



DPE 022/002/2021

16th February 2022

To: Accounting Officers

DPER Circular: 07/2022

Minute of the Minister for Public Expenditure and Reform in response to the Committee of Public Accounts Report on the Examination of the 2019 Appropriation Accounts for Vote 34 – Housing, Planning and Local Government and Related Financial Matters.

A Dhuine Uasail,

I am directed by the Minister for Public Expenditure and Reform to enclose, for your information and guidance, a copy of the Minute of the Minister for Public Expenditure and Reform in response to the Committee of Public Accounts Report on the Examination of Matters in relation to the 2019 Appropriation Accounts for Vote 34 – Housing, Planning and Local Government and Related Financial Matters.

Issues raised

The Minute of the Minister addresses the following issues:

- Lack of value for money from social housing supports;
- Timeline for establishing an independent Building Standards Regulator;
- Recouping compensation from HomeBond for non-Pyrite related structural defects; and
- Transparency of RTB referral process

Enquiries

Enquiries in relation to this Circular should be addressed to Government Accounting Unit, Department of Public Expenditure and Reform, telephone: +353 1 6767571 or email: govacc@per.gov.ie.

Mise le Meas,

David Moloney
Secretary General

Committee of Public Accounts Report on the Examination of the 2019 Appropriation Accounts for Vote 34 – Housing, Planning and Local Government and Related Financial Matters

The Minister for Public Expenditure and Reform has examined the Committee's Report and has taken account of its recommendations. In relation to the Committee's recommendations, the Department of Public Expenditure and Reform has engaged with the Department of Housing, Local Government and Heritage and the response to each recommendation is as follows:

Issue 1- Lack of value for money from social housing supports:

Combined spending on the Housing Assistance Payment (HAP) scheme, the Rental Accommodation Scheme (RAS) and the Social Housing Current Expenditure Programme (SHCEP) totalled €655 million, or 27.7% of the Department's outturn for 2019.

The Committee is of the opinion that the current level of spending on short-term housing supports such as HAP and RAS, and long-term leasing schemes through which the State does not acquire an asset at the end of the lease, does not represent value for money.

The Committee of Public Accounts of the 32nd Dáil, in its sixth periodic report, raised similar concerns over the extent of expenditure on housing supports such as HAP and RAS, and recommended the Department "ensure that long-term value for the State is created in housing provision". This Committee believes insufficient progress has been made in implementing this recommendation.

Recommendation 1:

The Committee recommends that the Department works to substantially reduce the expenditure year-on-year on social housing supports such as HAP, RAS and SHCEP starting from 2022, and focuses on increasing capital expenditure on housing stock that will remain an asset of the State.

The Minister for Public Expenditure and Reform is informed by the Department of Housing, Local Government and Heritage that it accepts this recommendation.

The Department of Housing, Local Government and Heritage wishes the Committee to note the countervailing pressures to reducing current expenditure in these areas as (i) current expenditure on HAP and RAS is demand led, (ii) the SHCEP budget supports current costs associated with the provision of homes by Approved Housing Bodies through the Capital Advance Leasing Facilities (CALF), and also supports the Repair and Leasing Scheme and the Mortgage to Rent programme. Allocations for each of these subheads have been set for 2022 in the Estimates process. The Department will work to progress this recommendation over the period of the Housing for All Plan, taking account of the NDP capital envelope for housing, while also taking into account the range of services to be delivered from the current expenditure element of the Vote. Housing for All is the Government's plan to increase the supply of housing to an average of 33,000 per year over the next decade. Under Housing for All, the focus is to deliver social homes through build programmes delivered by local authorities and Approved Housing

Bodies. In the period 2022-2030, Housing for All includes a target to deliver nearly 90,000 new build social homes. This focus on build will see a reduced reliance on leasing, with long-term leasing to be ended by 2025. Local authorities have been provided with social housing targets for the period 2022-2026 and significant work is underway to develop a pipeline of new housing developments to meet these targets. The most recent Construction Status Report for Quarter 3 2021 shows that 9,476 social homes were under construction on sites nationwide at the end of September 2022 and a further 9,559 social homes were at design and tender stage. Additional social housing developments are being added to the pipeline on a regular basis.

Over time, as the stock of social housing increases, we will see more households on social housing waiting lists in local authority allocated properties with a reduced reliance on the Housing Assistance Payment. However, at present we have over 60,000 households in a HAP-supported property and a further 17,000 in RAS properties. Housing for All includes a commitment that the State will continue to support households currently in HAP supported tenancies and to provide funding to support households on social housing waiting lists to secure a HAP supported tenancy, while we increase the levels of housing stock managed by local authorities and AHBs. The Department will engage with the Department of Public Expenditure and Reform through the annual Estimates process in relation to the budget requirements to meet this commitment.

The Social Housing Current Expenditure Programme (SHCEP) supports the costs of homes delivered through leasing programmes, including repair and leasing, and Mortgage to Rent. Under Housing for All, long-term leasing will be ended by 2025. However, provision will need to be made for the existing contractual arrangements in place. Housing for All also commits to increases in the numbers of households supported through the Mortgage to Rent scheme.

The SHCEP budget also supports current costs associated with the provision of homes by Approved Housing Bodies through the Capital Advance Leasing Facilities (CALF) and the associated Payment and Availability agreements. Under Housing for All, Approved Housing Bodies will have an important role in the delivery of new build social homes.

Issue 2 –Timeline for establishing an independent Building Standards Regulator:

The Committee is concerned at the lack of independent regulation of building standards in Ireland, and the consequences for both households and the Exchequer resulting from insufficient regulation of building standards.

The Programme for Government published in June 2020 includes a commitment to:

“Examine the creation of an independent Building Standards Regulator to oversee building control nationwide and to act as custodian of the Building Control Management System, including the re-establishment of the Building Regulatory Advisory Body.”

The Department confirmed to the Committee in December 2020 that “the scope of the examination is currently under consideration at Departmental level.”

As of the end of 2019, the Government had paid out €126 million for remediation works to houses affected by pyrite-related structural damage, with the bill estimated to reach €210 million by the end of 2023.

A working group established by the Minister for Housing, Local Government and Heritage published a report on 30 September, 2021, which estimates the cost of the Defective Concrete Blocks Grant scheme (commonly referred to as the “Mica redress scheme”) at €1.4 billion, potentially rising to €3.2 billion.

Recommendation 2:

The Committee recommends that the examination of the creation of an independent Building Standards Regulator, and the re-establishment of the Building Regulatory Advisory Body is completed by the end of quarter one 2022, and that a progress update is provided to the Committee at that point.

In light of the impact the Pyrite Remediation Scheme and the Defective Concrete Blocks Grant scheme will have on the Exchequer, the Committee recommends that, in order to safeguard public funds, a more robust regulation regime is put in place with regard to building standards nationwide.

The Minister for Public Expenditure and Reform is informed by the Department of Housing, Local Government and Heritage that it accepts this recommendation in principle.

However, it should be noted that any decision regarding the establishment of an independent building standards regulator will be a matter for Government and is likely to require primary legislation. The Department is committed to establishing an independent building standards regulator to strengthen the oversight role of the State with the aim of further reducing the risk of building failures and enhancing public confidence in construction-related activity.

The Department is in the process of gathering the evidence necessary to inform decisions on the proposed scope, functions, role and structure of a regulator. As a first step, a comprehensive desktop study is being

undertaken by the Housing Agency and is due to be completed in Quarter 1 2022. This work will document the current building control system and construction product enforcement system in Ireland and other countries as well as an overview of other relevant regulators and inspectorates in Ireland.

Building on the output of this study, further consideration, with external expert input and/or oversight, will be undertaken to identify the strengths and weaknesses of the operation of the building control system in Ireland and other countries and to make recommendations on how it should be enhanced to ensure that it is consistent, agile and able to meet the demands and expectations of it. This phase of the work will also set out and assess options for the potential scope, role and functions of an independent Building Standards Regulator and will likely take a number of months to complete. The Department is also committed to re-establishing the Building Regulations Advisory Body under Section 14 of the Building Control Act 1990. Preparatory work is underway with a view to re-establishing the Advisory Body in 2022.

The Department continues to pursue a three pronged Building Control Reform Agenda which is focused on:

- Reform of the Building Control process;
- Establishment of a National Building Control Management Project; and
- Putting the Construction Industry Register Ireland on a statutory footing.

As part of the Building Control Reform Agenda the National Building Control Management Project was created to provide oversight, support and direction for the development, standardisation and implementation of Building Control as an effective shared service in the 31 Building Control Authorities through the five pillars of: Training, Inspection, Compliance Support, Information System - Building Control Management System and Market Surveillance of construction products.

In respect of the Construction Industry Register Ireland (CIRI), the Government is committed to placing CIRI, for providers of building services, on a statutory footing. The Regulation of Providers of Building Works Bill 2021 will be published shortly.

Issue 3 – Recouping compensation from HomeBond for non-Pyrite related structural defects:

In Chapter 13 of the *Comptroller and Auditor General's Report on the Accounts of the Public Services 2019*, it is stated that approximately €52,000, or 6%, of the €880,000 claimed by the Department for non-pyrite structural defects was paid by HomeBond.

At the meeting of 26 November 2020, the Department could not provide the Committee with information regarding a timeframe for when HomeBond would re-imburse the Department with the total amount claimed.

The Committee is concerned at the delay in recouping HomeBond's liability, and underlines the loss to the Exchequer as long as the liability remains outstanding.

Recommendation 3:

The Committee recommends that the Department furnish it with a timeline by the end of quarter one 2022 as to when it expects to receive the full liability due from HomeBond, and requests that the Department provide it with quarterly updates thereafter on the progress in recouping the full amount from HomeBond.

The Minister for Public Expenditure and Reform is informed by the Department of Housing, Local Government and Heritage that it accepts this recommendation however it will be for the Housing Agency to provide updates.

The Pyrite Resolution Act 2013 provides the statutory framework for the establishment of the Pyrite Resolution Board and for the making of a pyrite remediation scheme to be implemented by the Board with support from the Housing Agency. The Act also sets out the *Accountability of chief executive of Housing Agency to Oireachtas Committees* in relation to all moneys received and expended under the Act. The Chief Executive of the Housing Agency has provided the Department with the following update: "The Housing Agency has informed the Department that the Pyrite Resolution Board is engaging with HomeBond regarding the reimbursement of monies associated with non-pyrite related defects as set out in the supplemental agreement with Homebond. The Housing Agency will furnish the committee with a timeline by the end of quarter one 2022 as to when it expects to receive the full liability due from HomeBond, and will provide quarterly updates thereafter on the progress in recouping the full amount from HomeBond."

Issue 4 – Transparency of RTB referral process:

The Committee raised concerns about the process for making a referral to the Residential Tenancies Board (RTB) in relation to non-registered properties. Subsequent to the meeting, the Committee received correspondence from the Department which outlined the manner in which such referrals are dealt with:

“There are no communication flows between those who make general non-registration referrals from the RTB, due to the fact that the referral may result in a criminal process. The RTB does not inform the person making the referral about anything in relation to the tenancy.

A case number will not necessarily be generated and no further engagement with the person making the referral can be followed through. The public register is up-dated each week, so the person making the referral can check there at any time. For Student Specific Accommodation, which has come under the remit of the RTB since 2019, the register of tenancies is not currently published but can be checked by contacting the RTB by phone or web-chat.”

The Committee is not satisfied with the lack of transparency regarding the referral process, and believes that the onus should not be on individuals making referrals to check the register for an undetermined period of time. Furthermore, the Committee is concerned that a register of tenancies for Student Specific Accommodation is not published in the public domain.

The Committee believes these issues may result in a large number of properties not registered with the RTB. This has implications for the Exchequer if the correct level of tax is not collected from landlords that have not registered their properties with the RTB, and tenants if rent-setting rules are breached.

Recommendation 4:

In order to achieve more satisfactory outcomes for the Exchequer and tenants, the Committee recommends that the Department engages with the RTB to increase transparency in the process of referring an unregistered property to the RTB. Specifically, the Committee recommends that the following actions are taken by the RTB to address the matter:

- Create a reference number for each property reported to the RTB as unregistered, in order that the individual(s) making a referral have a record of same,
- Establish a target timeframe for resolving each reported case, and
- Publish a register of tenancies for Student Specific Accommodation as a matter of priority.

The Committee requests that it is provided with an update on the implementation of this recommendation by the end of quarter one 2022.

The Minister for Public Expenditure and Reform is informed by the Department of Housing, Local Government and Heritage that it accepts this recommendation.

The Department will work with the RTB on its implementation. The RTB does not disclose detailed information in relation to the specifics of cases, because referrals may become the subject of a criminal process, and therefore this can curtail the degree to which the RTB can assist and support a customer who has made such a referral. Nevertheless, the RTB acknowledges there is room for improvement and will take steps to focus on implementing measures that will be more supportive of those who wish to receive assistance and confirmation of current registration status and indeed the status of their referral.

The RTB will seek to provide more information of the process upfront, including confirming indicative stages, timelines and outcomes in relation to cases for which referrals are made. They have also confirmed they will examine the creation and implementation of a system of reference numbers and a related database for all referrals in order to assist the management and support for communication of the status of such cases. This will be examined and prioritised as part of a more comprehensive review the RTB plans to undertake of its full regulatory role in 2022.

Given under the Official Seal of the Minister for Public Expenditure and Reform on this the day of January, 2022.



A handwritten signature in blue ink, appearing to read 'David Moloney', written over the official seal.

L.S.

David Moloney
Secretary General
Department of Public Expenditure and Reform