

DÁIL ÉIREANN

AN COMHCHOISTE UM THITHÍOCHT, PLEANÁIL AGUS RIALTAS ÁITIÚIL

JOINT COMMITTEE ON HOUSING, PLANNING AND LOCAL GOVERNMENT

Déardaoin, 7 Samhain 2019

Thursday, 7 November 2019

The Joint Committee met at 9.30 a.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies

Seanadóirí / Senators

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| Mick Barry, | Victor Boyhan, |
| Pat Casey, | Martin Conway, |
| Mattie McGrath, | Jennifer Murnane O'Connor. |
| Darragh O'Brien, | |
| Eoin Ó Broin. | |

I láthair / In attendance: Deputies Pat Buckley and Catherine Martin and Senator Kevin Humphreys.

Teachta / Deputy Noel Rock sa Chathaoir / in the Chair.

Business of Joint Committee

Chairman: As we have a quorum I will call the meeting to order and we are now in public session. Apologies have been received from Senator Colette Kelleher. I propose we go into private session to deal with some housekeeping matters. Is that agreed? Agreed.

The joint committee went into private session at 9.37 a.m. and resumed in public session at 10.18 a.m.

Latent Defects: Discussion

Chairman: At the request of the broadcasting and recording services, members and visitors in the Gallery are requested to ensure that for the duration of the meeting their mobile phones are turned off completely or switched to airplane, safe or flight mode depending on the device. It is not sufficient to put phones on silent mode as this will maintain that level of interference with the broadcasting system.

I welcome to today's meeting Ms Kath Cottier, Mr. Matt Cleary and Mr. Andrew Prior from the Construction Defects Alliance; and Mr. Des McCabe from the Apartment Owners Network. They are all very welcome and I thank them for coming in and sharing their time.

I draw the attention of witnesses to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, they are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses, or an official either by name or in such a way as to make him or her identifiable.

I now call on Ms Cottier to make her opening statement.

Ms Kath Cottier: I thank the committee for the opportunity to make my statement today.

I am the director of housing services with Clúid Housing Association, one of the largest social housing providers in the country, as well as being a director of the Beacon South Quarter Owners Management Company. I am also leading the delegation here today and it is important to explain that the reason I have taken this role is to use Clúid's property expertise to help resolve an issue which is crippling many ordinary households and negatively affecting the reputation of apartment living, which is a key component of long-term planning for our urban centres.

I want on behalf of the Construction Defects Alliance to thank the committee for giving us this opportunity to address the real-life experience of homeowners who are having to deal with structural defects in their homes which have arisen through no fault of their own but for which they have been left holding the baby. We hope that our deliberations here today will contribute to a process through which this committee's own report, Safe as Houses?, which is now nearly

two years old, can be successfully implemented and some relief delivered to the tens of thousands of homeowners affected by construction defects.

I want to begin by explaining who we are and what the Construction Defects Alliance is as we have just recently formed. The alliance is an informal grouping which has the support of the Apartment Owners Network, AON, and currently involves owners and owners' management companies, OMCs, from over a dozen different locations around the greater Dublin area which are affected by construction defects. We also have active involvement from some of the professionals who are working with the owners and OMCs concerned. Our panel today is made up of representatives of those different elements as well as Des McCabe from the Apartment Owners Network. As the committee may recall, representatives of AON appeared before this committee in April 2018 and set out issues, including fire safety construction defects, impacting on apartments and multi-unit developments. The alliance has its origins in the Beacon South Quarter lobby group, of which I am a member, which has been campaigning for the last couple of years for action for homeowners affected by defects. Through our campaigning work, other individual owners and OMCs approached us and got involved in the campaign. Ultimately, as the numbers began to grow, it made sense for us to create the Construction Defects Alliance.

At the moment, the alliance includes people involved in over a dozen developments near Swords, Blanchardstown, south Meath, the city centre, Dublin 6 and 12, Stillorgan and Sandymount. We know that there are many more developments around the country affected by defects and we hope that the publicity surrounding today's hearing will encourage them to join us. In fact, over the past couple of days we have had other people contact us. We have one very simple aim, even though it is not simple, which is the implementation of the Safe As Houses? report.

Most of the members of the alliance own homes in apartment developments, the majority of which were built during the Celtic tiger era. However, some pre-dated that era and some defective homes have also come along after 2008.

Returning to Celtic tiger era apartments, it is worth bearing in mind that CSO data shows that over 131,000 apartments were built during the period 2000 to 2008, just before the financial crash and deep recession. We simply do not know how many are affected by defects. Indeed, because of the consequences, in terms of potential remediation costs, loss of property value and difficulty in selling their homes, many homeowners simply do not want to know if their apartments or houses are affected by fire or other defects. From a health and safety point of view, however, this is an appalling vista and we cannot continue with a hear no evil, see no evil approach to the issue of fire and other defects. We do not even have to mention Grenfell Tower to see where that road leads.

Coming back to try to estimate the scale of the problem, Keenan Property Management has publicly stated that 70% of the apartments in its portfolio are affected by defects. Taking that as a possible measure of the scale of the problem leads us to the figure of almost 92,000 apartments being affected by defects.

The seriousness of defects and the scale of the costs involved in remediating the problem varies from location to location. In Beacon South Quarter where there are almost 900 apartments, the cost of fire remediation works is over €9 million. Each owner has been levied for the costs of these and other works and the average bill is almost €13,500 per apartment. Some bills are higher and some are lower depending on the size of the apartments concerned.

Beacon also has considerable water ingress problems but we are in the middle of negotiat-

ing a settlement for an insurance claim on them. Depending on the outcome of that process, we may need to go back to the homeowners.

In a number of adjacent developments where the owners there do not yet want to out themselves - about which I will say more shortly – the remediation costs are even higher. In one development, owners were levied a charge of €16,500 each and given three months to come up with the money. In another location, estimates are for around €25,000 per apartment, which is very significant.

As public representatives, sensitive to their constituents' concerns, I am sure they are aware that this situation causes the homeowners concerned huge stress because of the financial burden, considerable worries because of the spectre of fire safety and also impacts on the relationships between owners, their OMCs and the agents acting on behalf of the OMCs. All of which undermines the very idea that one's home is a sanctuary. Some of my colleagues here today will attest to that later in the proceedings.

I will address the worries over fire safety first. As one can imagine, all the talk over recent times about fires in Grenfell Tower has had a profound effect on people living in properties that are not secure from a fire perspective. It is a well-founded worry. In Beacon alone there have been eight fires in recent years with some apartments being absolutely gutted. We also know that people died as a result of a fire in Verdemon in Blanchardstown; a terrace of houses in Newbridge, Co Kildare was destroyed by fire in the not-too-distant past; and considerable damage was done to the Metro Hotel in Ballymun when people were resident in it.

It is because of this threat that OMCs are obliged to act to remediate fire defects and to take additional fire safety measures. In Beacon again, we have employed additional fire wardens on a 24/7 basis as well as installing additional fire alarms. All of this costs money and has led to hikes in annual service charges, on top of mortgage payments and the remediation levies.

On the financial side, the OMCs need to get as much money as possible upfront in order to get the remediation works done. There is no point in starting works without the funds to pay the contractors concerned. The need to get money upfront places huge strains on owners who have to find the resources to pay the levies in addition to all of their other costs.

In Beacon, we have a number of large institutional owners who can afford to pay upfront with individual owners being largely forced to borrow at interest rates of 9% or 10%, or pay it out of cashflow if they can. It is important to stress here that my involvement in this campaign, and that of Clúid and other institutional owners, is nothing to do with extracting any financial benefit from the misery of individual homeowners. To be clear, we are not looking for or expecting to get redress for ourselves. Our sole focus is on individual homeowners.

Coming back to the issue of the financial burden being experienced by homeowners, it is only fair to say that it is placing huge stress on many people and we know some are really struggling to pay their levies. Another aspect of this stress is that many homeowners are worried about the impact on their lenders and insurance if and when they find out about the defects, as well as the real concern that they may have difficulty in selling their property. These worries are why so many of the people involved in the alliance are happy to talk to their public representatives but will shy away from the media, which is why so many of them are sitting in the Public Gallery and not before the committee.

The various stresses experienced by homeowners are also, in turn, impacting on relation-

ships within the different developments. For example, the OMCs' agents are the ones tasked with collecting the levies. This is not easy and can sometimes involve legal proceedings which are not pleasant for anyone concerned. In other cases, the OMC directors, who are only volunteers after all, are having to levy sums of money which their neighbours are deeply unhappy about and this can cause a lot of difficulty for neighbourly relations. Remember that all of this stress and strain arises through no fault of any of the people involved, yet they are the ones left to mop up after other people's failings.

Given the human dimension that I have just outlined, it might not be too hard for the committee members to imagine the deep frustration that owners of defective homes experience when they hear Ministers say that this issue is a "private contractual matter" and nothing to do with the State. The Construction Defects Alliance would strongly challenge the notion that the State has no responsibility in this matter because the defects concerned are all breaches of the building regulations which came into effect in 1990 but which the State did not properly enforce. Unfortunately, this was the latest in a long line of disastrous "light touch" approaches to regulation in Ireland. The mantra of this being a "private contractual matter" really grates with homeowners who feel isolated. They are concerned as most of us have made and are making considerable efforts to hold developers and contractors to account but to no avail. For example, we in Beacon South Quarter instructed our solicitors at the expense of the owners to explore if we could take a case against the contractors as the developers had already gone bankrupt, as is the case in so many developments. Our solicitors concluded that, at best, we had a 20% chance of success and that such a case would cost €750,000 at a minimum. Rightly, we decided that it would be imprudent to take a case. Meanwhile, some of those involved in the construction process at Beacon and elsewhere are going on about their business, including getting substantial public contracts, while the owners are left to pick up the tab. This is another reason owners of defective homes are so deeply frustrated.

Alliance members see that owners of homes with pyrite and mica have had redress schemes set up, just on the cusp of the local and European elections earlier this year, and we know of many apartment developments where arms of the State such as NAMA and local authorities have paid for remediation works. Why them and not us and why, two years on from the adoption of the Safe as Houses? report, has nothing been done regarding the implementation of its recommendations?

As I mentioned, the Construction Defects Alliance's aim is to get this committee's own proposals in Safe as Houses? implemented. It is worth recalling what they are. They are the establishment of a redress scheme to assist homeowners with latent defects, the provision of an information and advice service for those affected by defects, and a redress scheme to be funded through an industry levy matched by Government funding, tax write-offs or interest-free loans. Based on pronouncements from Ministers, the current Government does not appear to support the committee's proposals, although we note with interest that some parties have indicated support for these measures and others are moving in this direction. We hope that by the time of next year's general election, we will have sufficient commitments on board to ensure that the next programme for Government contains firm commitments to right the wrong that has been done to the owners of homes with structural defects.

However, while the Construction Defects Alliance is focused on delivering the Safe as Houses? report's recommendations, we are eager to explore if the current Government could facilitate soft loans to help ease the pain for owners who are having to pay levies - on top of their mortgages and service charges - to remediate defects. It is important to say that there is a

strong precedent for the State providing loans for home improvements at soft rates. For years, local authorities provided home improvement loans of up to €15,000 over 15 years at 2.75% and that while many local authorities do not do so anymore, some still do. Why can the terms of this scheme not be broadened to include those who are owners of homes with structural defects that have had a levy for remediation works imposed upon them? Local authorities have the experience and infrastructure to administer such loans. Even those that are not offering the home improvement loans anymore are administering the Rebuilding Ireland home loans. The Housing Finance Agency can access funds at close to 0% interest, which as far as we are aware is off-book from the State's point of view, and that money can be provided to owners through the local authorities. In this way, owners can be assisted in getting access to cheaper money, which will allow them pay their levies upfront, thus facilitating the remediation works, paying over a longer period, and easing the pressure on their cashflow. From the State's perspective, such a proposition does not involve it signing the dreaded blank cheque and still enables it to assist people who are experiencing real stress and pressure.

We also think that a system of tax breaks should be put in place akin to the home renovation improvement scheme to help take the sting out of the levies homeowners have to pay. The Beacon South Quarter Lobby Group proposed such a measure in its pre-budget submission, which was received by Government in early July. Given that the Finance Bill has only recently been published, maybe this is something that could be moved upon quickly. It is important to reiterate that these proposals are not our preferred solution but they represent acceptable interim measures that would offer some relief to those affected by structural defects they did not cause.

I hope this opening statement sets out in broad terms the issues facing tens of thousands of homeowners throughout the country, in particular the stress and strains that the thing they most dreamed of - having a home of their own - is now causing them and their neighbours. As I said earlier, my colleagues can and will outline much more eloquently the nature of this lived experience during the questions and answers to follow. The owners of defective homes are deeply frustrated at the inaction that has surrounded their situation, but the committee can begin the process of helping them today. We want to see the committee's own report implemented, but short of that, surely it is not beyond the capability of all concerned to set up a scheme of soft loans to help ease the burden on these hard-pressed citizens as well as putting in place tax breaks. I again thank the committee for asking the Construction Defects Alliance and the Apartment Owners' Network to appear before it this morning. We look forward to engaging with members' questions.

Chairman: I thank Ms Cottier. The figures are very startling, and behind each one is a very human, sad and sorry story, so I am delighted she could come in here today, share the knowledge she has and let the public know exactly what is happening here. I will take Deputy Ó Broin followed by Deputy Darragh O'Brien. Members can also address questions to Mr. McCabe from the Apartment Owners' Network, who has chosen not to make an opening statement, if they so wish.

Deputy Pat Casey took the Chair.

Deputy Eoin Ó Broin: I thank Ms Cottier for her presentation. I welcome the creation of the Construction Defects Alliance. A number of members have worked with homeowners over the past five or six years. The first thing that always stands out is that people feel lost and unsure of what to do. They do not know whether they should pay significant sums of money for legal advice, and they are very scared about speaking out publicly because of the implications for them and their families. The fact that there is now a focal point where people can come to-

gether, even if they wish to do so anonymously, to get support and information is invaluable, so I commend everybody involved. It adds another voice to the ongoing campaign, because many of us have been speaking about this in the House for two or three years, and the more voices there are, the better.

This is not just my view but that of this committee because we agreed it in the report. It is very important to keep saying this, particularly in light of the response we continually get from Government. It is our view that in the first instance, the developers that were responsible for building shoddy homes should pay. Those of us who put a lot of time and effort into listening not just to people experiencing latent defects but professionals in the field came to that view on the basis of all the information we heard. I say this because from the very first time the Minister for Housing, Planning and Local Government responded to this report in the Oireachtas to last night on “Drivetime”, there is a phrase the Government keeps using, which is that the State cannot take on full liability for all historic latent defects in the State. Nobody has ever asked the State to do that. As a committee, we must emphasise that what is being asked for here is not a blank cheque from the State to take on all liability at all times in all circumstances. In fact, in the first instance, we want the developers to be made pay.

However, the State has a responsibility. As evidence that I do not have much of a social life and spend far too much time reading about these things, I went back and read all of the Oireachtas debates that led to the 1994 legislation. Throughout all of the debates from most of the contributors, they deliberately designed this in such a way as to ensure that the State would have no legal liability and the industry would be trusted to do the right thing. There were Deputies in the House at the time who were proposing an independent inspection regime either by the local authorities or others, which many of us in this committee favour. People kept saying that we could not do that because it would add too much cost onto the developer and place too much liability on the State. They had the option. People in this House urged the State to have the kind of independent regime that many of us recommend in the Safe As Houses? report and the State chose not to do that. It was a deliberate decision so, in fact. Its liability is not just that it did not properly implement the regulations from the 1994 Act but that it designed the Act in such a way that it facilitated some of this behaviour.

Regarding the report’s recommendations, it is very important that people understand what we are asking for. What we are asking for in the first instance is something not unlike the Residential Tenancies Board - an independent non-judicial body properly funded by Government to which people who discover latent defects can go and get independent and free legal advice and that has the legal power to bring the parties - affected homeowners and the builders or developers - together and, through mediation or legally binding adjudication, force a resolution. This is not a huge financial undertaking by the State, so even if the State is not going to create a fund, which I will come to, at a very minimum, it could do that. We already have a model that works and the State could do that in the first instance.

I would like the State to explore with the Attorney General whether it is possible to pursue not just the developer if the trading entity is still in existence but the directors of a previous trading entity if they have dissolved that company and created a new building contractor-----

Vice Chairman: I am concerned that we have a second session and everybody wants to make a contribution.

Deputy Eoin Ó Broin: I am almost done. I have a very short question to put after I make this point. I would like the State to explore with the Attorney General whether it is possible

to pursue directors of companies who are still trading, although maybe not through the same legal entity. There will be instances where the developer cannot be pursued so there must be a fund, whether it is raised through industry levies, Exchequer contributions, loans or taxes. Our committee was deliberately agnostic on the preferred funding mechanism so the proposal could not be shot down. One of our other recommendations was for a fire safety audit to discover the full extent of this, as recommended by the Society of Chartered Surveyors Ireland. Will the witnesses tell us more about the basis of the figure of 92,000? Will some of the homeowners take us through their personal experience from the point of discovery to now, so we can get a sense of it?

New regulations were introduced in 2014. We are now beginning to see significant examples of exactly the same kind of shoddy practices in post-2014 developments. Some of them have been widely reported in the newspapers as pre-2014 developments. The other recommendations of our report, which concerned strengthening building control for current and future builds, must also be returned to. The *Irish Examiner* ran a very detailed piece on Monday of this week that highlighted a very substantial case in my own constituency. Somebody built a development of 44 apartments with no building control compliance whatsoever. Today, a year on from the discovery of the defects, it is fully tenanted. The local authority is doing what it should do and is considering legal action. This was built in 2017. It has all of the problems the witnesses have experienced, if not more, despite being built since the Building Control (Amendment) Regulations 2014. We have to return to that issue. I thank the Vice Chairman for his indulgence.

Mr. Matt Cleary: The figure of 92,000 comes from percentages calculated by a managing agent who looks after numerous developments around the country. He based this on the proportion of his portfolio impacted by building defects, that is, 70%. The figure of 92,000 is derived from the number of developments constructed during that time and that agent's estimate of the 70% prevalence observed by his company.

Deputy Noel Rock resumed the Chair.

Ms Kath Cottier: There was also a meeting with a professional group working with the Society of Chartered Surveyors Ireland and the Apartment Owners' Network, AON. They are trying to bed that down and provide more clarity on it. Work is ongoing to produce something far clearer.

Mr. Des McCabe: In rough figures, 92,000 multiplied by €10,000 makes €900 million. That is a realistic estimate of the cost. It will probably go higher when it all flushes through.

Ms Kath Cottier: Mr. Prior is probably the best person here to speak about homeowners' personal experiences.

Mr. Andrew Prior: My personal experience as a homeowner and now a reluctant landlord - some people call us accidental landlords - primarily concerns my duty of care towards my tenants. I have been living in Ireland for 29 years but I am originally from Bradford, which unfortunately has a history with fire as the committee members probably know. I am acutely aware of the dangers of this kind of thing. I also work in the hospitality industry, where one is constantly aware of the danger of fire. It is not so bad now, but at the start it was quite an emotional stress to have tenants relying on me to ensure that their living quarters were safe. It is fair and reasonable for them to expect that. There was no real advice from the management agency. In fairness, it was all new to the agency as well. At the time we had no engineers who

had done any detailed work. It is quite a considerable stress to know that there could be a fire and one might not be protected. In fact, we did not take any tenants with children after that.

The financial stress is even worse, but that does not affect the tenants who live there. The cost roughly amounts to €220 to €250 per month for the past 30 months. We have had to budget to pay for that. It is a hardship, but I can afford it. There are families that definitely cannot. It is not that they will not pay; they cannot do so. That makes it all the harder for the rest of us, because we do not have enough money to complete the works. The fire officer, who I believe is an arm of the State, says we have to fix this or action will be taken. I assume this action will mean people cannot live there. It is difficult for all of us. I do not live there so I do not see it from day to day. There have been eight fires in the complex in the past four years. Each time I read about those I am worried and wonder which block it took place in. Beacon South Quarter is probably one of the biggest complexes in the country. It includes 890 apartments. It is probably very complex to run.

In the initial stages after we found out about the defects, there was massive mistrust. The National Asset Management Agency, NAMA, was also somewhat involved. There was a breakdown in relations between the management company and the constituent body of private individual owners. We basically thought this was a conspiracy to make us pay for other people's mistakes. That could still be the case, but I very much doubt it. There was a breakdown of trust in the relationship. I was in the "will not pay" camp for a long time, feeling that this was totally unjust. That did not go well. For two years the problem stagnated. Even so, we have probably been more pragmatic than most in that we found the problem and now we are starting to fix it. There are developments out there where people are only just finding their problems. They are absolutely astonished at the scale of what people got away with. Somebody deliberately chose not to install fire-stopping above the corridor door outside my apartment. That is scandalous. An individual deliberately made that decision. That individual is probably still working in the construction industry. How long will this be allowed to continue? We hear that apartments are still being built shoddily. It is just not fair. That is pretty much all I have to say.

Mr. Des McCabe: I would like to comment from the point of view of the Apartment Owners' Network. The Apartment Owners' Network is a national body representing the views of owners and directors of owners' management companies, OMCs, and managed estates throughout the country. More than 400 individual owners and directors are in contact with us regularly. The foremost issue facing OMCs at the moment is latent defects, along with the related issues of sinking fund provisions and recovery of service charges. This has become the biggest issue facing OMCs. It could break some developments. The relationship between the directors of OMCs and the managing agents has reached a very poor level in some cases. As Mr. Prior says, people think this is a racket or a conspiracy. All of these defects are suddenly coming out of the woodwork and there is an industry around it. First, people are very angry, then they are suspicious. There is a sort of reluctant acceptance in the end, but then they face the stress of raising the money. For people on an average fixed income, paying an extra levy of €5,000 or €6,000 per year is a huge burden.

Chairman: I presume that in many cases the difficulty verges on impossibility

Mr. Des McCabe: Some people do want to pay but find it very difficult.

Mr. Andrew Prior: I would like to make a further point. I am a landlord, so I have revenue coming in from my apartment to cover this. However, I feel that charging somebody €2,500 a month for a 680 sq. ft two-bedroom apartment is scandalous, so I will not charge those high

rents. I may be foolish in doing so. I do not charge anywhere near that but cover my costs. I charge €1,650 or thereabouts but that is an awful lot of money for someone to pay for a two-bedroom apartment. Does the Chairman know what I mean?

Chairman: Yes.

Mr. Andrew Prior: I want to be clear because my earlier testimony might have come across as being too “poor me”.

Chairman: Obviously it is an issue. What Mr. Prior said in his opening statement came across very well but I am glad that he supplemented it as well.

Mr. Andrew Prior: I thank the Chairman.

Deputy Darragh O’Brien: I thank the witnesses for their detailed presentations and attendance. I have met a number of groups. I represent the constituency of Dublin Fingal. As many people will know, the area is growing. As part of my work as a Deputy since 2007, I have seen the area grow and seen many examples of not just apartment developments but houses, homes and duplexes. I live in an estate that is run by a owner management company so I am well aware of the issues and burdens placed on people there too. That is why I have published three pieces of legislation on the OMC area, on sinking funds, and having a regulator for the sector, which is absolutely needed. My proposals seek to improve things. My colleague, Deputy Casey, will talk about building control amendment regulations, BCAR, and how we can ensure that these things do not happen into the future. We have a massive legacy issue that places an incredible human burden, financially and healthwise, on people.

Unfortunately, my area was plagued with pyrite and still is. The genesis of the pyrite remediation scheme came about in Fingal and I was involved with that at the start. There is a road-map as to how we can deal with this matter. For example, there is mica in Donegal and Sligo. A scheme was established last year but no money was spent last year and, again, this year. There are still homes with pyrite that have not gotten into the scheme. If we have a scheme into the future one must remember that schemes take a lot of time to establish and there is a lot of red tape. At least there is a mechanism for people to see there is some hope that one’s home can be fixed.

What Mr. Prior put forward, and I know this from meeting people, is the stress generated when people walk into their own homes every single day and see problems that are presenting that are not fixed. Many of these people will have bought at the top of the market. Some people were struggling to pay high mortgages and then were hit with paying levies and, as Ms Cottier mentioned, people must pay quite extortionate interest rates. However, solutions do exist.

I certainly think that the Home Building Finance Ireland, HBFI, which is an issue that a number of us have raised, can be considered in the short term as a way to provide finance to OMCs. I agree with tax reliefs in the absence of a full remediation scheme but at the end of the day it is those who are responsible who should pay.

As I have seen in many instances, the original expert report on pyrite recommended that the industry be levied so that the insurance sector, the construction sector and the taxpayer paid a third each. Inexplicably, the construction sector and the insurance industry were not levied. Also, we had to proceed with the establishment of the scheme because we needed to get something up and running. The taxpayers paid €30 million a year to fix homes and took responsibility. I completely disagreed with that approach at the time.

I would like advice on the legal aspect and ensuring people do not do this again. I believe there is a mechanism available through the Planning Act. People are massively frustrated when they see the same developer or builder as built a development they know has massive defects build again in the same town or village. In a few instances I have objected to developments on the basis of previous developments being substandard. There is a mechanism in the Planning Act that allows a local authority to refuse permission on the basis of an incomplete estate but it is never invoked. We need to strengthen the provision in law.

I ask the witnesses to discuss the Statute of Limitations. In the last Oireachtas I published a Bill that amended the statute so it would not kick in until a defect had been independently verified, not from the date where one should have known. I did that so there would be legal recourse and enough time for someone to take a legal challenge. In many instances, the Statute of Limitations has expired, which is a big problem. I ask the witnesses to give us examples of where people have discovered there are issues and their insurers have said the bond is finished or over ten years, which is another issue. Homebond, in particular, has walked away from many of the structural defects and then one wonders why people bother to buy bonds in the first instance. The Central Bank and the Ombudsman for Insurance must be involved in this aspect. We also need to consider the licences of insurers, in particular, when one sees Homebond as the bond insurer on new estates, when I know that for multiple estates it has blankly refused to pay. That is the insurance responsibility element of my query. I ask the witnesses to comment on the Statute of Limitations and how changes to the Act would help.

This committee has done a lot of work on this area and, cross-party, is very serious about addressing the matter. My own party is acutely aware of the seriousness of this issue. We need to see movement in this regard. At the start it would be great if we could do HBFI and tax relief. Next, we have to consider the people who have already fixed their homes and carry a financial burden, and the retrospective nature of anything we do. I have seen that happen already with people and will ask more questions in the next round.

I have found this meeting very useful. I commend the witnesses on their opening statements and sensible recommendations. The establishment of the Construction Defects Alliance, along with the Apartment Owners Network, that I know represents more than apartment owners, is welcome. They have done a really good job on this over the last few years.

Chairman: Obviously representatives of Homebond are not here to comment.

Deputy Darragh O'Brien: I would love to bring Homebond in.

Chairman: We could invite them in the future.

Deputy Darragh O'Brien: Yes, great.

Chairman: This issue will not be resolved today and we need to do further work on it. I thank the Deputy for his questions.

Ms Kath Cottier: I will make a couple of points and Mr. Cleary, who manages a couple of complexes, will deal with some of the questions.

The Deputy referred to the Planning Act. One of the things that really affects the owners who are in the Gallery is the absolute injustice of what is happening. Anything that can be done in terms of objecting to planning and not allowing the people who have caused this to benefit further must be done. I will hand over to Mr. Cleary.

Mr. Matt Cleary: I thank Deputy O'Brien. As a managing agent for the company, Bohan Hyland, we manage over 80 sites. We are starting this process of project managing building upgrade works. The first thing one must do is meet the boards of management and owner management companies. The first thing said to us is: "It is not our fault so why us?" As the Deputy quite rightly said, the Statute of Limitations does not bode well for any management company to get any sort of recourse at all. We would like the statute increased to 12 years. As he said, we would like a two-pronged attack where there is another Statute of Limitations from the verified observation time.

Deputy Darragh O'Brien: Yes.

Mr. Matt Cleary: One can have a development that is a number of years old where the statute time will elapse but that is of no use to an owner management company to try to fund the defects after that time. We would like something to be encouraged along those lines.

As a managing agent we are the ones that go to the executive general meetings or annual general meetings. We have to break the bad news to all of these members and explain that this is outside their normal budget. By the time one gets to the EGM stage, where one is proposing levies, the impact is immediate. As an agent one has to go straight to one's insurance company. One has to notify it, as a duty of care, that it has a problem and that becomes a risk. Instantly, the insurance premium is usually doubled if one is lucky to keep one's insurance cover at all. The financial impact on owner management companies is immediate. After that point, and before one reaches the EGM stage, one must employ fire consultants and quantity surveyors. All of this is a consulting cost before one even reaches the meeting stage. That is why this impact is immediate because, as soon as works are opened, defects are found. We feel that the OMCs need support through State loans as well as the individual soft loan system. We find it deeply frustrating. We are usually at the coalface where we get abuse while trying to rectify and resolve issues. On behalf of the members, we are deeply frustrated at the lack of financial support that we get for these matters. There is a fireproofing contractor who has been put under pressure by local government, the fire office etc. to get work done. Pressure is then put on members to try to pay up as quickly as they can. They then hit cashflow issues because they have already paid for fire consultants and quantity surveyors, and so they have to collect that money as quickly as possible while also plámáising the local authority to make sure that they are staying in line with the timescale of works necessary. It is a deeply frustrating scenario to be in as a managing agent.

Mr. Des McCabe: I will comment on HBFI finance. In theory, that is available to OMCs now. The terms and conditions that apply are restrictive and, in reality, OMCs do not meet the terms and conditions to be able to access the finance, especially with regard to the security that an OMC can offer.

Deputy Darragh O'Brien: Will Mr. McCabe elaborate for the record?

Mr. Des McCabe: By their nature, the only assets that OMCs have are cash in the bank, future management fee income, debtors, which includes outstanding management fees owed, and the common areas. The common areas in most developments do not have any development potential of their own because they are tied into the apartments and the owners themselves. HBFI will not accept a debtor's book or the common areas without any development potential as security for a loan. The interest rates are between 6% and 8%, which is very high.

Ms Kath Cottier: We got submissions from the Beacon South Quarter and the terms and

high interest rates made it unviable and seemed very unfair when compared with other State loan systems.

Chairman: It is helpful to have that detail for the record so we are all clear on what we are talking about. I thank Deputy O'Brien and call Deputy Martin.

Deputy Catherine Martin: I have met many people about this matter. In early 2017, people in the Beacon South Quarter in my constituency brought this to my attention and I have been working with them. Since then, many other developments in Dublin Rathdown have made it public but I am aware of others that have not made it public because they are afraid to. I welcome the formation of the Construction Defects Alliance and commend those in the Beacon South Quarter who helped to drive it, as outlined by Ms Cottier. We would not tolerate this sort of public safety issue in the food industry or on the roads and I do not know why we tolerate it in our homes. Surely it should be of paramount importance that people feel safe in their homes. That is not happening. The Green Party passed a motion with unanimous support in the Dáil in 2017 calling for an independent regulator and redress scheme. That was followed by amazing work in this committee to produce the Safe as Houses? report, yet we are in November 2019 and we are no further along. I am truly worried that a tragedy will have to occur before Government pays attention to this shameful legacy.

Mr. Prior is a homeowner. Will he elaborate on his own experience of finding out that there were defects? How does he and the people he knows feel about living in that place? Who does he turn to for advice when he hears this? There is not even a helpline. I always feel that homeowners are abandoned there. There is no helpline, so who do they turn to for legal advice? Does Mr. Prior know what sacrifices are being made by homeowners who are paying the levy to come up with the money? Are people borrowing, going without medical care, pension contributions or school fees? What legal pressure is there on people who simply cannot pay? Do threatening letters come in?

I would like to recognise the bravery shown by many homeowners such as Mr. Prior, those in the Gallery and others who have come forward and even stood at the gates of Leinster House to campaign for the Government to act. It is to be hoped that will lead to more happening. Does Mr. Prior feel that the invisibility of people who are not coming forward is playing into the Government's hands? If it does not see large numbers, does it feel that it can leave this to one side? Does Mr. Prior feel that that is a factor? How does he feel when the Taoiseach and Ministers stand up in the Dáil, as they have done many times, and say that it is a private contractual issue? How does he feel about the announcements of the mica redress scheme and the pyrite redress scheme, with nothing for him? How widespread a problem does he think the construction defects are throughout the country and does he hear of many? I hear of many defects.

Homeowners and prospective homeowners are still expected to put their faith in builders who are really self-regulating, even since 2014. Should there be an independent regulator? People simply do not trust builders to self-regulate. The Government has a duty to protect homeowners and prospective homeowners against greed-driven building standards and incompetent rogue cowboy builders. I am not saying that all builders are rogue or incompetent, but a number of builders and developers have done an extraordinary disservice to the many decent, hard-working people in the industry. The tragic inferno at Grenfell is a stark reminder of the overriding principle of the safety of residents. In the rush to build the houses that are so urgently needed, I believe that all houses and apartments must be built to an acceptable, safe standard. What measures would the witnesses like the Government to take to tackle the issue? Will the Apartment Owners' Network elaborate on its pre-budget submissions about the tax relief that

could be used to assist homeowners? What would the witnesses say to any person who is currently dealing with a defect in his or her home?

Chairman: Before we come to the witnesses' answers, there is a little housekeeping to do. This is an important issue. We have the room until 12 noon. We also have to have another discussion in this meeting. I propose, with the permission of the committee, to go out and speak to our guests for the next session, which we will have to reschedule. The discussion on the deposit protection scheme is important and we will have to reschedule it. This discussion is also important and I do not think it would be fair to anybody for me to curtail questions, answers or time. A number of people have indicated an intention to speak and it will certainly go to 12 noon. I think the fairest thing for everybody is for me to go out and speak to the next guests. Is that okay with everybody? Agreed.

Ms Kath Cottier: Mr. Prior might elaborate about his experience when he found out.

Mr. Andrew Prior: There was a sense of injustice. I paid money to all the stakeholders and have to pay it back over 27 years, so I would expect to have 27 years of protection. Of the €375,000 that I paid for that apartment, €44,600 was VAT and there was stamp duty too. There is also VAT on furniture and such. The Government took a fair whack out of that apartment at the highest possible price it could have been sold for at the time, and probably still could be sold for, though I would never get that much for the apartment at present. The Government, developer and main contractor were stakeholders. I feel a significant sense of injustice. The financial burden is very high. I have a family - three children and a wife. I want to protect my income. I have sacrificed my pension and private healthcare in some instances. I know of people in the Beacon South Quarter whose healthcare is affected. One lady cannot really afford the medicine that she needs and has to get help from relatives to pay. Other people who barely make ends meet and may be on the help to buy scheme also have these apartments. While I am relatively lucky in that I am not massively discommoded, there are those who are going without to pay. I understand that 5% to 10% of the scheme comprises social housing of some description, or associated with the help-to-buy scheme. Those concerned would find it very hard to pay. From speaking to them, I have learned they are very worried every time a bill comes in. Ms Cottier has spoken to them also.

Deputy Pat Casey took the Chair.

Ms Kath Cottier: One of the issues is uncertainty over when this will end, because we did put out the levies. It is based on good, solid advice from all the professionals that we got involved in this, including the engineers and the fire consultant. When one goes out to tender for a contractor, that is when one knows what the exact cost will be. Even then, one does not necessarily know because of opening-up works. Building methods vary. So far, they have come within a price range in respect of which we have levied but there is still another two years left. Therefore, people are living with some uncertainty.

As a director of an owners' management company — there are other directors in the Gallery — I am aware that the issue of raising funds from the ownership is extremely difficult. Debt collection is very different for a social landlord than it is for an owners' management company, and it is very stressful. I am here today because I became a director of the owners' management company because the relationship between the directors and the membership was so broken. There is a responsibility to keep people safe. If one does not start the works, there is a risk that people will lose their homes. Where else will they go to? One is left with a dichotomy based on the question of what can be done for the best. There are those who do not want to pay and

those who cannot pay. One goes through a process of getting enough support at an AGM to charge the levies. The problem with a non-profit-making entity, such as an owners' management company, is that it cannot decide to have less profit to cope with debt. All the owners pay for everything. Therefore, if there is debt, it is spread out among every owner, and this increases the levy charged to the owners who can afford to pay. There are issues in this regard. It really eats into the heart of directors.

The directors largely comprise a glorified residents' association. There are those who volunteer for the role who face addressing defects worth millions of euro and having to manage, with the help of managing agents, contracts that are very complex and hard to deal with. They must ask how they should proceed if they cannot get the money up front and how to separate the people who will not pay from those who cannot pay. One has to go through these processes. In Beacon South Quarter, we have used legal means to collect some of the debt. I suppose we are in the final stages in terms of how we progress in that regard because we are pretty sure that everybody who can pay is doing so. We have got some difficult decisions to make. That is not unique to Beacon South Quarter; it is across the board. If one does not pursue the debt, it goes to the other members. They are already struggling and will have taken out loans. That is the position. I am an institutional owner as a director but the vast majority of directors are owner-occupiers in apartments who are faced with really difficult circumstances.

Deputy Noel Rock resumed the Chair.

Mr. Matt Cleary: As a managing agent, one is not only collecting a levy but also collecting an inflated service charge. Items within the standard budget will have increased in cost because of the risk. One is at a point where a greater service charge is being collected. The same processes apply for the levy. A certain timescale has to be given because that is the timescale in which the work has to be done. The contractor has to be paid at all costs. Bearing in mind where a member has the same timeframe in which to pay the levy as well as the service charges, arrears are considered the same as a service charge that goes into arrears. One has to go down the legal route in that regard, and there is no choice. Otherwise, as Ms Cottier said, the debt is apportioned to the rest of the members and gets used as a bad debt that everyone else has to pay for.

Ms Kath Cottier: Mr. McCabe might talk about how widespread the issue is and our pre-budget submission.

Mr. Des McCabe: The Apartment Owners Network probably has had representatives of 300 developments in contact with it. This is probably the number-one issue being reported to the network. It is probably the main concern of owners and directors of owners' management companies. It compounds the other issues associated with the management and regulation of owners' management companies in regard to sinking fund provisions and the collection of service charges. It is compounding already-difficult issues concerning the running of an owners' management company and preparing for the future. A latent defect on top is a bit of a bombshell from many owners' management companies to try to deal with.

We would all like to see the Safe as Houses? recommendations implemented. From a practical point of view, it would help initially if owners' management companies could raise low-cost finance directly. This issue is urgent. People are not necessarily going to wait for the State to come running to the door to fix this. They want to try to get a head start. If low-cost finance were available to the owners' management company, the problem could be solved at a quicker rate. Currently, because it is so difficult to collect service charges, a project that might take two

or three years to complete might take five or six in reality. It could take this long to have the money up front to complete the project. If the owners' management company had the ability to raise low-cost finance up front, it would help at a practical level. Also on a practical level, a tax relief for owner-occupiers would help. Landlords have at least some ability to write off.

Mr. Andrew Prior: Owner-occupiers.

Mr. Des McCabe: Yes. There is no provision in legislation pertaining to service charges, sinking fund contributions or a levy like the one in question for tax relief for owner-occupiers. Owner-occupiers have their mortgage repayments, day-to-day expenses and service charges. Many are seeking credit union loans or a term loan from the bank. Some face bills of between €10,000 and €15,000. That is significant for an owner-occupier paying a mortgage. The properties will often have been bought during the Celtic tiger era, at the height of the market. Therefore, there might be big mortgages with repayments of perhaps €1,000 plus per month. Those affected might have another loan, with repayments of perhaps €200 or €300, to fund a levy for fire safety work. Therefore, some relief for owner-occupiers is essential. Even if there were some tax relief on the levy portion of the service charge, it would be useful.

My view, based on experience, is that along with the other issues facing the sector, and bearing in mind long-term sinking fund provisions for owners' management companies, existing sinking funds are probably not adequate in the long term as they are being cleared out to do the work in question. Therefore, the fund is returning to zero for a building that probably has been constructed for 20 or 30 years. Starting again from a sinking fund of zero means it will probably take 20 or 30 years to build it up to a decent level, unless significant contributions are made. In another ten years, all the lifts might have to be replaced or a roof might need to be done, and then there would be no money in the sinking fund. One would be back to a constant round of levies. Frustration arises because residents believe it is never-ending. If someone's management fee is €1,500 or €2,000 per year, he or she feels it should stay at that level for an extended period, accounting for inflation. Now, however, the fees are jumping significantly and staying at elevated levels, potentially for the long term in some cases. That is probably one of the biggest fears, people do not know where it is going to end.

Chairman: Having a sinking fund in a quasi-permanent state of crisis is always going to lead to a heightened level of anxiety for everybody. If they are being cleared out to deal with these defects and start from zero again, more routine matters will arise such as leaks, etc.

Ms Kath Cottier: I think everybody on this side of the table would agree that it is a good idea. The recent Housing Agency report in partnership with Clúid housing association makes strong recommendations on that point. There needs to be some entity which would step in to support owner management companies that are struggling to manage and deal with the situation. People could go to it for advice, support and information. That would be a strong recommendation from this side.

Deputy Pat Casey: I thank the witnesses for their presentations. As the debate progresses, we begin to see the impact this is having on human beings and hear their stories. The witnesses have highlighted the apartment sector but we know it goes way beyond that. Sometimes we think of urban areas. It goes beyond those too, down to one-off rural houses, the self-builds. A good friend of mine had no recourse because the damp course was put in the right place. He lost the whole house and had to start again just because there was not enough oversight of the building.

I thank the witnesses for their stories. I work in the hospitality industry and we are probably more aware of the importance of understanding how quickly a fire can spread in an apartment building and making sure that is dealt with. Even having a practical, operational, addressable fire alarm system and ensuring that is functioning and working is important. That has helped me in my industry and building because straightaway I will know where a fire is and go and put it out. If there is no proper, functioning, working, addressable alarm system, the building will be lost. If there is a place where the fire can spread, it escalates quickly.

I thank the witnesses for coming today not to just complain but to propose practical solutions. They mentioned low interest loans, tax breaks and the local authorities' home improvement loan scheme. Why do we always reinvent the wheel when there is a mechanism that could be used for something like this? Their presence today has brought another level of awareness to this issue. One of the witnesses was here previously to discuss apartment owners and the sinking fund. I was part of the committee that prepared a report on that.

The key point in that report is that, even today, the assigned certification process is not fit for purpose because the developer is paying the assigned certifier. Until we get complete and total independence from that system, I honestly believe we will be wasting our time and will see the same issues cropping up time and again. The argument that it will be too costly to do otherwise is a red herring. It is not factual because the same certification can be done by an independent inspector at the same cost. It just takes a change in mindset. I know the witnesses could not put a value on it today but my party colleagues and I are here to do whatever we can. We understand the depth and breadth of the issue and will support the witnesses in any way we can. I thank them for presenting the human side of this and keeping it to the forefront and in the public eye. It is very important that it is kept there.

Mr. Matt Cleary: Deputy Casey is 100% right. There needs to be an independent authority governing building control, the equivalent of an independent clerk of works that inspects all sorts of construction. We have found that, with all the defects that are passed, a fire safety certificate that is issued through opinion of compliance through the relevant architects' consultants at the end of a build is based on the design drawings, not on the building. Everything that is built should be inspected at certain points and signed off by an independent authority. We would also like to see developers' bonds being retained and used in the future. There could be a recall system for returning those bonds to the development companies, the OMCs, for costing or supporting builders' defects in the future. We feel quite strongly about that.

Mr. Andrew Prior: In terms of regulation everything we have spoken about is interlinked. The property price register plays a huge part because the market will set its own values and prices on property. As Deputy Ó Broin pointed out, a levy on the construction industry will absolutely work because people will still not pay more than they should for their property. Not only should the developer be levied but also people, architects and main contractors should have that bond in place that is then held by the OMC.

People will not like this as it will hit their profit margins because the market does set its own price. A starter house cannot be sold for more than €500,000 because nobody will buy it. That is the way it is and the way to get more houses on the land is to build starter houses. The regulation will work and it will help with the invisibility issue. People are scared to put their heads above the parapet because if they do, the value of their apartment might drop and they might not be able to sell their asset. They cannot sell it in any case because whether they are invisible or visible, the purchaser will find out. They might as well be visible and try to get something done about it. Staying invisible plays into people's hands and continues to make it

a private contractual matter.

Ms Kath Cottier: One of the aims of the Construction Defects Alliance is to give a voice to the invisible. We can say how many people are involved and that they are legitimate. They want to come and talk to their public representatives, to tell their stories. We say they can do that in a safe place and there are numbers behind this, with many people affected. One of the points made to us when we are interviewed on this subject is that the buyer should beware. We are asked if did not look into this carefully, using the inspections. The people who bought in all of these complexes are very responsible purchasers. They got legal advice, bought from reputable companies, had companies that signed off to say that things had been built according to planning conditions, and fire certificates had been signed off. They could not have bought more responsibly, yet they are left holding the problem. There has to be some level of inspection and a recognition that people have suffered.

Chairman: Absolutely, I could not agree more.

Senator Jennifer Murnane O'Connor: I welcome the witnesses. Their stories are scary because they are dealing with the lives of families and children, which can have an awful effect as they go from week to week trying to pay the bills without knowing what is going to happen or if there will be a good end to this. We spoke about an independent regulator but I believe we should look at something along the lines of the Money Advice and Budgeting Service, MABS. There should be a place one can ring for legal advice because there seems to be no communication at the moment. The witnesses have been looking for help but no one has responded. We do not want them to have to come back next year or the year after - it is unfair on them and on the families who are affected. The Government needs to take action and we need to look at some help so that these people can feel they are being listened to. Timing is of the essence.

We need to look at a short-term home improvement loan and tax breaks and the Department needs to give a commitment to getting back to the witnesses on these issues. Unless a person is affected by something they do not realise what it is like. These people are wondering how they can meet next week's bill. Christmas is coming and some people dread Christmas because they have extra bills.

I will be looking for something like MABS or the Residential Tenancies Board, RTB, to be set up for people such as the group before us today to ring. I compliment the group. They are stronger in numbers and people need to hear their stories so the more they highlight them the more people will say it is unfair. We are fully supportive of them. If there is anything Fianna Fáil can do, we will work with other groups to make sure they are not in the same position this time next year.

Ms Kath Cottier: One of the reasons we are so pleased to be here today is that this is a cross-party forum and we can collectively tell our story. We want this issue to be front and centre in manifestos so that there is proactive action in the next programme for Government. I have met people who wanted a quiet retirement in Beacon South Quarter but are now burdened with financial worries. They wanted not to have to worry about their garden or managing a large home.

Senator Jennifer Murnane O'Connor: We need to work to change these people's lives. Setting up the group was important but there needs to be delivery and unless we do that it is unfair on the group and on the families they represent.

Ms Kath Cottier: The Senator said it was sad that our group had to exist but it is even sadder to realise that the number of affected people is known but people just cannot speak up. The Construction Defects Alliance is giving a voice to people who are too scared to speak up.

Mr. Des McCabe: A lot of people do not want to talk to the media about their issues and for every one person who is heard in the public domain, there are probably ten keeping their heads low and trying to deal with the situation. Hopefully, we will give those people a voice.

Ms Kath Cottier: It causes great conflict in a development when somebody decides to go public. The people in the Gallery are here because they want to be heard while others in their sphere do not want to go public about it. We have to be respectful of that. All the directors of Beacon South Quarter support the action collectively because they know the hardship people are experiencing. Unless somebody raises the profile of the issue we will not be able to make people aware of it. If we are paid we can do the work but we are not going to let it go.

Senator Jennifer Murnane O'Connor: Rightly so. Well done.

Mr. Andrew Prior: Some people have been very lucky in that NAMA has paid for their entire work. For example, a development in Wexford was half owned by NAMA and half owned by private individuals. The half owned by NAMA could not be sold but the other half could not afford to pay so NAMA had to pay for absolutely everything in order to be able to sell the other half. That stinks.

Senator Jennifer Murnane O'Connor: There is one rule for one and one for another.

Mr. Andrew Prior: Absolutely. This story is in the public domain.

Senator Kevin Humphreys: I thank the Chair for allowing me to speak as a non-member of the committee. I deal with defects in apartments on a weekly basis. Mr. Prior communicated very well the feelings of anger, frustration and confusion when these things are discovered in an apartment block. I found that many of the apartment owners affected bought their flat as a starter home with the intention of going on to have a family. They are now in a one-bedroom apartment that they cannot sell. They either cannot start a family or are still tied to a one-bedroom flat. There are many hidden stories and I share the witnesses' frustration. I have raised this on every opportunity I have had but, while we have seen a pathway for mica and pyrite affecting building blocks in Donegal and Mayo and in south County Dublin, there is no pathway in this instance. I am delighted Mr. Prior mentioned NAMA. I was involved in several blocks where NAMA completed them because it needed to sell the apartments. I am also aware of other arms of the State that made financial contributions relating to defects in apartments, largely because we had them by the short and curlies.

Mr. Andrew Prior: It was a private contractual matter.

Deputy Eoin Ó Broin: With public money.

Senator Kevin Humphreys: Yes, it was public money. Local authorities have also made large contributions because they were involved in the shared ownership scheme. Some people, however, have been totally left high and dry and it frustrates me that the Minister and Minister of State, Deputies Eoghan Murphy and English, said in the Seanad that they will not get involved because it would expose the State to financial losses. In many ways, though, it was the State that let these people down. I engage with people who are frustrated, angry and confused and there is friction between people living in apartments who are paying and those who cannot

pay, which is not a very nice way to live.

We need a pathway to resolve this and I admire the witnesses present today. We have spoken at length about low-cost finance and I am really frustrated they have not had the opportunity to access that. A lot of apartment owners feel they should not have to borrow money to fix defects that should never have happened in the first place. They have to be pragmatic at some stage and try to get that resolved. That is an element of it, as are the tax breaks.

What level of engagement do the witnesses have with the Department or the Ministers? I have raised this over and over again and am probably getting the same answers as the witnesses but I would like to hear it from them. Have they had face-to-face engagements with the Ministers in the relevant Departments? What answers have they been given about low-cost finance, tax relief or the resolution of the outstanding issues? There must be solutions. We cannot keep kicking the can down the road because we cannot leave families in these circumstances.

To indirectly answer an earlier question, there will be something in my party's manifesto about this issue. I hope every other party also includes it in theirs. Many members of this committee have worked extremely hard on this issue. I give the witnesses a commitment that resolving this will be in our party's manifesto coming into the next general election. We cannot leave more than 90,000 people in no man's land forever.

Ms Kath Cottier: We have met with all the parties and have been heartened by their responses. They are taking this issue seriously and have a genuine interest in understanding it.

The Senator asked about engagement with the Department. Early on in our lobbying for Beacon South Quarter, an olive branch was extended in the form of Home Building Finance Ireland, HBFI, to which we submitted. It will not be the answer. The statement from the Department on "Drive Time" last night really illustrates where we are with the Government approach. The official line is still that it is a contractual matter. We have not been able to engage on the other elements there. Every party sees practical solutions in the Safe as Houses report which can be implemented. We are hopeful that the Government's position can change but as it is, we have not had any engagement on immediate practical solutions.

Mr. Des McCabe: The HBFI finance was put out as a source of available finance but in practice it is not available to owners management companies. AON has made submissions to the Department of Finance around tax breaks for landlords and so on, but the argument gets closed down very quickly if there is a liability to the State or if it costs the State money. It is very hard to get engagement on that matter.

Deputy Eoin Ó Broin: I do not have that option when I pay my tax.

Ms Kath Cottier: We have not had any direct meetings with the Minister.

Senator Kevin Humphreys: Last May in the Seanad the Minister committed to meeting the witnesses, which they followed up on several times. I am sorry to hear that meeting has not taken place.

Chairman: Was that this May or the previous one?

Senator Kevin Humphreys: It was six months ago.

Chairman: I will undertake to write to the Minister about this. That meeting should take place.

Deputy Catherine Martin: On this issue, I met the Minister of State, Deputy English, well over a year ago to discuss the Beacon South Quarter. It was agreed at that meeting that he would meet with Beacon South Quarter representatives. I emphasise that both the Department and the Ministers need to engage with this issue, in order that they can see the real life experiences and stress involved. I pointed out to the Minister of State at the time that he had met with people in Donegal about mica issues a few months before that, so there was precedent for such a meeting. About a week later he wrote back and said he had changed his mind and would not be engaging with those representatives.

Senator Kevin Humphreys: I had a similar kind of response from Ministers. Previous Governments had ministerial engagement on apartment defects and resolutions were found. There is a level of frustration on my side as that level of engagement is no longer taking place. Solutions have been found for other developments. We need a structure for everyone. This should not be done on an individual basis and should not depend on how experienced public representatives are in resolving such issues. There has to be a structure around this which creates a pathway for every defective block to get resolved. We need to get away from the quick fix. I have direct experience of this issue. Some of my family members have been caught in these circumstances and what they have gone through is horrible and horrendous. It is like putting one's life on pause for ten years. It is just not on.

Chairman: Given the scale of the problem and the number of people affected by it - which is potentially 92,000 according to the Construction Defects Alliance's opening statement - any kind of *ad hoc* or bespoke solution development by development is simply not good enough. We need a cohesive, holistic solution to this.

Senator Martin Conway: Apologies, I had to step out for a few minutes as I was doing a radio interview. I have listened to the witnesses' submissions. I have dealt with people affected by this issue in County Clare, if that can be believed. Two or three of those cases have been reasonably successfully resolved after a long time but others have not. There are two primary issues here. First, a pathway has to be found, as the Chairman said. We need a solution that encompasses those 92,000 people, rather than a bespoke one. That has to happen. I am confident this will be included in the next programme for Government, regardless of which parties make up that Government. The witnesses are right in their approach of trying to influence the party manifestos. I believe the issue will be resolved, but the problem is when. It needs to happen quickly.

PMPA went belly-up back in the 1980s. Something went wrong and many people were caught out. A levy relating to that collapse is still in place in the insurance industry today. If someone is involved in a collision with an uninsured driver, he or she has the means to go back and claim from that fund. The same type of principle should apply in this instance.

I was very troubled to hear Deputy Ó Broin talk about issues in a complex that was built in 2017. I deal with many planning issues in County Clare because I was a member of the local authority for a long time. As a Member of the Oireachtas people still come to me about such matters on a regular basis. There is a serious problem with professionals in the industry. Local authorities should not take planning applications from agents unless they are on an approved list and have the necessary qualifications. Sadly, many people put themselves out there as architects and professionals who do not have the skillset or modern equipment to advise people properly. Houses are being built to this day that I have no doubt will cause problems in the future. Those 92,000 cases must be dealt with urgently, but we also need to put safeguards in place going forward. That way, those affected by the 2017 example Deputy Ó Broin has cited

and the other examples we no doubt will come across will not have to repeat this process in 2020 or 2025, as there would be a fund in place for them. Those structures should be informed by this committee's recommendations.

Chairman: I completely agree with what the Senator is saying. It makes sense and should be noted. In addition, I suggest we have another meeting with the Minister of State, Deputy English, on this matter. Was that what the Senator was about to say?

Senator Martin Conway: Yes, exactly.

Chairman: We are all on the same page. That is something we should do going forward.

Ms Kath Cottier: One of my colleagues in the Public Gallery, who was a committed apartment owner and director of a company, said he would not advise anybody to purchase an apartment now. We need to develop confidence in higher-density living, which is also a solution to wider housing issues in Ireland. We need people to develop trust in the system and to trust the structures of the State to protect the decisions they make. That is a long-term element of this. Being a responsible and proactive support and helping to deal with people who are currently affected goes a long way to building trust for what goes next.

Chairman: Absolutely. I could not have put it better myself.

Deputy Eoin Ó Broin: Deputy Martin made a very good point when she asked if we have to wait for a tragedy to occur. It is not an exaggeration. If one looks at the history of building control, powers were first given to the Minister to develop building control regulations in the 1960s. The regulations were not drafted until the 1970s and it was then decided not to implement them. The Stardust fire led to the resurrection of the 1984 Building Control Bill which is the Act that ultimately underpinned legislation that followed. That was only further revised after Priory Hall. The only two significant pieces of building control legislation we have come after very substantial tragedies, the first of which resulted in significant loss of life. We must take that warning and not wait for a third tragedy before we have a proper system.

I want to put on record that there was a concerted effort to try to get amendments into the Home Building Finance Ireland Act to provide a specific loan product to management companies and owner occupiers with latent defects. Not to re-fight old battles, because we have a good cross-party consensus here, I do think that, if there are committee members who think that an amended Home Building Finance Ireland, HBFI, could provide one vehicle for dealing with latent defects, we should work together. There will be opportunities in legislation to deal with that. I am not saying that is the solution but the more things on the table, the better.

It is important that we do not just have this meeting, there must be follow-up. I wish to merge two proposals. On behalf of the entire committee, the Chair will write a letter to the Minister, outlining in brief what we have heard today and what our concerns are. I do not mean that to be a report so there is no need for the clerks to panic over extra work. We should express our concern that it is two years since the publication of our report and nothing has happened. We should request that meeting with the committee. I would like the Minister of State with responsibility for housing and urban development, Deputy English, and the Minister for Housing, Planning and Local Government, Deputy Eoghan Murphy, and the building control and planning sections of the Department here for that. We should also urge the Minister and Minister for State to meet with the group now that it has been formally set up because it is representing all affected and not just Beacon South Quarter. A letter should be sent expressing dissatisfaction

with the failure to implement our report, requesting a meeting and urging a meeting with the group at the earliest opportunity.

Chairman: I agree with that thread of correspondence. Those three bullet points are perfectly reasonable.

Deputy Eoin Ó Broin: Our guests are being heard. It is important for them, the people here with them and anybody else who is listening that lots of people are hearing what is being said. It is not just members of this committee and the Oireachtas. There has been a good and significant level of good media coverage from RTÉ, *The Irish Times* and *Irish Examiner*. I reassure people that there are people hearing what they are saying. We have to work harder, collectively, to make sure that the people in power do what we need them to do. I would hate for people to go away today feeling as if they have not been heard. They are being heard by lots of us. That is why we have a report and our guests have the level of support that they have from this committee today.

Chairman: I think I speak for everybody when I say that support is completely cross-party. Our guests have the support of the entire committee and that is why we are glad to have them here today. We moved the session that was scheduled to follow so that we could continue the discussion with our guests. It is important that deeply affects many people and their lives in a big way. I am delighted our guests could come before us today. I thank them all very much for their time.

The joint committee adjourned at 11.55 a.m. until 11 a.m. on Tuesday, 12 November 2019.