



PROPOSAL FOR A GOVERNMENT EXAMINATION OF THE CONSTRUCTION DEFECTS ISSUE

**Prepared by Apartment Owners' Network and Construction Defects Alliance
July 2020**

PFG Commitment

The Programme for Government contains the following welcome overarching commitment in relation to construction defects:

Examine the issue of defective housing in the first 12 months having regard to the recommendations of the Safe As Houses? report.

This proposal – prepared jointly by the Apartment Owners' Network and the Construction Defects Alliance – sets out a modus operandi for putting this commitment into effect in the period ahead as well as the other commitments on defects in the Programme.

In the coming weeks, we will also be making Pre-Budget Submissions setting out some short-term measures that are needed to provide immediate relief to apartment owners who are paying out massive sums of money to rectify defects which have arisen due to shoddy workmanship and ineffective or non-existent building control. We look forward to engaging further with Government on these particular proposals in the near future.

Public Context is Vital

This proposal is largely based on the model successfully used by the Pyrite Panel – which came under the aegis of one of the Department of Housing, Local Government and Heritage's predecessors – in its examination of the pyrite issue between September 2011 and June 2012.

However, there are some important differences.

First, we believe that it is essential that the examination proposed in the Programme for Government be done in as public a manner as possible so that those affected by defects know that their worries and concerns are being heard and, hopefully, addressed. In addition, it's vital for the health and safety of the tens of thousands of those living in apartments beset by fire and other structural defects, that people who know of defects come forward so that the defects concerned can be identified and dealt with. We believe that the type of open process proposed in this paper will encourage apartment owners to do so.

Second, it's vital that the Panel or Working Group set up to undertake the examination proposed in the Programme for Government includes a range of expertise and experience – including people living with defects – so that their recommendations address the needs and requirements of all key stakeholders affected by defects. A narrowly constructed 'professionals-only' group will not be able to achieve this objective.

Proposed Process and Timetable

Taking on board the need to conduct the process in as public a manner as possible, we have set out below a possible process and timetable for the proposed examination.

July - September 2020	Prepare Terms of Reference Select Working Group/Panel to conduct examination
September 2020	Announce Working Group/Panel Make public call for submissions
End of November 2020	Closing date for submissions Publish submissions where possible
February - March 2021	Hold public hearings (and private hearings too if required)
April - May 2021	Prepare and publish interim report Make public call for feedback and comments on the interim report
End of June 2021	Closing date for comments/feedback on interim report
End of July 2021	Final report published

Possible Panel/Working Group

As we mentioned earlier, it's vital that the Panel or Working Group set up to conduct the examination of defective housing contains the following range of expertise and experiences:

- Construction law expert
- Former senior civil servant
- Surveyor/architect
- Two apartment livers affected by defects
- Fire safety expert
- Construction industry representative

The Apartment Owners' Network and the Construction Defects Alliance would like to be consulted on the selection/appointment of the Working Group or Panel.

Possible Terms of Reference

The following terms of reference have been developed based both on those of the Pyrite Panel and the areas covered by the *Safe as Houses?* report, which this process of examination has to have regard to.

- Assess the overall scale of the construction defects issue in the country's multi-unit developments and possible cost of remediating these defects
- Develop standards for assessing defects to determine those that require urgent remediation as compared to those that can be addressed as part of normal maintenance or refurbishment works
- Develop processes for carrying out a systematic review of the country's multi-unit developments to detect defects requiring urgent remediation
- Based on the recommendations of the *Safe As Houses?* report, advise on the most appropriate mechanisms for resolving the defects issue, in particular how best to finance necessary remediation works in ways that balance the rights and interests of owners with those of the taxpayer – both of whom are innocent parties in this situation
- Review the recommendations of *Safe As Houses?* with regard to the provision of advice and support to owners of homes affected by construction defects
- Build on *Safe As Houses?* recommendations to further improve the country's system of building control
- Review the recommendations in *Safe as Houses?* in order to enhance the legal and other protections/remedies for homeowners
- Make recommendations that might help to prevent similar defects arising in the future

Ongoing Consultation

As we mentioned above, the Apartment Owners' Network and the Construction Defects Alliance – which both represent hundreds of apartment owners affected by defects – are seeking an explicit commitment from Government that we will be consulted on an ongoing basis by the Minister and the Department on the following issues:

- Process to undertake the examination of the defects issue;
- Timetable for this process;
- Terms of reference for examination of the defects issue;
- Possible personnel for undertaking this examination.

Again, as was mentioned above, as the representatives of apartment owners we want a clear commitment that we can input into the examination process in terms of making submissions, attending hearings, reviewing draft/interim report and inputting into the final report.

Once the examination process is completed, we also want a clear commitment that there will be intensive engagement with the Apartment Owners' Network and the Construction Defects Alliance over the recommendations emerging from the proposed examination process and their implementation.

Ends.