

Report of Pre 63 Sub Committee of the Housing Strategic Policy Committee

This Sub Committee of the Housing SPC on Pre 63 Properties first met in June 2011 following a presentation to the SPC in 2010. A number of interim reports were presented to the Housing SPC.

Since the commencement of the committee the housing rental market has significantly changed with fewer rental properties available. The Daft.ie Rental Review Report for 2016, published in February 2017, shows that there were fewer than 4,000 homes available to rent nationwide. In Dublin between 2008 and 2012 there were on average of 5,200 properties available for rent at any one time. On average there are fewer than 1,400 properties available for rent in Dublin City. Dublin has over half a million households, of which more than a third is rented.

In addition rents have continued to rise, with the average rent in Dublin City in excess of €1,400 per month. Since 2010 the average rent in Dublin City has increased by over 46%.

At present the availability of rental homes is at its lowest level since the Daft report was first published in 2006.

The Housing (Standards for Rented Houses) Regulation 2008, as amended, came into effect in their entirety for all new tenancies from the 1st February 2009. Article 6 (Sanitary Facilities), 7 (Heating Facilities), & 8 (Food Preparation & Storage & Laundry) of the Housing (Standards for Rented Houses) Regulations 2008 came into effect for existing lettings on the 1st February 2013. This means that all rented accommodation must have its own separate sanitary facilities within the habitable area of the rented property. In addition updated requirements in relation to heating requirements and facilities for cooking, food storage and laundry apply to all rented accommodation

Prior to and since the introduction of the rented housing standards legislation in 2009, Dublin City Council has a dedicated Environmental Health team charged with inspecting and regulating standards in the private rented sector.

The inspections are undertaken on a proactive basis and on a reactive basis in response to tenant complaints.

In 2012, in addition to the Environmental Health team Dublin City Council commenced an Intensified Inspection Programme (IIP) of private rented properties. The IIP was specifically targeted at pre 63 multi unit properties in areas of the city with high concentrations of such properties. The streets identified have buildings more likely not to be in compliance with the legislation. The IIP identified and inspected properties on 39 streets in the city.

The following are the outcomes of both inspection programmes for the years 2012 to 2016.

Number of rented dwellings inspected	15,760
Number of non compliant dwellings	12,326
Number of inspections undertaken	29,388
Number of enforcement notices served	12,917
Number of Prohibition Notices served	468
Number of legal actions initiated	264
Number of non complaint properties that achieved compliance	9,822

Substantial comment has been made in recent years as to the number of “bedsits” in Dublin. It should be noted that there is no common definition of the term. A considerable number of the above inspections would have taken place in dwellings commonly referred to or registered with the PRTB as “bedsits”.

In this regard analysis of the PRTB register has been undertaken. When you exclude properties inspected and new apartments registered as “bedsits” it is estimated that there is in the region of 1,500 dwellings that would benefit from an inspection.

These properties will be scheduled for inspection as resources allow.

An analysis of the inspection figures for 2016 shows that Environmental Health Officers inspected 1,751 private rented units and undertook 3,552 inspections. Of the lettings inspected 1,388 were found not to comply with the Housing (Standards for Rented Houses) Regulations 2008 as amended. In all cases where non-compliant lettings were inspected appropriate enforcement action, including legal proceedings, was undertaken. Overall 1,292 enforcement notices were served, 28 prohibition notices served and legal action initiated in 14 cases.

Of the enforcement notices served:

51% contained requirements under Article 5 in relation to structural conditions,

8% contained requirements under Article 6 in relation to sanitary facilities

26% contained requirements under Article 7 in relation to heating facilities

22% contained requirements under Article 8 in relation to food preparation & storage & laundry

33% contained requirements under Article 9 in relation to ventilation

4% contained requirements under Article 10 in relation to lighting

55% contained requirements under Article 11 in relation to fire safety

1% contained requirements under Article 12 in relation to refuse facilities

35% contained requirements under Article 13 in relation to electricity & gas

Targeted enforcement actions taken by Dublin City Council ensured that landlords of 1,384 non-complaint lettings brought their properties up to standard and into compliance with the legislation.

The result the inspection programmes is that significant improvements have been achieved in the quality and standard of private rented accommodation available in Dublin City. While both inspection programmes aim to improve standards for private tenants, their goal is to improve quality of life for tenants in the Private Rented Sector and the overall enhancement of the community and environment of the City.

Report Recommendations, actions & completions

Recommendation 1 recommends a system of

(a) Registration of Properties

(b) Certificate of Compliance

The Strategy for the Rental Sector published in December 2016 provides for the RTB to offer a Landlord Voluntary Accreditation Scheme. The accreditation will show tenants that landlords are professional and offering a quality service.

Currently the RTB data base of tenancy registration contains details in relation the property as well as tenant & landlord details. This data base is provided to all local authorities to assist in the enforcement of housing standards legislation. The data base provides information on the number and type of tenancies registered at the building address.

A referral system is in place between the RTB and Dublin City Council to effectively exchange information and support the enforcement roles of each organisation.

The introduction of the Housing Assistance Payments (HAP) requires the local authority to commence an inspection programme of all HAP properties within eight months of payments commencing. A requirement for the payment of HAP is that the rented property must comply with housing standards legislation.

In Dublin City it is estimated that 20,000 tenants currently on rent supplement that will be transferred to HAP commencing in March 2017.

With the commencement of HAP in Dublin City and the resultant required statutory housing authority inspection regime a certificate of compliance scheme is effectively in place.

Recommendation 2 recommends that

- (a) The DoECLG initiate an inspection programme of pre 63 properties
- (b) Initiate a planning regularisation process with property owners
- (c) Give advice on the regularisation process

The DoECLG initiated the Intensified Inspection Programme undertaken by the Environmental Health Section, Housing & Residential Services. Funding for the programme was provided by the Department.

Prior to the commencement of the programme consultation, discussion & agreement was reached with the Planning Department in relation to inspection findings and co-ordinating enforcement action where appropriate. In addition an agreed form of wording was included in all enforcement notices issues by Environmental Health Officers clearly advising property owners of their responsibilities under planning legislation. (see below)

Planning and Development Act 2000 (as amended 2010)

57.—(1) Notwithstanding section 4 (1) (h), the carrying out of works to a protected structure, or a proposed protected structure, shall be exempted development only if those works would not materially affect the character of—

- (a) the structure, or*
- (b) any element of the structure which contributes to its special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.*

In terms of buildings within an Architectural Conservation Area, details of all ACAs within the Dublin City Council Area are available to view at: <http://www.dublincity.ie/Planning/HeritageConservation/Conservation/Pages/ArchitecturalConservationAreas.aspx>

and the building owner should make themselves aware of any polices that would affect works to the exterior of buildings within the ACA. All works should be carried out in line with Best Conservation

Practice as outline in the Advice Series publications issued by the department of Arts, Heritage and the Gaeltacht available to view at the following link;

<http://www.dublincity.ie/Planning/HeritageConservation/Conservation/Pages/DoEHLGArchitecturalHeritagePublicationsandConservationAdviceSeries.aspx>

In addition a referral system is in place between the planning section and environmental health section to effectively exchange information and support the enforcement roles of each section.

There is also an extensive environmental health and planning portal on the City Council web site.

Recommendation 3 recommends that

- (a) Existing housing standards legislation be updated
- (b) The introduction of national housing standards

The strategy for the Rental Sector published in December 2016 provides for the introduction of new standards focusing on safety. New national regulations entitled the Housing (Standards for Rented Houses) Regulations 2017 (S.I. 17/2017) will come into force on the 1 of July 2017. This commencement date will allow landlords the time to carry out any remedial improvements / works which may be necessary to bring their properties into compliance with the revised regulations.

The main changes to the 2009 Regulations are contained in those provisions dealing with structural condition, heating facilities and fire safety, – Articles 4, 7 and 10.

Article 4 amends the regulations to include the provision: Where a window which has an opening section through which a person may fall and the bottom of the opening section is more than 1400mm above the external ground level, suitable safety restrictors shall be fitted.

Article 6 provides that: All bathrooms and shower rooms must have adequate heating, the revised regulations also make a provision for the detection and alarm of carbon monoxide and that all heating appliances shall be maintained in a safe condition and in good working order and repair.

Article 10 has been re-worded in order to avoid confusion around the need for interconnecting alarms and regulations covering common areas.

The current Housing (Standards for Rented House) Regulations 2008 as amended by the Housing (Standards for Rented Houses) (Amendment) Regulations 2009 commenced on the 1st February 2009. The requirements contained in the legislation were significantly increased from those contained in the previous 1993 regulations.

The legislation in its entirety is now applicable to all properties that are let or available for letting. Inspection data shows that the vast majority of properties fail standards in relation to a proper state of

repair and fire safety. Inspection outcomes demonstrate that in excess of 80% of properties are brought into compliance with the legislation subsequent to an inspection without recourse to legal action. This ensures that the rented property meets the needs of the tenant and is seen as their home.

A referral system is in place between the Environmental Health section and Dublin Fire Brigade to effectively exchange information and support the enforcement roles of each organisation. In addition Environmental Health Officers advise landlords on their responsibility under fire safety legislation by informing landlords that *“Any requirement, in this correspondence, under Article 11 of the Housing (Standards for Rented Houses) Regulation 2008, as amended, does not relieve you, as landlord, of your responsibilities to comply with the Fire Services Acts 1981 and 2003”*.

The enforcement of this legalisation has led to a significant improvement in the quality of rented accommodation in the city. The revised legislation to commence on the 1st July 2017 will further enhance the safety and suitability of rental accommodation for long term occupancy.

In 2016 the Government introduced a housing package “Stabilising Rents, Boosting Supply” which encompasses a range of measures to improve the operation of the private rented sector, to tackle increasing homelessness and to support increased housing supply.

In December the DoECLG published “Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities” which are required to be implemented by all Local Authorities.

The updated guidelines allow for the introduction of studio apartments in build to let developments of over 50 units. In addition the updated guidelines also require the provision of minimum private amenity space and minimal community amenity space. Requirements in relation to apartment size, density and aspect are also legislated for.

These measures along with the Social Housing Strategy 2020 provide a comprehensive legislative frame work for both existing rental properties and new developments.

Recommendation 4 recommends that

- (a) The cost of upgrading & maintenance be incentivised
- (b) Pre 63 properties be returned to family use

The Strategy for the Rental Sector reports that the business activities of landlords are, in general, treated on the same basis as other forms of business in Ireland. The Budget 2017 announcement of the phased restoration of the deductibility of mortgage interest relief for landlords from 75% to 100% by 2021 bears out this position. A working group, chaired by the Department of Finance, and including representation from the DHPCLG and the property sector (and representation from such other bodies identified as appropriate by the working group in the course of its work) will be established in early 2017. The working group will examine and report on the tax treatment of landlords and put forward options, where identified and appropriate, for amendments to such tax treatment, having due regard to the role of landlords in a properly functioning rental market.

There are currently a number of Revenue schemes in relation to rental income. They include the Home Renovation Incentive scheme which allows landlords claim an Income Tax credit on repairs, renovations or improvement work carried out on their rental property by HRI qualifying contractors. Tax relief under Countrywide refurbishment scheme applies in respect of certain expenditure incurred on the refurbishment of certain rented residential accommodation. Allowable expenditure incurred in the period between the termination of one lease and the granting of another lease by the same landlord is deductible provided the landlord was not in occupation of the premises during that period.

The Home Renovation Incentive expires at the end of 2016. In order to qualify for the HRI, the work must be done between 25 October 2013 and 31 December 2016 for homeowners and between 15 October 2014 and 31 December 2016 for landlords. It is recommended that this incentive scheme continue to the end of 2018.

Tax incentives will be introduced for landlords who rent properties to tenants in receipt of social housing supports.

Additionally, in the Governments “Stabilising Rents, Boosting Supply” package a range of measures are included to deal with the problems currently being observed in the housing market.

These include, extending the time between rent reviews from 12 to 24 months and increasing the notice time period of a rent increase from 28 to 90 days as well as notifying the RTB of the rent increase. Landlords are now also required to provide to tenants details of the dispute resolution procedures of the RTB. Also in these measures is an increase in the tenancy termination notice to be given when terminating a tenancy. Confirmation of tenancy registration by the RTB will now be given to both the landlord and tenant along with advice on dispute resolution. This information will also be provided to the Revenue Commissioners. Also provided for is the introduction of a deposit protection scheme.

Statistics indicate that the average size of households is continuing to drop and there are an increasing number of one and two person households, particularly in the city. Subject to complying with minimum standards it is desirable that a degree of multiple unit properties continue and indeed be encouraged in new building stock within the city. This requirement has been recognised with the publication of the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planners”. It makes provision for “studio” type apartments and requires planning authorities to facilitate the provision of such apartments in managed “build to let” developments of 50 units or more. Other requirements include a new minimum floor area size and a change to the percentage mix of different bedroom size units to be developed.

Since the formation of the committee in 2011 the housing market in Dublin and indeed Ireland has changed significantly. A range of Government and local measures have been implemented to stimulate development and manage the rental market. In the coming years these measures are expected to bear fruit.

In the same period standards for existing rental accommodation came into being. These standards increase the minimum standard required and provides for accommodation which allows for more long term occupation. The mass exit from the market of “bedsit” landlords did not happen. They modernised, adapted and now provide compliant more sustainable rental accommodation. In addition

a considerable number of rental properties in receivership were modernised by their new owners and returned to the rental market.

It is expected that these range of measures have and will provide for a more stable and sustainable housing market in the current economic climate.

The pre 63 committee has contributed to the housing debate and supported the work of both the Housing & Community Services and Planning Departments. It's recommended that this SPC accept this report as the final report and that the work of the committee is now concluded.

RECOMMENDATION

That the Chair of the Housing SPC writes to the Minister for the Housing, Planning and Local Government recommending that the following matters be considered.

- The guidance documents Fire Safety in Flats issued by the DoECLG in 1994 should be reviewed and made a requirement under housing standards legislation.
- Increased requirements in relation to thermal & energy efficiencies of rented units
- Tenant responsibilities to maintain the property in good order
- It is recommended that Home Renovation Incentive scheme be extended to the end of 2018.