

PUBLIC CONSULTATION ON REVIEW OF REBUILDING IRELAND ACTION PLAN FOR HOUSING AND HOMELESSNESS

A Submission by the Citizens Information Board (August 2017)

Introduction

The Citizens Information Board (CIB) is the national agency responsible for supporting the provision of information, advice and advocacy on social services and for the provision and funding of the Money Advice and Budgeting Service (MABS).

The CIB is responsible for delivering, through MABS, the Abhaile scheme which provides a Dedicated Mortgage Arrears Service and a voucher based scheme which provides access for people, who are insolvent and in home mortgage arrears, to access independent expert financial and/or legal advice and assistance, free of charge. MABS has a long track record in assisting people experiencing indebtedness¹ and mortgage repayment issues.

Citizens Information Services (CISs) and the Citizens Information Phone Service (CIPS) supported by the CIB deal with queries relating to housing difficulties, including those having difficulty with tenancies in the private rental sector and those at risk of homelessness. These services dealt with over 100,000 housing related queries² in 2016.

Previous submissions by the CIB and MABS have dealt with various shortfalls in housing policy as highlighted by CISs and MABS based on client experience. Particularly relevant submissions in the context of the Review of the Rebuilding Ireland Action Plan are:

- The Irish Mortgage Market: Response to Public Consultation sought by the Competition and Consumer Protection Commission (MABS March 2017)
http://www.citizensinformationboard.ie/downloads/social_policy/submissions2017/IrishMortgageMarket_MABS_Submission_to_CCPC.pdf
- Review of the Mortgage to Rent (MTR) Scheme (November 2016)
http://www.citizensinformationboard.ie/downloads/social_policy/submissions2016/mortgage_to_rent_CIB_MABS_Nov_2016.pdf;
- Residential Rental Sector Strategy (November 2016)
http://www.citizensinformationboard.ie/downloads/social_policy/submissions2016/Residential_Rental_Sector_Strategy_Subm.pdf

¹ MABS dealt with over 40,000 indebted clients in 2016 through its face to face money advice service and the MABS National Helpline.

² 45% of housing queries were in relation to local authority and social housing with 21% related to issues with private rented accommodation.

- Preparation of a Social Housing Strategy (June 2014)
http://www.citizensinformationboard.ie/downloads/social_policy/submissions2014/Social_Housing_Strategy_CIB_Submission.pdf

Review Consultation Questions

The experience of CIB supported services (CISs and MABS) refers mainly to matters relating to access to social and affordable housing and people in mortgage arrears as distinct from the broader areas of house building, planning and development. Therefore, this submission deals primarily with these areas and makes comment on the other broader structural aspects of housing provision insofar as they impact on social housing and dealing with mortgage arrears and related housing need.

Q.1

Do the objectives set out in the Rebuilding Ireland Action Plan remain relevant and valid?

Rebuilding Ireland is vitally important in addressing the housing crisis. Its focus on increasing and accelerating housing delivery across all tenures is important. The five key Pillar Areas and related objectives remain valid – addressing homelessness; accelerating social housing; building more homes; improving the rental sector; and utilising existing housing.

However, the Action Plan to date is clearly not delivering quickly enough for some people, particularly those at the lower ends of the socio-economic ladder and those at risk of homelessness. This is a matter of significant concern along with the growing demand for more affordable housing generally and clearly there is need for more focused strategic responses in a number of areas. Specifically, more short and medium-term solutions are necessary to keep people in their own homes and more assistance is required for people relying on the private rented sector for social and affordable housing.

Q. 2

What further action should now be considered in order to prevent homelessness, to find more permanent solutions for those in emergency accommodation and to help individuals and families to remain living in their own homes?

A strategy for dealing with homelessness should have the following inter-related components:

- 1) Preventing families from becoming homeless in the first place
- 2) Maximising option for distressed mortgage holders to remain in their homes, e.g., through more extensive use of the Mortgage to Rent Scheme
- 3) Getting families who become homeless into secure and suitable accommodation as quickly as possible
- 4) Evaluating the current reliance on the private rented sector as the primary long-term social housing option
- 5) Ensuring that the rights of private sector tenants' are fully protected when their property is taken over by a receiver so that landlord obligations to tenants are honoured.

Family hubs

Family hubs (group accommodation units specifically for families looking for permanent accommodation) are part of the Rebuilding Ireland’s solution to the numbers of families forced to live in hotels due to homelessness. However, concerns have been expressed about these family hubs as a solution in that they are not conducive to long-term family living. It is noted, for example, that the Irish Human Rights and Equality Commission (IHREC), in a recent policy statement has called for a change in law to ensure homeless families do not spend long periods in group home ‘family hubs’.³

Q.3

What further action should be taken to increase both the scale and speed of delivery of Social Housing? Are there new delivery models or mechanisms to accelerate output?

There is a need to escalate the direct Local Authority social housing building programme in a strong, focused and proactive manner and as a matter of urgency. Since progress to date has not kept pace with either actual housing needs or targets, there is a need for a wider dialogue on the matter at societal, political and government level. This dialogue needs to be framed within a human rights framework within which people’s right to adequate housing is a core component of citizenship.

The resource implications of direct social housing provision by local authorities are of course significant but may not be as great in the longer-term as those involved in the current approach with an over-reliance on the private sector. The latter should be an option of secondary resort for social housing rather than of first resort as is the case at present. Political and social consensus on this central policy issue should be forthcoming if it is proactively promoted by Government.

Q.4

What additional initiatives or policy tools can best activate housing lands and deliver new housing supply to buy or rent at more affordable levels?

The Citizens Information Board is not in a position to make informed comment on this very broad area other than to remark that the concept of partnerships should be explored wherever such potential exists. Clearly there is a need to provide for a level of supply and related rents that are realistic and affordable by all household types in all locations⁴ whether or not tenants are availing of housing support from the State. Increasing housing supply will obviously involve an inter-departmental approach involving non-housing bodies – for example, those responsible for developing the social, amenities and transport infrastructure.

Q.5

How can we encourage increased supply of rental accommodation and foster a sustainable sector that meets the needs of all tenants across the different rental market segments?

- The provisions of the Strategy for the Rental Sector (published in December 2016) have much merit, particularly provisions to ensure that the sale of ten or more units in a single development is conditional on tenants remaining in situ – there is, of course, a

³ <https://www.ihrec.ie/app/uploads/2017/07/The-provision-of-emergency-accommodation-to-families-experiencing-homelessness.pdf>

⁴ See National Statement of Housing Supply and Demand 2014 and Outlook for 2015-2017, Housing Agency, <https://static.rasset.ie/documents/news/housing-agency-housing-supply-demand-report-v4.pdf>

need to make similar provisions where landlords have a fewer number of tenancies;

- The Revised Housing (Standards for Rented Houses) Regulations 2017 to enhance the quality of rental accommodation are important and need to be implemented systematically and uniformly in all parts of the country;
- Provisions to incentivise landlords are relevant and have merit but should not distract from the core obligation of the State to provide social housing that is affordable and easily accessible to all who require it;
- There should be provision for further forms of rent regulation and rent certainty to combat the obvious difficulties arising from a free market approach – Ireland needs to build on the experience of other jurisdictions where there is greater regulation of the private rented sector and where there are rent controls;
- The public/private partnership concept in the provision of rental accommodation and the potential for some joint financing of housing in the private rental sector should both be explored further;
- Some clearer linkages between market rents and the actual costs of providing accommodation need to be explored taking into account the obvious need in the current climate to maintain a vibrant private rented sector;

Q.6

What further actions should be taken to identify, target and encourage the greater use of existing vacant properties for both social and private housing purposes?

While the CIB is not in a position to identify specific actions, we do believe that more concerted and urgent action is required to bring vacant properties in all parts of the country into use for residential accommodation purposes. Imaginative incentives are required to this end building on, for example, the experience in the UK.⁵

Overarching issues identified by the CIB

Reliance on the private rental sector for social housing provision

The private rented sector has now clearly assumed equal importance with other housing tenures, especially owner-occupation. Its increasing role in social housing provision will almost certainly continue to grow until the increased supply of housing to be provided under *Rebuilding Ireland* fully comes on stream and, already, the meeting of the targets identified in this regard is clearly proving challenging.

Problems with the private rental sector as a core component of social housing provision arise for the following reasons:

- The general shortage of private rental accommodation in both urban and rural areas and related spiralling market-driven rents have a strong negative impact on people

⁵ See, for example: <http://www.emptyhomesdoctor.org.uk/> The Empty Homes Doctor is a not for profit business that works with Leeds City Council to help people to bring empty homes back into use. Support from the Council means that the service is free of charge

reliant on social housing;

- Low and average income households are finding it increasingly difficult to access and maintain housing tenure in the rented sector which for many is the only option available;
- Poor quality housing in the rented sector and difficulty in implementing standards set out in legislation continue to present difficulties for many tenants who have to rent at the lower end of the scale, including HAP and RS tenants;
- Despite the changes introduced in the Residential Tenancies (Amendment) Act 2015, some CISs report clients trying to find new accommodation rather than trying to enforce their rights under the amended Act;
- For households with *both* below and on average incomes, there is clearly an affordability issue, most notably in Dublin, as competition from medium and high income households is squeezing them out of the market – this issue applies to both people reliant on state support and others on low income but not entitled to state support.

The private rented sector needs substantial reform if it is to be a long-term social and affordable housing option in terms of security of tenure, rent certainty and absolute guarantees of appropriate standards of accommodation. There is somewhat of a contradiction between the reliance on the private rented sector to meet social housing needs and the rent limits that are set by Government for that sector which by its very nature operates on a profit basis related to market rents.

A critical question is how to cater for households whose income is just above levels for state supplementation of rental costs but who are finding it increasingly difficult to access and maintain housing tenure in the private rented sector which for many is the only option available.

The challenge is to deal realistically with the twin issues of rapidly rising rents and insufficient supply of housing to rent which is compliant with minimum standards in all areas of the country. (for e.g. continued use of targeted tax incentive to landlords who participate in social and affordable housing schemes with the condition that accommodation meets minimum standards).

Specific issues relating to the Housing Assistance Payment (HAP)

Rebuilding Ireland places a heavy reliance on the HAP as the key social housing provision component over the next five years. The fact that HAP is now available in all 31 local authorities and that funding of €153m is in place for 2017 is clearly an important development. The introduction of discretion in relation to the operation of rent limits by local authorities, the establishment of a homeless-specific pilot project, ongoing review of tax compliance procedures, and tenant arrears management procedures are all welcome initiatives. Provision for inter-local authority movement for HAP tenants is important in that, for example, it enables people to move from one area to another for employment or family reasons without losing any entitlements they may have in respect of the transfer list in their current local authority area.

While HAP has many good innovations, essentially it relies on provision of accommodation by private landlords for rent supplement-level payments which vary by area and family composition. Difficulties accessing property within rent levels is a problem that affects HAP tenants in the same way as it affects Rent Supplement tenants. The HAP scheme is reliant on

supply from the private rental sector, for which there is unprecedented and growing demand in recent years. People who are eligible for social housing are in effect competing with tenants who are more likely to have more financial flexibility as well as having recent work and landlord references. The lack of security of tenure is also a critical issue.

The experience of CIS clients of attempting to access HAP in a context of a tight and competitive private rental market reflects additional pressures on families that are already vulnerable and sometimes at serious risk of homelessness.

A number of barriers, not least, the inadequate supply of private rented housing, continue to prevent HAP working in the way intended. Given the ongoing mortgage arrears crisis and the shortage of supply in the private rented sector generally, reliance on HAP is almost certain to result in ongoing shortfalls in social housing provision for those who need it. Reliance on HAP as the primary social housing vehicle is at best a short-term stop-gap measure. The obvious long-term solution is the sufficient new build of social houses and other forms of affordable rental accommodation.

There is some evidence from CISs that, notwithstanding the 20% discretion on the limit, HAP thresholds are still too low in some areas. Another major difficulty with HAP reported by CISs and MABS is the scarcity of property to rent in different parts of the country at the HAP rates and tenants being obliged to make top-up payments. The latter frequently puts severe financial pressure on low-income households and inevitably caused hardship.

Mortgage to Rent Scheme

In previous submissions in response to the mortgage arrears crises, CIB and MABS have emphasised the role and potential of the Mortgage to Rent Scheme and identified ways in which the operation of the scheme could be enhanced (see http://www.citizensinformationboard.ie/downloads/social_policy/submissions2016/mortgage_to_rent_CIB_MABS_Nov_2016.pdf)

The provisions included in the 2016 Review of the Mortgage to Rent Scheme are welcome, in particular,

- Flexibility about the size of properties that can qualify
- Increased price thresholds for properties
- Borrowers applying to the Local Authority for social housing support before submitting their application for the mortgage-to-rent scheme

The review also proposed an alternative funding model for the scheme and the proposed initiation of a number of pilot projects during 2017 with lenders, local authorities and investors who are interested in engaging in a long-term lease arrangement. This is a very welcome development and the greater involvement of private finance should result in a speedier process of transfer from mortgage to rent.

However, the process of qualifying for mortgage to rent remains largely the same in that those in mortgage difficulty still have to engage with their lender under the Central Bank's Code of Conduct on Mortgage Arrears, which sets out the framework that lenders must use when dealing with borrowers in difficulty.

Summary of areas of concern for the Citizens Information Board

The core areas of concern for the CIB in relation to the implementation of the *Rebuilding Ireland Action Plan* to date are:

- Inadequate social housing provision generally
- The need to enable more people in mortgage arrears to retain and/or remain living in their homes
- Unaffordable rents in the private sector
- Numbers of homeless people remaining unacceptably high
- Over-reliance on the Housing Assistance Payment to meet social housing needs
- Ongoing insecurity of tenure for tenants in the private rental sector
- The failure of the Government's 'rapid-build' option to meet its targets

The current housing crisis is underpinned by two central issues – difficulty people have in finding suitable accommodation and difficulty in keeping their current home. Difficulties arise for people either because they are struggling to make mortgage payments or, they are looking for a home in the rental market and either cannot find one, or cannot afford one, due to scarcity of supply and the high cost of rental accommodation.

Social housing, while highly desirable as a sustainable solution to the accommodation needs of low-income individuals and families, is not currently a viable option for a large section of people due to scarcity of supply. Users of CISs and MABS experience a range of difficulties in accessing social housing, including in the private rented sector. For example, some people who are in mortgage arrears continue to pay unsustainable mortgages because: (a) there is no alternative accommodation; and/or (b) If they lose their home they may be left with residual unsecured debt which they cannot pay.

Notwithstanding the introduction of statutory instruments amending the eligibility criteria for social housing to include households whose mortgage has been deemed unsustainable by their lender⁶, it would appear some local authorities will not carry out a social housing assessment until a possession order has been granted as they are not deemed to have a need.

Under current provisions, there is inadequate monetary support from the State for people who cannot pay their mortgages. Both Mortgage Interest Relief (MIS) and Mortgage Interest Relief (Tax Relief at Source - TRS), now discontinued, were important in bridging the 'affordability gap' for people struggling to repay mortgages on a much reduced income. In the absence of these supports, it can be extremely difficult for MABS, for example, to put in place an alternative arrangement for people who are in mortgage arrears. This issue is all the more relevant in that if people lose their homes they will require some form of State support, most likely HAP.

For some people regaining employment, their income can be fragile or can fluctuate. This impacts on the potential for MABS to put in place 'Alternative Repayment Arrangements' (ARA's) on their behalf, and also for people in such situations to stick to those arrangements. Thus, while they may return to a level of sustainable payment in time, they could do with greater support in the months following re-entry to employment in order to bring some stability to their finances and develop a strong repayment record with their lenders.

⁶ SI 321/2011 Social Housing Assessment (Amendment) (No.2) Regulations, 2011

MABS has expressed concern about the impact of split-mortgages as a 'treatment'/resolution of mortgage arrears difficulties both in voluntary arrangements and as an aspect of a Personal Insolvency Arrangement (PIA). While 'splitting'/warehousing buys the borrower some much needed time, in some cases it defers the inevitable for a further 10-15 years and borrowers could face a 'time-bomb' as they enter their older years.

Preferred resolution to these concerns

- Given the ongoing reliance on HAP for the foreseeable future, additional legislative measures may be required to address concerns about security of tenure in the private sector.
- In particular, consideration should be given to amending Section 34 of the Residential Tenancies Act 2004 relating to a Part 4 Tenancy which allows landlords regain possession of private rental property.
- There is a need for more provision for longer lease options.
- The experience of other jurisdictions where there is greater regulation of the private rented sector and where there are rent controls should be used to inform the development of solutions to the obvious difficulties arising from a market-led approach to social housing provision.
- The operation of HAP could be significantly enhanced if Local Authorities were responsible for sourcing HAP accommodation for families requiring private rented accommodation for the first time (e.g., following home repossession) and re-housing families who lose HAP accommodation. This would be particularly important in the context the Homeless HAP Initiative.
- Since HAP, as currently envisaged in *Rebuilding Ireland*, is the main response to meeting citizens' basic right to social housing, it is essential that its operation is monitored on an ongoing basis – feedback from CISs and MABS based on client experience of accessing HAP and other social housing is very relevant in this regard.
- Rent Supplement and HAP limits need to be further increased to bring them in line with actual market rents – people having to make 'top-up' payments, as is frequently the case at present, pushes families further into poverty.
- More regulation is required of the activities of Real Estate Investment Trusts (REITs) in the context of their current indirect role as social housing providers.
- More clarity is needed for the public on the operation of the MTR Scheme and the revamped scheme should be proactively promoted by Government to ensure increased take-up – it should be incorporated into public awareness campaigns in relation to dealing with mortgage arrears.
- Provision should be made for facilitating access to Debt Settlement Arrangements (DSAs) (via a Public PIP service) for relief of residual debt for borrowers who may need

to give-up ownership of their homes, either through voluntary sale/surrender or MTR.

- Consideration should be given to enabling credit unions to jointly finance 'Approved Housing Bodies' under the Mortgage to Rent Scheme.
- Public/private/ and voluntary housing association partnership concepts should be applied to the provision of rental accommodation – the potential for some joint financing of housing in the private rental sector should be explored further.
- Linkages should be developed between market rents and the actual costs of providing accommodation taking into account the obvious need in the current climate to maintain a vibrant private rented sector.
- There is a need for a more planned, integrated and systematic response to threats to homelessness arising from a breakdown of tenure in the rented sector --- this would be in marked contrast to the current case by case approach;
- Better legal protection of tenants is required in situations where properties are acquired by lending institutions or receivers.
- The continued provision of a small tax incentive to landlords who participate in social and affordable housing schemes (with the condition that accommodation meets minimum standards) should be considered – this would be in addition to general tax incentives.
- Stronger linkages should be developed between the RTB and Local Authorities in relation to standards, registration, inspections and sanctions.