



An Roinn Tithíochta,
Rialtais Áitiúil agus Oidhreachta
Department of Housing,
Local Government and Heritage

‘Defects in Apartments’

Report of the Working Group to Examine Defects in Housing

Presentation to the Inter-Departmental and Agency Working Group

18th October 2022

Defects in Apartments

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to Examine Defects in Housing

July 2022



Overview

This presentation will aim to provide a high level overview of the Report titled 'Defects in Apartments' prepared by the Working Group to Examine Defects in Housing.

It will include the following topics:

- Working Group establishment
- Overview of Approach
- Consultation Process
- Nature of Defects
- Estimated Scale of Defects
- Estimated Cost of Remediating Defects
- Owners Management Companies
- Working Group Recommendations
- Options for Financial Assistance
- Delivery of Financial Assistance



Working Group establishment

The Working Group to Examine Defects in Housing was established by the Minister for Housing, Local Government and Heritage in February 2021.

It was tasked with delivering on the commitment in the Programme for Government to examine defects in housing, having regard to the recommendations of the Joint Oireachtas Committee on Housing report Safe as Houses?



Working Group Membership / Structure

The chairperson of the Working Group was Mr Séamus Neely, former Chief Executive of Donegal County Council.

It's membership comprised of people with relevant expertise and experience from the following bodies :

- Construction Defects Alliance (Ms Ciara Holland)
- Apartment Owners' Network (Mr Des McCabe)
- Society of Chartered Surveyors Ireland (Mr Kevin Hollingsworth)
- the Local Authority sector (Mr Peter Finnegan and Mr Séamus Coughlan)
- the legal Sector (Mr Christopher O'Toole)
- Department of Finance (Ms Aileen Gleeson)
- Royal Institute of the Architects of Ireland (Mr Joe Kennedy)
- Engineers Ireland (Mr Michael P. Lyons)
- the public Sector (Mr John O'Connor)



Terms of Reference

The Working Group's terms of reference were focused on fire safety-, structural safety- and water ingress defects in purpose-built apartment buildings, including duplexes, constructed between 1991 and 2013.

In summary, the terms of reference required the Working Group to:

- estimate the scale of such buildings affected by these defects;
- establish the nature of such significant widespread defects;
- consider a means for categorising the seriousness of the defects and prioritising remedial action;
- suggest mechanisms for resolving defects;
- evaluate the cost of remediation; and
- pursue options regarding possible financial solutions to effect a resolution, in line with the Programme for Government commitment to identify options for those impacted by defects to access low-cost, long-term finance.



Overview of Approach

In order to efficiently deliver on its terms of reference, the Working Group divided into a number of separate sub-groups, each dealing with a specific theme.

During the course of its deliberations, the Working Group met as a plenary on 17 occasions.

The sub-groups met on approximately 50 occasions.



Consultation Process

To inform its report, the Working Group engaged in extensive consultation with organisations representing :

- homeowners,
- construction professionals,
- property professionals,
- the banking sector,
- the Local Authority sector,
- the construction industry,
- insurance providers and
- other relevant parties

By online survey it also engaged directly with :

- Homeowners
- Landlords
- owners' management companies (OMCs)
- property management agents



Forms of Consultation

The consultation process included:

- Written consultation with almost 30 stakeholder organisations,
- Follow-up online meetings took place with 22 of these organisations.
- Written submissions, both solicited and unsolicited, were received from seven stakeholder groups or representative bodies.
- A focused workshop took place with two representative organisations.
- Online meetings were held with counterparts in other jurisdictions who are presently involved in the remediation of defects.
- A comprehensive Irish- and English-language online consultation open to all homeowners, landlords, owners' management companies (OMCs) and property management agents was undertaken.



Breakdown of online survey responses

The online consultation received just under 1,800 unique responses.

- The responses represented over 28,200 apartments / duplexes built between 1991 and 2013 across all 31 Local Authority areas.

Responses by:	No. of responses	No. of homes
Homeowners	1116	1116
Landlords	536	5440
Owners' Management Companies	70	8463
Property Managing Agents	73	13201
Grand Total	1795	28220



Nature of Defects

In line with the Terms of Reference the defects examined by the Working Group relate to fire safety, structural safety, and water ingress.

- The Working Group defined the defects in question as being attributable to defective design, defective or faulty workmanship, defective materials, or any combination of these at the time of construction, and being in contravention of the relevant part of the Building Regulations in place at the time of construction.
- Defects arising from inadequate maintenance or poor management of apartment/duplexes were outside the scope of the terms of reference.
- It became apparent that the various stakeholders were often identifying similar and recurring types of defects.
- Within the report the Working Group compiled a non-exhaustive list of examples of significant defects in each defect category.



Cause of Defects

Having considered the information received, the Working Group concluded that there was no single cause of the defects.

- They observed that *‘They tend to arise due to a variety of design, product, supervision, inspection and workmanship issues, occurring either in isolation or in various combinations.’*



Manifestation of Defects

The defects identified to the Working Group manifested both as non-compliances with Building Regulations and as actual damage.

- They noted that fire safety defects rarely resulted in actual damage.
- They were more likely to arise due to:
 - the omission of measures such as fire-stopping,
 - poor detailing, or
 - the misuse or poor installation of products.
- Whereas with structural safety- and water ingress defects, it was noted that these often presented as visible damage.



Severity of Defects

In relation to the severity of defects, or the impact they have on the serviceability of the apartment/duplex, stakeholders indicated to the Working Group that fire safety defects rarely impact on the serviceability of a dwelling.

However, it was acknowledged that fire safety defects can give rise to greater risk in the event of a fire, and in some cases may present a risk to life safety.

It was also noted that the common fire safety defects identified by stakeholders were capable of being remediated.

In contrast, structural safety- and water ingress defects often manifest as physical damage and may impact on the day-to-day use of the building.

Although they could present a serious risk, stakeholders concluded that this did not generally appear to be the case.

Structural safety - and water ingress defects tend to be repaired / remediated by OMC's as and when they arise.



Estimated Scale of Defects

- The Working Group used Central Statistics Office (CSO) Census data to estimate that there are approximately 125,000 purpose-built apartments and duplexes built throughout the 31 Local Authority areas between 1991 and 2013.
- Through consultation, it collated data representing approximately 20% to 25% of these apartments/duplexes, and has extrapolated this data to estimate the potential scale of defects.
- It estimated that between 50% and 80% of apartments and duplexes (or associated common areas) may be affected by one or more of either fire safety-, structural safety- or water ingress defects.
- This equates to between 62,500 and 100,000 apartments/duplexes.
- It found that fire safety-, structural safety- and water ingress defects are a widespread issue affecting apartments or duplexes in each Local Authority area.



Breakdown of Defects

The Working Group estimates that:

- fire safety defects are the most prevalent form of defect, with a likely range of 40% to 70% of apartments/duplexes affected by this defect.
- Water ingress defects come next, with a likely range of 20% to 50% of apartments/duplexes affected by this defect.
- Structural safety defects are the least common defect, with a likely range of 5% to 25% of apartments and duplexes affected.



Combinations of Defects

The report indicates that 49% (13,978) of all apartments / duplexes represented in the online survey may be affected by more than one type of defect.

- The combination of fire safety and water ingress defects at 21% (6,043) of apartments / duplexes represented in the online survey was the most prevalent combination.

Reported defect	Number of apartments/ duplexes	Percentage of apartments/ duplexes
No defects reported	5,239	19%
Fire safety defects	5,959	21%
Fire safety- and structural safety defects	2,154	8%
Fire safety-, structural safety- and water ingress defects	4,833	17%
Fire safety- and water ingress defects	6,043	21%
Structural safety defects	218	1%
Structural safety- and water ingress defects	948	3%
Water ingress defects	2,821	10%
Total	28,215	100%



Remediation Works Already Undertaken

The Working Group estimates that:

- remedial works may be completed in up to 12% (12,000) of apartments/duplexes, (or associated common areas) and
- remedial works may be ongoing in up to 34% (34,000) of apartments/duplexes (or associated common areas).



Estimated Cost of Remediating Defects in Each Home

The Working Group faced a challenging exercise in estimating the average costs of remediation of fire safety-, structural safety- and water ingress defects.

- The approach taken involved the consideration of information gathered from the various forms of consultation, with each source having its own limitations, and making certain assumptions in order to arrive at what the Working Group agreed to be a reasonable estimate of the average cost.
- The costs that stakeholders presented to the Working Group for remedying the various combinations of defects covered a very wide range, from less than €2,500 to in excess of €80,000 per apartment/duplex, with little apparent correlation between them.
- The Working Group estimated that the average cost of remediation of fire safety-, structural safety- and water ingress defects in purpose-built apartments/duplexes is likely to be in the region of €25,000 per apartment/duplex.
- This is estimated to represent all-in costs, including professional fees and Value Added Tax (VAT).



Estimated Total Cost of Remediation

- The Working Group noted that the actual cost of remediation will vary greatly between different developments and types of apartment/duplexes due to the various types or combinations of defects that may be encountered.
- Based on the estimated remediation costs and the potential scale of affected apartments/duplexes, the overall total remediation cost is likely to be within the range of €1.56 to €2.5 billion.
- Given that the overall potential scale and estimated cost of fixing the problem of defects in apartment/duplexes is so considerable, it was recognised that it will take many years to address all buildings affected, and that resources and works will need to be prioritised.



Breakdown of Total No. of Apartments / Duplexes by Tenure Type

The Working Group considered the tenure mix of Purpose-Built Flats Built Between 1991 and 2016.

- Based on the Census data, 25% of them are owner-occupied,
- Approximately 72% are rented from a range of different landlord types.

Tenure type	Number of apartments / duplexes	Percentage of all apartments / duplexes
Rented (private/corporate landlord)	65,337	56%
Owner-occupied	29,521	25%
Rented from Local Authority	13,016	11%
Rented from Voluntary bodies	5,489	4.7%
Ownership not stated	2,808	2.3%
Free of rent	1,175	1%



Estimated Total Cost of Remediation by Tenure Type

The Working Group considered the total estimated cost of remediation of defects in purpose-built flats built between 1991 and 2016 for each tenure type.

The remediation costs relating to owner-occupied apartments / duplexes are estimated to range between 390 million euro and 625 million euro.

The remediation costs relating to rented apartments / duplexes are estimated to range between 1.12 billion euro and 1.79 billion euro.

Tenure type	Percentage of apartments /duplexes	Estimated Range	
		Lower limit	Upper limit
Rented (private/corporate landlord)	56%	€ 875,000,000	€ 1,400,000,000
Owner-occupied	25%	€ 390,625,000	€ 625,000,000
Rented from Local Authority	11%	€ 171,875,000	€ 275,000,000
Rented from voluntary bodies	4.7%	€ 73,437,500	€ 117,500,000
Ownership not stated	2.3%	€ 35,937,500	€ 60,000,000
Free of rent	1%	€ 15,625,000	€ 25,000,000
All Tenure types	100%	€ 1.56 billion	€ 2.5 billion



Breakdown of the Number of Apartments / Duplexes by Landlord type / size.

The Working Group also considered the number of tenancies by landlord type.

It considered the Rental Sector in Ireland 2021 report along with the findings set out in Institutional Investment in the Housing Market report published in February 2019

When those reports were published:

- more than 86% of all landlords had no more than two tenancies.
- less than 1% of landlords had more than 20 tenancies.

Landlord size (No. of tenancies)	Percentage of tenancies
landlords with one tenancy	70.6%
landlords with not more than two tenancies	86.4%
landlords with more than two and fewer than 20 tenancies	13.2%
landlords with 20 or more tenancies	0.5%



Owners' Management Companies

The “owners’ management company” (OMC) is usually a company made up of, and controlled by, all the owners of the homes and commercial units within the development.

- The OMC owns the common areas of the development and is responsible for the management, maintenance and repair of those areas.
- Due to the responsibilities and obligations of OMCs under various pieces of legislation (in particular the Multi-Unit Developments Act 2011 and the Fire Services Acts 1981 and 2003) relating to ownership, control of common areas and fire safety, the Working Group concluded that OMCs should have a central role in the implementation of remedial works to apartments/duplexes and that supports for OMCs are required to address these defects.
- The Working Group considered it important that any funding is ultimately channelled or routed through the OMC.



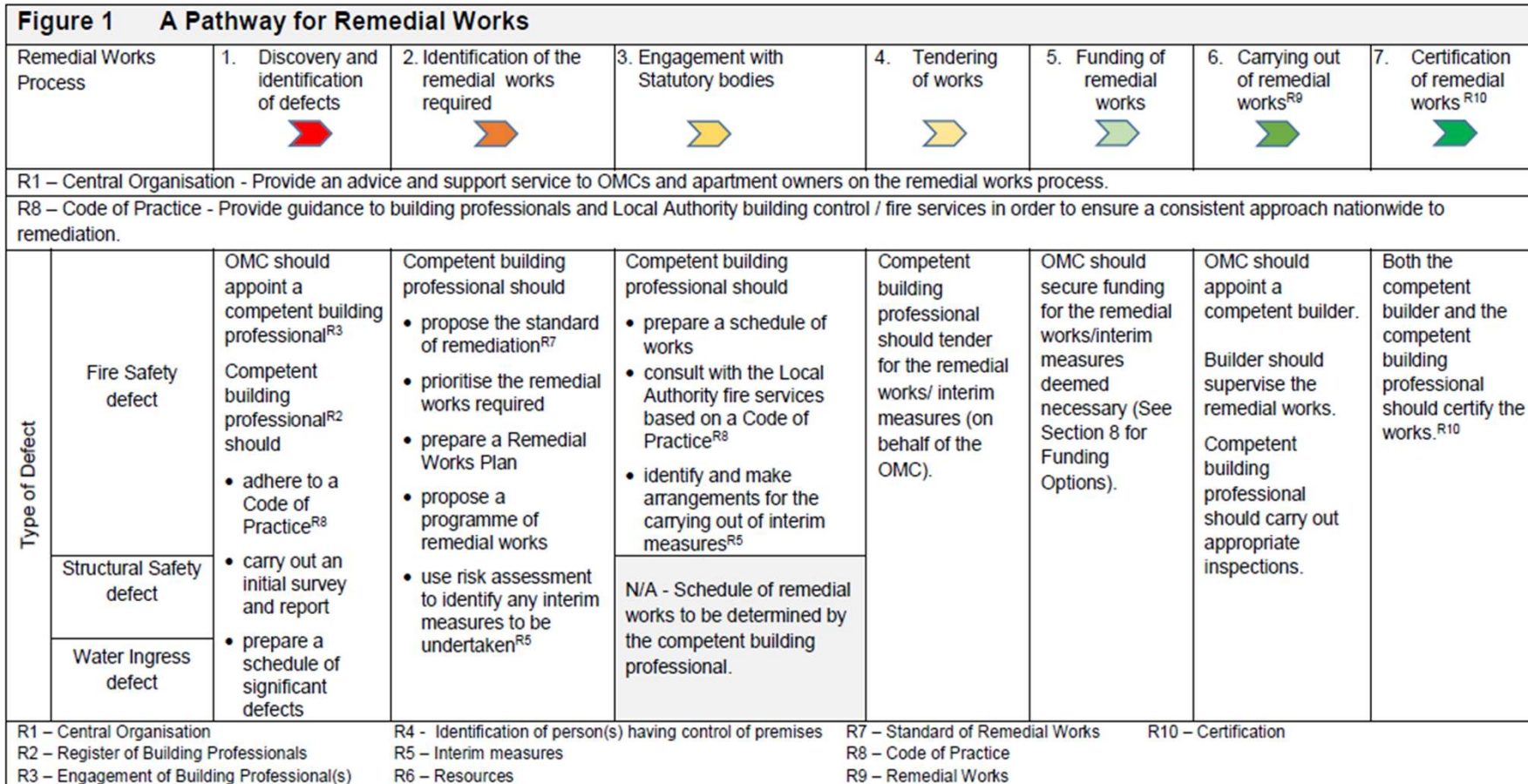
Working Group Recommendations

The Working Group made the following 10 recommendations in relation to the process of remedial works:

- R1 – Central Organisation
- R2 – Register of Building Professionals
- R3 – Engagement of Building Professional(s)
- R4 - Identification of Person(s) Having Control of Premises
- R5 – Interim Measures
- R6 – Resources
- R7 – Standard of Remedial Works
- R8 – Code of Practice
- R9 - Remedial Works
- R10 - Certification



Pathway for Remedial Works





Options for Financial Assistance

The Working Group identified four options for potential sources of financial supports that might be provided to affected parties.

They are:

- Funding Option 1 – Low-Cost Loans
- Funding Option 2 – Industry Levy
- Funding Option 3 – State-Funded Grants
- Funding Option 4 – Taxation Measures



Delivery of Financial Assistance

In addition to the options for financial assistance, the Working Group identified four potential deployment channels for the funding options.

They are:

- Deployment Option 1 - Low-Cost Loan to OMC
- Deployment Option 2 – State-Funded Grant to OMC
- Deployment Option 3 - Direct State Intervention
- Deployment Option 4 - Retrospection



Retrospection

Within the context of their report, the Working Group have stated that retrospection means the provision of financial support

- (a) where a remediation project has been initiated but not completed or
- (b) where a remediation project has been completed.

The Working Group has stated that based on information gathered during the consultation process many properties within its terms of reference have already been either partially or fully remediated.

It considered the potential of a moral hazard arising, should necessary safety works be delayed or deferred to ensure the ability to avail of any potential remediation support scheme that might come into effect.

The report indicates that such a scenario might give rise to unnecessary risk to health and safety arising from the deferral of important works or where necessary works have only been partially completed within a development.

The Working Group considered that the inclusion of a relief for retrospective expenditure on remedying defects could mitigate the risk of such a moral hazard materialising.



Next steps

The report of the Working Group to Examine Defects in Housing was presented to the Minister on Thursday 28th July 2022.

On 27 September, the Minister brought a Memorandum to Government to inform Government of the content of the report and of the next steps.

Next steps:

- The Minister will in consultation with Government colleagues, develop options with a view to providing support to homeowners who find themselves in a difficult financial situation through no fault of their own.
- An inter-departmental/agency group will be established to bring forward specific proposals to Government by the end of the year.
- An advisory group to develop a Code of Practice will be established to provide guidance to building professionals and local authority building control / fire services, including guidance on interim safety measures, in line with Recommendation 8 of the Working Group's report and in the context of the Fire Services Acts.
- A liaison forum with homeowner representatives will be established
- A meeting with the insurance sector will be arranged.



Thank You !