



CONSTRUCTION DEFECTS
ALLIANCE

Response to Working Group on Defective Homes

Consultation Round 1 Questionnaire

July 2021

1. Construction Defects Alliance

The Construction Defects Alliance is an informal grouping – which has the support of the Apartment Owners’ Network (AON) – currently involving almost 400 apartment owners and OMCs from over 100 different developments around the country which are affected by construction defects. The Alliance also has active involvement from some of the professionals who are working with the owners and OMCs concerned.

The Alliance has its origins in the Beacon South Quarter Lobby Group which has been campaigning for the last number of years for action for homeowners affected by defects. Through that Lobby Group’s campaigning work other individual owners and OMCs approached it and got involved in the campaign. Ultimately, as the numbers began to grow, the Construction Defects Alliance was set up in autumn 2019.

The Alliance has one very simple aim – the implementation of the Oireachtas Housing Committee’s *Safe As Houses?* report, which was published in January 2018.

2. Defects Problems raised with Alliance

Defects issues are constantly raised with the Alliance as apartment owners seek advice about what to do. Generally this occurs, when owners/OMCs get emails from their managing agents alerting them to the fact that there are or maybe defects, or general meetings are being called to approve levies and they come to us for advice directly through the website or through referral from a public representative or journalist.

3. Addressing Defects Problems

The Construction Defects Alliance is clear in its advice to owners and OMCs that fire defects – and in almost 100% of the cases this is the issue – need to be tackled because of the health and safety risk they present to people living in the developments concerned.

We also advise that they get professional advice in relation to their legal position and to get the appropriate construction expertise on board to assess the defects problem and rectify them.

In addition, we are clear that fire defects need to be tackled now and that it is not advisable to wait until the Defects Working Group has concluded its deliberations. Unfortunately, we are all too aware that many owners and OMCs are not acting on that advice because they are worried that if they rectify issues now that they will be excluded from any scheme proposed by the Working Group.

4. Impact of Defects

The presence of defects in a development have a number of stressful effects on the people the Alliance is working with for a number of reasons:

- People living in apartments – or even renting apartments to others – with fire defects are understandably stressed about their own safety and that of family members. Fires can and do happen and there has been loss of life already in Verdemont;
- Insurance costs rise dramatically once insurers find out about defects and in many cases only existing insurers will offer cover. In one Dublin 9 development, insurance costs went up by 700% in one year with more rises indicated until defects have been remediated. In a development in Fingal, the fire excess per unit is €75,000 – this means that there is effectively no fire cover for those units (and that development had a fire earlier this year);
- Service charges increase to cover the costs of additional fire safety measures pending remediation such as 24/7 wardens and additional alarms;
- Difficulties in selling defective apartments – many people buy apartments as starter homes before starting a family but many are finding it difficult to sell because lenders won't lend to potential purchasers and so deals are largely cash deals;
- Stress of being an accidental landlord – because of the difficulty in selling apartments, many owners move out to bigger homes when they start a family and end up taking on the unexpected pressure of being a landlord too.

The stresses and difficulties around remediation levies needs a whole segment on their own:

- Decisions over levies often cause divisions within developments and we know where relationships between neighbours have become extremely fractious as a result – in one development in Clare neighbours are now taking legal action against each other;
- Paying levies – on top of mortgages, increased service charges and day-to-day living expenses – often put a real strain on people particularly where upfront payment of the full levy is insisted upon. In those instances, most owners have to seek personal loans at 9% to 10% annual interest;
- Where people can't afford to pay then they face threats of legal action and the stress of getting legal letters and ultimately ending up in court. We know of some people who suffered psychologically as a result of such pressure;
- Another pressure – especially in smaller developments – is waiting to see if sufficient money has come in so that works can proceed. When it doesn't come in this can cause a lot of tension between neighbours.

Remember all these stresses and strains are caused to people who are entirely innocent parties in all this situation and it doesn't help when they see the builder/developers involved continuing to build without any consequences for their defective work.

5. Estimated Number of Units

Through our network, we’re aware of an estimated 20,750 affected by defects in 106 developments around the country. However, our clear sense is that this number only represents the tip of the iceberg.

6. Location of Units (broken down by local authority area)

Fingal	1898
Dublin City	6552
Dun Laoghaire-Rathdown	5684
Kerry	259
South Dublin	2412
Kildare	120
Galway City	714
Cork County	233
Meath	472
Clare	527
Westmeath	32
Wicklow	96
Waterford	1300
Louth	200
Limerick	200
Donegal	17
Cavan	34

7. Advice Offered to Members

Refer back to our answer to Question 3.

As we are not technical experts, but an advocacy group focused on the defects issue, we tend to refer members seeking technical advice to relevant experts and the Apartment Owners’ Network.

8, 9, 10, 11, 12. Detailed Defects Questions

Construction Defects Alliance doesn’t have the expertise – nor do our members – to answer these questions.

13, 14. Remediation Works Underway or Completed

Of the 106 developments we're aware of, four have completed remediation works and five have works underway.

However, these figures are tentative as many of our members did not respond to this question when we sent out a recent survey.

15. Range of Works

Again, the Alliance does not have the technical expertise to comment on this question.

16. Range of Costs

The remediation levies being paid by or charged to our members range from a low of €5,000 to a high of €72,000.

The average is €17,635 which would mean for the 20,750 units the Alliance is aware of, the overall estimated cost is €365,926,250.

17. Who is paying?

Overwhelmingly, apartment owners are the ones who are paying for remediation costs – that includes, owner-occupiers, social landlords (local authorities and approved housing bodies) and commercial landlords.

The only difference is that the latter category can claim their remediation costs back against their tax, whereas the first two categories cannot so they are 100% on the hook for remediating defects for which they are in no way responsible.

We do know that NAMA has paid out €165 million for the remediation of properties and Dublin City Council has also paid for the remediation of Priory Hall and Longboat Quay.

Finally, we are aware that in Dublin 15 a developer paid for the remediation of a defective development, but this is very much the exception that proves the rule that owners pay for remediation costs.

18. Insurance Issues

We haven't surveyed our members on this issue, but we would be happy to do so and pass the information on to the Working Group.

The Alliance isn't yet directly aware of any developments having been refused insurance, but we know that many are left with only one insurer once defects come to light – namely their current insurer who can then name their price.

You might refer back to our answer to Question 4 for our other thoughts on insurance.

19. Most Serious Defects

Unquestionably, the lack of fire stopping is considered to be the most serious by our members.

While water ingress issues are more obvious, they don't pose the threat to health and safety that the lack of fire stopping does.

20. Challenges Experienced by Members

Please refer back to our answer to Question 4.

21. Legal Proceedings

Most developments experiencing defects have sought legal advice on taking legal action against developers/builders and construction professionals.

However, for a range of reasons – including the Statute of Limitations and liquidation of responsible companies – they have been advised that legal action would be extremely costly and unlikely to bear fruit in terms of getting money to pay for or defray the costs of remediation works.

One case in point is Beacon South Quarter. There, Mason Hayes and Curran were retained and found that the only possible case in relation to the fire defects might be under contract law but the chances of success were 25% or less, would cost at least €750,000 to take and even if the case was won, the chances of getting any money for remediation works was practically non-existent.

On the other hand, in relation to Beacon South Quarter, Premier Guarantee have accepted liability for water ingress and negotiations have been underway – for a number of years now – over the final settlement figure.

22. What would we do differently?

Probably be a bit less polite in making the case for the State to intervene and sort the problem of apartment defects out.

23. Any Additional Information

Nothing to add here.

Ends.