

Orlagh Lavelle (PER)

Subject: FW: Draft email re apartment defects

From: Clare Costello (PER) <[REDACTED]>
Sent: Tuesday 29 November 2022 18:02
To: Paul Cotter (DFIN) <[REDACTED]>
Cc: Orlagh Lavelle (PER) <[REDACTED]>; Niamh Duff (PER) <[REDACTED]>
Subject: Draft email re apartment defects

Hi Paul, as mentioned please see draft email to go to Sarah re apartment defects below. Happy for it to be a joint email if that works for you, with any additional points you may wish to make taken on board. If not, no worries, I'll cc you on any email anyway. Would like to get it over to them asap in case they circulate anything before next week's meeting so if you could get back to us by lunchtime tomo that would be great. Thanks, Clare

Sarah

Thank you for the constructive engagement on the matter of apartment defects over the past two months. In anticipation of our meeting next week and any Memo to Govt that may be forthcoming, I thought it would be beneficial for some of the views of DPER to be set out.

- At the last meeting there was broad consensus that the policy objectives are (i) to ensure that citizens are living in structures that are compliant with relevant building and fire regulations and (ii) in the context of the housing crisis, to protect the integrity of existing housing stock.
- As with the defective concrete blocks scheme, no liability for the State has been established in this matter. Therefore any potential scheme and any associated terms and conditions are at the discretion of Government. There should be no suggestion that any potential scheme is a redress scheme.
- Lessons learned from the defective concrete blocks scheme must be used to inform any scheme for apartment defects.
- Any scheme must be well governed, with appropriate oversight. The governance structure and lines of accountability need to be clearly defined and outlined.
- Any scheme must have primary legislation.
- A scheme of prioritisation must be established to ensure that the highest risk buildings are remediated first. Work on this should be commenced in tandem with ongoing development of the State's response.
- Clarity will also need to be provided to ensure that any scheme will only provide supports for remedial works up to the established standards at the time of construction. Supports should not be used to cover additional work which would increase the standards and value of the building.
- However, given the existing Government retrofit targets, it would seem appropriate that the option to retrofit and avail of retrofit grants should be explored including how this could be managed in tandem with the carrying out of any remedial works.
- The State needs to ensure that such issues with construction defects cannot arise again in the future. An independent building regulator should be established.
- The existing building regulations should also be reviewed to assess if there are any gaps or issues that need to be addressed. The role of independent and consistent enforcement of the building regulation should
- The working group of defective concrete blocks recommended that the existing regulations for self-builds are strengthened. This work should be commenced as part of the above review.
- Appropriate sanctions for industry must be considered for any future non compliance. The regulator should be provided with the power to issue and enforce sanctions.
- Given the complexities involved, it appears that the provision of State support via the OMCs is the most efficient manner in which to deploy support.

- In relation to the potential provision of State supports, further work will need to be done to scope out possible options before any commitment can be made in a Memo.
- If there is to be recourse to the Exchequer, in order to ensure that limited Exchequer resources are optimally utilised, consideration will need to be given as to how resources are most efficiently deployed.
- The use of low cost loans to OMCs needs to be considered further. Further engagement should be had with the Housing Finance Agency in relation to this. If a low cost loan is given and subsequently the individual members of the OMC require support, this can be targeted to the needs of the member. This would allow for possible clawback from commercial owners and ensure an equitable approach to DCB schemes where commercial owners were not eligible for state supports.
- The impact of any scheme on the existing defective concrete blocks scheme must be considered. The risk of expansion of other schemes will need to be addressed in any Memo.
- There is no funding in the NDP for any works relating to apartment defects. Should any Exchequer funding be required, it will need to be met within your Department's existing NDP allocation through reprioritisation for the duration of the NDP.
- On the matter of providing State support to those OMCs/individuals that have already remediated, no State supports should be directed in this area. Where buildings are now compliant, there is no public policy rationale to provide any State support. As noted above, no liability for the State has been established, therefore, no State support should be provided.
- In order to ensure that works that need to be commenced are not paused, any communications should be clear that works entered into/commenced from [01 January 2023] will be covered by any scheme that may come into existence.
- Thought will need to be given around the communication and level of expectations. There remains constraints outside the control of the State and this is apparent with the DCB scheme around – capacity, testing, alternative accommodation etc. Any potential constraints for this scheme should be considered and should feed into estimates of demand, costs etc.

Clare Costello

Principal Officer, Housing Vote

An Roinn Caiteachais Phoiblí agus Athchóirithe

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