However, many of the builders the Construction Industry Federation represents are still underemployed, which means there is capacity”.

- ***VAT on construction***

A number of stakeholders have proposed reducing VAT on construction from the current rate of 13.5% on all input costs. By way of comparison, new house sales in Northern Ireland and the UK attract zero VAT rates.

The former Minister Alan Kelly TD suggested the following in relation to potentially reducing the VAT rate and how to ensure that those looking to purchase homes would be the ones to benefit from any VAT reduction via house prices:

“In respect of the Deputy’s question on costs, 38% of the cost of building a house goes to the State. The big one is VAT. There is obviously Part V, which I think I have addressed in a fair way, and the issue of development contributions. I agree with the Deputy that there is no point in reducing the VAT to zero if that does not get passed on to the house buyer. One must have a process by which one can ensure that happens. The sale price of a house or apartment must be at a certain level before a developer qualifies for such an exemption. That is what I would recommend.”

The CIF highlighted that the all in construction cost inclusive of VAT and other costs is high compared to the current market value. In this context, they also proposed changing the VAT rate, specifically by introducing a temporary VAT rate of 9% for a limited timeframe specifically for residential construction services (but leaving other construction services subject to a rate of 13.5%).<sup>87</sup> They explained in their meeting with the Committee:

“A reduction in VAT, as proposed by us and a number of other players, from 13.5% to 9% would help to reduce the overall cost of a first-time buyer’s €300,000 house, for example, by close to €12,000. There is a question as to how we could be sure it would be passed on to the first-time buyer and that is one we would like to address. One of our members has indicated that if there was a change in the VAT rate, it would be reflected in the price of the new houses he is selling. The industry does not want to be accused of lining its pockets in that regard”.

The CIF suggested that the model used in the hospitality sector could be looked at to see what applies to the housing industry, in terms of guaranteeing that the reduction is reflected in the price of houses, i.e. it was introduced for one year initially and reviewed before it was extended.

The SCSi, in their May 2016 report, proposed reducing VAT to 9% to reduce costs of constructing new houses. The SCSi told the Committee that “if one wanted a stimulus, one of the immediate elements one would pick - it does not matter whether it is in the

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<sup>87</sup> CIF submission to the Oireachtas Committee on Housing and Homelessness. Available at <http://www.oireachtas.ie/parliament/media/committees/32housingandhomelessness/CIF-opening-Statement.pdf>

private or public sector - would be a reduction in VAT". Their logic for this proposal and concerns were expressed as follows:

"If one breaks down the cost of building a unit, the hard cost is pretty much fixed. Our study has shown there is not a great range in the actual cost of building a unit. It leaves one with certain other items which one can review, VAT being one of them. We have stated in seminars previously that there is a concern - one which we share - of developers pocketing the proposed 3% VAT reduction.

[...]

We are aware of the social impact of the 3% reduction on the Exchequer and follow-on services. However, this is an emergency, so we are putting it out there. We can show the committee the "what ifs" in an independent manner. It is up to the committee to decide what it wants to do".

The IPAV also supports reducing VAT to 9% in its submission.

- ***Financing cost issues***

A lack of availability of building finance at reasonable interest rates was highlighted as an impediment to house building by many stakeholders. Access to finance was flagged as the top issue by the Society of Chartered Surveyors Ireland (SCSI) in its meeting with the Committee leading it to recommend the establishment of a specialist construction finance bank:

"To cut to the chase on some of the issues, in terms of private sector output, the number one issue, as members have heard previously, is the availability of reasonable construction finance.

[...]

One recommendation we have made a number of times in this regard is the provision of a specialist construction finance bank and while members have heard this suggestion previously, it needs real consideration. The policy objective behind its implementation would be to build up a strong banking system in that area that was a bit like ACC Bank or ICC Bank and which targeted particular areas of infrastructure and of housing construction. One then would have expertise in that area which understood the risks associated with construction and which then could build up relationships with the appropriate people to support that construction base. At present, the majority of construction finance is being delivered by the real estate investment trusts, REITs, through their building of the office schemes. Beyond that, however, it is being delivered by a variety of private equity houses and while it already has been well documented, the percentage rates of finance in this regard vary anywhere from 8% to 15%, which is simply unsustainable. We perceive this to be a big issue."

This issue was also flagged by the Institute of Professional Auctioneers and Valuers (IPAV) in the context of the Government needing to incentivise "small and large

builders by making building finance available at interest rates of between 1% to 3%”.<sup>88</sup> IPAV proposes that the Department of Environment, Community & Local Government be empowered to offer finance to builders who wish to participate in an Agreed Price Building Scheme.

The CIF suggested that access to finance for builders is an issue and in regards to a possible cost of €21,000 in financing a €300,000 home they stated:

“That is crazy, assuming that the builder has to borrow everything, which is probably the position in most cases. The builder goes to the bank for the figure of 60%, but he also has to seek mezzanine capital or go to somebody else. We are then talking about double digit interest figures.

[...]

We know that there is money there. The Exchequer can borrow very cheaply, at a rate of less than 1%, yet when we want to provide houses - I am speaking genuinely and on behalf of the industry - and any builder sticks his neck out and says he wants to build ten, 15 or 100 houses, it becomes very difficult. He goes to his bank and it is a major challenge to first get it to engage. If and when it does engage, it is on a 60% maximum figure and one needs to be well up to the mark to get that amount. It is then very difficult to obtain the remaining funds to provide a very important piece of critical infrastructure – housing”.

In terms of possible solutions, the CIF stated:

“There is a market failure in terms of access to finance, particularly for SME developers and in the regions. It is our belief a number of European Commission funds, financial instruments for cohesion funds, could be merged and blended together to provide low cost finance for small and medium enterprises, particularly in regional areas. That is essential to make it financially viable again to build in a balanced way across the country, rather than for building to be concentrated in the greater Dublin area, Cork or Galway. We would be happy to work with the committee in investigating that issue further”.

The SCSi, in their May 2016 report, proposed reducing finance cost to 5%, with a view to reducing costs of constructing new houses.

#### **4. Development levies**

In November 2015, the Government announced new measures aimed at boosting housing construction.<sup>89</sup> These included enhancing the supply of more affordable

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<sup>88</sup> IPAV opening statement to the Committee. Available at <http://www.oireachtas.ie/parliament/media/committees/32housingandhomelessness/Opening-Remarks-by-Pat-Davitt-to-Oir-Committee-on-Housing-3-May.docx>

<sup>89</sup> See DECLG press release at <http://www.environ.ie/housing/policy/housing-market/new-measures-will-give-significant-boost-housing-construction>

starter homes in key locations through a targeted rebate of development contributions in Dublin and Cork for housing supplied under certain price levels.

The IPAV believes that the new Development Contribution Rebate Scheme intended to boost house construction in 2016 and 2017 (by returning between 80% and 100% on development levies paid), needs a number of amendments including:

“its extension to all cities in Ireland and to all builders who want to take part in the Agreed Price Building Scheme. We believe small builders, the mainstay of Irish construction, are not receiving equal treatment with their larger counterparts”.<sup>90</sup>

Some stakeholders suggested reforming development levies. For example, the CIF submission includes a proposal to replacing the Section 48 development levy with Local Property Tax.

The SCSi, in their May 2016 report, presented five proposals to reduce costs of constructing new houses including reducing Development Levies to €1,500

### **Increase supports to first time buyers and review mortgage rules**

The CIF proposed a help-to-buy scheme which they believe would be a direct help to first-time buyers and has been happening in the United Kingdom for a long while. It means that the State or the Government would take an equity stake in loans up to a maximum of 25%. They suggest that the cost of introducing such a scheme could be “more than offset by the direct and indirect taxation provisions applicable to the new housing units to be built”.

The CIF also proposed a tax incentivised savings scheme for purchasers of new first homes, similar to the SSIA but with the proviso that the accumulated deposit would only be used for the purchase of a new first home.

The CIF suggested that changes be made to Central Bank rules around deposit requirements and loan to income requirements (from 3.5 to 4.5). On this issue, the SCSi stated:

“The society’s members are of the view that the review should be accelerated because it leaves uncertainty in the marketplace. While it is understood the Central Bank has decided on a review, the sooner it is done and it is clearer to the market, then it will offer some certainty”.

The Central Bank mortgage lending rules are also discussed in the IPAV opening statement, which calls for an increase in the loan-to-income ratio from 3.5 times income to 4 and possibly 4.5 times.

In his submission to the Committee, Dr. Ronan Lyons states his view that loan to value rules should remain at the heart of Ireland’s mortgage regulations into the future but

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<sup>90</sup> IPAV opening statement to the Committee.

that particularly in the context of a country with stringent land-use restrictions, loan to income ratios are far less appropriate. He proposes:

“Maintenance of the **loan-to-value limit** and relaxation of loan-to-income requirement, at least until land use restrictions are addressed

[...]

Overall, the Irish economy is much safer for having the Central Bank mortgage rules. But the loan-to-income requirement brings with it very serious side-effects. Focusing on the minimum deposit should be the next step in tweaking the mortgage and rules and helping to bring about a stable and fair housing sector”.

<sup>91</sup>

In its submission, Banking & Payments Federation Ireland welcomed the recent announcement that written submissions will be invited and considered with regard to the calibration and application of the Central Bank mortgage lending rules. The BPFPI believes the most significant impact of the Central Bank rules for First Time Buyers (FTBs) is the requirement to have saved significant funds in advance of being considered for a mortgage.<sup>92</sup> It also states that recalibration of the Central Bank rules in itself will not address all the problems faced in the housing market with the most fundamental problem is a shortage of suitable supply in key locations where demand is greatest.

### **Exploring how the use of compulsory purchase might increase supply**

In his submission to the Committee, Edmund Honohan, S.C., the Master of the High Court, discusses the use of compulsory purchase to potentially increase housing supply:

“If the State’s housing “Czar” is charged with finding more public housing now (as well as, of course, building more to come onstream in three or four years’ time), the use of compulsory purchase will be an option he must consider. The Court will double check (if the legislation is challenged) to see whether the enabling legislation is “proportionate” to the objective stated in the legislation by the Oireachtas. Also, whether the legislative solution tallies with the legislative objective, and whether the solution is overkill or is targeted unfairly (see the Blake rent restrictions decision 1982). Conscious of that series of tests, the legislation should be drawn so as to answer any such concerns”.<sup>93</sup>

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<sup>91</sup> Dr. Ronan Lyons submission to the Committee.

<sup>92</sup> See BPFPI submission to the Committee available at <http://www.oireachtas.ie/parliament/media/committees/32housingandhomelessness/BPFI-Presentation-to-Oireachtas-Committee-on-Housing-and-Homelessness-5-May-2016.pdf>

<sup>93</sup> Edmund Honohan, S.C., the Master of the High Court submission to the Committee. Available at <http://www.oireachtas.ie/parliament/media/committees/32housingandhomelessness/E.-Honohan.docx>

## **Plan for vacant housing and incentivise its use**

In its meeting with the Committee, the Housing Agency was very keen to stress that the key to solving the housing crisis lies in managing the existing stock in “a smarter way” and not just building. By managing, they mean not only providing houses but also controlling their prices:

“Managing does not only mean providing houses but also controlling their price. We as a nation must set targets for ourselves as to what constitutes an affordable house which is a reasonable multiplier of the disposable income of households. We must bring about a situation where our development sector builds to price and not one where it has all of us scrabbling around trying to bring whatever money we have up to whatever prices it sets for us. We must drive that down. It needs a concerted effort across all the instruments of Government to bring that about”.

Whilst a certain level of vacant houses is normal in a healthy housing market, long term vacancies can have negative impacts. Ireland has a relatively large number of vacant house at present, which is on a par with long-term figures for England where the housing stock is considerably larger.<sup>94</sup>

It is estimated that there are more than 200,000 vacant homes around the country and that Ireland has a vacancy rate of 14% (see Figure 6 for a breakdown by county).<sup>95</sup> Almost three-quarters (73%) of the vacant properties are houses with flats / apartment making up the remainder. The Housing Agency is basing these figures on Census 2011 and a more up to date picture will obviously emerge when details of the Census conducted this year are published in the near future.

In its submission, the Housing Agency suggests the both construction and management of our existing stock and new resources are where the solution lies for Ireland. It proposes (on Table 3 of its submission) that using vacant properties could meet 41,000 housing needs by 2026, starting with 7,500 units in 2017. It also proposes better use of under-utilised houses throughout the State.

It is important to match housing to need. Whilst there are clearly a number of vacant properties around the country the County and City Management Association suggested that these properties might not always be in areas where there is a need or demand.

The issue of vacant houses also touches on other issues such as revitalising towns and villages in Ireland, and older people and the stock of housing. The Housing Agency suggested that "the committee should look at how we incentivise not only the

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<sup>94</sup> The Housing Agency told the Committee that in England, where measures have been taken to address vacant houses, there is a national housing stock of 23.5 million homes and 200,000 of those have been vacant for more than six months.

<sup>95</sup> See Housing Agency submission and transcript of Committee meeting with the Housing Agency on 28<sup>th</sup> April 2016.

housing that is needed but also the revitalisation of villages”. It also told the Committee:

“There are 1,500 small towns and villages in Ireland. If we challenged each of those to bring forward four new houses every year that would be 6,000 a year which, as Mr. O’Connor said, would both bring villages back to life and allow us to reach those very onerous targets very quickly. We would also be spreading the benefit out and using the installed houses and the streets, sewers, pubs and shops that surround them. We would achieve many goals at the same time. All that comes from regarding housing not as a building exercise but in terms of managing our housing stock, part of which is building, part of which is renewing and part of which is bringing back into use”.

The Housing Agency favours a system of carrots to incentivise people to release properties back onto the market. A range of policy solutions are outlined in a recently paper by the Housing Agency and include:<sup>96</sup>

- Establish the reasons why properties are vacant including short term and long term reasons.
- Develop a national strategy to address vacancies, based on which each local authority would produce an empty homes strategy with objectives, aims and actions needed to tackle the issue.
- Consider introducing Empty Dwelling Management Orders (local authorities given the power to take over a property and bring back into use without change of ownership).
- Completion of the remaining unfinished housing estates.
- Provide grants to owners of vacant homes in need of refurbishment.
- Consider penalties for owners of long-term vacant properties in areas of high housing demand.
- Return more vacant social homes to use by linking Exchequer funding for local authorities with better performance in estate management.
- Develop an empty homes tool kit to assist local authorities.

The former Minister Alan Kelly TD suggested that working with local authorities, it would be possible to zone in on empty, derelict properties and on that basis possibly put a more comprehensive plan in place as a result of that. On the issue of vacant houses, he stated:

“The census will help local authorities in dealing with vacant houses across the country that are not being used. There are a number of relevant tax schemes, including the home renovation scheme and the housing assistance payment, or rental accommodation scheme tax breaks. A scheme using such processes would be a progressive step”.

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<sup>96</sup> Housing Agency (2016) Tackling Empty Houses. Available at <http://www.housing.ie/getattachment/Our-Publications/Latest-Publications/16-05-17-Vacant-Homes-Paper-Housing-Agency.pdf>

The former Minister also explained that in relation to unfinished estates, that there is a fund for taking in charge of all estates in the country.

### **Promote urban regeneration and renewal of town centre sites**

Some stakeholders before the Committee expressed concerns about the condition of towns and villages across the country. The IPAV, for example, estimates there are approximately 1,500 towns and villages in Ireland with numbers of boarded up former residential and commercial premises with no viable future as a commercial entity. In this context, the IPAV proposes a new tax incentive scheme for the conversion of non-viable properties into residential use for owner-occupiers:

“We would like to see the introduction of a tax incentive scheme to convert non-viable commercial and residential buildings into solely residential use for owner-occupiers. Already, our members have identified 300 or 400 of these properties throughout the country that would be suitable for such a scheme, with no expensive outlay for the Government; it would be a win-win scenario economically, socially and politically for all of us”.

The *Urban Regeneration and Housing Act 2015* aims to incentivise urban regeneration with a view to facilitating increased activity in the housing construction sector. The CIF also had comments around the issues of urban regeneration and renewal of town centre sites:

“In terms of urban regeneration, in particular in rural towns, there is a great deal of capacity, with many sites derelict and many rural towns falling into disrepair. We propose some incentives to encourage the people who own those sites to turn them into good quality living accommodation in towns where it suits people and families to live and so on. It would make the upgrading more financially viable.

[...]

The renewal of town centre sites should be supported for a quantified and specific type of development. It should not be open-ended. We want to ensure that we do not end up with an oversupply of any particular type of properties in any particular area. We do not want to repeat the mistakes of the past”.

[...]

Urban regeneration would need to be strictly defined with a red line around a particular area to be incentivised, depending on what is needed for that area, so that there is no over-supply”.

The CIF also supported the targeting of areas for urban regeneration.

## 4. Mortgage Difficulties

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### Key Issues

- Approximately 62,000 or 8.3% of private residential mortgage accounts for principal dwellings were in arrears of more than 90 days at the end of December 2015. There were 23,344 (17%) residential mortgage accounts for buy-to-let (BTL) properties in arrears of more than 90 days over the same period.
- The number of accounts in arrears over 90 days fell by 5.7% over the quarter, marking the ninth consecutive decline in arrears over 90 days.
- There were 1,961 properties in the banks' possession at the beginning of Q4 2015, compared to 1,840 in the previous quarter. A total of 162 properties were repossessed on foot of a Court Order in Q4 2015, compared to 123 properties in Q4 2014.
- Some 120,739 Primary Dwelling House mortgage accounts were classified as restructured at the end of December 2015, of which 86.4% were deemed to be meeting the terms of their current restructure arrangement.
- Whilst restructuring options may be available, these will not address the long-term sustainability of the mortgage if the household's circumstances do not change.

### Recommendations

1. The Government should, at a minimum, before the summer Recess and as a matter of urgency, fully and quickly implement the programme for Government's strategy to deal with mortgage arrears.
2. Subject to advice of the Attorney General, the Government should introduce legislation for a moratorium on home repossessions until such time as the Government's proposals are in place for dealing with mortgage distress.
3. The Government should seek to acquire, or facilitate the acquisition of, distressed buy-to-let properties and maintain the occupant in the property on affordable rent, differential rent or an affordable mortgage.
4. Increase the use of long term solutions to mortgage distress including Mortgage-to-Rent (MTR), split mortgages, debt writedowns and downsizing.

5. The Code of Conduct on Mortgage Arrears (CCMA) should be amended on a statutory basis to include an offer of a split mortgage and a mortgage to rent scheme.
6. When dealing with those in mortgage difficulties, a bank should make the services of the Insolvency Service of Ireland (ISI) known to the borrower from the outset.
7. The Government should provide the necessary funding in order for legal aid and advice to be provided to those in danger of losing their family homes.
8. The Housing Agency stresses that the vacant properties and those in mortgage arrears together account for 500,000 homes in the country. In the case of mortgage arrears, it proposes developing and promoting use of more long-term solutions through continued funding stream to Mortgage-to-Rent (MTR) and other alternative options such as Mortgage-to-Lease (MTL).
9. Restore a targeted use of the Mortgage Interest Supplement (MIS) payment to assist people with a short-term mortgage arrears problem through their financial difficulties.

## **Background**

As noted in the Housing Agency's submission, the threat of homelessness as a result of mortgage arrears continues to be a concern for many households as a result of borrowings from banks and lending institutions, as well as through the Local Authority Sector. It points out that whilst the latter is on a smaller scale, they are more vulnerable.

Their submission explains that whilst a number of short and medium-term options are utilised in restructuring mortgages (including Interest Only, Deferred Interest Scheme, Split Mortgages and Capitalisation of Arrears), those do not deal with the long-term unsustainability of the mortgage and that unless there is a major change in the households' circumstances under these options, the restructuring is only delaying the arrears crisis for the household. They suggest "there must be an acceptance that people will lose the ownership of their homes but we must prevent these people from losing their homes".

When it appeared before the Committee, the Housing Agency stressed the arrears issue and that the numbers are "enormous" and they will dwarf all the other matters being discussed. In this context, it urged the Committee to "get the Government to give its highest priority to addressing this issue". FLAC in its submission expressed the view that mortgage arrears is a significant potential and actual contributor to the

homelessness problem, in addition to the lack of social housing options together with high rents and evictions in the private rented sector.<sup>97</sup>

There were 746,618 private residential mortgage accounts for principal dwellings held in Ireland, to a value of €101.6 billion, at the end of December 2015. Of these, 88,292 accounts were in arrears; a fall of 4,069 (or 4.4%) over the quarter. Some 61,931 accounts (8.3%) were in arrears of more than 90 days. The number of accounts in arrears over 90 days fell by 5.7% over the quarter, marking the ninth consecutive decline in arrears over 90 days. Almost 121,000 principal dwelling mortgages were categorised as restructured at the end of Q4 2015, of which 86.4% were deemed to be meeting the terms of their current restructure arrangement.

There were also 5,212 local authority mortgages in arrears according to the County and City Management Association's submission to the Committee.

According to the Central Bank, there were 137,504 residential mortgage accounts for buy-to-let (BTL) properties held in Ireland, to a value of €26 billion, at the end of December 2015.<sup>98</sup> Some 28,760 (20.9%) of these accounts were in arrears, compared to 30,212 (21.9%) at the end of September 2015. Of these, 23,344 (17%) were in arrears of more than 90 days, reflecting a decrease of 5.9% over the quarter.

Table 6 overleaf provides data on mortgage arrears, repossessions and restructures on principal dwelling houses in Ireland. It shows that there were 1,961 properties in the banks' possession at the beginning of Q4 2015. A total of 340 properties were taken into possession by lenders during the quarter, of which 162 were repossessed on foot of a Court Order (compared to 123 properties in Q4 2014), while the remaining 178 were voluntarily surrendered or abandoned.

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<sup>97</sup> FLAC submission to the Committee. Available at <http://www.oireachtas.ie/parliament/media/committees/32housingandhomelessness/2016-05-12-OC-housing-and-homelessness- FINAL.docx>

<sup>98</sup> As of 9 June 2016 these are the latest data available. Central Bank of Ireland (2016) *Residential Mortgage Arrears and Repossessions Statistics: December 2015*. Available at [https://www.centralbank.ie/polstats/stats/mortgagearrears/Documents/2015q4\\_ie\\_mortgage\\_arrears\\_statistics.pdf](https://www.centralbank.ie/polstats/stats/mortgagearrears/Documents/2015q4_ie_mortgage_arrears_statistics.pdf)

Table 6: Principal Dwelling Houses (PDH) mortgage arrears, repossessions and restructures

	Q4 2014			Q3 2015			Q4 2015		
	Number	Balance € (000)	Arrears € (000)	Number	Balance € (000)	Arrears € (000)	Number	Balance € (000)	Arrears € (000)
<b>MORTGAGES</b>									
Total residential mortgage loan accounts outstanding	758,988	104,948,203		749,851	102,560,678		746,618	101,630,211	
<b>ARREARS</b>									
Total residential mortgage arrears cases outstanding	110,366	20,206,883	2,535,622	92,361	16,949,958	2,446,925	88,292	16,136,904	2,423,374
<i>Of which:</i>									
In arrears up to 90 days	31,667	4,679,496	50,413	26,708	3,928,357	36,678	26,361	3,829,428	34,071
In arrears 91 to 180 days	9,039	1,451,626	44,317	6,773	1,042,006	28,829	6,354	996,113	29,283
In arrears 181 to 360 days	12,565	2,178,977	123,885	8,413	1,367,195	74,709	7,481	1,197,451	65,425
In arrears 361 to 720 days	19,317	3,654,465	374,671	13,147	2,399,227	259,099	11,745	2,087,531	228,366
In arrears over 720 days	37,778	8,242,319	1,942,336	37,320	8,213,173	2,047,610	36,351	8,026,381	2,066,229
<b>Total arrears cases over 90 days outstanding</b>	<b>78,699</b>	<b>15,527,387</b>	<b>2,485,209</b>	<b>65,653</b>	<b>13,021,601</b>	<b>2,410,247</b>	<b>61,931</b>	<b>12,307,476</b>	<b>2,389,303</b>
<b>% of loan accounts in arrears for more than 90 days</b>	<b>10.4%</b>	<b>14.8%</b>		<b>8.8%</b>	<b>12.7%</b>		<b>8.3%</b>	<b>12.1%</b>	
<b>REPOSSESSIONS</b>									
Residential properties in	1,393			1,840			1,961		

	Q4 2014			Q3 2015			Q4 2015		
	Number	Balance € (000)	Arrears € (000)	Number	Balance € (000)	Arrears € (000)	Number	Balance € (000)	Arrears € (000)
possession at beginning of quarter									
Residential properties repossessed on foot of an Order during the quarter	123			207			162		
Residential properties voluntarily surrendered/abandoned during the quarter	306			215			178		
Residential properties disposed during the quarter	222			288			538		
Residential properties in possession - at end of quarter <sup>1</sup>	1,588			1,966			1,760		
<b>TOTAL RESIDENTIAL MORTGAGE ACCOUNTS RESTRUCTURED</b>									
Restructures	114,674	17,455,706	526,512	120,815	17,817,167	436,435	120,739	17,454,077	398,640
Restructures not in arrears	78,418	10,934,811		90,258	12,475,611		91,311	12,418,532	
<b>Total restructures by type:</b>									
Interest Only - up to one year	6,279	1,035,252	61,099	3,494	586,899	40,138	3,199	522,826	36,851
Interest Only - over one year	2,975	665,781	6,082	2,678	545,963	5,073	2,521	512,668	4,222
Reduced Payment (greater than interest only)	13,535	2,901,518	116,556	12,386	2,678,322	106,083	10,977	2,314,187	93,634

	Q4 2014			Q3 2015			Q4 2015		
	Number	Balance € (000)	Arrears € (000)	Number	Balance € (000)	Arrears € (000)	Number	Balance € (000)	Arrears € (000)
Reduced Payment (less than interest only)	3,158	676,639	70,895	1,940	416,898	49,785	1,435	301,468	33,536
Term Extension	17,070	1,880,031	39,621	16,823	1,858,587	39,022	16,650	1,823,010	41,813
Arrears Capitalisation	29,615	4,870,953	113,279	33,925	5,396,642	109,299	34,914	5,541,813	107,675
Payment Moratorium	1,829	307,301	9,654	1,492	235,330	9,337	1,412	216,189	9,866
Deferred Interest Scheme	51	8,385	309	45	6,616	330	37	5,403	241
Permanent Interest Rate Reduction	47	10,337	430	60	11,732	506	67	12,934	495
Split Mortgage	19,837	1,948,815	1,457	24,198	2,445,214	3,177	25,014	2,520,818	3,444
Trade Down Mortgages	36	5,660	1	42	6,585		48	7,646	
Temporary Interest Rate Reduction	5,134	1,162,915	32,041	6,820	1,479,776	25,335	6,937	1,473,111	22,363
Other	15,108	1,982,119	75,088	16,912	2,148,603	48,350	17,528	2,202,004	44,500

**Source:** Adapted from Central Bank of Ireland, *Residential Mortgage Arrears and Repossessions Statistics*. Available at

<https://www.centralbank.ie/polstats/stats/mortgagearrears/Pages/releases.aspx>

\*Note that the 'Other' category mainly comprises accounts that have been offered a long-term solution, pending the completion of six months of successful payments. When these accounts transition into their permanent arrangement, the figures will be updated accordingly. The 'Other' category also includes a small number of simultaneously-agreed term extensions and arrears capitalisation arrangements.

<sup>1</sup> The number of properties in possession at end quarter can also be affected by reclassification issues.

## *The State's response to mortgage arrears*

Lending institutions such as banks and building societies are bound by two statutory codes of conduct in relation to mortgages. These are the Central Bank's Code of Conduct on Mortgage Arrears (CCMA) and its Consumer Protection Code 2012.

Measures undertaken to date include:<sup>99</sup>

1. **Mortgage Interest Relief (MIR):** This is a tax relief based on the amount of qualifying mortgage interest that is paid in a given tax year for a principal private residence, provided at source and paid for the first seven years of the mortgage. In Budget 2012 the amount of the relief was increased for those first-time buyers who purchased between 2004 and 2008. They were targeted as part of the Programme for Government commitments to homeowners with distressed mortgages. All mortgage interest relief is due to cease by end 2017.
2. **Mortgage Interest Supplement (MIS):** One component of supplementary welfare allowances, MIS provides short-term support to help borrowers pay their mortgage interest repayments. It was a payment made to those households where there was no earned income due to unemployment, or where there was a significant reduction in salary or wages. MIS paid the costs of mortgage interest repayments. It only supported the interest component of the loan and not loan capital repayments. From 1<sup>st</sup> January 2014, the MIS scheme is closed to new entrants and no new applications will be accepted from this date. This measure does not affect current claimants immediately (people who were getting MIS before 1<sup>st</sup> January 2014). The scheme will be wound down for these claimants over a 4-year period.
3. **Mortgage-to-Rent Scheme:** A national mortgage-to-rent scheme for private mortgages is in operation, along with a mortgage-to-rent scheme for local authorities. Measures announced in May 2015 include an expansion of the mortgage-to-rent scheme.<sup>100</sup>
4. **Code of Conduct on Mortgage Arrears (CCMA):** In February 2009, a Code of Conduct on Mortgage Arrears was introduced for all mortgage lenders. It has subsequently been revised and amended. It applies to all regulated mortgage lenders operating in the State when dealing with borrowers facing, or in, arrears on a mortgage which is secured on a primary residence. A revised Code of Conduct on Mortgage Arrears came into effect from 1 July 2013. The revised CCMA contains "a detailed definition of what constitutes 'not co-operating' with the lender and strong

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<sup>99</sup> These summaries are heavily based on information in the following webpages:

[http://www.citizensinformation.ie/en/housing/owning\\_a\\_home/mortgage\\_arrears/responses\\_to\\_mortgage\\_arrears\\_and\\_personal\\_debt.html](http://www.citizensinformation.ie/en/housing/owning_a_home/mortgage_arrears/responses_to_mortgage_arrears_and_personal_debt.html) and

[http://www.keepingyourhome.ie/en/responses\\_mortgage\\_arrears.html](http://www.keepingyourhome.ie/en/responses_mortgage_arrears.html)

<sup>100</sup> See Government press release, *Government Strengthens Framework to Support Mortgage Holders in Arrears*. 13<sup>th</sup> May 2015. Available at [http://www.merrionstreet.ie/MerrionStreet/en/News-Room/Releases/Government\\_Strengthens\\_Framework\\_to\\_Support\\_Mortgage\\_Holders\\_in\\_Arrears.html](http://www.merrionstreet.ie/MerrionStreet/en/News-Room/Releases/Government_Strengthens_Framework_to_Support_Mortgage_Holders_in_Arrears.html)

provisions on what happens if a person is declared 'not co-operating' – which can include immediate commencement of repossession proceedings".<sup>101</sup>

5. **Mortgage Arrears Resolution Process (MARP):** Since January 2011, under the CCMA, lenders must operate a MARP when dealing with arrears and pre-arrears customers. The Mortgage Arrears Resolution Process (MARP) was introduced in the 2010 revision of the CCMA based on the recommendations of the Expert Group on Mortgage Arrears and Personal Debt. It has been revised a number of times since. Each mortgage lender must have its own Mortgage Arrears Resolution Process which applies the standards set out in the CCMA. A mortgage lender must set up an Arrears Support Unit (ASU) within the bank. The CCMA sets the standard of how banks are to deal with customers in mortgage arrears.
6. **Mortgage Arrears Resolution Targets** (performance targets for banks): In March 2013 the Central Bank set out Mortgage Arrears Resolution Targets (MART) for six banks with the aim of speeding up the resolution of the mortgage arrears crisis. The Central Bank issued revised requirements to the banks in April 2015, following an assessment of its supervisory engagement.
7. **New bankruptcy and insolvency arrangement:** The Insolvency Service of Ireland (ISI) was established by the *Personal Insolvency Act 2012* and plays a key role in the operation of personal insolvency solutions.
8. **Advice and guidance:** The Mortgage Arrears Information and Advice Service was launched in September 2012 to assist people with mortgage difficulties. On 1<sup>st</sup> September 2015, details were announced of a greater role for the Money Advice and Budgeting Service (MABS) in offering information, advice and assistance to borrowers in arrears.

The *Personal Insolvency Acts* provide a number of debt solutions for borrowers who are insolvent.<sup>102</sup> The Insolvency Service of Ireland explained to the Committee that personal insolvency can result in mortgage default and the ultimate loss of a home and for tenants, personal insolvency can have a similar outcome due to an inability to meet rent obligations. The ISI can provide solutions which can help in either scenario, providing protections to mortgage borrowers. The Personal Insolvency Arrangement (PIA), in particular, enables a borrower to remain in the family home.

*Programme for Government (2016)*

The current *Programme for Government* includes a number of commitments in relation to mortgage arrears:

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<sup>101</sup> See [keepingyourhome.ie](http://www.keepingyourhome.ie/en/mortgage_arrears_resolution.html) website at [http://www.keepingyourhome.ie/en/mortgage\\_arrears\\_resolution.html](http://www.keepingyourhome.ie/en/mortgage_arrears_resolution.html)

<sup>102</sup> Insolvency Service of Ireland (ISI) Opening Statement to the Committee. Available at <http://www.oireachtas.ie/parliament/media/committees/32housingandhomelessness/ISI-Opening-Statement-to-Oireachtas-Committee-May-2016-Final.pdf>

“The new Government wants to keep families in their homes and avoid repossessions insofar as is possible. We will protect the family home and introduce additional long-term solutions for mortgage arrears cases. To accelerate the resolution of the remaining difficult-to-solve mortgage arrears cases, and building on recent reforms to insolvency and bankruptcy, we will:

- Establish a new national service to standardise the supports available to borrowers in mortgage arrears, with powers and resources needed to advise, assess, negotiate and recommend solutions
- Review the thresholds and the processes for Personal Insolvency Arrangements (including SMEs) and raise where appropriate
- Establish a dedicated new court to sensitively and expeditiously handle mortgage arrears and other personal insolvency cases, including through imposing solutions, including those recommended by the new service. The hearings of this court could be held in private if requested by the debtor.
- Work with the Central Bank to amend the Code of Conduct on Mortgage Arrears to include an obligation on providers of mortgage credit to provide a range of sustainable arrears solutions. This Code of Conduct will be put on a statutory basis.
- Fund an information campaign to encourage engagement in the new resolution process”<sup>103</sup>

### **Obstacles regarding mortgage difficulties**

The following obstacles which have been identified over the course of the Committee’s deliberations include:

- Restructuring options do not deal with the long-term unsustainability of the mortgage and in the absence of a change of circumstances for the household may in effect only delaying the arrears crisis for the household.
- The State’s housing support model provides for either total support or no support at all. There is no system of partial support. This is particularly troublesome for families who cannot avail of support but also cannot afford to buy or rent on the market or are in mortgage difficulties.
- Households where the income is above the threshold for social housing support but are unable to meet their long-term housing need from their own resources, are becoming, or are at risk of becoming, homeless.
- The application of the mortgage-to-rent scheme may be too restrictive.

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<sup>103</sup> A Programme for a Partnership Government, pages 30-31.

## Policy options

The following are the policy options recommended by stakeholders to the Committee to help tackle the mortgage arrears crisis.

### Implementing the Programme for Government commitments

The Programme for Government includes commitments related to mortgage arrears, which have been outlined above. The Irish Mortgage Holders Organisation recommends, at a minimum, these commitments be fully and quickly implemented to deal with mortgage arrears.

### Discussion on extending the Mortgage-to-rent scheme

Under the national mortgage-to-rent scheme, people who are having trouble paying their mortgage to a private lender can switch from owning their home to renting their home as social tenants of a housing association, which buys the home from the lender.<sup>104</sup>

The Housing Agency has stated that “it is important that the Mortgage to Rent Scheme and other similar schemes are maintained and promoted for the borrowers, where the income of the household is below the threshold for Social Housing Support. The scheme ensures that the borrower(s) remain in the home and also remain part of their existing community”.

In its meeting with the Committee, the County and City Management Association advocated expanding and improving upon the mortgage-to-rent scheme and also rent receiverships:

“This is something we are asking financial institutions in particular to come on board with. The principle here has to be that we cannot have a situation in which households are being made homeless. If that is our working principle, to what degree can we change the current situation when a mortgage gets into difficulty? If a landlord is renting a property out and he or she gets into difficulty, can we have rent receiverships whereby the family stays in place or goes into a mortgage-to-rent scheme, so that, at least, breathing space can be provided to that household to look at the alternatives over a period of time? It does not make sense to us because what happens then is that a family becomes homeless and unfortunately ends up in a commercial hotel setting, which means that, ultimately, we pay more. We have always said this is absolutely unsustainable. It makes sense for the State to be able to stand back and ask what can be done to alleviate this”.

The Housing Agency told the Committee that the mortgage-to-rent scheme needs to “work more effectively”. Its specific ideas and recommendation on the scheme are reproduced below.

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<sup>104</sup> Citizens Information webpage, *National mortgage-to-rent scheme*. Available at [http://www.citizensinformation.ie/en/housing/owning\\_a\\_home/mortgage\\_arrears/mortgage\\_to\\_rent\\_scheme.html](http://www.citizensinformation.ie/en/housing/owning_a_home/mortgage_arrears/mortgage_to_rent_scheme.html)

### **Housing Agency on Mortgage-to-rent scheme**

There is a requirement for a scheme that allows these households to get partial support from the State to meet their long-term housing need.

Such a scheme could allow for a capping of the market rent payable or a capping of the contribution from the State per month.

The purchase of the property from the lenders could be funded using private finance, whether that is State support for the Approved Housing Body Sector or by other entities that would be tied into a minimum term lease, with the State having first option after the household to purchase the property.

The State intervention per household for such a scheme could very approximately be €5,000 to €10,000 per household per year compared to the estimate of €40,000 per household per year in Homeless Services. The scheme would assist in

- Dealing with the mortgage arrears situation,
- Keeping families in their homes and communities,
- Preventing unnecessary pressures on the Homeless Service
- Avoiding longer housing waiting lists.

**Recommendation:** Consider options for providing a partial level of State support to households with serious mortgage difficulties that do not qualify for social housing support.

FLAC has called for the promotion of access to an expanded Mortgage-to-Rent scheme in its submission (see below for more details on FLAC's submission).

### **Discussion on direct support for borrowers in arrears**

#### *Restore a targeted use of Mortgage Interest Supplement*

Details on the Mortgage Interest Supplement, a scheme which only supported the interest component of the loan and not loan capital repayments, were outlined above. The scheme has been closed to new entrants since 1<sup>st</sup> January 2014 and will be wound down for people who were getting MIS before 1<sup>st</sup> January 2014 over a 4-year period.

FLAC highlights that the closure of the Mortgage Interest Supplement scheme to new claimants (from 1<sup>st</sup> January 2014) means that people experiencing short-term income difficulties cannot access social welfare assistance to pay their mortgage interest payments. It proposes restoring a targeted use of the MIS payment to assist people with a short-term mortgage arrears problem through their financial difficulties, which it believes might help to prevent temporary financial problems multiplying into insolvency, with the attendant social

and economic consequences that may follow for the households involved and for society generally.

### *Introduce a “Fair Mortgage Solution”*

The Irish Mortgage Holders Organisation (IMHO) advocated the introduction of what it terms a “Fair Mortgage Solution”:

“Currently the state pays those who cannot afford rent a rent supplement. This is a significant economic burden on the state but the state gets no return for its money. We have proposed a “Fair Mortgage Solution” which would see those [who would be] eligible for rent supplement receive part payment to top up an affordable mortgage allowing them stay in their home”.<sup>105</sup>

### **Discussion on modifications to the CCMA/MARP process to strengthen the borrower’s position**

The Central Bank's Code of Conduct on Mortgage Arrears (CCMA) regulates the conduct of a bank and its processes when dealing with a customer who falls into arrears with their mortgage. It has been revised a number of times, with the latest revision applicable from July 2013. The revised code sets out the Mortgage Arrears Resolution Process (MARP).

FLAC suggests that in relation to using the CCMA/MARP process to resolve PDH mortgage arrears cases, the “balance of power remains with the lender throughout the CCMA/MARP and from the borrower’s perspective this process can be a nightmare in terms of fair procedures and access to the detailed reasons for lender’s decisions”.<sup>106</sup>

The FLAC submission includes a number of proposals in relation to mortgage arrears, some of which it acknowledges are similar to proposals in the Programme for Government. FLAC suggests the following reforms:

- 1) “The CCMA with its MARP process should continue to be the template for lender/borrower negotiations on rescheduling mortgage arrears, with access to assistance from MABS money advisors becoming mandatory for borrowers.
- 2) The CCMA should become a ministerial regulation expressly admissible in any legal proceedings before an adjudicating body.
- 3) The option for an insolvent debtor to instead have a Personal Insolvency Arrangement (PIA) proposal made on his or her behalf by a Personal Insolvency Practitioner under the Personal Insolvency Act 2012 that would include proposals on the family home should continue.

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<sup>105</sup> Irish Mortgage Holders Organisation (IMHO) submission to the Committee. Available at <http://www.oireachtas.ie/parliament/media/committees/32housingandhomelessness/IMHO-Homelessness-Committee.pdf>

<sup>106</sup> FLAC submission to the Committee.

- 4) A **mortgage rescheduling tribunal** should be put on a statutory footing to hear appeals from borrowers unhappy with the outcome of the MARP process. The tribunal would have the power to impose its own decision on the parties, including write-down where appropriate. Either party would have the option of an appeal into the courts against this decision.
- 5) Borrowers should have access to the requisite financial and legal advice and representation to make their case to this Tribunal and into the courts if it proved necessary.
- 6) These proceedings should be heard *in camera*, i.e. in private, to encourage full participation.
- 7) For those whose mortgages are declared unsustainable on financial grounds (and there are unfortunately a sizeable number of such cases), access to an expanded Mortgage-to-Rent scheme should be promoted. The existing scheme should be immediately overhauled with a focus on problem areas such as the required state investment, lender co-operation, income thresholds, property valuations, the mortgage shortfall (in negative equity cases) and the problem of judgment mortgages registered against the property.

## 5. Housing Finance

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### Key Issues

- The amount of finance available for Local Authorities and that this is underspent.
- The structure of government finance and the issue of off balance sheet financing, including the role of EU fiscal rules, approved housing bodies and other sources of finance.
- Taxation and incentives for the building of additional houses.
- The level of serviced land available.

### Recommendations

1. That the Government urgently seeks flexibility from the European Commission on the application of the EU fiscal rules to the financing of social housing.
2. That the Government provides the maximum possible direct Exchequer investment in the provision of social housing in the Capital Programme.
3. That the Government establishes an off-balance sheet funding mechanism to provide additional investment in social and affordable housing.
4. The Government should seek to mobilise as quickly as possible, all possible sources of funding, including funding from the Housing Finance Agency, Strategic Investment Fund, the Irish League of Credit Unions and Irish Pension Funds, to increase the supply of social and affordable housing.
5. That the Living City Initiative is expanded beyond the six cities to which it currently applies.
6. That the single stage approval process for social housing is extended from €2 million to a higher threshold of €5 million, with local authorities allowed to explore additional funding if required. The Committee also recommends a review of this process to examine why local authorities do not appear to be engaging in the single stage process.
7. That consideration be given to suspending the hierarchy of development plans for a period of time to address the level of urgency presented by the current crisis and that a new model focused on the development of new towns with a wider availability of services is investigated

### Background

The Committee previously considered the financial elements to the Private Rented Sector, Private Housing and Mortgage Difficulties and has recommended a number of measures to address these and issues such as the cost of housing, mortgage finance building controls

are all addressed in these chapters. This chapter primarily addresses the fiscal rules, funding mechanisms, access to finance and ancillary issues that may affect the level of finance needed and how efficiently it is used, e.g. land acquisition costs and the use of serviced land.

The Committee's recommendations concern the current fiscal rules, as applied by the European Union, and whether Ireland can avail of a level of flexibility in order to raise the finance needed to address the current housing crisis. The Committee considered the on-balance sheet requirements and the borrowings taken into account in calculating the deficit. The Committee also explored a number of off-balance sheet options and considered what it believes may offer the best prospect for the construction of additional social housing.

The level of Government spending was considered by the Committee. The Social Housing Strategy 2020 sets out the current plans of Government and commits to building 35,000 housing units by 2020, in two phases of 18,000 units (2015 to 2017) and 17,000 units (2018 to 2020). The Strategy states that "significant Exchequer funding is now being allocated to ensure that the early phases of this Strategy will deliver a significant response to the need for social housing".<sup>107</sup> The Committee considered whether this was the maximum that could be achieved and seeks an examination of how much more capital funding can be made available.

Finally, the efficient use of land and resources was also considered by the Committee, particularly in the context of development plans and serviced land.

**1. The Committee recommends that the Government urgently seeks flexibility from the European Commission on the application of the EU fiscal rules to the financing of social housing. The Committee will also express its view on this to the Commission.**

The scope of the Government to spend money and raise taxes is now subject to a framework of EU and domestic fiscal rules. The primary basis for EU rules is the Fiscal Compact Treaty, which provides that a Member State's deficit should not exceed 3% of the Gross Domestic Product and its structural deficit should not exceed a country-specific Medium Term Budgetary Objective, set at 0.5% of GDP for Member States over the debt limit of 60% and 1% for Member States within the debt limit.<sup>108</sup>

Ireland is subject to the preventative arm of the EU's Stability and Growth Pact (SGP) and Fiscal Compact, having previously been under the corrective arm of the SGP. Currently, Ireland is subject to two main fiscal rules:

- The Debt Rule: This states that a country's gross general government debt in excess of the 60% debt to GDP reference value must be reduced by at least 1/20<sup>th</sup> per year on average, unless a transition period for Member States under the Excessive Deficit Procedure applies.

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<sup>107</sup> *Social Housing Strategy 2020*, Department of Environment, Community and Local Government, published 26<sup>th</sup> November 2014 at p. 24.

<sup>108</sup> Treaty on Stability, Co-ordination and Governance in the Economic and Monetary Union, Brussels, 2<sup>nd</sup> March 2012.

- The Budgetary Rule: The budget is either balanced or in surplus and this is deemed to be the case if the Medium Term Budgetary Objective is achieved, or it is on the adjustment path towards the Medium Term Budgetary Objective.

Ireland exited the Excessive Deficit Procedure in May 2016.<sup>109</sup>

The capacity of the State to provide finance for capital projects is limited by a number of factors, most notably the application of these EU rules and control of the budget deficit. The central issue regarding borrowing and expenditure by public bodies is whether the transactions are on or off balance sheet. This was described to the Committee by the Minister for Finance as follows:

“Following the passing of the referendum in 2012-13 European fiscal rules are matters of Irish constitutional law. We do not have a shortage of money. We have almost balanced the budget and can borrow money.”

However, the fiscal rules constrain the spending of money unless the budget is balanced. Therefore, the spending of money directly by the Government would add this spending as government expenditure for the purpose of calculating the budget deficit. This is also the case of funds guaranteed by the Government, which may be an issue for local authorities.

The situation regarding local authorities was underlined to the Committee by Mr. Eoin Dorgan of the Department of Finance on 31 May 2016, when he stated that “local authorities are on-balance sheet. Like other on-balance sheet organisations and depending on the joint venture and the nature of the transaction they engage in, it can be considered off-balance sheet.”

In respect of public finance, the Committee has identified the on and off balance sheet requirement as a central issue to the capacity to raise finance for the provision of housing. In addition to this, there is also an issue on the accessibility of such finance to the building sector.

One of the primary issues in financing new housing projects is the application of EU fiscal rules and the requirement for expenditure guaranteed by the Minister for Finance to be included on the State’s balance sheet for these purposes. The Committee was particularly interested in examining off balance sheet models instead, particularly in the context of a social housing programme, whether this is funded by local authorities or a State agency such as the Housing Agency or a reconstituted NAMA with altered or extended terms of reference.

In terms of public expenditure, the Minister for Finance confirmed the fiscal rules as a key issue, stating the following in his evidence to the Committee:

“There is no problem with having a Government bond and calling it a Government housing bond. We would get the money at less than 1% for ten years. If it went out to

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<sup>109</sup> Council Recommendation on the 2016 national reform programme of Ireland and delivering a Council opinion on the 2016 stability programme of Ireland, available at [http://ec.europa.eu/europe2020/pdf/csr2016/csr2016\\_ireland\\_en.pdf](http://ec.europa.eu/europe2020/pdf/csr2016/csr2016_ireland_en.pdf), accessed 10 June 2016.

20 years, we would still get it at 110, 120 or something similar. I say 20 years because that would be the lifetime or model of a house paying for itself. The trouble is that it would all be on-balance sheet. The key problem is not a shortage of money. We can raise the money. The NTMA can raise money for us, it can go into the Exchequer and it can be used for house building. The problem is that it goes on the balance sheet and then we break the fiscal rules and the expenditure ceilings.”

Although there has been an improvement in the economy in recent times, local authority expenditure is also considered to be on-balance sheet, meaning that the fiscal rules also place a limitation on local authorities. Speaking to the Committee, Mr. Dick Brady of the County and City Managers Association said the following:

“We in the local authorities have to abide by those rules just as much as the State as a whole. Those rules can and are causing some problems for housing finance.”

The Minister for Housing, Planning and Local Government Simon Coveney T.D., also outlined similar concerns with regard to the borrowing of funds by local authorities:

“When a local authority borrows money and spends it the money gets added to the national debt. It is as simple as that. We have worked very hard in recent years to try to get our national debt levels down so caution is needed in how we finance what is clearly needed - an increase in the supply of housing units - and the mechanisms by which that is achieved.”

Recognising that the issues surrounding housing and homelessness are now considered to be a national emergency, there is a need to address these fiscal rules directly with the European Commission and explore the possibility of an exemption or amendment to fiscal requirements to allow for the provision of additional public finance. The Committee suggests that this flexibility is vital.

**2. The Committee recommends that the Government provides the maximum possible direct Exchequer investment to the provision of social housing in the Capital Programme.**

Outside of off-balance sheet options, Direct Exchequer Investment in the provision of social housing is provided through the local authorities, but due to administrative processes, local authorities are unable to avail of all funding or are reluctant to apply through new processes, e.g. the single stage approval process for small developments. In this Report, the Committee has already considered the establishment of a Housing Procurement Agency, to coordinate the provision of social housing. In order to fund this, the Committee suggests looking for the maximum amount of capital investment available.

In relation to the cost of additional social housing needed, Mr. Dermot Lacey, of the Association of Irish Local Government, stating the following:

“It is estimated that this is in the region of €5.5 billion. We recognise that this will be a challenge for whoever is in Government but it is a challenge that must be met. We welcome the recent comments by the Housing Finance Agency that it can lend at a

fixed rate of 1.75% to local authorities for social housing projects. The agency has stated that it has the capacity to deliver up to €10 billion and we believe this offer should be accepted.”

In addition to direct investment, the Minister for the Housing, Planning and Local Government, Simon Coveney T.D. told the Committee the following:

“NAMA has outlined its programme to fund the development of 20,000 new homes and a €500 million active capital NTMA development finance package was also put in place.”

The Minister however noted that there are issues with regard to housing construction and a functioning housing market. In respect of vacant houses, the Minister has also indicated that acquiring vacant housing is a much quicker alternative and the provision of funding for this purpose is something that can be explored in the budget and with respect to fiscal space. Minister Coveney also stated the following during his engagement with the Committee:

“I would like to see a purchase programme where the State looks for bargains in properties that may not be on the market but may be coming to the market in the next couple of years. I would like us to be proactively looking to acquire, particularly properties that are not occupied at the moment, to be able to increase the number of social housing units we have.”

A key issue identified by the Committee is the level of use by the local authorities of the funds allocated to them by the Department of Environment, Community and Local Government (now the Department of Housing, Planning and Local Government). The Committee is particularly concerned that local authorities are not using up all the resources allocated to them and the role held by central government in approving and regulating housing projects.

As well as the issue of investment, an issue that has also arisen is the level of equity that builders and developers must bring to the table to access this finance. The Committee heard evidence from a number of stakeholders from outside the public sector and is particularly concerned by the level of funding available against the level of projects actually being undertaken.

The Committee in particular heard that banking entities have additional finance which could be used to build social housing. On this point, the Committee heard evidence from Mr. Noel Brett of the Banking and Payments Federation of Ireland on 5 May 2016, where he stated the following:

“Banks are important providers of development finance to viable construction projects but they are not, and cannot be, the providers of 100% finance and the builder needs to bring a significant element of equity to the project. That is a challenge for many builders and developers right now.”

After the recession, many developers are under the auspices of NAMA and in many cases, do not have the credit rating to access additional funds. This again relates to the issue of incentives for developers to build (as opposed to finance) housing units.

The Committee was told in correspondence from the Minister for Finance that the capital funding allocation for housing programmes in 2016 is €528 million, of which €71.6 million has been drawn down as of 20 May 2016. This information was provided by the Department of the Environment, Community and Local Government. The Committee however was also advised that much of the funds are drawn down in quarters three and four of each year and it is expected that the full capital funding allocation will be used this year.

A final consideration on direct State involvement in the building of social and affordable housing are EU rules on the issues of State Aid. In terms of policy formulation on State Aids, Craig and De Búrca are clear in stating that the responsibility for policy in this area rests with the European Commission.<sup>110</sup> These rules are governed by the Treaty on the Functioning of the European Union, which defines State Aid as follows:

“Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market”<sup>111</sup>

The issue is that if NAMA completes and sells 20,000 housing units for the private market, it is in direct competition with other builders and has an advantage as it is owned by the State. Mr. Frank Daly, Chairman of NAMA, told the Committee that the “substantive defence to the state aid complaint is that NAMA is acting commercially”. However, Mr. Daly also stated that state aid “is not really the barrier in terms of social housing”.

The Committee is conscious that further comment on individual cases may be *sub judice* as there are active cases before the courts and / or the decision-making process. However, one key provision in the treaties is that state aid cannot distort normal competition in markets for goods and services. In addition, the Committee was told that State Aid is not considered a barrier to social housing projects. In any case, the Committee believes that solutions that are acted upon must be mindful of State Aid rules.

### **3. The Committee recommends that the Government establishes an off-balance sheet funding mechanism to provide additional investment in social and affordable housing.**

The Committee was advised of a number of potential off-balance sheet options for obtaining additional finance. For example, NARPS was established as a special purpose vehicle by NAMA. This is described by the Social Housing Strategy 2020 as being established “to facilitate the sale or lease of NAMA debtor or receiver residential properties for social housing purposes”.<sup>112</sup> It operates by taking ownership of properties where there is an established demand and then leases them long-term to an AHB or Local Authority.

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<sup>110</sup> Craig and De Búrca, *EU Law: Text, Cases and Materials*, 5<sup>th</sup> ed. OUP, at pg. 1085.

<sup>111</sup> Article 107(1), Treaty on the Functioning of the European Union, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>, accessed 10 June 2016.

<sup>112</sup> *Social Housing Strategy 2020*, Department of Environment, Community and Local Government, published 26<sup>th</sup> November 2014 at p. 31.

NARPS may be an attractive proposition as it may operate as a PPP. Speaking to the Committee on 31 May 2016, Mr. Conor O’Kelly, CEO of the National Treasury Management Agency stated the following:

“In respect of NARPS and the PPP question, the possibility of having a larger and quite ambitious version of NARPS is a runner. I think the AHBs are the current preferred supplier of houses. Obviously, under Part V, new developments could go into the vehicle. It could be open-ended in that regard.”

It is the Committee’s understanding based on the evidence received that the classification of transactions has an impact on whether or not it is on balance sheet. This includes certain investments, for example equity investments in banks classified as such. While they do not count towards the deficit, they still count towards the debt. Mr. John Palmer of the Department of Finance stated the following:

“It is a question of whether it counts for the deficit calculation and for the rest of the fiscal rules, the structural balance sheet and the expenditure benchmark”

In addition, off-balance sheet schemes would involve housing units subject to the Part V requirements on social housing. The Committee considered the issue of whether the local authorities or AHBs could provide social housing in a manner that is off-balance sheet with investment from investment vehicles such as the Ireland Strategic Investment Fund (ISIF) or NARPS, with a commercial return from cost rentals and affordable housing. Mr. Conor O’Kelly of the NTMA indicated that such a model was being explored.

The Committee noted that there is a potential for what was termed as the NARPS 2 vehicle. This is a similar investment vehicle operating outside of NAMA, with the responsibility of building social housing. Two specific models that may work were identified by the NTMA:

“The two specific financing vehicles that we think have some legs and could have some impact are the NARPS 2, as we are now describing it, and the second one is an infrastructure fund where we would put ISIF money plus additional co-investment capital in there and provide financing for this infrastructural deficit.”

The NARPS 2 vehicle suggested is envisaged as a model that would operate largely outside of NAMA and serve as a means of providing social housing to local authorities. As noted above, it is possible for local authority activity to be off-balance sheet, depending on the joint venture and nature of the transaction. The Minister for Housing, Planning and Local Government, Mr. Simon Coveney T.D. told the Committee that the Government can see if this model can be replicated. The Committee believes this is a model that is worth pursuing and recommends that it is given detailed consideration.

- 4. The Committee recommends that the Government explores all possible funding sources to provide low interest finance for the provision of social and affordable housing, including the Housing Finance Agency, the Irish League of Credit Unions, the Ireland Strategic Investment Fund and Irish Pension Funds.**

The Committee was also told that funding was available or obtainable from other bodies such as the Housing Finance Agency and the Irish League of Credit Unions. However, much

of this is not accessible due to issues surrounding whether or not the funds are on balance sheet or the regulatory requirements involved.

In terms of the sources of loans and borrowings, a number of potentially off-balance sheet financing options were brought to the attention of the Committee. These include finance provided by Credit Unions, the European Investment Bank, Public Private Partnerships and the Ireland Strategic Investment Fund, as well as a structuring model based on the National Asset Residential Property Services Limited (NARPS).

### **Credit Union Finance**

On 5 May 2016, Mr. Ed Farrell, Irish League of Credit Unions (ILCU), made the following observations:

“The key benefit for the credit union movement from this proposition would be that it would enable the movement to put a significant portion of members’ funds of €8.5 billion, currently held in short-term investments, to a more productive and economically rewarding purpose, while at the same time addressing a key social issue that deeply affects the communities credit unions serve.”

It would appear that the central issue with credit union funding is the level of regulation currently enforced, which is intended to ensure the protection of credit union members’ funds from speculative practices. In contrast, indications were given to the Committee that the Irish League of Credit Unions could loan funds for the construction of social housing at an interest rate of approximately 3.5%.

The Committee was told that the Irish League of Credit Unions does hold significant surplus funds, which Mr. Farrell described as follows:

“We have €8 billion or €9 billion in surplus funds that are not loaned out. We have shown scenarios. The strategy refers to 35,000 new housing units being built with the preferred provider being the approved housing bodies. We have shown that if the approved housing bodies build one quarter, half or three quarters of them, that would mean €1 billion, €2 billion or €3 billion from us.”

Mr. Ed Farrell stated that it was focused on approved housing bodies because that is where the Government strategy is focusing:

“There has been a desire on our part to try to propose something that fits in with the Government strategy. That is the page we are on, as it were. If that one works and we get it moving, we can then look at something like the public private partnership mentioned.”

Mr. John Knox of the ILCU referred to the Central Bank stating that its role as registrar of credit unions is to protect the savings of credit union members:

“It is focused very much on the risk. What we are trying to do is endeavour to allay any concerns it might have. Thankfully, as Mr. Farrell has outlined, the Departments have in recent meetings offered to try to meet with the Central Bank to give it any further information on how this model would work and allay any fears or concerns it may have

about risk which would finally enable it to make the regulatory changes so that we can progress this once and for all.”

The availability of finance from credit unions was also communicated to the Committee by the Credit Union Development Association, which proposed the possibility of a shared loan agreement to AHBs and local authorities from qualifying credit unions.<sup>113</sup>

### **European Investment Bank**

The Committee heard additional evidence from the Housing Finance Agency, which is responsible for the advancement of finance to local authorities and approved housing bodies.

“We think the capacity of local authorities is such that they are best placed to do that building. Historically, the cost of finance is so low at the moment that it produces a unique opportunity. We are in a position to borrow money and the European Investment Bank is keen to give it to us. The bank will give us fixed rate money for 25 years at something below 2%.”

Further indications were given to the Committee that this finance can be passed onto local authorities with a very small number of overheads on the part of the Housing Finance Agency. While this avenue of finance appears to be very cost effective, a key concern on this issue is whether the funds are on or off balance sheet. In relation to the Housing Finance Agency, the Committee was advised of the following:

“All our borrowings are on-balance sheet, meaning it is one of the challenges. It is our contention that there are many potential solutions that will contribute to this.”

However, the Committee is mindful of what the priority truly is and believes particular attention should be paid to the statement below:

“There are off-balance-sheet vehicles, public private partnerships and activity with credit unions. All these options take time, however. An intervention where local authorities could get involved with a signal given to them to go ahead and build would, we feel, be quicker than all the other options. *This does not preclude them being transferred later into some other option to get them off-balance sheet.* We feel the primary consideration is to get the houses built.” (emphasis added)

This raises the question of streamlining the construction process against the administrative processes and thus giving the signal to local authorities to build houses, while the administrative constraints of doing so are refined, including the issue of moving the funding into a vehicle that is off balance sheet. However, the Committee believes that an investment with an interest rate of 2%, which could possibly be moved off-balance sheet, cannot be ignored.

It would seem that credit arrangements with the European Investment Bank could be very subjective and would largely depend on the individual terms, including the type of housing to

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<sup>113</sup> Credit Union Development Association Submission to the Committee

be built, the investment vehicles to be used and whether or not the private sector is involved. Of particular interest to the Committee during discussions with the Minister for Finance was a loan agreement between the European Investment Bank and the French Government that was mentioned.

### **Ireland Strategic Investment Fund (ISIF)**

The Committee was told of the ISIF vehicle and the impact it has had as another potential model. The example of 2,000 student accommodation units in Dublin City University was cited as an example in hearings, which in turn released additional investment from the European Investment Bank. In essence, ISIF investments must be capable of generating a commercial return, as the Department of Finance noted in hearings as follows:

“From the Department's point of view, in order for the ISIF to accomplish its core objectives and the additional objectives which the Government may set for it, it has to operate in line with its statutory mandate of generating commercial return and also having an economic impact in terms of its investments.”

In addition to the commercial sector, Mr. Conor O’Kelly, CEO of the National Treasury Management Agency (NTMA) noted that efforts are being made to attract investment in the residential centre also. In describing the level of co-investment, he stated the following:

“Part of the ISIF mandate is to attract co-investors. The €2.4 billion invested by the ISIF to date has been matched by a multiplier of 2.5. through co-investment, which equates to almost €7 billion. We are always seeking to include co-investors in any investments we make. In the case of the Activate Capital proposal, KKR is the co-investor, the Ardstone Residential Partnership involves co-investment from Aviva Ireland and the An Post pension fund, while the DCU investment in accommodation attracted the European Investment Bank as a co-investor”.

In addition to the general concept of PPPs, the Committee suggests that investment vehicles such as the Ireland Strategic Investment Fund (ISIF) should be explored further.

### **5. The Committee recommends that the Living City Initiative is expanded beyond the six cities to which it currently applies.**

Another issue is the use of properties in urban centres as a source of housing stock and what it would take to develop such buildings. The Committee asked local authorities on 29 April if it would make sense to have an attractive scheme, tax-incentivised, to allow developers or owners of those properties to upgrade to an apartment, taking into account problems such as the physical size, shape and the type of those buildings and compliance with fire regulations.

In response, Mr. Eugene Cummins of the County and City Managers’ Association (CCMA) stated the following:

“If we are having incentives, they should be specifically targeted at an area or a town and focused on renting. There is no point in refurbishing a building unless it is to be made available to rent or lease. It does not matter if it is to the AHBs, to us or to the

private sector, provided it is there. There is merit in that and I believe it is a great idea.”

The Committee believes there is much benefit in ensuring incentives for the refitting and renovation of buildings in urban centres to function as residential units. In addition, the Committee believes there is also merit in examining the use of grants and incentives to encourage the owners of commercial premises to convert the floor areas over shops etc. into residential accommodation.

On 3 May 2016, the Construction Industry Federation said the following:

“In terms of urban regeneration, in particular in rural towns, there is a great deal of capacity, with many sites derelict and many rural towns falling into disrepair. We propose some incentives to encourage the people who own those sites to turn them into good quality living accommodation in towns where it suits people and families to live and so on. It would make the upgrading more financially viable.”

It would seem to the Committee that the use of incentives to encourage landlords to convert property into residential units carries a lot of merit. From submissions, landlords cited the level of taxation and obligations in the rental sector, for example the regulation of bedsit accommodation and cited a need to reduce these obligations to provide additional incentive to rent out property. It may be advisable to examine how the taxation of landlord income may be reformed to provide additional incentive for renting out vacant units as well.

Regenerating urban centres in this way would create a new stream of income on the landlord’s side and provide additional housing to the community. From submissions, a general concern expressed by stakeholders is the number of one-off developments in rural areas and the lack of incentive to live in the centre of rural towns. For example, concentrating settlement in towns and villages could be serviced better in terms of infrastructure, thus saving additional funds which could be used on construction and development.

In addition, the Committee was told of the need to reform the Living City Initiative. This is described by Revenue as a “scheme of property tax incentives which applies in certain 'special regeneration areas' in the centres of Dublin, Cork, Limerick, Galway, Waterford and Kilkenny”.<sup>114</sup> However, only owner occupiers may benefit from the residential scheme and landlords are restricted to the commercial scheme only.

The IPAV pointed out that the current initiatives are very restricted, stating the following:

“IPAV welcomes the Living City initiative but it is too limited, focusing only on the regeneration of the historic centres of six cities, including Dublin, Cork, Limerick, Galway, Waterford and Kilkenny. There is a clear need for a nationwide scheme that would be open to all our rural towns. Otherwise, such towns will continue to languish and disappear before our eyes. Such an initiative would be win-win for every member of the community.”

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<sup>114</sup> <http://www.revenue.ie/en/personal/living-city-initiative.html>. Accessed 30 May 2016

Also, the number of initiatives aimed at opening up the level of housing available in urban centres was brought to the Committee's attention by the IPAV, particularly the need for a coordinated approach:

"The issue must be part of a co-ordinated whole-of-government approach, bringing together all existing incentives. We must examine how they could be co-ordinated and identify how these could be filled with relatively small financial outlays and the setting of specific achievable objectives, especially including yearly targets for local authorities and any implementation plan, with timeframes for each objective."

The Committee sees merit in extending the Living City Initiative to a number of additional towns and urban areas, in addition to the current six cities to which it applies.

**6. The Committee recommends that the Single Stage approval process for social housing is extended from €2 million to a higher threshold of €5 million, as indicated in the Programme for Government, with a mechanism to allow local authorities can grant additional funding if required.**

A central issue identified by the Committee in its opening hearings is the process for local authorities to gain approval for housing developments and social housing.

There is a streamlined process for funding approval for social housing developments costing €2,000,000 or consisting of 15 units. In its correspondence to the Committee following its meeting, the CCMA stated the following:

"The Single Stage approval process is being piloted for projects below €2m or 15 housing units. Instead of submitting the project plans at the 4 stages of advancement, local authorities can plan the project and establish costs in advance of commencement and present it as a 1-stage submission. Local authorities provide a more in-depth Capital Appraisal proposal than is ordinarily provided, to allow DHPLG to issue an approved budget for the project. In line with the CWMF's aim of ensuring greater cost certainty in publicly-funded construction projects, this approved budget represents the Department's full financial commitment to the project. It is the authority's role to operate cost control thereafter to deliver the project within the approved budget."

The Committee is concerned that the threshold for this process is too small and that an extended threshold of, for example, €5 million, may be better equipped to address the current crisis. The Committee addresses this further in its recommendations below.

However, the former Minister for the Environment, Community and Local Government, Mr. Alan Kelly T.D., put forward an interesting view to the Committee, stating the following on 28 April 2016:

"There are requirements for planning, design and all of that. Local authorities have the capacity to engage with such projects but very few, if any, take up the chance of engaging with smaller projects through that process. That is a question the committee may want to address. The process has been in place for a while, but local authorities have not engaged."

This raises an issue with the level of engagement from local authorities in the Single Stage approval process, which while much of the process has been removed, does not appear to be very attractive as an option. This may raise the issue of a need for review of this process to examine why the level of engagement is so low.

**7. The Committee recommends that consideration be given to suspending the hierarchy of development plans for a period of time to address the level of urgency presented by the current crisis and that a new model focused on the development of new towns with a wider availability of services is investigated**

The Committee also considered the issue of land use and development, particularly in the context of local area plans, regional planning guidelines and county development plans. The central point regarding serviced land is ensuring the most efficient use of land, costs and resources. The building of new towns at confluence points of services, e.g. road and rail, may represent a more effective form of planning and would allow for key services to be available. In particular, a pilot of such an initiative could be explored in the Greater Dublin area, as well as other cities such as Cork or Waterford.

On the issue of development plans, Mr. Michael Cleary, of the Society of Chartered Surveyors Ireland, told the Committee the following:

“Without getting into too much granular detail, there are local area plans, regional planning guidelines and the county development plans which build up to a tier which is all merited. However, we are saying it might be more efficient to use much of that time to create strategic development zones where a majority of the issues, which would be dealt with in a detailed planning application, could be dealt with upfront, leading to a more efficient use of resources.”

Regarding serviced land, the Committee was told that it is available. On 29 April 2016, Mr. Dick Brady of the CCMA told the Committee the following:

“At this point there are 22,000 sites that have planning permission in the Dublin region. There are somewhere in the order of 4,000 units under construction. Taking applications, serviced zones and serviced lands, the total amount available would be somewhere in the order of 80,000.”

In addition, the Committee was also furnished with information from NAMA, stating that an area of 1,152 hectares of land is available across all four local authorities in Dublin. It should be noted however that some of the land use zonings require a mixture of commercial, amenity and residential uses.

Table 7 below breaks down this figure by local authority:

Local Authority	Area (Hectares)
Dublin City Council	177
Dun Laoghaire Rathdown County Council	205
Fingal County Council	649
South Dublin County Council	121
<b>Grand Total</b>	<b>1,152</b>

Noting the commercial remit of NAMA, the Committee considered the number of units projected and believes that this could be featured as part of a National Building Programme. The priority should be the construction of additional social housing in order to alleviate demand in the current housing market.

The building of social housing on State owned land could remove the need for additional land and acquisition costs for development, and could be considered if the State or a body such as NAMA is involved in a National Building Programme for social housing.<sup>115</sup> The issue of serviced land is also important as the additional costs of servicing a site are quite substantial, totalling €28,000 for a three-bedroomed house. In addition, development levies (e.g. utility costs and connections) could cost a further €11,750.<sup>116</sup> Without these services provided to a particular land bank, the cost of providing these services may be higher. In addition, further investment in infrastructure may bring more land banks into consideration as possible sites and in the long-term, the Committee suggests that this be examined in order to ensure a similar crisis is averted in the future.

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<sup>115</sup> Report of the Society of Chartered Surveyors of Ireland, *The Real Cost of New House Delivery*, May 2016. Available at [https://www.scsi.ie/resources/2016/pdf/SCSI\\_the\\_real\\_cost\\_of\\_new\\_house\\_delivery\\_2016](https://www.scsi.ie/resources/2016/pdf/SCSI_the_real_cost_of_new_house_delivery_2016), accessed 10 June 2016, which estimated land acquisition costs as totalling €57,500.

<sup>116</sup> *Ibid.* at p. 3.

### Key Issues

- NAMA's target is to fund 20,000 housing units by 2020. However, the only legal obligation on NAMA is to provide 10% of these units for social housing.
- While NAMA states that these units will be 'starter homes', at market rates they will be out of reach for many first-time buyers.
- NAMA has the ability to borrow money off-balance sheet through its special purpose vehicle NARPS. However, it can only use this money to deal with NAMA debtors.
- Since 2014, NAMA has facilitated the sale of sites with a potential capacity to deliver up to 20,000 housing units. However, just 1,100 (5%) of these have been built or are under construction.
- While NAMA has significant assets in its portfolio secured on development land, it cannot give this land to local authorities as under the *National Asset Management Agency Act, 2009*; the receiver must get best achievable price for the land.
- Almost two-thirds of units offered by NAMA to local authorities were not taken up for a number of reasons: there was deemed to be no demand by the Housing Agency in 1,064 of cases, 72 were deemed not suitable by the Housing Agency, 1,647 were sold or rented to the private sector (having first been offered to local authorities) and 1,314 were refused on the basis that there would be an over-concentration of social housing.

### Recommendations

1. Amend the *National Asset Management Agency Act 2009* (S.2 and S.10) to allow NAMA to be an agent for the provision of social and affordable housing.
2. NAMA should use its cash reserves to tackle the housing and homelessness crisis.
3. Investigate why so little development has occurred on sites where the sale was facilitated by NAMA.
4. Explore the possibilities of extending NAMA's special purpose vehicle (SPV) to fund more social housing.
5. Review NAMA's portfolio of land to find additional potential sites for social housing.
6. Invest future NAMA surplus in social housing and infrastructure.
7. Increase the Part V requirement for NAMA housing developments to a minimum of 20% in exchange for fast-track planning approval.

## Background

Section 10 of the *National Asset Management Agency Act, 2009* states that the primary statutory mandate of NAMA is to obtain the best achievable financial return to the State. However, one of the 'compelling needs' of the *2009 Act* is also "to contribute to the social and economic development of the State" (Section 2 (b)(viii)).

As such, NAMA states its overall objective to be twofold, as follows:

"NAMA's objective is not only to maximise the commercial return from its activities both annually and over its lifetime but also to maximise the wider public and social benefits that its activities generate."<sup>117</sup>

### The number of residential units delivered by NAMA to date

NAMA told the Committee that they inherited about 14,000 empty homes and found tenants or buyers to live in the overwhelming majority of these.<sup>118</sup> In addition NAMA has funded the completion of 2,700 new homes.

NAMA also told the Committee that 88% of all the homes that have been acquired from the NAMA portfolio over the past 5 years have been bought by individual buyers in individual transactions.<sup>119</sup>

### NAMA's Residential Funding Programme 2016-2020

NAMA has announced plans to fund, on a commercial basis, the delivery of up to 20,000 new units over the period 2016 to 2020.<sup>120</sup> This represents one-fifth of the estimated 100,000 units needed by 2020.

This supply is aimed at the starter home market and 90% will be delivered in the Greater Dublin Area (Dublin, Kildare, Wicklow and Meath).

Of these 20,000 housing units:<sup>121</sup>

- 14,000 are currently commercially viable to fund and develop

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<sup>117</sup> NAMA [responses to Questionnaire](#) supplied to the Joint Committee on Finance, Public Expenditure and Reform, 22 October 2014.

<sup>118</sup> Opening statement to the Committee by NAMA at [https://www.nama.ie/fileadmin/user\\_upload/Opening\\_Statement\\_by\\_Frank\\_Daly\\_to\\_the\\_Housing\\_and\\_Homelessness\\_Committee.pdf](https://www.nama.ie/fileadmin/user_upload/Opening_Statement_by_Frank_Daly_to_the_Housing_and_Homelessness_Committee.pdf)

<sup>119</sup> Ibid.

<sup>120</sup> Ibid.

<sup>121</sup> NAMA Residential Funding Programme 2016-2020, see [https://www.nama.ie/fileadmin/user\\_upload/NAMA\\_Residential\\_Funding\\_Programme\\_-\\_Final\\_13\\_10\\_15\\_1\\_.pdf](https://www.nama.ie/fileadmin/user_upload/NAMA_Residential_Funding_Programme_-_Final_13_10_15_1_.pdf)

- 6,000 units may become commercially viable through intensive asset management and planning work by NAMA and provision of appropriate infrastructure

To achieve this programme, NAMA has established a dedicated Residential Delivery Team, comprising staff with specialist finance, development, legal and planning expertise.

### **Funding of the Residential Funding Programme 2016-2020**

The Minister for Finance, Mr. Michael Noonan, T.D. stated on 22 October 2015 that the programme will require investment of the projected NAMA surplus. The Minister said that NAMA expects to fully recover and enhance that surplus through this programme and that this is consistent with NAMA's commercial obligation to optimise the value of its assets.<sup>122</sup>

### **Nama-funded units currently under construction/planning**

Nama's presentation to the Committee shows that:<sup>123</sup>

- there are 3,096 NAMA-funded units under construction, (of which 2,534 are in the Greater Dublin area);
- planning permission has been granted for an additional 5,176 units (of which 4,296 are in the Greater Dublin area);
- planning applications have been lodged for 5,066 units (of which 3,760 are in the Greater Dublin area); and
- new applications will be lodged within the next 12 months for 6,627 units (of which 5,228 are in the Greater Dublin area).

### **Number of social housing units identified and delivered by NAMA**

NAMA offered 6,700 residential units to local authorities for social housing, of which demand was confirmed for 2,500 units.<sup>124</sup> NAMA reports that it has, to date, delivered over 2,100 social housing units to Local Authorities or Housing Bodies. NAMA delivers social housing via the following methods:<sup>125</sup>

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<sup>122</sup> PQ 22/10/15, Ref 36952/15

<sup>123</sup> See

[https://www.nama.ie/fileadmin/user\\_upload/Brendan\\_McDonagh\\_Presentation\\_to\\_Oireachtas\\_Committee\\_on\\_Housing\\_and\\_Homelessness.pdf](https://www.nama.ie/fileadmin/user_upload/Brendan_McDonagh_Presentation_to_Oireachtas_Committee_on_Housing_and_Homelessness.pdf)

<sup>124</sup> Opening statement to the Committee by NAMA at

[https://www.nama.ie/fileadmin/user\\_upload/Opening\\_Statement\\_by\\_Frank\\_Daly\\_to\\_the\\_Housing\\_and\\_Homelessness\\_Committee.pdf](https://www.nama.ie/fileadmin/user_upload/Opening_Statement_by_Frank_Daly_to_the_Housing_and_Homelessness_Committee.pdf)

<sup>125</sup>[https://www.nama.ie/fileadmin/user\\_upload/Brendan\\_McDonagh\\_Presentation\\_to\\_Oireachtas\\_Committee\\_on\\_Housing\\_and\\_Homelessness.pdf](https://www.nama.ie/fileadmin/user_upload/Brendan_McDonagh_Presentation_to_Oireachtas_Committee_on_Housing_and_Homelessness.pdf)

1. Direct sale to AHB/LA by NAMA Debtor or Receiver (39%)
2. Direct lease to AHB/LA by NAMA Debtor or Receiver (6%)
3. Acquisition by NARPS and onward lease to AHB/LA (55%)

Table X shows the distribution of social housing delivered by NAMA across local authorities. The last column of the table also shows cases where units were not accepted on the basis that there would be an over-concentration of social housing in these areas if they did so. A total of 1,314 units were refused on this basis.

The Association of Irish Local Government state:

“Simply accepting units offered through NAMA, without due regard for the need for community sustainability, could conceivably end up creating even more legacy challenges for the relevant housing authorities.”

One column shows that a total of 72 units were deemed to be unsuitable by the Housing Agency. Another column shows the number of units which were offered to local authorities but then sold or leased to the private sector. This occurred in 1,647 cases. When asked about this NAMA told the Committee:

“...we have a live portfolio and our debtors are anxious to sell if they have an opportunity to do so at a good price. It is very hard to stop that happening. If they say they have kept properties vacant for three months and the local authority has not come back to them or the Housing Agency has not been in touch, they will just lease them again to the private sector. That is the nature of a live portfolio.”

**Table 8: NAMA’s social housing delivery by local authority**

	Identified by NAMA	Demand confirmed	Delivered	No demand by Housing Agency	No over-concentration of social housing	Deemed not suitable by Housing Agency	Not available as sold or rented to private sector
Carlow County Council	225	150	138	26	28	0	21
Cavan County Council	49	1	0	15	17	0	16
Clare County Council	234	77	32	58	91	0	8
Cork City Council	501	188	132	0	178	0	135
Cork County Council	790	309	285	102	7	0	372
Donegal County Council	118	32	5	16	34	0	36
Dublin City Council	828	391	377	15	223	8	190
Dún Laoghaire-Rathdown Co. Co.	332	143	112	0	32	17	140
Fingal County Council	279	114	105	0	0	12	153
Galway City Council	203	202	196	0	0	0	1
Galway County Council	135	39	32	20	40	0	36

Kerry County Council	219	69	42	75	0	0	75
Kildare County Council	298	122	113	47	14	19	96
Kilkenny County Council	183	63	55	34	6	0	80
Laois County Council	98	1	0	47	9	0	41
Leitrim County Council	35	0	0	35	0	0	0
Limerick City & County Council	147	55	16	70	16	0	6
Longford County Council	31	0	0	11	0	0	20
Louth County Council	30	27	27	3	0	0	0
Mayo County Council	75	31	0	17	0	0	27
Meath County Council	235	63	38	60	28	0	84
Monaghan County Council	42	39	0	0	0	0	3
Offaly County Council	79	32	30	37	0	0	10
Roscommon County Council	136	10	0	87	35	0	4
Sligo County Council	111	29	4	29	40	0	13
South Dublin County Council	591	128	123	0	446	0	18
Tipperary County Council	161	13	0	91	57	0	0
Waterford County Council	103	51	51	39	10	0	3
Westmeath County Council	108	22	20	65	3	0	18
Wexford City and Co. Co.	225	132	102	65	0	0	28
Wicklow County Council	36	7	7	0	0	16	13
<b>Total</b>	<b>6637</b>	<b>2540</b>	<b>2042</b>	<b>1,064</b>	<b>1,314</b>	<b>72</b>	<b>1,647</b>

**Source:** Data submitted by NAMA to the Committee

### **Social housing secured through National Asset Residential Properties Services (NARPS)**

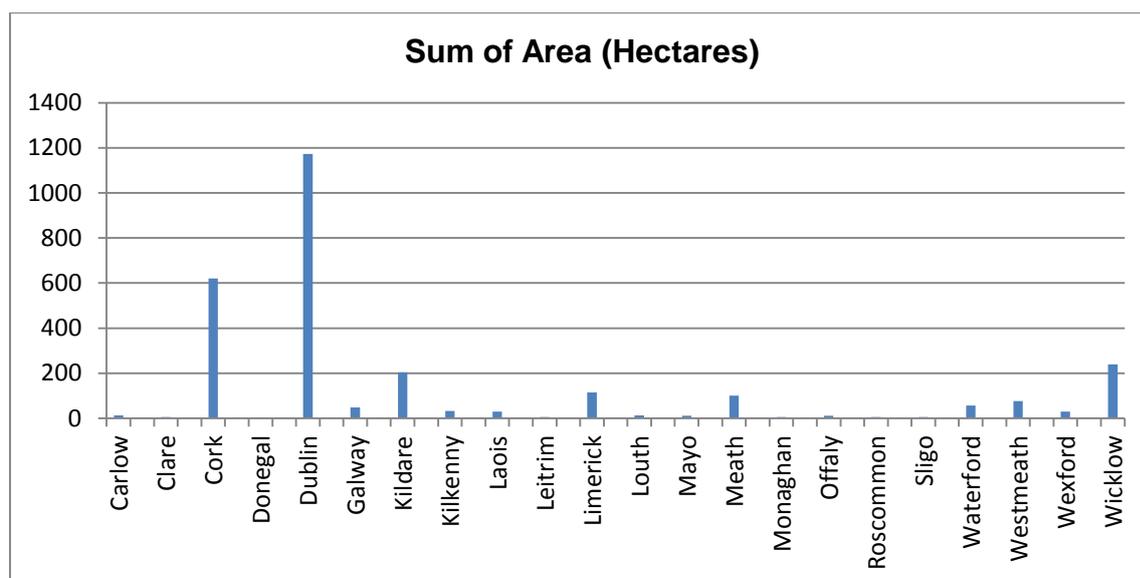
NAMA has spent €160 million to deliver social housing through National Asset Residential Properties Services (NARPS), a Special Purpose Company NAMA set up to expedite the delivery of these units. NARPS buys the properties from debtors and leases them to voluntary and co-operative housing bodies. In 2015, 73% of all social housing delivered by NAMA was through NARPS.<sup>126</sup>

<sup>126</sup> NAMA submission to the Committee.

## Regional distribution of development land under NAMA's control

Figure 8 shows the regional distribution of development land owned by NAMA. The chart shows that out of a total 2,806 Hectares of land, 1,173 (42%) is located in Dublin, 620 (23%) is in Cork, 240 (8.5%) is in Wicklow, 204 (7.3%) is in Kildare, 115 is in Limerick (4.1%), and in other counties NAMA controls much smaller areas of land.

**Figure 8: Breakdown by county of residential development land controlled by NAMA debtors and receivers as of April 2016**



Source: PQ on 14/04/2016, ref 6302/16

## Number of properties under NAMA's control

NAMA told the Committee that its role is similar to any lender, in that it owns the loans and not the properties. The sale of properties is therefore carried out by the owners or receivers.<sup>127</sup>

According to information provided to the Committee by NAMA there are 2 million homes in Ireland of which about 6,000 (0.3%) – are in the hands of NAMA debtors. NAMA reports that almost all of these 6,000 units are currently occupied by tenants. NAMA told the Committee:

“So there is really no hidden supply of houses that NAMA is keeping from the market.”

## Infrastructural deficit in land within NAMA's portfolio (where this land is commercially viable).

In some areas within Dublin and the wider Dublin area, development remains unviable for infrastructural reasons.

<sup>127</sup> NAMA submission to the Committee.

Outside the Dublin area, there are also infrastructural barriers to new development. Much of the development land within NAMA's portfolio outside the major urban areas is, therefore, unlikely to be viable within the next five years without addressing public infrastructure deficits, for example, roads, water, sewerage, transport and schools.

Speaking about this deficit in April 2016, the Minister for Finance, Mr. Michael Noonan, T.D. said:

“Where such infrastructure investment takes place it should be targeted at those areas in which development is likely to become commercially viable over the medium-term partly as a result of this investment.”

NAMA told the Committee that the Dublin housing supply and co-ordination task force looked at the estimated costs of fixing the infrastructural deficits in Dublin and concluded that €165 million could make that land viable for planning permission across the four Dublin local authorities. This could facilitate the development of 48,490 units.

**Table 9: Cost of fixing infrastructural deficits in four Dublin local authorities.**

Local authority	Cost of fixing infrastructural deficit	Number of units currently constrained
Dublin City Council	€48 million	5,400
Dún Laoghaire-Rathdown Co. Co.	€45 million	17,000
Fingal	€66.5 million	24,150
South Dublin	€4.7 million	1,940
<b>Total</b>	<b>€164.2</b>	<b>48,490</b>

Source: NAMA (2016)

NAMA told the Committee that of the 48,000 plus housing units in Dublin that require infrastructure work, 13-14,000 are in NAMA.

The location of these units is set out in the table below.

**Table 10: Units constrained by infrastructural deficits in NAMA**

Area	Local Authority	No of Potential Units
Fassaroe	Wicklow	3,300
Old Conna/North West Bray	Dùn Laoghaire/Wicklow	1,120
Bray	Dùn Laoghaire	950
Woodbrook, Shankill-Shanganagh	Dùn Laoghaire	1,400
Belcamp	Fingal	1,600
SDZ Block 2A/2C/2D, Spencer Dock	Dublin City	165
Irish Glass Bottle/South Bank Road <sup>1</sup>	Dublin City	2,000
Leixlip	Kildare	400
Clonburris	South Dublin	2,000
<b>Total</b>		<b>12,935</b>

**Source: NAMA (2016)**

The NTMA told the Committee that they are exploring the possibility of developing a fund that would provide finance to address such infrastructural deficits, using ISIF money plus additional co-investment capital:

“The idea is that one would finance either the local authority itself by providing it with attractively financed options, both through the rate and the tenure, or that one might provide funding to developers themselves on a similar basis in order to build the infrastructure for the local authorities.”

NAMA reports that, since 2014, it has facilitated the sale of sites with a potential capacity to deliver up to 20,000 housing units.

However, just 1,100 (5%) of these have been built or are under construction.

NAMA state that there are a number of reasons for this, as follows:

- People buying land and looking for a higher rate of return.
- People waiting for a new county, area or development plan.
- Revised planning application, e.g. seeking more semi-detached houses rather than apartments.
- Infrastructure constraints.

Considering the shortage of housing this could be further investigated and action taking which would speed-up construction.

## **Explore the possibilities of extending NAMA's special purpose vehicle (SPV) to fund more social housing.**

Social Justice Ireland recommend that the option of using NAMA to access and distribute appropriate off-balance sheet funding for the provision of social housing be explored.

NAMA already uses the Special Purpose Vehicle (SPV) NARPS to acquire housing units from its debtors and receivers and make them available to approved housing bodies by way of a long-term lease. The money NAMA raises for this SPV is off-balance sheet.

The Social Housing Strategy 2020 states:

“This delivery option will now be expanded to allow the SPV to fund Part V [of the *Planning and Development Acts 2000-2006*] units provided through NAMA's residential delivery programme in Dublin.”

When asked if NAMA could expand its role in this regard and take a more active role in the housing market, their answer was that they are constrained by the European Union to only deal with NAMA debtors. NAMA said that there may be some possibility that other groups, such as the League of Credit Unions or insurance companies or other funds, could copy the model.

The NTMA told the Committee on 31 May that they may be able to replicate the NARPS model, which they are looking at 'urgently'. They said:

“...the possibility of having a larger and quite ambitious version of NARPS is a runner. I think the AHBs are the current preferred supplier of houses. Obviously, under Part V, new developments could go into the vehicle. It could be open-ended in that regard.”

## **Provide fast-track planning to NAMA controlled development land where there is a commitment to allocate a higher percentage of units to social housing.**

As with any private residential development under Part V, 10% of units will be allocated for social housing. Some commentators have called for this to be increased in the case of NAMA-funded developments. However, it may be difficult to compel only NAMA's debtors to do so. As NAMA told the Committee:

“...whatever law applies it will be complied with by our debtors. However, it would be very hard to single them out as different to other people who are operating in the market and put them at a disadvantage.”

However, given the scale of the targets and the crisis in housing, it may be worth examining whether or not there is scope for a higher social housing output. This should be linked to a fast-track planning process for NAMA controlled development land where commitments are made to have a higher percentage of social housing.

### **Review NAMA's portfolio of land to find additional potential sites for social housing**

NAMA told the Committee that its target of 20,000 housing units will require 1,500 hectares of land, leaving a remaining 1,300 hectares. NAMA says that much of this remaining land is unsuitable and will never be built on and some of it will likely revert to agricultural use.

However, NAMA also told the committee that it would review its portfolio and stated that it was:

“...confident that we can come up with several hundred additional units which we will offer to the local authorities as soon as we possibly can.”

### **Invest future NAMA surplus in social housing and infrastructure**

NAMA estimates that it will make a surplus of €2BN by the time it is wound-down. Instead of returning this surplus to the Exchequer, some stakeholders have suggested that it be re-invested into social housing and infrastructure.

When asked about this NAMA told the Committee:

“The Programme for Government mentions the surplus and whether the surplus can be cash or something else. This is provided for under section 60 of the NAMA Act. It provides that either cash or residual assets will be returned at the end. Therefore, if we have unsold assets, that can be done.”

### Key Issues

- The number of homeless households has more than doubled over the past twelve months.
- Most homeless households were previously living in the private rented sector.
- Many homeless families are being accommodated in emergency accommodation such as hotels and B&Bs, which are not suitable for family living.
- Some homeless people have complex needs and this group will need support as well as homes.
- There is a lack of appropriate emergency accommodation in many parts of the country.
- A chronic undersupply of social housing has exacerbated the homelessness crisis.
- Rapid Build Housing has been approved and delivered in a number of areas in Dublin. However, concerns have been expressed by some in relation to the cost of these units.
- The long-term solution to homelessness is to provide affordable, secure accommodation.
- The number of households at risk of homelessness is greater than the number of households currently homeless.

### Recommendations

#### 1. Actions to move families out of homelessness.

- Increase the supply of long-term housing.
- Ensure that Rapid Build Housing units are completed without delay and carry out a review of the scheme within 3 months before the scheme is expanded.
- Reinstate the policy of ring-fencing 50% of local authority allocations to the priority list in Dublin and other areas where homelessness is acute. The policy should be reviewed every six months and should ensure that the needs of long-term homeless people are met.

## **2. Actions to prevent homelessness.**

- Expand the Tenancy Protection Service (TPS) throughout the State.
- Establish legal safeguards to allow tenants to remain in situ during and after sale of a house.
- Increase the rate of Jobseekers Allowance for homeless persons aged under 26 to the full adult rate.
- Review the Housing Assistance Payment (HAP) scheme, so that discretionary uplifts can be provided where needed, there is more flexibility between local authorities, and local authorities take a more active role in sourcing landlords.

## **3. Actions to target rough sleepers and those with complex needs.**

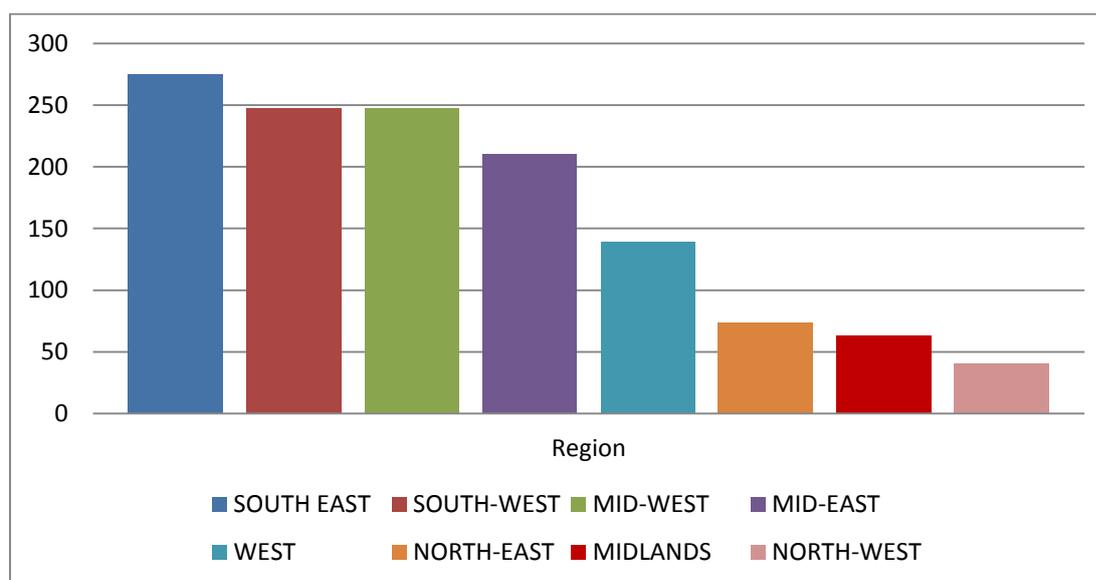
- Resource Housing First initiatives around the country.
- Ensure that no homeless shelters are closed until alternative accommodation is available elsewhere.
- Review legislation relating to bedsits and “pre-63 buildings”.
- Guarantee funding for visiting Tenancy Sustainment and Support Services to help prevent homelessness by working with those with mental health difficulties in their own homes.

## **Background**

### **Regional distribution of homelessness**

In April 2016 there were 3,969 homeless adults in Ireland. Of these 2,806 (69%) were in Dublin. The regional breakdown of homelessness outside of Dublin (all homelessness, not just family homelessness) i.e. the remaining 31% is: South-East 7%, South-West 6%, Mid-West 5%, Mid-East 5%, West 3%, North-East 2%, North-West 1%, and Midlands 2%.

**Figure 9: Homelessness outside of Dublin, by region April 2016**



Source: L&RS, based on data from the Department of the Environment, Community and Local Government.

The Committee heard from stakeholders that there are essentially two groups of homeless, (i) a “new homeless”, comprising people who often have jobs and are homeless only because they cannot afford accommodation and (ii) a group of homeless people who have complex needs and require support to live independently.

Mental Health Reform cite research by the Housing Agency that over 1,000 households in Ireland:

“...have a household member where the main need for social housing support is as a result of having a mental health disability.”<sup>128</sup>

### **Rough sleepers**

Figures for rough sleeper are difficult to determine. However, the Cork Social Housing Forum (CSHF) told the Committee on 12 May 2016 that rough sleeping has increased in Cork from 38 people who slept rough one night in 2011 to 345 people who slept rough on one night in 2015.

The most recent Rough Sleeper Count figures (Spring 2015) released by the Dublin Region Homeless Executive (DRHE) found 105 rough sleepers, plus 46 attending Merchants Quay Ireland’s Nite Cafe, totalling 151 people requiring emergency accommodation.<sup>129</sup>

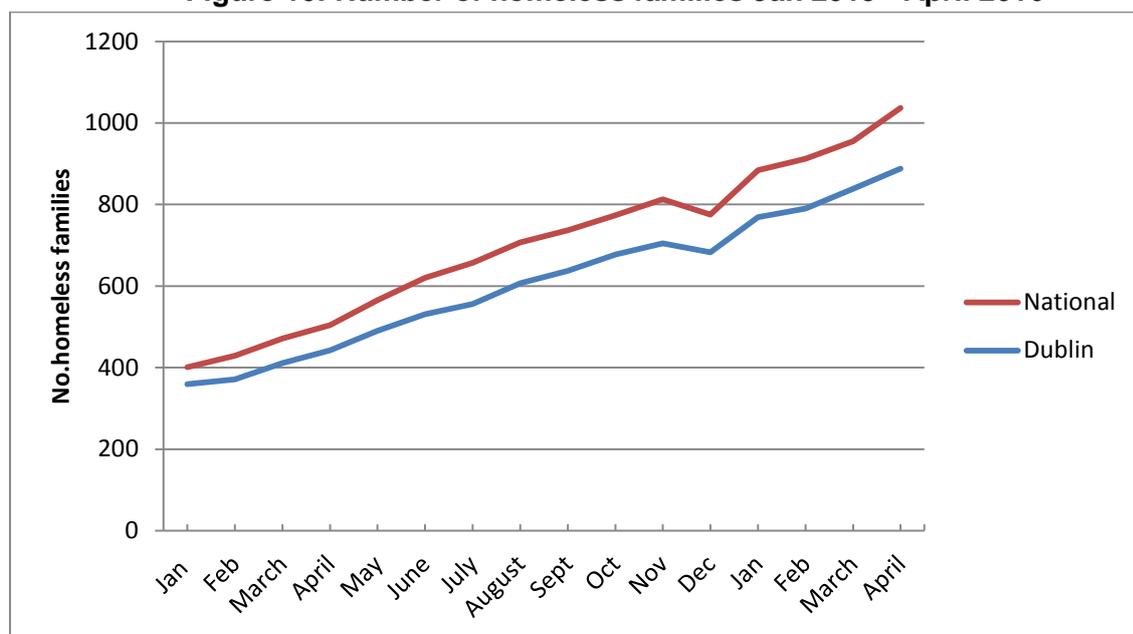
<sup>128</sup> Mental Health Reform. (2016). Submission to the Housing and Homelessness Committee.

<sup>129</sup> Department of the Environment, Community and Local Government Review of Homeless Services. (2015). See [http://www.environ.ie/sites/default/files/publications/files/independent\\_review\\_of\\_homeless\\_services\\_-\\_mazars.pdf](http://www.environ.ie/sites/default/files/publications/files/independent_review_of_homeless_services_-_mazars.pdf)

## The emergence of homeless families

Traditionally those presenting to homeless services were single. However since 2013 there has been an increase in the number of homeless families, which has increased from 401 in January 2015 to 1037 in April 2016. These 1037 families include 1,379 adults and 2,121 dependents. Figure 10 compares the national trend with Dublin, where 86% of all homeless families were living in April 2016.<sup>130</sup>

**Figure 10: Number of homeless families Jan 2015 - April 2016**



Source: L&RS, based on data from the Department of the Environment, Community and Local Government.

Over 60% of families presenting to homeless services were previously living in the Private Rented Sector (PRS).<sup>131</sup> The PRS sector has experienced, in some cases, double-digit rent inflation year-on-year. Analysis by the Dublin Region Homeless Executive (DRHE) shows that most new families presenting as homeless have incomes that put them at risk of poverty. Providing long-term security for such families is difficult without an adequate supply of social housing. Also, Focus Ireland and other groups have said that repossession of buy-to-let properties is exacerbating the homelessness problem.<sup>132</sup>

<sup>130</sup> Department of the Environment, Community and Local Government.(2016). Homelessness Report March 2016. See [http://www.environ.ie/sites/default/files/publications/files/homeless\\_report\\_-\\_march.pdf](http://www.environ.ie/sites/default/files/publications/files/homeless_report_-_march.pdf)

<sup>131</sup> PQ answer 11/06/15, Ref No 22634/15

<sup>132</sup> Irish Times. *Record number of newly homeless families in January*, February 23 2016. See <http://www.irishtimes.com/news/social-affairs/record-number-of-newly-homeless-families-in-january-1.2544622>

While there are supports available, in areas of high demand, rent supplement limits ('caps') are lower than market rents and many families have found themselves priced out of the PRS.

### **Types of homeless accommodation**

Families often stay with relatives or friends before presenting to homeless services, a form of homelessness which is 'hidden'.<sup>133</sup> In many cases families then contact their local representative. The procedure in place however, is for a family to present at the Homeless Services Section of their Local Authority. From there they will be assessed and, if eligible, referred to emergency accommodation.

Until more suitable long-term accommodation is found, most families are referred to emergency accommodation.

Categories of emergency accommodation are:

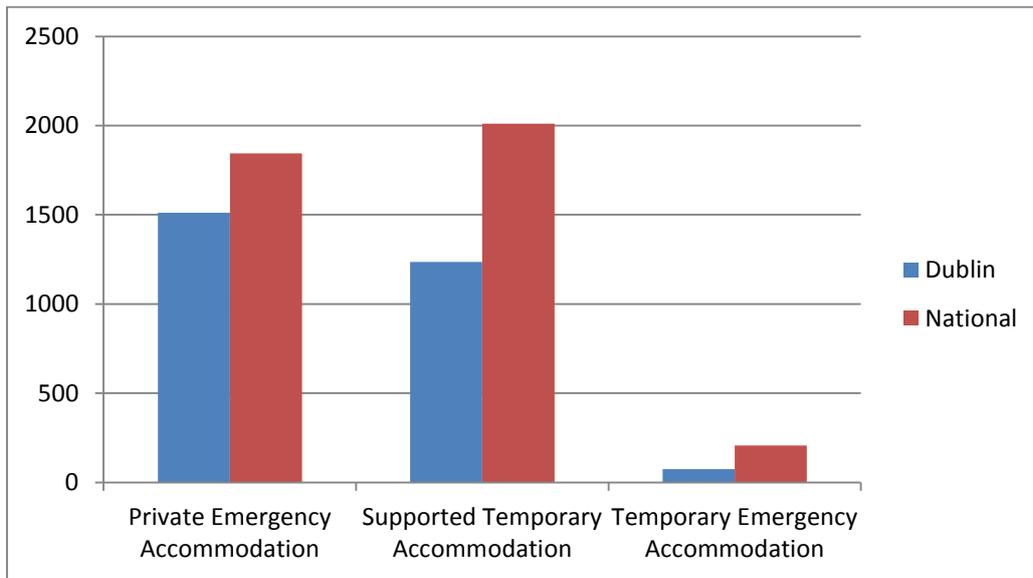
- Private emergency accommodation - accommodation rented directly from private landlords, B&Bs and hotels;
- Supported temporary accommodation - hostel accommodation with onsite support from e.g. Focus Ireland, Simon, or Crosscare; and
- Temporary emergency accommodation - hostel accommodation with low or minimal support.

Homeless families are allocated a "key worker" to help them exit homelessness and support them with health/education needs. Figure 11 shows where homeless persons were located in April 2016.

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<sup>133</sup> Housing Agency. (2015). Family Experiences of Pathways into Homelessness: the Families' Perspective. See <https://www.housing.ie/getattachment/Our-Publications/Latest-Publications/Family-Experiences-Report-PDF.pdf>

**Figure 11: Homeless persons in emergency accommodation, April 2016**



Source: L&RS based on data from the Department of the Environment, Community and Local Government.

Emergency accommodation is difficult for families, as there are often no fridges, cooking, or laundry facilities.<sup>134</sup> It is also costly, with families facing increased transport, laundry and meal costs. Other issues include lack of privacy, long traveling times to schools and child protection issues.

However, the situation has deepened so that private emergency accommodation is proving difficult to secure. Charities such as Focus Ireland report that they are resorting to accommodating children on inflatable beds on the floor of adult hostels.<sup>135</sup> The organisation told the Committee on 26 May 2016 that:

“...there comes a time when a problem reaches a scale at which one simply runs out of available hotel rooms and bed and breakfast accommodation.”

### **Money spent on providing homeless services**

The operational costs to the Department of the Environment, Community and Local Government of homeless accommodation and related services from 2013 to 2015 were:

- 2013 - €45,000,000
- 2014 - €49,205,774
- 2015 - €52,849,125

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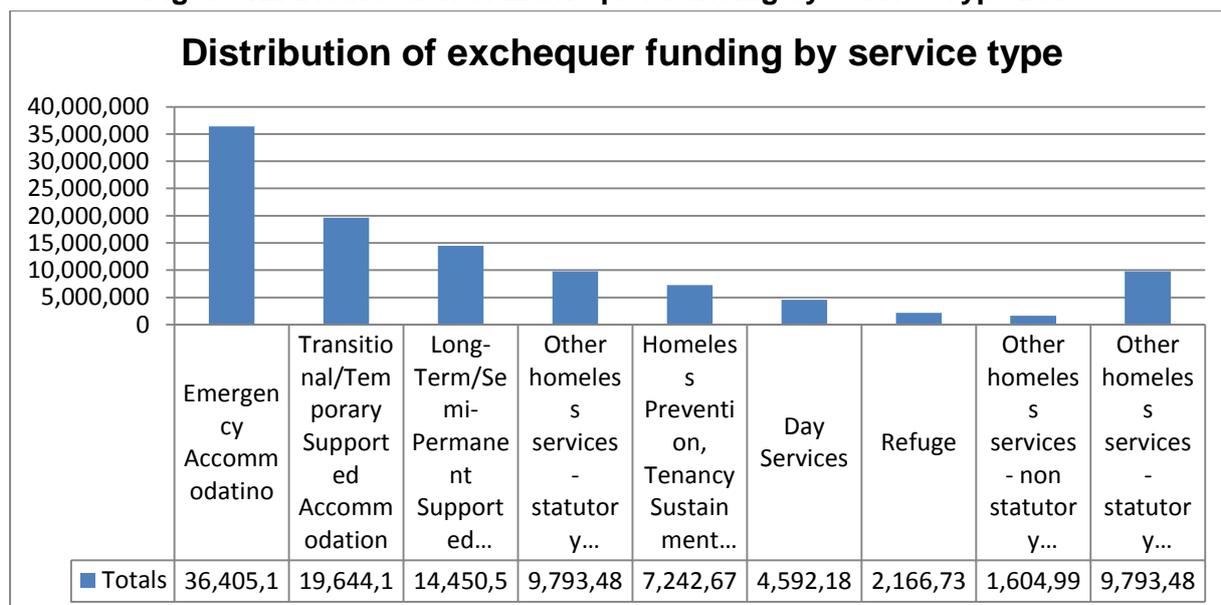
<sup>134</sup> Ibid.

<sup>135</sup> Irish Times. *Commandeer hotel rooms for homeless, Charity urges* 24 May 2016

Budget 2016 announced a 32% year-on-year increase in funding for homeless services to €70 million.

An independent review commissioned by the Department (2015) shows that the biggest proportion of Exchequer funding to the homeless sector (38%) in 2014 went towards emergency accommodation, while a further 20% was spent on temporary accommodation. The review states that this proportion of expenditure would appear to be at odds with the Government's (2011-2016) aim of ending long-term homelessness through secure housing.

**Figure 12: Distribution of Exchequer Funding by Service Type 2014**



In September 2015, a Value for Money and Efficiency Review of all homeless services and voluntary housing associations, to avoid duplication of services, was announced.

## 1. Actions to move families out of homelessness

### 1.1 Increase the supply of long-term accommodation

The Government (2011-2016) long-term solution to homelessness is to increase the supply of homes, particularly social housing. The PRS is crucial to the Social Housing Strategy 2020 which sets a target that out of 110,000 social housing units to be provided by 2020, 75,000 (68%) will be Housing Assistance Payment/Rental Accommodation Scheme (HAP/RAS) units i.e. provided through private landlords.

However the PRS is less secure than local authority housing and private landlords may choose not to participate or to leave these schemes.<sup>136</sup> Also, substandard accommodation is an aggravating factor at the lower end of the PRS, with reports of damp, vermin and other

<sup>136</sup> NES (2014) [Review of Irish Social and Affordable Housing Provision](#), pg. 38

hazards reported. As such, greater compliance with rental accommodation standards needs to be ensured.

As with social housing generally (see Chapter 1), there is an argument for the State to take a more direct approach in the provision of housing, particularly for those at risk of homelessness.

### **1.2 Ensure that Rapid Build Housing units are completed without delay and carry out a review of the scheme.**

500 units of Rapid Build Housing were approved for use as emergency accommodation in Dublin. There has been some resistance from local groups, who claim these units are allocated to already disadvantaged and underserved areas. One site, residents argue, was intended solely for social housing. While the first 22 units are completed, the original tender for the remaining 131 units was cancelled due to a lack of applications, leading to a reissue of the tender and delay on completion.

Concerns have also been expressed in relation to the cost and tenure of these units.

The *Programme for a Partnership Government (2016)* commits to targeting more units in Dublin in 2016. The Programme also states that all local authorities will be allowed to develop their own schemes for Rapid Build Housing if appropriate.

### **1.3 Reinstate the policy of giving higher priority in local authority housing allocations to homeless households in Dublin and other areas where homelessness is acute. The policy should be reviewed every six months and should ensure that the needs of the long-term homeless are met**

In December 2014, the then Minister issued a directive to the four Dublin local authorities to allocate 50% of available social housing to homeless households and other vulnerable groups. A similar directive was issued to local authorities in Cork, Galway, Limerick and Waterford, with 30% of available dwellings to be allocated this way.

It has been reported that the Minister for Housing, Planning and Local Government, Mr. Simon Coveney, T.D. will rescind this directive. Citing a review of the directive, conducted by the Housing Agency, he said:

“...while the direction was effective in increasing allocations to homeless and other vulnerable groups, this was primarily achieved by the return to productive use of approximately 2,700 void local authority units over the period of the direction.”

The Minister also said that the directive came at a cost to other households on the social housing waiting lists.<sup>137</sup> Focus Ireland have called the decision to rescind the directive as a serious mistake.

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<sup>137</sup> Irish Independent. Coveney criticised for U-turn on homeless. 1 June 2016.

## **2. Actions to prevent homelessness**

### **2.1 Expand the Tenancy Protection Service (TPS)**

Available in Dublin and Cork, TPS is operated by Threshold and provides support and advice to people at risk of losing their private rented accommodation. If required, Threshold can apply, on the tenant's behalf, for an increase in Rent Supplement above the current rent limit. According to DRHE, the TPS has protected 1,346 tenancies in Dublin between June 2014 and September 2015. In the majority of cases, an increase in Rent Supplement was required. Around 96% of these were families with children. In February 2016, the Minister of State reported that a more flexible approach to Rent Supplement had assisted over 6,200 households nationwide to retain, or acquire, rented accommodation.

Services such as TPS operating in Dublin and Cork have shown promise and the *Programme for a Partnership Government* (2016) states that it will expand access to the TPS throughout the country.

### **2.2 Establish legal safeguards to allow tenants to remain in situ during and after sale of property.**

Presenting to the Committee on 17 May 2016, the Irish Mortgage Holders Organisation stated that 15,000 investment properties have been in arrears for more than two years and receivers are being appointed daily. They also stated that these figures include 13,000 mortgages owned by investment funds (also known as "vulture" funds) that:

"...do not refinance or restructure investment properties and do not have long-term aspirations to support housing policy."

Threshold has called for for legal safeguards to allow tenants to remain in situ during and after the sale of a property. Threshold also argues that the definition of landlord should be broadened to include receivers and lenders in possession.

### **2.3 Increase social welfare payment rates for homeless persons aged under 26**

Some social welfare payments are currently reduced for those aged under 26. For instance the maximum personal rate of Jobseekers Allowance for those aged 18-24 is €100, compared with €144 for those aged 25 and €188 for those aged 26 or over.<sup>138</sup>

When asked if he would restore Jobseekers Allowance for those under 26, the Minister for Social Protection, Mr. Leo Varadkar, T.D. said:

"This is a targeted, not discriminatory, measure aimed at protecting young people from welfare dependency by incentivising them to avail of education and training opportunities."<sup>139</sup>

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<sup>138</sup> See <http://www.welfare.ie/en/Pages/Maximum-Rent-Limits-by-County.aspx>

<sup>139</sup> PQ written response 25 May 2016, Ref No. 11806/16

The Minister states that the cost of increasing the rate of Jobseeker's Allowance paid to those under 26 years of age, to the maximum rate of €188 per week in 2017 is €148.4 million.<sup>140</sup>

A number of stakeholders told the Committee that reduced social welfare payments for those aged under 26 are pushing some young people into homelessness. FLAC (citing figures from Focus Ireland) told the Committee on 17 May 2016 that there are 600 people under the age of 26 who are currently homeless.

#### **2.4 Review the Housing Assistance Payment (HAP) scheme, so that discretionary uplifts can be provided where needed, there is more flexibility between local authorities, and local authorities take a more active role in sourcing landlords.**

The Housing Assistance Payment (HAP) is a form of social housing support for people who have a long-term housing need and is administered by local authorities. The aim is that HAP will eventually replace long-term rent supplement.

The HAP limits are generally based on the limits for Rent Supplement. HAP is currently operational in 19 of the 31 local authority areas and there are almost 8,300 households in receipt of HAP.<sup>141</sup>

The Cork Social Housing Forum highlights a number of shortcomings regarding the HAP system. These include:

- For many non-working tenants, being approved for HAP is disadvantageous as there is no room for increasing payments, as there is with rent supplement;
- While HAP have been raised by 20% they are still below market rents in some areas;
- The HAP scheme places the onus on the tenant to locate landlords to sign up to it;
- Apart from Dublin City Council there has been no recruitment of landlords by local authorities;
- Like rent supplement, HAP is paid in arrears, which does not make it attractive to landlords.
- Once people are on the housing list in one local authority area, they cannot source HAP accommodation in another.

#### **2.5 Young people leaving State care, and ex-prisoners**

The specific housing needs of young people leaving State care and ex-prisoners are addressed in Chapter 8.

### **3. Actions to target rough sleepers and those with complex needs**

#### **3.1 Resource "Housing First" initiatives around the country**

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<sup>140</sup> PQ written response 25 May 2016 Ref 12068/16

The housing first model focuses on the immediate provision of long term accommodation for the homeless, followed by supports and services built around the needs of each individual. The model has been widely used in the USA and, in more recent years, Australia, Canada, EU and Japan.<sup>142</sup>

In 2014 Peter McVerry Trust in partnership with Focus Ireland launched a Housing First Regional Service across the four Dublin local authority areas. The service targets rough sleepers and provides them with access to their own accommodation with support from a multidisciplinary team.<sup>143</sup>

Similar initiatives could be rolled out to other areas where the number of rough sleepers is high. Of course the service relies on the supply of accommodation.

### **3.2 Ensure that no homeless shelters are closed until equivalent accommodation is available elsewhere**

Some providers of homeless shelters are at risk of closing, citing either a lack of funding or buildings in which to operate. Recent examples include the planned closure of Brú Aimsir facility on Thomas St, Dublin. Such closures could result in the loss of much needed beds for the homeless.

### **3.3 Review legislation relating to bedsits and “pre-63 buildings”.**

Census 2011 indicated that there were approximately 4,500 bed-sits across the country accounting for 1% of households in the private rented sector. The majority of bedsits were in Dublin.

Regulations 6, 7 and 8 of the *Housing (Standards for Rented Houses) Regulations 2008* came into effect for all residential rented accommodation on 1 February 2013. The purpose of

Regulation 6 is to ensure that each rental property has exclusive access to its own sanitary facilities and that those facilities are contained within the dwelling unit.<sup>144</sup>

The regulations mean that many bedsits (those which shared a communal bathroom) and “pre-63 buildings” (a reference to the *Planning and Development Act 1963*) i.e. houses which were converted into flats, have been taken out of the rental market. While the intention of the regulations is to ensure a better quality of life for tenants, some stakeholders have said that it is contributing to the current homelessness crisis. The former Minister of State for the Environment, Community and Local Government Mr. Paudie Coffey, T.D. stated on 3<sup>rd</sup> February 2015 that he had no plans to rescind the legislation.

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<sup>142</sup> See <https://www.pmvtrust.ie/our-services/housing-with-support-service/housing-first/>

<sup>143</sup> See Peter McVerry Trust Annual Report 2014 at <https://www.pmvtrust.ie/wp-content/uploads/2014/06/Peter-McVerry-Annual-Report-2014-Web.pdf>

<sup>144</sup> PQ reply on Tuesday, 3rd February, 2015. Ref No: 5022/15

The Peter McVerry Trust has advocated that bedsits be once again made available provided that they reach a certain standard. The organisation has said that this would be preferable to emergency accommodation. The Irish Property Owners Association has also called for bedsits to be brought back into the rental market. They write:<sup>145</sup>

“We have a shortage of accommodation with many people homeless. The traditional bedsit is centrally located, affordable and comfortable accommodation for many people. It makes no sense to have perfectly viable and acceptable accommodation lying empty while people are in hostels or sleeping rough.”

### **3.4 Guarantee funding for visiting Tenancy Sustainment and Support Services to help prevent homelessness by working with those with mental health difficulties in their own homes**

Tenancy sustainment support offers support to those with complex needs to break the cycle of homelessness, or prevent people from becoming homeless in the first instance.

Mental Health Reform states that agreement between the Departments of Health and the Department of the Environment, Community and Local Government on a funding stream for these services is needed in 2016 in order to maintain progress on the mental health commitments under the Housing Strategy for People with Disabilities.

Despite the development of a number of housing policies and strategies, they write, such commitments have yet to be translated fully into practice.

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<sup>145</sup> IPOA submission to the Committee.

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## 8. Meeting Specific Housing Needs

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### Key Issues

- An integrated, sustainable community approach is needed when building new communities.
- Many homeless people need a range of supports in conjunction with housing in order to ensure a long term successful transition out of homelessness.
- The community and local environment play an important role in homeless people successfully integrating into a new area.
- Ireland has an ageing population; appropriate housing and local infrastructure need to be in place in anticipation of this.
- An increasing number of people with a disability are presenting in need emergency accommodation.
- Addiction is prevalent amongst some people experiencing homelessness.
- Triggers of homelessness such as addiction and mental health issues require specific responses. The longer a person remains homeless, the worse this becomes.
- A significant proportion of the homeless are young people. Of this category, a significant amount have a history of the care system.
- Time spent in emergency accommodation has a multitude of negative effects on children.
- A disproportionate number of Travellers are living in substandard accommodation.
- Asylum seekers find it particularly difficult accessing housing following their granting of status.
- Domestic abuse is a significant cause of families becoming homeless. Many families are staying in violent homes to avoid becoming homeless.
- Former prisoners have added difficulty accessing housing.
- Some third level students are not able to avail of places in college or are dropping out of education in part due to the lack of student accommodation.
- Children under 18 years of age and who have, for a variety of reasons, left home or have been put out of their by their parents are particularly vulnerable and in need of extra assistance and support

### Recommendations

It is important to note that the **Housing First** strategy will be relevant to most of these recommendations.

1. **General** – Government and local authorities need to take account of people with specific housing needs.

2. **People with a Disability** – Housing, including emergency housing, should be appropriate and fit for purpose for people with a disability. The Government should bring forward a new strategy as a matter of priority to meet the needs of people with disabilities.
3. **Complex Needs** – Housing First, as previously mentioned in this report, should be significantly expanded and prioritise the long-term homeless.
4. **Addiction**
  - Rent allowance and HAP should be utilised to finance a person's stay in an approved and accredited residential treatment centre. There is a need for increased funding for drug treatment services.
  - There should be an increase in drug free emergency accommodation for those exiting rehabilitation and recovering addicts.
5. **Mental Health**
  - There should be increased resourcing for and improved coordination between HSE mental health services and homeless service providers to ensure that the needs of people with mental health issues are met within the homeless system.
  - Local Authorities when accessing housing needs should consider mental health as an eligible criteria for medical priority.
  - The HSE should provide specific targeted community psychiatric services to assess the mental health needs of those who are homeless.
6. **Youth Homelessness** – That a sustainable long term system of supports be put in place for those young people under 26 who are homeless or at risk of homelessness.
7. **Care Leavers**
  - A cross departmental plan between the Department of Health, the Department of Housing and the Department of Children is needed. It may be appropriate for a number of social housing units to be ring fenced as a step down facility specifically for young people leaving care.
  - Nobody with a serious illness should be discharged into homelessness. A policy should be put in place to find appropriate and sensitive accommodation for these vulnerable people.
8. **Children**
  - Educational welfare and family support services should be put in place as a matter of priority for every child in emergency accommodation. Whilst emergency accommodation is a temporary solution, every effort should be made to ensure that appropriate care and supports are put in place to limit the effect that staying in such accommodation has on children.
  - Cooking facilities should be provided for people staying in emergency accommodation.

- A travel allowance should be provided for people that have to travel significant distances bringing their children to school from emergency accommodation.
- Children should not be placed in adult accommodation.

## 9. Travellers

- Restore the Traveller accommodation budget to 2008 levels immediately.
- The new Housing Procurement Agency (recommended in Chapter 1) should have a specific statutory function to ensure the implementation of local authorities' traveller accommodation programmes. The local authorities should retain responsibility for designing and implementing these programmes but the new Agency should ensure that agreed programmes are adopted and implemented. Travellers should be directly involved at all levels in the development and implementation of traveller accommodation plans.
- No travellers should be evicted from a traveller specific site until alternative accommodation is provided.

## 10. Asylum Seekers and Refugees

- A plan should be put in place for asylum seekers who have been granted refugee status to make the transition from direct provision into housing within communities. Assistance and supports should be provided whilst the asylum seekers are within the Direct Provision system.
- The responsibility for meeting the housing needs of refugees should be moved from the Department of Justice and Equality to the Department of Housing, Planning and Local Government.

## 11. Domestic Abuse

- Recognition within Local Authorities that victims of domestic abuse have unique and varying circumstances. Their circumstances and needs may not meet the specific housing criteria. Local Authorities should have a policy which allows them to exercise flexibility and fluidity when dealing with victims of domestic abuse.
- A risk assessment should be carried out when families first present to local authorities and appropriate refuge and step-down accommodation is provided where appropriate.

12. **Prisoners** – Structured pre-release plans need to be put in place that provide prisoners with adequate time and support to source accommodation before their release.

13. **Students** - Address specific needs regarding student accommodation including by creating a Government Student Housing Strategy, within 12 months, in consultation with the USI that sets out long-term solutions, goals and timelines focused on the provision of appropriate on-campus or near-campus, new build, student

accommodation sensitive to the needs of local communities and providing funds to hire a Student Housing Officer.

#### 14. Shared Ownership Scheme

- Householders in the shared ownership scheme should have the option of acquiring, by way of a tenant purchase scheme, that part of the house owned by the local authority.
- The scheme of insurance that applies in the case of the death of the householder should be reviewed.

#### Background

People that are living with homelessness or who are on the brink of homelessness have experience mental hardship and stress. Whilst there are many commonalities amongst those experiencing homelessness, each family and individual has their own unique set of circumstances and no two issues are the same. People are presenting to local authorities and charities looking for help and assistance with a wide variety of problems, many of these problems are multi-layered and inter-related.

Providing the homeless with a home is not the end of the problem, it is the start of the solution. Homeless people cannot simply be parachuted into a new house in a new community and left to fend for themselves. People that are homeless often have a particular set of needs, and placing them in an unfamiliar environment without addressing these needs will not ensure long term success and exits from homelessness. It may indeed simply remove one form of stress and replace it with another.

In their submission to the Committee the Cork Social Housing Forum highlighted the need for an integrated approach when creating new communities and building social houses;

“It is important from the outset to ensure that we have learned from past mistakes. The new housing strategy should not be about building houses alone. It must be about building communities and community infrastructure that will ensure the benefits are social, economic and long-term sustainable.”

The Royal Institute of the Architects of Ireland (RIAI) also tackled this issue in their submission. The RIAI identified that housing is just one piece of a larger puzzle when building communities;

“We cannot examine housing need in isolation - we need to plan for the future and accept that delivering sustainable communities is a multifaceted challenge...”

The ideal of a sustainable community is one that features in many of the submissions to the Committee. It also features prominently in the Government’s Social Housing Strategy 2020<sup>146</sup>;

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<sup>146</sup> Available at:

[http://www.environ.ie/sites/default/files/publications/files/social\\_strategy\\_document\\_20141126.pdf](http://www.environ.ie/sites/default/files/publications/files/social_strategy_document_20141126.pdf)

*The Social Housing Strategy is focused on supporting the realisation of a new vision: that every household in Ireland will have access to secure, good quality housing suited to their needs at an affordable price in a sustainable community.*

It is widely accepted that sustainable communities develop as a result of long term integrated planning and are at present the best method of ensuring the long term success of a community.

Mr. Eugene Cummins, speaking on behalf of the County and City Management Association (CCMA) echoed this belief in the need to build sustainable communities;

“I call on the members of the committee to consider the issue of sustainable communities, whereby local authorities can plan accessible and well-serviced areas for all communities to thrive with easy accessibility to schools, community facilities, shopping centres and employment.”

At the heart of a sustainable community is social equity. There is equality of opportunity and all people are taken care of and looked after within the community. Social housing is an important element of sustainable communities. Whilst an ideal that many people believe in, it is something which not all members of a community want to see in their own community. It is an issue the Irish Council for Social Housing (ICSH) have encountered and referenced in their submission to the Committee;

“Most people believe social housing is needed but a few still don’t want social housing in their neighbourhood. It is important that national social housing commitments are translated and supported locally, including from elected members who are responsible for local housing strategies.”

The experience of the ICSH is important to bear in mind when developing social housing. Local support, both from the community and politically, is vital for the success and integration of any social housing builds. In the ICSH submission to the Committee the recent difficulties experienced in Beaumont, Co. Dublin were highlighted. As can be seen with the recent Thornwood housing estate in Beaumont, which received national news coverage<sup>147</sup>, there may be reluctance amongst some local communities to fully accept and welcome social housing estates in their community.

This particular development, whilst relatively small scale, consisted of 100% social housing and the negative reception to the estate by the local community may suggest further work needs to be done in the local community if local communities are to fully embrace 100% social housing estates. It is important that new members of any community are accepted by the local community so that the families can quickly integrate. Members of this new housing estate will be moving to their new community against the backdrop of this controversy.

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<sup>147</sup> <http://www.irishtimes.com/news/social-affairs/dublin-residents-object-to-social-housing-development-1.2598033>

Mr. Dick Brady of the CCMA, speaking before the Committee, commented on the public perception of those in social housing and the reality he has experienced when dealing directly with social housing tenants;

“It is assumed - an assumption I do not share - that all social tenants have certain characteristics which means they tend towards antisocial activity and the bad parts of ghettoisation. I have been involved in housing for a long time. From my experience, the vast majority of families and individuals who come to us for services are decent people who are trying to get from A to Z in the same manner as every other family.”

Professor P.J. Drudy, from the Trinity Centre for Urban and Regional Studies, spoke of the need for greater integration with social housing estates when he spoke before the Committee;

“Sadly, people in private estates do not like the idea of social housing and that is wrong. We need to move towards a model like that in Germany, France or the other European countries where there is much more integration.”

A balance needs to be struck between meeting the needs of homeless families and those at risk of homelessness and creating sustainable communities. The correct percentage of social housing within an estate or development is thus a complex issue which should be sensitively examined when planning and building socially inclusive, sustainable communities.

### **Social Integration**

Sustainable communities are now widely accepted as an integral part of our housing policy. They contain a vibrant mix of all parts of society, and will generally have an assortment of persons and professions, houses and apartments, commercial and residential areas. Those less well-off and those particularly well-off live together in a mixture of housing type and tenancies.

Sustainable communities are well thought out and planned developments. They are more than just houses, they are towns and villages with facilities for all ages, infrastructure, health care, transport, environmentally friendly and more.

Unsustainable communities often have a lack of resources or infrastructure. The Tyrrelstown residents speaking to the Committee highlighted how they have only one outdoor space facility in their area, how this is now under threat and the negative impact it will have on the community if it goes. Focus Ireland, in their submission to the Committee highlighted the need to see beyond the delivery of just houses;

“...the commitment to deliver housing units must be linked with a commitment to ensure that new building creates vibrant communities rather than just ‘housing’. This means that housing provision must be balanced with investment in infrastructure. This balanced approach would help overcome some of the resistance of local communities to new social housing in their areas.”

The development of social housing is just one part of the recipe in the creation of a sustainable community. The types of housing on offer to members of a community must also reflect the needs of the community. The RIAI noted in their submission to the Committee that;

“Housing should facilitate a lifetime’s choice of accommodation within a community. It should radically improve social and cultural life, sustain schools, reduce commuting and bring health benefits from greater degrees of walking and cycling. To create sustainable communities in our cities, suburbs and in small towns and villages, we must look to create ‘urban villages’, making greater use of vacant land or under-utilised sites for new housing or community services. The key is variety.”

Having a mixture of housing types and varying tenancy options will become more important for Ireland into the future. The population of Ireland is ageing and this will have consequences for our towns and villages. Construction 2020<sup>148</sup>, Ireland’s strategy for renewing the construction sector, identified that;

*Demographic changes, including an aging population and a continued decline in the average household size, suggest that smaller units may be required in the future. Projections indicate that 1 and 2 person households will account for approximately 55% of housing supply requirements in the years ahead.*

The issue of housing for our ageing population will become a more and more pressing need. There needs to be options for older people to remain within the local community. Providing options for older members of the community will free up larger houses for other members of the community. Mr. Eugene Cummins from the CCMA summed it up well when he told the Committee;

“All citizens are stakeholders in this. We all need to adopt a culture that respects our communities and we all have a role in contributing to providing and developing a good quality of life for our neighbours and ourselves.”

Social housing is one part of the larger picture in creating sustainable, integrated communities. It is important that local infrastructure is built in tandem with any new social housing developments and that the community as a whole benefit.

### **Special Housing Needs**

Those in need of housing encompass a cross section of society. The issues of homelessness have touched all counties and towns across the country. Each local authority is faced with securing accommodation for a varied and increasing number of people. Mr. Eugene Cummins (CCMA) giving evidence to the Committee said;

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<sup>148</sup> <http://www.merrionstreet.ie/en/wp-content/uploads/2014/05/Construction-Strategy-14-May-20141.pdf>

“Specifically, on housing, the local authorities are continually striving to match an increasing and diverse client profile with appropriate solutions.”

There is not one group of people that are affected by homelessness but several, however there are particular groups of people with particular housing needs. Whilst the issues involved with homelessness are broad and complex, what is clear is that they are often multi-layered and quite often there is cross over and linkages between the following groups of people.

### **Housing and People with a Disability**

The National Housing Strategy for People with a Disability 2011-2016<sup>149</sup> is the Government strategy to address the housing need for people with a disability. The strategy encompasses four categories of disability; sensory disability, mental health disability, physical disability and intellectual disability.

The strategy’s vision is:

*To facilitate access, for people with disabilities, to the appropriate range of housing and related support services, delivered in an integrated and sustainable manner, which promotes equality of opportunity, individual choice and independent living.*

As part of the strategy, housing authorities are encouraged to reserve certain proportions of housing units to meet specific needs. The strategy also promotes that, where appropriate, the facility should be there for people living with a disability to live independently whilst being provided with a range of necessary supports.

People with a disability have their own set of housing needs, including those in need of emergency accommodation. It is worth noting that emergency accommodation services are seeing an increase of users with a physical disability availing of their services and raised the implications this has.

Ms. Fiona Barry of the Dublin Homeless Network told the Committee that;

“We have also seen a massive increase in people accessing our services in wheelchairs. That provides a real difficulty in terms of access to services.”

Emergency accommodation is by its nature temporary. However, it should be suitable for all service users and service providers need to be aware of the increased number of disabled people availing of emergency accommodation.

### **Complex Needs**

The reasons that people find themselves homeless are dealt with elsewhere in this report but it is clear that they are both varied and complex but also unique and personal. In some

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<sup>149</sup> <http://www.environ.ie/sites/default/files/migrated-files/en/Publications/DevelopmentandHousing/Housing/FileDownload.28016.en.pdf>

cases the inability to pay rent or a mortgage has driven people into homelessness but for others it is a variety of different, more complex and often interrelated reasons. Speaking before the Committee, Mr. Cathal Morgan of the CCMA noted;

“Households may have complex social and health care needs ranging from addiction to mental health, and sometimes both combined.”

For those people working with people with complex needs, there is an increasing range of issues they are facing in terms of the care they provide and training for staff. Ms. Fiona Barry speaking to the Committee highlighted the difficulties they are facing when trying to deal with homeless people with complex needs;

“...the difficulty is that those with complex needs tend to be those who are hardest to house. All the more reason to try to get them housed as quickly as possible is the fact that they take up a disproportionate amount of bed nights in emergency shelters, which compounds the problem of rough sleeping and access to beds as a result.”

There are implications with larger numbers of people presenting to homelessness services with a broad range of complex needs. These people are the group which take up the most time in homeless accommodation so this will mean that there will be a larger number of people staying for a longer period of time.

Moreover, some of the bodies tasked with helping the homeless are themselves finding it difficult to deal with the broad range of complex needs. In their submission to the Committee, COPE Galway noted;

“A growing number of those availing of COPE Galway’s services have complex support needs which can be beyond the remit and competency of homeless services.”

The breadth and complexity of these needs necessitates an all-encompassing approach to homelessness. No one organisation has the solution or ability to tackle these needs.

Dr. Una Burns from Novas Initiatives in her evidence to the Committee gave a rundown of some of the more common needs their organisation encounter;

“Our clients are vulnerable and present with increasingly complex needs, including entrenched drug use, intergenerational poverty, poor education, family breakdown, experience of trauma, enduring mental health issues, dual diagnoses and repeated experiences of the criminal justice system.”

## **Addiction**

Addiction is an issue which affects some in the homeless community. Anything from drugs to alcohol can be a determinant in forcing someone into homelessness. However, juxtaposed with that, sometimes it is the homelessness that brings on the addiction. Addiction and homeless are a tightly wound web through which many people manoeuvre.

Mr. Pat Doyle of the Peter McVerry Trust, giving evidence to the Committee indicated that;

“80% of our client group last year had some form of addiction”

Speaking before the Committee, Mr Aubrey McCarthy of Tiglin Challenge commented that addiction is both a cause of and symptom of homelessness;

“...it seems that homelessness and addiction go hand in hand. Sometimes, homelessness can bring about addiction and sometimes addiction can bring about homelessness.”

The Committee heard from numerous people about the issues of substance abuse and addiction within hostels and how many homeless people found that if they wanted to break the cycle of addiction they avoided staying in these places. The Peter McVerry Trust highlighted this issue;

“People who are drug free, or have come out of drug treatment, are not willing to share a room with active drug users.”

Addiction is very much a part of the cycle which many homeless people find themselves on. Some witnesses outlined the journey of homelessness to hostels to substance abuse to prison back to homeless and starting all over again.

The Committee heard evidence from Tiglin Challenge, who operate residential centres for men and women experiencing addiction. They facilitate a multifaceted programme for those in their care to go through as part of their rehabilitation process. Tiglin have found that the longer they can maintain engagement with a person who is homeless and addicted the better the outcome.

“...for the vast majority who are homeless and chronically addicted.... They must be removed from their surroundings and live in a sober community where professional skills such as counselling, therapy and medical interventions are addressed and educational opportunities are explored.”

The inter-relating and layered aspect of addiction and homelessness was highlighted by the Peter McVerry Trust;

“For some of them, their mental health issues came out of their addiction while for others, when they detoxed, their mental health issues worsened. They were medicating their mental health through various substances.”

## **Mental Health**

Homelessness and poverty are often viewed in tandem. Mental health is also inextricably linked to poverty. Poverty may or may not be the reason why a person has found themselves homeless but it is a significant factor and impediment in finding their way out of homelessness.

The WHO Regional Committee for Europe noted<sup>150</sup> that:

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<sup>150</sup> [http://www.euro.who.int/\\_data/assets/pdf\\_file/0008/117476/edoc8.pdf?ua=1](http://www.euro.who.int/_data/assets/pdf_file/0008/117476/edoc8.pdf?ua=1)

*Poverty and mental ill health form a vicious circle: poverty is both a major cause of poor mental health and a potential consequence of it. Widening disparities in society or economic changes in individuals' life courses seem to be of particular importance here. Whether defined by income, socioeconomic status, living conditions or educational level, poverty is an important determinant of mental disability and is associated with lower life expectancy and increased prevalence of alcohol and drug abuse, depression, suicide, antisocial behaviour and violence.*

A *Vision for Change*<sup>151</sup>, the national mental health policy, identified that homelessness is both a cause and a consequence of mental health difficulties. For many people experiencing long-term homelessness the two issues appear to be quite interlinked. It would seem that in order to tackle one issue the other issue also needs to be tackled.

The National Strategy for People with a Disability notes that;

“The provision of good quality, secure and appropriate housing is recognised as a key factor, in conjunction with education and employment/occupation, in facilitating recovery from, or managing, a mental health disability.”

In order for some people to recover from their mental health difficulties they need adequate housing and a range of supports. The Mental Health Forum noted that;

“It is also imperative that people with disabilities are provided with appropriate housing in order to prevent mental health difficulties and to support individuals' recovery.”

The issue of mental health and homelessness is profound and can not be understated. Ms. Fiona Barry speaking to the Committee commented that;

“...the mental health impact on people who are experiencing homelessness is very intense...there is that whole sense of grief and bereavement around losing their home and isolation and loss of their community. We see a significant number of people who are in contact with our homeless services taking their own lives.”

The people on the ground working with homelessness and mental health issues are seeing first-hand how lives are being destroyed and sometimes ultimately lost. Due to the interconnection of homelessness, poverty and mental health issues it is not surprising how widespread the issue is.

An Irish study<sup>152</sup> of hostel dwellers in inner city Dublin, revealed 52% suffered from depression, 50% from anxiety and 4% from other mental health problems. This survey also

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<sup>151</sup> [http://www.hse.ie/eng/services/publications/Mentalhealth/Mental\\_Health\\_-\\_A\\_Vision\\_for\\_Change.pdf](http://www.hse.ie/eng/services/publications/Mentalhealth/Mental_Health_-_A_Vision_for_Change.pdf)

<sup>152</sup> ERHA & RCSI (2000) The Health of Hostel-Dwelling Men in Dublin: perceived health status, lifestyle and health care utilisation of homeless men in south inner city Dublin hostels.

found that 72% of homeless men in hostels, who met criteria for serious mental health problems, were not in receipt of care.

It seems that those people with more complex mental health issues are also becoming less visible and newsworthy. Children and families appear to move out of services faster but it is this cohort of emergency accommodation users that take up a significant number of emergency beds. Ms. Fiona Barry noted that;

“...people who have complex mental health and medical issues right across the sector, particularly those who are in services for a longer period. They are in services for longer because they are becoming the less visible. The families and those who are newly homeless are able to move out of services quicker while those with more complex needs are stuck in services.”

There appears to be cyclical journey through which many homeless people travel through. Often homeless people travel from one institutional setting to the next, a transient and unstable lifestyle. *A Vision for Change* noted this occurrence;

“...many homeless people with severe mental illnesses and substance abuse problems travel ‘institutional circuits’ that include mental hospitals, prison, shelters, shared or doubled-up arrangements, and the street.”

It is clear that a large proportion of homeless people are suffering with mental health issues. Many of these people are trapped in an institutional cycle which would suggest that they are not receiving the appropriate care they require. The fact that they are on this cycle means that they take up a disproportionate amount of time within the ‘institutional’ cycle. The problem is being passed from one service provider to the next. The Dublin Homeless Network noted in their submission to the Committee that;

“There needs to be an acknowledgment that people who end up in hospital due to complex health issues may not be best suited to return to homeless accommodation and without long-term supports for the maintenance of their health issues their health will diminish. With this in mind their needs to be alternatives to the current homeless accommodation for people leaving hospital so they do not return in particular to the one night only system.”

Tackling the mental health aspect of this cycle is vital to ensure that upon a homeless person being housed they remain in that house. Without help being provided for an individual’s mental health issues then that person will take their place back within the institutional cycle outlined in *A Vision for Change*.

## **Youth Homelessness**

The Committee heard from a number of witnesses about the reality that nationwide many homeless people are under 30 years of age. The Department of the Environment, Community and Local Government supply aged related statistics for people accessing their services, divided up between the 18-24, 25-44, 45–64 and 65+ age groups. According to

their most recent data<sup>153</sup>, 16.32% fall within the 18-24 age category and 60.71% within the 24-44 age category. The issue of youth homeless is becoming more and more prevalent. Ms. Triona O'Connor from the Limerick and Clare Homeless Network, commenting on her experience with youth homelessness stated;

“There is a huge increase in youth homelessness at present. According to the current statistics, more than 50% of people accessing hostel accommodation in Limerick and Clare are 30 years of age and under.”

Many submissions to the Committee highlight the social welfare cut-off for people under 26 as a reason for this. Focus Ireland noted that;

“Young people who are homeless can be prevented from moving on into independent living due to the unintended consequences of the reduced rate of social welfare paid to people under 26.”

The high level of youth homeless is a cause of concern for the Committee and preventative measures need to be established at an early age in order to divert young members of society away from homelessness.

### **People Leaving Care**

Mr. Brian Friel, of the Peter McVerry Trust, highlighted to the Committee how 52% of young people using one of their services in 2015 had a history of care. According to the submission of Don Bosco Ireland, 20 percent of the homeless youth are made up of care leavers. Don Bosco has commented that;

“Care professionals and care leavers report housing and homelessness as the most prominent problem facing young people as they transitioned out of residential care into independence”.

This issue with care leavers falling into homelessness echoes the previously mentioned ‘institutional cycle’. Mr. Declan Dunne from the Dublin Homeless Network, speaking to the Committee stated;

“...more than half of the people we support come with a history of the care system, and I believe the experience has been similar for the other representatives. What does that mean? If people have come through that situation, they have not benefited from...”

Fr. Peter McVerry speaking to the Committee gave a vivid example of faults they have witnessed within the care system and its direct impact on people leaving care and homelessness;

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<sup>153</sup> [http://www.environ.ie/sites/default/files/publications/files/homelessness\\_report\\_april\\_2016.pdf](http://www.environ.ie/sites/default/files/publications/files/homelessness_report_april_2016.pdf)

“We had one young 18 year old who was discharged from residential care on his 18<sup>th</sup> birthday. It was a Friday afternoon, he had no money in his pocket and there was no accommodation arranged for him.”

It appears that the ‘care system’ is not meeting all the needs of the people who pass through it. People moving from one institution to the next take up a significant amount of resources and are unable to set their lives along the right path. Focus Ireland believe that;

“...local authorities should plan, develop and provide appropriate housing to those young people leaving care who require this support to continue building their independent lives after the care experience.”

The ISPCC echo this in their submission to the Committee;

“All young people leaving care should have access to adequate accommodation and support in transitioning to new accommodation arrangements.”

Instances like these highlight the need for cross departmental joined up thinking. A long-term approach and plan is needed in relation to people in care.

The issue of homeless people leaving care and returning to the institutional cycle bears a similar resemblance to that which Ms. Fiona Barry described to the Committee in relation to people leaving hospital;

“One of our services in Crosscare had a woman who was discharged who was told she was going to die within a couple of weeks. She came into our services with no palliative care. We had no information around how she was going to die and our staff team found her dead. That is the fourth medical death we have had from a hospital discharge since Christmas.”

The HSE policy in relation to discharge from hospital titled *Integrated Care Guidance: A practical guide to discharge and transfer from hospital*<sup>154</sup> sets out a nine step process in relation to discharge. Step 9 in the process details how primary care services and homelessness services should be notified when a homeless person or someone living in temporary or insecure accommodation is due for discharge. The policy dictates that the receiving services should be adequately informed and have time to plan for accommodation needs.

The policy seems to suggest that homeless people are returned to homelessness after medical care has been provided to them. This appears to be an example of where one part of the institutional cycle feeds another.

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<sup>154</sup> Available at:

<http://www.hse.ie/eng/about/Who/qualityandpatientsafety/safepatientcare/integratedcareguidance/IntegratedCareGuidancetodischargefulldoc.pdf>

Speaking to the Committee, Mr. David Carroll from the Dublin Homeless Network highlighted that more and more homeless people in long term homeless shelters will reach such a time where they will need nursing home care. It is not clear if plans are in place in anticipation of this.

“A definitive pathway into nursing home or palliative care for those whose health has deteriorated seriously is also required. It is a major travesty that homeless individuals with nursing home needs find it hugely difficult to access nursing home care.”

## Children

In January 2015 there were 865 children nationwide living in emergency accommodation, by January 2016 this figure had almost doubled to 1,638<sup>155</sup>. Children have a particular set of needs and the experiences of homelessness have a profound effect on them. In their submission to the Committee, Barnardos highlighted the specific problems facing families and children in emergency accommodation;

“Living in one room sharing beds with siblings and parents, with no space to do homework, cook food, do laundry, store belongings and strict curfews all has a profound negative impact on a child’s development. It exacerbates the stress on parents and affects their child’s ability to remain in school and stay connected with their support networks.”

Children are one of the most vulnerable groups of people to experience homelessness. The ISPCC, working directly with homeless children have outlined some of the experiences they feel;

“...we speak regularly to children who are worried about housing and homelessness, and its impact on their lives and the lives of their families. They tell us they are scared about the unfamiliar environment, the uncertainty of the future and they worry about the stresses their parents are under. We know from their accounts that many are not in safe conditions, with no area to play or space to do homework or exam study. Their childhoods are being greatly impacted by this.”

It is an issue of grave concern that children are spending time in such conditions and that they are worrying about themselves and their families. According to the ISPCC in their submission to the Committee;

“Findings for the UK charity Shelter have indicated that homeless children were 3-4 times more likely to have mental health problems, even one year after being rehoused. While children experiencing the disruption of moving between emergency accommodations settings were 2-3 times more likely to be absent from school, which has a negative impact on their education and academic achievement.”

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[http://www.environ.ie/sites/default/files/publications/files/homelessness\\_report\\_january\\_2016\\_0.pdf](http://www.environ.ie/sites/default/files/publications/files/homelessness_report_january_2016_0.pdf)

It is clear that spending time in emergency accommodation is detrimental for children and will have a negative effect on their future. It is acknowledged by all that emergency accommodation is not ideal for anyone, but the effects on children are more acute than most.

## **Travellers**

Travellers are another group with a specific housing need and who have acutely experienced the shortage of housing. According to Pavee Point;

“Between 2013-2015, 237 Traveller families left private rented accommodation. This figure correlates with an increase of 200 Traveller families sharing houses and an increase of 173 families on ‘unauthorized sites’. It is clear that Traveller families are responding to the accommodation crisis by relocating to sites that are already overcrowded, unsafe and inhabitable.”

Many travellers are unable to meet rising rents and have left private rental accommodation and as a result are often moving to inappropriate or sub-standard accommodation. Speaking to the Committee, Pavee Point outlined how the Traveller accommodation budget had been cut by 90 percent between 2008 to 2013 but what they felt was most shocking was that there was;

“an underspending of 36% of the allocated Traveller accommodation budgets by Local Authorities.”

The issue of additional supports being put in place in tandem with housing is evidenced also with the members of the Travelling community. Ms. Ronnie Fay, speaking before the committee highlighted that 84 percent of travellers are unemployed. This statistic highlights the need for a system of supports, such as Housing First, to be put in place in tandem with addressing the housing need.

## **Asylum Seekers**

In Ireland asylum seekers are generally housed in Direct Provision centres. The nature of the accommodation varies from former hotels, hostels, to mobile homes and chalets.

- More than 600 people had been in Direct Provision for more than 8 years; this was 13.4% of the population of Direct Provision centres at that date.
- Over 1500 people had been in Direct Provision for more than 3 years; this was 33% of the population of Direct Provision centres.
- Average length of stay in Direct Provision centres is 38 months.

According to the Refugee Council of Ireland, statistics provided by the Reception and Integration Agency (RIA), which oversees the Direct Provision centres, indicate that as at March 2016 a large number of people are remaining within the Direct Provision system despite being able to freely leave;

“Currently there are over 500 people in the Direct Provision system who have their ‘papers’ and are free to move on to independent living. But, for a variety of reasons, with access to accommodation being the primary issue, they are unable to transition out into the wider society and move on with their lives.”

Asylum seekers have already undergone a very significant stressful period in their lives before arriving to Direct Provision centres. It appears that after they have fulfilled all of the criteria and after being provided with the necessary documentation to leave the Direct Provision centres but they are unable to. It seems that many of those leaving Direct Provision are expected to find their own accommodation despite most of them being unable to obtain social welfare payments whilst in Direct Provision. These people are unable to afford a private rental property so they are stuck at the Direct Provision centres.

Ms. Sue Conlan speaking before the Committee also raised the issue of jurisdiction over the housing needs of refugees. Currently responsibility for this issue rests with the Department of Justice and Equality. The Refugee Council of Ireland are calling for it to be moved to the Department of Housing, Planning and Local Government.

At present there appears to be many barriers preventing asylum seekers to transition from an institutional setting into vibrant and productive members of the community. The system needs to facilitate a means for those people granted status being enabled and fully prepared to join communities on the day they receive their ‘papers’.

### **Domestic Abuse**

Domestic Abuse is perhaps a somewhat unseen side of the housing crisis. The Committee heard evidence from Ms. Fiona Ryan of SONAS about the impact domestic violence has on homelessness;

“...domestic violence is a leading cause of families becoming homeless...One in four newly homeless families are such because of domestic violence.”

Domestic abuse affects men, women and children but it disproportionately affects women. Ms. Triona O’Connor speaking on how women suffering domestic abuse are finding it difficult to find appropriate accommodation and as a result return to their home;

“Because of the barriers facing these women in securing accommodation many of them are opting to return home, where the abuse continues and often escalates”.

It is worth noting that women who flee domestic violence are currently not included in the statistics for homelessness. Cope Galway in their submission noted;

“Women who are fleeing domestic violence should be viewed as homeless by local authorities and accordingly afforded priority for social housing. Currently some women are occupying spaces in domestic violence refuges for extended periods of time as a consequence of not being considered homeless.”

Ms. Fiona Ryan stated that domestic abuse victims need more options in terms of supports and solutions. Some victims may stay in their home but with adequate legal protections such as barring orders, others will need to stay in a refuge far away from their locality, whilst some

others will need to remain within their locality and support network. There is no one size fits all approach to housing domestic abuse victims and local authorities must address this.

Dr. Stephanie Holt, giving evidence to the Committee acknowledged the multi-layered aspect of domestic abuse and homelessness. A theme which has been common amongst many of the special housing needs groups;

“It is usually buried way underneath a pile of other problems, including addiction and mental health issues.”

### **Prisoners**

Prisoners are another group of people with special housing needs. As previously mentioned, many homeless people travel from one institution to another, and prison is a common stop along this journey for many homeless people.

The Peter McVerry Trust commented on how they see a large number of people leaving prison and being faced with homelessness;

“...far too often people are freed from prison to go directly into our homeless services.”

Mr Pat Doyle, also from the Peter McVerry Trust highlighted the institutional cycle many prisoners are at risk of travelling down and how to avoid this;

“Their best chance of survival and of not becoming repeat offenders when they come out is not to go into a hostel...but to go into their own housing unit and let the work begin from there.”

Prison is very much a well-trodden path along this journey. DePaul in their submission to the Committee also highlighted to issue of prisoners;

“Depaul’s experience working with homeless women with an offending background...shows that homelessness and offending behaviour are interlinked and mutually perpetuating, and that the provision of stable accommodation upon release from prison can have a very positive effect on reducing recidivism and promoting reintegration.”

The multi-layered and interwoven nature of homelessness and prison needs to be separated. Moreover, Fr. Peter McVerry highlighted to the Committee how many prisoners are remaining in prison when they have the opportunity to leave, simply because they have nowhere to go.

“It is only a guesstimate, but there are 40 or 50 people in prison who would be discharged in the morning if they had somewhere to go. They may be eligible for bail or temporary release but are in custody because they do not have an address. They are being kept in prison at enormous expense because we have failed to provide for them.”

## Students

Students have not been left unscathed from the housing crisis either. They are generally a low-income group and are now competing in a market for housing which is out of their price range or not in locations convenient to their place of study.

**Construction 2020** highlighted the need for purpose built student accommodation in order to meet demand.

“a range of accommodation types are required to meet market demands, and there are economic opportunities, for example, for the supply and provision of purpose-built student accommodation...”

The USI have highlighted the negative impact the housing crisis has had on students;

“...Student housing (lack of purpose built on-campus accommodation and private sector rent price increase and lack of rental properties) continues to fuel a dropout culture in third level education...”

The Higher Education Authority in their *Report on Student Accommodation: Demand & Supply*<sup>156</sup> predicts that there will be an increase from 167,991 students in Full Time Education (FTEs) in 2014 to 192, 886 FTEs in 2024 indicating the strong demand for accommodation will be increasing within a decade.

Students completing their studies are of paramount importance to the competitiveness of the country. The numbers of students in third level education is predicted to rise so it is a problem which is predicted to get worse if something isn't done.

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<sup>156</sup> [http://www.hea.ie/sites/default/files/student\\_accommodation\\_report\\_310815.pdf](http://www.hea.ie/sites/default/files/student_accommodation_report_310815.pdf)

### Key Issues

- Several witnesses and other contributors to the Committee's deliberations addressed the issue of Article 43 of the Constitution, which deals with property rights, and whether it is necessary or desirable to amend the Constitution to incorporate a right to housing. Differing views were offered on this.
- There was general consensus among legal experts addressing the Committee that there was no particular legal impediment to the extensive use of compulsory purchase orders as a policy instrument in increasing housing supply. However, some reservations were expressed as to the cost-effectiveness of such an approach.
- Concerns were expressed by some witnesses as to the fairness of the current, non-statutory procedures in place for dealing with mortgage arrears and related disputes, and there were calls for the establishment of an independent tribunal to adjudicate upon such disputes.
- A number of legislative changes have been identified by the Committee as necessary as part of an overall package of measures to address problems in relation to housing and homelessness.

### Recommendations

1. Acknowledging –
  - the submissions and evidence provided to the Committee;
  - the provisions in the Programme for a Partnership Government 2016; and
  - the work of the Convention on the Constitutionin relation to enshrining the right to housing in the Constitution, the Oireachtas Committee on Housing, Planning and Local Government (which is expected to be established shortly by Dáil Éireann) should bring the deliberations in this regard to a conclusion as quickly as possible by bringing a recommendation on the matter to the Government.
2. The Code of Conduct on Mortgage Arrears (CCMA) should be amended on a statutory basis to include an offer of a split mortgage and a mortgage to rent scheme.
3. Subject to advice of the Attorney General, the Government should introduce legislation for a moratorium on home repossessions until such time as the Government's proposals for dealing with mortgage distress are in place.

4. The Government should, at a minimum, before the summer recess and as a matter of urgency, fully and quickly implement the programme for Government's strategy to deal with mortgage arrears.
5. The Government should explore the possibility of amending the Residential Tenancies Acts to provide that sitting tenants in buy-to-let properties that are being sold are offered first refusal on the tenancy under the new landlord, on the same terms as the existing tenancy.
6. Introduce a system of rent certainty by linking rent reviews to an index such as the Consumer Price Index (CPI) and review annually.
7. Increase security of tenure and protection from evictions for tenants by:
  - Introducing a scheme whereby a housing association or local authority can purchase a rental property from an exiting investor (Rent switch programme).
  - Increasing security of tenure from the current 4 year period.
  - Establishing legal safeguards to allow tenants to remain in situ during and after sale of property.
  - Amend the Residential Tenancies Act to outlaw the sale of property as grounds for evicting a tenant, except in exceptional circumstances where severe financial hardship can be proven by the landlord.
8. The Government should explore how the use of compulsory purchase orders might increase housing supply.
9. Reduce the Part 8 planning process from 8 to 6 weeks. Where there are unreasonable delays beyond the 6 weeks, emergency powers (such as the statutory provisions of section 179 of the Planning and Development Act) should be invoked. Also, encourage greater use of Part 8 for AHBs where appropriate as it is for local authorities for a period of 18 months.
10. Amend the National Asset Management Agency Act 2009 (S.2 and S.10) to allow NAMA to be an agent for the provision of social and affordable housing.
11. Fast-track legislation to regulate the AHB sector, so that it is more accountable. Also, improve AHBs ability to access finance.

## **The Constitution**

Addressing the Forum on Housing and Homelessness in March 2016, the then Minister for the Environment, Community and Local Government, Alan Kelly TD, cited the Constitution

as a barrier preventing him from passing laws to address the housing crisis, and suggested holding a referendum to remove a provision that protects property owners' rights.

Mr Kelly stated that legal advice on Article 43 had stopped him from introducing a more powerful vacant site levy, which would have imposed a fee on developers who refused to build on unused land. He said that it had also stopped legislation preventing keeping houses vacant and laws that would protect tenants from so-called vulture funds, which invest in undervalued properties and then profit from selling them:

“I was not hampered by political or financial obstacles. I was blocked by the Constitution. From the time it is taking to introduce the Vacant Site Levy in order to tackle land hoarding, to protecting tenants from eviction in circumstances where their landlord wishes to sell the property, and many other issues, I was repeatedly blocked from making provision for what I believed was the common good by the strength by which property rights are protected under Article 43 of the Constitution. I believe that we need to honestly re-examine the balance between the protected and legitimate property rights of individuals, as property owners, and the wider needs and common good of society, including housing needs. As a society we need to reflect on the desired impact of the constitution here. I believe that addressing these issues raises politically and socially important issues which will have to be debated over the coming years.”<sup>157</sup>

Mr Kelly again raised the issue of the Constitution when appearing before the Committee on April 28:

“We also need to have a grown-up conversation about Article 43 of the Constitution, and getting the balance right between the rights of the individual, as regards property rights, and the common good. The two specific items that were directly affected by this were the vacant site levy and the protection of tenancies during the property sales. On the vacant site levy, while I am delighted that it is now enshrined in our laws and it is something in which I believe, my original proposal, following my work with the former Minister of State, Paudie Coffey, was to have it at 6% to 7% of the market value of the land and for it to be introduced later on this year or in 2017. To ensure it is safe from a constitutional challenge, that provision was amended. Similarly, when it came to residential tenancies legislation, the Constitution acted as a barrier against protecting tenancies in cases in which a property was sold. There has been much commentary on this. I say this not to attribute any blame to the Constitution but because for this committee I need to be open and honest about the situation as I faced it. For the record, because there was commentary on this, I never suggested that the matter of compulsory purchase of land for housing was not an option for local authorities. We might discuss that later. It is not a panacea. There are issues with that as well and it can go on for years.”

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<sup>157</sup> See more at: <http://www.environ.ie/housing/homelessness/ministers-opening-remarks-forum-housing-homelessness-custom-house-31-march-2016#sthash.r4HpdFnn.dpuf>

Article 43 of the Constitution addresses private property rights. It states:

“1° The State acknowledges that man, in virtue of his rational being, has the natural right, antecedent to positive law, to the private ownership of external goods.

2° The State accordingly guarantees to pass no law attempting to abolish the right of private ownership or the general right to transfer, bequeath, and inherit property.”

In 2004, the Ninth Report of the Joint Oireachtas Committee on the Constitution called for a progressive charge against developers engaged in land hoarding when sites were need for building homes. It was of the view that such a measure was not incompatible with Article 43.

The former Minister’s claims have also been challenged by some experts, including the Master of the High Court, Mr Edmund Honohan. He has urged policymakers to use compulsory purchase orders to buy back repossessed homes from so-called vulture funds for use as social housing, pointing out that CPO law allowed the purchase of property where the common good took priority.<sup>158</sup>

Addressing the Committee on May 10, Mr. Honohan expressed the view that politicians and lawyers are inclined to interpret things very differently, and that this had given rise to a misunderstanding of Article 43 and the jurisprudence relating to it. Elaborating upon this in his written submission, he stated that there is a surprisingly widespread misconception about the parameters of the Supreme Court’s function: the court, in considering constitutional challenges to legislation, “is always at pains to defer to the primary legislative intention of the Oireachtas and will always start by presuming that the measure is constitutionally sound.”

The Supreme Court’s jurisprudence, he notes, has settled on a methodology which owes much to the judgments of the European Court of Human Rights in regard to “public interest” expropriation of private property, both with and without compensation:

“... the notion of ‘public interest’ is extensive. In particular, the decision to enact laws expropriating property or affording publicly funded compensation for expropriated property will commonly involve considerations of political, economic and social issues. The Court has declared that, finding it natural that the margin of appreciation available to the legislature in implementing social and economic policies should be a wide one, it will respect the legislature’s judgments as to what is ‘in the public interest’ unless that judgment is manifestly without reasonable foundation.” (Broniowski v. Poland (App. No. 31443/96), Judgment of the Grand Chamber of the 22nd June, 2004; (2005) 40 E.H.R.R. 495, para. 149.)

Accordingly, it is for the Oireachtas to decide whether or not there is such shortage of affordable rental or state subsidised dwellings as to constitute a public interest concern. On this latter point, the Supreme Court, in the Article 26 reference about the Part V social and affordable provisions, has confirmed that:-

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**158** <http://www.irishexaminer.com/ireland/experts-challenge-alan-kellys-claim-housing-action-would-breach-the-constitution-392630.html>

“... the objectives sought to be achieved by Part V of the Bill are clear: to enable people of relatively moderate means or suffering from some form of social or economic handicap to buy their own homes in an economic climate where housing costs and average incomes make that difficult ... It can scarcely be disputed that it was within the competence of the Oireachtas to decide that the achievement of these objectives would be socially just and required by the common good.” (Re Article 26 and the Planning and Development Bill, 1999 [2000] 2 I.R. 321, at p. 348 and 349).

Whilst the Constitution does not contain any positive right to housing, noted Mr Honohan, “there really is no basis for suggesting that the common good does *not* include the provision of public housing.” On this basis, he expressed disagreement before the Committee for calls for constitutional change and a referendum: “I do not believe it is necessary to have a constitutional referendum because the common good requirement is such that it can be argued – and I have made the argument in relation to children – that society demands a paternal view of its role in regard to how to house people.”

This view was supported by Professor P.J. Drudy, who addressed the Committee on May 10. He described the constitutional issue as “a red herring” which “had been thrown about since the early 1980s.” He warned that a referendum would open up a can of worms, and that legislative change would be easier and preferable: “One could introduce legislation tomorrow morning that enshrined the right to housing”.

A very differing view was offered to the Committee on May 10 by Ms Maeve Regan of the Mercy Law Resource Centre. She argued that a right to housing should be enshrined in the Constitution, and that this would represent a positive step in creating a fundamental protection of the home for every adult and child:

“A right to housing in the Constitution would not mean the right to a key to a home for all. A constitutional right to housing would, however, put in place a basic floor of protection. It would require the State in its decisions and in its policies to protect the right to housing in balance with other rights ... the right to housing would mean that legislation and policy would have to be proofed to ensure they reasonably protect the right in the same way as they are proofed in regard to other substantive rights. This would ensure that at that early stage a check would be in place to ensure that legislation or policy reasonably protect the right to housing. This would mean that policies on housing and homelessness could not be based on a political whim or simply based on the philosophy of the reigning Government. Policy would instead be grounded in the basic obligation to respect the right. In that sense, it would be an enduring protection, a fundamental floor.”

Ms Regan’s views were echoed by representatives of the Limerick and Clare Homeless Alliance, who appeared before the Committee on May 12. In its submission the Alliance called for a referendum on the right to a home:

“The Convention on the Constitution recommended that economic, social and cultural rights, which includes the right to a housing, should be included in the Irish

Constitution ... such a change in the Constitution would not in itself eliminate homelessness, but it would make a statement about the values of our society ... Placing the right to housing on a constitutional footing would mean that policies introduced by the State would have to consider and balance this right.”

This refers to the Eighth Report of the Convention on the Constitution, which reported in March 2014, and where a large majority (85%) of the members favoured changes to the Constitution in order to strengthen the protection of economic, social and cultural rights.<sup>159</sup> The report called for the insertion of a right to a home into the Constitution in order to redress an imbalance in the values contained therein:

“The creation of a ‘judicial framework’ might also be advantageous in the context of the development of housing policy. Our society’s position on the right to a house, the right to a home is a reflection on our value system and should be considered in the context of broader ESC rights. It has been done in other common law jurisdictions and could be achieved in Ireland.

Governments struggle to deal with housing policy issues, including homelessness, adequate housing provision, etc. The point was made that the outcomes of housing policy initiatives in Scotland have been better and more cost-effective than in this jurisdiction because the political drive to tackle housing issues there is underpinned by the existence of housing rights. It is an anomaly in the Irish Constitution that, while the right to property is protected (Art 40.3.2), no similar protection exists for the right to a home. In other words, in certain circumstances where property is at issue, the courts will regard a lending institution as having precedence over the occupier or home ‘owner’. This imbalance in our values needs to be redressed.”

Further support for a constitutional referendum to enshrine a right to housing came from the Free Legal Advice Centres (FLAC), when addressing the Committee on May 17. Asked whether it would be better to establish such a right via constitutional change or through legislation, Mr. Ciarán Finlay advocated adopting both approaches simultaneously:

“Irrespective of the approach which is taken, having a right to housing would be important because if there is a right to housing that could be enforced it would guide and strengthen decision making and the development of laws, policies and practices. If Government decisions and expenditure were geared towards the goal of a right to housing and fulfilling that right, whether by means of the Constitution or in domestic law, it would be of benefit and would provide a legal remedy for people to enforce and vindicate their rights. FLAC is an organisation which promotes access to justice. When there is not a specific right on which to rely it is very difficult to argue.”

In his submission, Mr Jerome Connolly, former Executive Secretary of the Irish Catholic Bishops’ Commission for Justice and Peace, argued that a right to housing not only protects

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<sup>159</sup> <https://www.constitution.ie/AttachmentDownload.ashx?mid=5333bbe7-a9b8-e311-a7ce-005056a32ee4>

a fundamental human interest in itself, but is crucially instrumental to the enjoyment of other basic human rights such as health, employment, privacy and education, and to social and civil participation in general. Constitutionalising it “would give an essential underpinning to a stable, comprehensive and coherent housing policy prioritising the shelter needs especially of the most vulnerable in our society.”

### **Use of Compulsory Purchase Orders**

Mr. Honohan called for legislation utilising compulsory purchase orders to acquire houses which are unoccupied and occupied houses for which the mortgagees (or their assignees, the non-regulated “vulture funds”) have issued a valid demand for possession, the borrower’s right of redemption having lapsed. This latter group may have tenants still in occupation. The consequence of acquisition by the State would be that the new owner, the State or a state agency, can leave all occupants in place, but now as tenants in public housing.

Regarding whether such legislation would withstand constitutional challenge, he points out that it is not unusual for the Oireachtas to adopt legislation which contains broad enabling measures which allow compulsory acquisition for a range of purposes, but that the court may be asked to consider whether alternatives to compulsory acquisition could be as successful in finding the additional homes that are needed, and as promptly. The Court will double-check to see whether the enabling legislation is “proportionate” to the objective stated in the legislation by the Oireachtas, whether the legislative solution tallies with the legislative objective, and whether the solution is overkill or is targeted unfairly (see the *Blake* rent restrictions decision of 1982). Conscious of that series of tests, the legislation should be drafted so as to answer any such concerns.

An expropriation of property may be considered “unjust” if no compensation is paid. If that is the only ground of complaint, it is answered by the payment of full compensation measured by market value assessed under the provisions of the Acquisition of Land (Assessment of Compensation) Act 1919. Guidance on this can be found in a judgement of the European Court of Human Rights:

“Compensation terms under the relevant legislation are material to the assessment whether the contested measure respects the requisite fair balance and, notably, whether it does not impose a disproportionate burden on the applicants. In this connection, the taking of property without payment of an amount reasonably related to its value will normally constitute a disproportionate interference and a total lack of compensation can be considered justifiable under Article 1 only in exceptional circumstances. Article 1, however, does not, however, guarantee a right to full compensation in all circumstances, since legitimate objectives of ‘public interest’ may call for less than reimbursement of the full market value.” (*Holy Monasteries v. Greece* (1994) 20 E.H.R.R. 1).

Mr. Patrick Sweetman, solicitor also addressed the Committee on May 10 on the issue of compulsory acquisition of land and its role in addressing the national housing shortage. He was of the view that although there is no particular legal obstacle to extensive use of

compulsory purchase orders, it is a lengthy technical process, involves incurring significant professional fees, and is likely ultimately to be much more expensive than a consensual sale. This may have a perverse consequence, he warned, whereby the announcement of an intention to compulsorily acquire land or properties may act as a disincentive to trade on open market and as an encouragement to await the CPO process.

### **Children's Rights**

The Master of the High Court, Mr. Edmund Honohan, noted in his submissions that the recent amendment protecting the constitutional rights of the child may well be the springboard for the contention that the State has an obligation to find practical solutions to allow the child to continue to enjoy the security of an established family home in an established neighbourhood, even if the mortgagee/landlord has secured his court order for possession: "There is ample authority for the view that the more stable the childhood, the better the outcome for child and for society, and the buy back by the State of houses with distressed loans – houses where the mortgagor's right to redeem has been lost through payment default – would be a practical solution for the protection of the interests of the children of the mortgagor and one with significant savings for the exchequer both short and long term." In other words, even though the adults have no Constitutional right to housing, the children's claim to a form of constitutional forbearance, when "repossession" is threatened, may be stronger after the recent referendum. The UK courts are quite proactive in this regard: see *Edwards v. Lloyd's TSB Bank plc* [2004] EWHC 1745.

### **Rent Control or Regulation**

In *Blake v Attorney General*,<sup>160</sup> the Supreme Court considered a challenge to the Rent Restrictions Act 1960. This legislation had the objective of meeting a social need by ensuring reasonably modest rents and security of tenure for tenants. However, this had the ultimate effect of turning a large number of controlled properties within the ambit of the legislation into uneconomic assets for their owners. Essentially, "the State had purported to achieve a social objective, cheap housing, at the expensive of a fairly arbitrarily selected class of house owners: and without the payment of any compensation for their loss, the houses of course being deprived of their inherent market value because of the fixity of tenure of 'sitting' tenants paying very low rents."<sup>161</sup> The Court found that the legislation amounted to an unjust attack on the plaintiffs' property rights since the effective reduction of the landlords' interest was achieved arbitrarily (many rented premises were outside the controls) and without compensation.

When this issue was raised before the Committee, a number of Members and witnesses made the distinction between rent controls and rent regulation. Professor P.J. Drudy, addressing the Committee on May 10, stated:

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<sup>160</sup> [1982] IR 117.

<sup>161</sup> *JM Kelly: The Irish Constitution* (Hogan and Whyte eds), Fourth edition, 2003, pp.1987-88.

“Rent control was something introduced during the First World War, I think all over the world, but certainly in Ireland. It lasted up to 1980. Rents were controlled; they were frozen at a certain level, often a totally unreasonable level. Rent for a house that was frozen at £2 in 1914 was still £2 in 1970 or 1980. That was control and it was totally unreasonable. Rent control is now non-existent. I plead with the members of the Committee not to use the term “rent control” because it does not exist in Ireland, Europe or anywhere else. Rather what does exist is rent regulation where rents are changed in line with inflation or by some percentage, perhaps 2%, 3% or 5%, and in line with improvements to the premises. I believe that is entirely reasonable and that is the situation in a range of European countries.”

Mr. Honohan also drew a distinction between “rent control” and “rent certainty”. He opined that, having already been rejected by the Supreme Court twice, it is difficult to envisage how it could be accepted now, as the court is bound by its previous decisions: “The legislation would have to be finely taut.” On rent certainty, however, he was of the view that “it is difficult to see how there could be a challenge to rent certainty.” Although it is technically a limitation on the property rights of landlords, so are many other measures, such as capital acquisitions tax, controls on interest rates, and so on, but these are all measures that ought to be adopted for “the common good.”

### **The Mortgage Arrears Resolution Process**

Addressing the Committee on May 17, Paul Joyce of FLAC spoke at length about shortcomings in the Mortgage Arrears Resolution Process (MARP) imposed by the Central Bank’s Code of Conduct on Mortgage Arrears 2013 (CCMA).

Prior to going to the Circuit Court to seek repossession, the lender is supposed to carry out a comprehensive assessment of whether it is appropriate to put a so called ‘alternative repayment arrangement’ in place under the terms of the CCMA. Critically, a lender is allowed to choose which options from a range of alternative repayment arrangements set out in the Code it wishes to offer. It is then only obliged to look at the feasibility of these options, it is not obliged to offer anything.

According to Mr Joyce, “from the borrower’s perspective this process can be a nightmare in terms of fair procedures and access to the detailed reasons for lender’s decisions.” There is no right of appeal to an independent third party against any of these three substantive decisions made by the lender. A complaint may be made to the Financial Services Ombudsman on a lender’s failure to adhere to the MARP process, but the Ombudsman’s office has made it clear that it does not see itself as having the power to overturn the substantive decisions of lenders.

He also highlighted the fact that the CCMA was effectively inadmissible in repossession proceedings, apart from the requirement to satisfy a ‘moratorium’ before repossession action

is brought. In May 2015, the Supreme Court, in *Irish Life and Permanent PLC v Dunne and Dunphy*,<sup>162</sup> stated that:

“If it is to be regarded, as a matter of policy, that the law governing the circumstances in which financial institutions may be entitled to possession is too heavily weighted in favour of those financial institutions then it is, in accordance with the separation of powers, a matter for the Oireachtas to recalibrate those laws. No such formal recalibration has yet taken place ... In the absence of there being some legal basis on which it can be said that the right to possession has not been established or does not arise, then the only role which the Court may have is, occasionally, to adjourn a case to afford an opportunity for some accommodation to be reached.”

In July 2015, the High Court, in *Stepstone Mortgage Funding Ltd v Hughes*,<sup>163</sup> found that the plaintiff lender engaged in ‘tick box’ and ‘formulaic’ compliance with the CCMA, but granted the Possession Order sought as the lender had complied with the moratorium.

According to Mr Joyce, this is a clear statement that the courts will not invent legal defences for borrowers that the Oireachtas has not provided for in its role under Article 15 of Bunreacht na hEireann as having “the sole and exclusive power of making laws for the State”.

FLAC therefore called for a number of reforms to be introduced, including:

- The CCMA should become a ministerial regulation expressly admissible in any legal proceedings before an adjudicating body;
- A Mortgage Rescheduling Tribunal should be put on a statutory footing to hear appeals from borrowers unhappy with the outcome of the MARP process. The tribunal would have the power to impose its own decision on the parties, including write-down where appropriate. Either party would have the option of an appeal into the courts against this decision;
- Borrowers should have access to the requisite financial and legal advice and representation to make out their case to this Tribunal and into the courts if it proved necessary; and
- These proceedings should be heard in camera to encourage full participation.

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<sup>162</sup> IRISH LIFE AND PERMANENT PLC -V- DUNNE and IRISH LIFE AND PERMANENT PLC -V- DUNPHY [2015] IESC 46.

<sup>163</sup> STEPSTONE MORTGAGE FUNDING LTD -V- HUGHES & anor [2015] IEHC 487 (21 July 2015).

Appendix 1 – Establishment Order Of The Committee  
[Dáil Éireann 14 April 2016]

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“That-

- (a) A Special Committee, which shall be called the Committee on Housing and Homelessness, shall be established to review the implications of the problems of housing and homelessness, and make recommendations thereon;
- (b) The Committee shall be made up of fourteen members of the Dáil, of which three members will be appointed by Fine Gael, three members by Fianna Fáil, two members by Sinn Féin, one member by the Labour Party, and five members representing the independent deputies and members from other political parties, and four shall constitute a quorum; members shall be substituted as provided under Standing Order 95(2);
- (c) Notwithstanding the provisions of Standing Order 93, the Committee shall elect one of its members to be Chairman, who shall have only one vote;
- (d) The Ceann Comhairle shall announce the names of the members appointed under paragraph (b) for the information of the Dáil on the first sitting day following their appointment;
- (e) The Committee shall have the powers defined in Standing Order 85 (other than paragraphs (3), (4) and (6) thereof);
- (f) The Committee shall, by the 28<sup>th</sup> April, 2016, provide an interim report, containing its proposed work schedule for consideration by the Dáil; and
- (g) The Committee shall, by the 17<sup>th</sup> June, 2016, present a final report to the Dáil, whereupon the Committee shall stand dissolved.”

## APPENDIX 2 – MEMBERS OF THE COMMITTEE

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Colm Brophy T.D	(Fine Gael)	
Mary Butler T.D.	(Fianna Fáil)	
Ruth Coppinger T.D.	(AAA-PBP)	
Barry Cowen T.D.	(Fianna Fáil)	
John Curran T.D	(Fianna Fáil)	Chairman
Bernard Durkan T.D.	(Fine Gael)	
Kathleen Funchion T.D.	(Sinn Féin)	
Dr Michael Harty T.D	(Independent)	
Kevin Moran T.D.	(Independent)	
Eoin Ó Broin T.D.	(Sinn Féin)	
Fergus O'Dowd T.D.	(Fine Gael)	
Maureen O'Sullivan T.D.	(Independent)	
Brendan Ryan T.D.	(Labour)	
Mick Wallace T.D.	(Independents 4 Change)	

### NOTES

1. Deputy John Curran was elected Chairman with effect from 20 April 2016.
2. Deputy Colm Brophy appointed to the Committee in place of Deputy Catherine Byrne with effect from 20 May 2016.
3. Deputy Kevin Moran appointed to the Committee in place of Deputy Sean Canney with effect from 20 May 2016.

### APPENDIX 3 – LIST OF SUBMISSIONS

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Alison Connolly, Policy Officer, Focus Ireland

Ann Farrelly, Fingal Housing Crisis Community

Anne Dempsey, The Sandlers Group

Anne Dillon, Offaly County Council

Annette Kennedy, Chairperson, Bray Homeless Forum

Anthony O'Farrell

Banking and Payments Federation Ireland

Barbara Carr, Architect

Bob Jordan, CEO, Threshold

Brendan Burgess

Brian Hogan, CEO, Don Bosco Care

Brian Horgan

Bridgie Casey, National Accommodation Officer, Irish Traveller Movement

Caitríona McClean

Caroline Fahey, Social Policy Development Officer, St. Vincent de Paul

Catherine Bolster, RIAI

Ciarán Ferrie, Architect

Clare Naughton, Community Law and Mediation

Cormac Devlin

Craig McLaren, Director of Scotland and Ireland, Royal Town Planning Institute

Daniel Waugh, Vice President for Campaigns, USI

David Hughes

Deirdre Fallon, President, Irish Planning Institute

Deirdre Ni Fhloinn

Dermot McCabe, Architect

Dermot Sellars, Policy and Communications Manager, Co-operative Housing Ireland

Donie McGrath

Eddie Mulligan

Edel McGinley, Director, Migrants Rights Centre Ireland

Éilis Ryan, Workers Party

Elisha Collier O'Brien, Research & Policy Executive, Chambers Ireland

Emer O'Siochru, Conveyor at Community Land Trust Initiative

Eoin Leonard, CEO, i3PT

Eoin O Broin T.D.

Eoin O Cofaigh

Fintan McNamara, Director, Residential Landlords Association of Ireland

Fiona Ryan, CEO, SONAS

Fionn Toland, Member of Association's Steering Group, Dublin Tenants Association

Frances McLaughlin, Depaul Charity

Francis Doherty, Peter McVerry Trust

Harry Whelks

Hugh Brennan, O Culann Cohousing Alliance CLG

Jerome Connolly

Jerry Cormack

Joe O'Brien

John Conneely

Kate Mitchell, Policy and Research Officer, Mental Health Reform

Kerry Cuskelly, National Coordinator, Social Work Action Network Ireland

Kevin Johnson, Chief Executive Officer, Credit Union Development Association

Kevin Kenny

Kieran Rose

Lisa Collins, Policy Co-Ordinator, ISPCC

Lorcan Sirr, Professor of Housing in DIT

M. Thornton, J. Sadlier, JP Kehoe Solicitors

Maoiliosa Reynolds Barch, Architect

Martin O'Connor, COPE Galway

Mary Doyle, Deputy Secretary, Department of Education & Skills

Michael O'Neill

Michael Taft, Economist, UNITE

Niamh Kelly, Policy Development Officer, Barnardos

Niamh Randall, Head of Policy and Communications, Simon Community

Noel Turley, Managing Director, Foresite Building Control

Orla Gilroy, CEO, Daisyhouse

Orla Hegarty

Pat Greene, Strategy and Policy, Simon Community

Patricia Cleary, HAIL

Patrick Duffy

Patrick Gaughan, Homeless Open Forum

Peter Stafford, Director of Property Sector, IBEC

Richard Brophy, Phoenix Project

Rory Hearne and Mr Paul Sweeney, TASC

Ruth Coppinger T.D.

Dr. Seán Healy, Director, Social Justice Ireland

Seán Moynihan, Chief Executive Officer, ALONE

Sharon O'Halloran, Chief Executive Officer Safe Ireland

Stephen Faughnan, Chairman, Irish Property Owners Association

Tomas O'Leary, Co-Founder and CEO Passive House Academy

Tom Duffy, Architect

Tommy Broughan T.D.

Trevor Matthews, TM Accommodation Solutions

Una Burns, National Communications, Fundraising and New Business Manager, NOVAS

Yvonne Fleming, Senior Manager, Crosscare

The full text of opening statements and presentations are available on the [Committee's website](#)<sup>164</sup>

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<sup>164</sup> [http://www.oireachtas.ie/parliament/oireachtasbusiness/committees\\_list/housing-homelessness/](http://www.oireachtas.ie/parliament/oireachtasbusiness/committees_list/housing-homelessness/)

## APPENDIX 4 – LIST OF WITNESSES

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Association of Irish Local Government  
Banking and Payments Federation Ireland  
City and County Management Association  
Construction Industry Federation  
Cork Simon Community on behalf of the Cork Social Housing Forum  
County and City Management Association  
Minister for Finance and his Department  
Minister for Housing, Planning and Local Government and his Department  
Department of Social Protection  
Department of the Environment, Community and Local Government  
Dublin Homeless Network  
Focus Ireland  
Free Legal Advice Centre (FLAC)  
Housing Agency  
Housing Finance Agency  
Insolvency Service of Ireland (ISI)  
Institute of Professional Auctioneers and Valuers  
Irish Council for Social Housing  
Irish League of Credit Unions  
Irish Mortgage Holders Association  
Irish Property Owners Association  
Irish Refugee Council  
Law Society of Ireland  
Limerick and Clare Homeless Alliance  
Mercy Law Resource Centre  
National Asset Management Agency

National Treasury Management Agency

NOVAS

Pavee Point

Peter McVerry Trust

Residential Tenancies Board

Residents from Tyrrelstown, Co. Dublin

Simon Communities of Ireland

Social Justice Ireland

Society of Chartered Surveyors of Ireland

SONAS

Threshold

Tiglin Challenge

## Appendix 5 – Meeting With Focus Ireland Service Users

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The Committee met with a number of Focus Ireland service users in relation to their experience of homelessness. This is a synopsis of the main points emerging from the meeting.

- A group took part in the 'Reinvest' programme in conjunction with NUI Maynooth. As part of this programme they conducted research into homelessness and found that the main overarching desire for a homeless person is to have a home. Additionally, they found that a large amount of homeless people have mental health issues. They feel that if these people get a home they will then be in a position to tackle their mental health problems.
- There was a widespread perception about local authorities not taking into account individual needs and desires when housing people. For instance, many people gave the example about having to get up early and travel long distances bringing children to school. They complained about the impact this is having on their children's education, as children were tired in school.
- Emergency accommodation and hostels are thought of as violent and containing widespread drug use and theft. Many people in emergency accommodation are afraid to complain about the poor conditions they encounter in case they are evicted.
- There was a broad sense of frustration about the lack of control when living in emergency accommodation, in terms of when they can come and go, the inability to cook and how people are not allowed visit.
- There is a fear and anxiety amongst the homeless community about HAP. They see it as having an inordinate amount of paper work which is off putting to landlords. More notably, they feel that their home is not secure or long-term and carries with it the uncertainty of living in private rented accommodation.
- There was widespread frustration and disgruntlement with both the Freephone number and local authorities. Homeless people feel that they are not treated with dignity or respect. It was suggested that the Freephone number is dramatically understaffed and that local authorities could provide a point of contact or a case worker to humanise the whole experience.
- Many people spoke about the psychological effects living in emergency accommodation is doing to them and their families.
- One lady provided an insight about how she is now in independent living but how it would not have been possible but for the fact she has someone to assist her with the transition and in how to pay bills etc.
- Many people spoke of the high level of mental illness prevalent within hostels but of the difficulty staff have dealing with this as they are not trained in the area.
- A lady spoke of how she has three children over 18, one of which has learning difficulties. She explained that as her child is over 18 they must apply for housing separately as

individuals. She cannot understand this as they both want to live together, particularly with there being a shortage of one bed units.

- The poor standards of accommodation and that many landlords threaten eviction if the tenant speaks up was a common theme.
- A man spoke of how he attempted to take his own life recently due to his despair about being homeless. He felt that as a single man he was bottom of the list when it came to housing.
- Several people spoke about the journey many homeless people go on from hostels to drugs to prison to treatment then back to hostels and starting all over again. They felt this cycle needs to be broken and that drug free accommodation is the only way to do this.