# Referendum on a Right to Housing

# *Social Justice Ireland's* submission to the Housing Commission

# Introduction

*Social Justice Ireland* welcomes the opportunity to make a submission to the consultation process on a referendum on a Right to Housing and would welcome the opportunity to meet with members of the Commission to discuss this submission, or indeed any other matters, in more detail if necessary.

*Social Justice* Ireland believes strongly in the importance of developing a rights-based approach to social, economic, environmental, and cultural policy. Such an approach would go a long way towards addressing the inequality Ireland has been experiencing and should be at the heart of the development model for a just society.

Our view is that there are seven core economic, social and cultural rights that must be acknowledged in Government policy. These are:

- Sufficient income to live life with dignity;
- Meaningful work;
- Appropriate accommodation;
- Relevant education;
- Essential healthcare;
- Cultural respect; and
- Real participation in society.

For the purpose of this submission, we will focus on the right to, and need for, appropriate accommodation. Ireland has been in the midst of a housing and homelessness crisis for almost a decade. The scale and severity of the economic collapse in 2008 saw Ireland all but abandon capital housing projects, particularly in the areas of social and affordable housing. The replacement of social housing delivery with "social housing solutions" saw an exponential increase in the number of social housing households accommodated in the private rented sector. This, in part, led to increases in rent costs for tenant households and the development of a market in social housing investment, which drove up house prices generally. Added to that, the mortgage arrears crisis of the mid-2010s, the legacy of which is still being felt today, and we see the number of homeless people remain stubbornly high. And that's just the official data. There is currently no mechanism for counting the real number of homeless people, the number of households who need additional social housing supports.

# The Need for Appropriate Accommodation

## Population Expansion

Population projections indicate that Ireland's demographics are due to shift from a relatively young population as it is now, to one with a significant proportion of older people by 2051 and is expected to grow considerably over the next 35 years (Hegarty, 2019). This expanding population needs accommodation that is suitable to their needs and supports both family formation and increasing age. In its Economic Letter – Population Change and Housing Demand in Ireland, the Central Bank of Ireland indicated that 27,000 houses were needed per annum between 2011 and 2019 (Confey & Staunton, 2019). Residential construction completions during this period averaged over 10,000 per annum, implying a "significant degree of unmet housing need over this period." (Confey & Staunton, 2019, p. 14). Housing for All, the Government's housing strategy, estimates demand at 33,000 homes per year, however this does not account for pent-up demand of approximately 90,500 homes due to years of underinvestment.

## Current Housing Supply

Census 2022 preliminary data puts the current housing stock at 2,124,590, of which 1.86 million are occupied and over 166,000 are vacant units, excluding holiday homes (Central Statistics Office, 2022a).

Figures released by the CSO in 2018 showed that housing construction between 2011 and 2017 had been continuously overestimated through the use of ESB Connections data as a substitute for an actual dwelling completions count. While new dwelling construction has increased since 2013, between 2016 and 2021 (the lifespan of Rebuilding Ireland), a total of just 104,092 dwellings were built, resulting in an average of just 17,349 for each of the six years, considerably less than the target of 25,000 per annum (Central Statistics Office, 2022b).

Between 2011 and 2014, two thirds of all new dwelling completions comprised of single units, while less than a quarter were scheme developments, and apartments accounted for 11.3 per cent. Between 2015 and 2021, this trend reversed with less than one third (27.4 per cent) of all new dwellings in that period comprising of single units compared to over half (55.7 per cent) attributed to schemes, and 16.9 per cent apartments. The number of apartments being built has risen steadily since 673 completed in 2015 to 5,107 in 2021, accounting for one in every four dwellings completed last year.

While the number of new dwelling completions being delivered is still below what is required to keep pace with demographic change and accounting for obsolescence, the upward overall trend, and that of scheme developments, is a positive sign. However, dwelling completions are not of themselves enough to address our current housing crisis. This increase needs to be reflected in the provision of social and (genuinely) affordable housing and long-term private rental solutions. There are also questions to be asked as to who is buying these new dwellings and for what purpose.

## Vacancy and Dereliction

According to the most recent figures there were 166,752 vacant properties on Census night 2022 (excluding holiday homes). While this figure represents a decrease in vacancy rates per population size in all counties when compared to Census 2016, when the preliminary figures for each county are compared to the county breakdown of the Social Housing Needs Assessment 2021 there remains more vacant properties than households in need in every county, assuming the figures produced in the Summary of Housing Needs Assessment 2021 are correct, as discussed later in this submission.

It should be noted that the GeoDirectory Reports puts the number of vacant units at 90,158, with highest rates in Leitrim, Mayo and Roscommon (GeoDirectory, 2022). That same report indicates that there were 22,096 derelict properties across the country at December 2021. The highest number is in Mayo (2,924), followed by Donegal (2,651) and Galway (1,946). The lowest rates of dereliction are in Carlow (233), Wicklow (244) and Louth (254). So, there is anywhere from 112,000 to 166,000 vacant and derelict properties across the country that could be brought into use.

In early 2017, the Government introduced the Repair and Leasing Scheme for owners of vacant properties to access funding of up to €40,000 to repair their properties which would then be leased to the local authority for use as social housing for a term of between five and 20 years, with a target of 3,500 properties to be brought back into use. The latest data from the Department indicates that of the 2,168 applications made, just 227 leases were signed in respect of 273 properties (Department of Housing, Local Government and Heritage, 2021). Just over one in ten applications resulted in a lease. This is clearly not working.

The Housing for All Strategy committed to the introduction of a new vacant land tax to replace the Vacant Site Levy. This was introduced in Budget 2022, however at a rate of 3 per cent, and with a lead-in time of 3 years, this will have little impact. The programme to CPO (compulsory purchase order) vacant properties has been delayed to Q2 2022; as have the implementation of the position of Vacant Site Officer in each Local Authority; the amendments to the Fair Deal scheme to use the properties left vacant by nursing home residents; the proposed amendments to the planning regulations to exempt certain commercial premises which require a change of use to residential (Department of Housing, Local Government and Heritage, 2022). This disappointing lack of progress begs the question of whether Government is really serious about addressing vacancy in a meaningful way.

## Housing Affordability

### Home Ownership

A number of initiatives have been implemented by this and previous Governments in an effort to make housing more affordable.

Help to Buy was introduced in Budget 2017 to help first time buyers who bought or self-built a property by giving a maximum amount of €20,000. This has since been increased to a maximum of €30,000. An analysis of the Help to Buy data published by the Revenue Commissioners and purchases of homes (all and new) published on the Property Price Register suggests that this scheme is being used to support purchases in the higher end of the price range. In 2021, more than one in three (34.5 per cent) of homes supported by the Help to Buy Scheme were in the €301-375,000 price range compared to 14.6 per cent of all home purchases registered on the property price register, and 24 per cent of new homes.

In September 2018, the Government launched the Land Development Agency, with an initial capital investment of €1.25 billion, to build 150,000 units over 20 years. One of the objectives of the new Agency was to deliver at least 40 per cent of housing built on lands transferred from the State in the form of social (10 per cent) and affordable (30 per cent) housing. The remaining 60 per cent would be privately owned. The Land Development Agency (LDA) Act 2021 was passed in July 2021. While the purposes of this Act are laudable, its execution will likely result in an increase in private development on public land, rather than a real increase in public and affordable housing. The Agency is given wide-ranging powers to acquire (including by Compulsory Purchase Order) public and other lands for development and to sell lands to Local Authorities and others, and to enter into contracts and joint ventures in respect of these public lands.

The latest support for home purchases came in 2021 with the publication of the Affordable Housing Act 2021 and the introduction of the 'First Home' Affordable Purchase Shared Equity Scheme. Under this scheme, first time buyers who have accumulated a deposit and are approved for a mortgage can access an equity loan from the State to make up the difference between what they can finance themselves (savings and mortgage) and the actual purchase price of the home, up to €30,000. Rather than make the home affordable, this artificially maintains high house prices by inflating the purchasers' income, while circumventing the Central Bank's macroprudential rules. Instead of one mortgage, the purchaser has two loans charged to the property, their mortgage and the equity loan.

Meanwhile, housing affordability has worsened in recent years, becoming less affordable between 2013 and 2019, before recovering slightly in 2020 (Parliamentary Budget Office, 2022a). However, it must be noted that an affordability calculation based on earnings will be in 2020 will be distorted as average earnings increased in response to a lay-offs in lower-paid jobs during the pandemic. Between 2012 and 2020 house prices increased by 77 per cent, compared to wage growth of 23 per cent in the same period (Parliamentary Budget Office, 2022a) and asking prices have increased by 14.4 per cent in the year to December 2021, just 10.3 per cent below the 2007 peak (Central Statistics Office, 2022).

### Rental

The main initiatives to make rent more affordable have been the introduction of Rent Pressure Zones and Cost Rental housing. Rent Pressure Zones (RPZs) were introduced in December 2016 to place a cap of four per cent on rent increases in certain strategic areas. There are the Harmonised Index of Consumer Prices (HICP), however with cost of living increases exceeding 5 per cent, this was revised again to the lower of the HICP or 2 per cent. However, rents continue to rise. The average monthly rent for a tenant rose by €100, or 6.8 per cent, in the year to Q3 2021, for a national average of €1,516 per month. Between 2011 and 2020 rents increased, on average, by 5.3 per cent (Parliamentary Budget Office, 2022a). This suggests that RPZs are not as effective as had been hoped. In response to a Parliamentary Question in November 2021, the Minister for Housing confirmed that by July 2021, 29 cases for breach of RPZ limits had been heard by the Circuit Court, with an expected 250 cases to be confirmed in 2022 (O'Brien, 2021).

Cost rental is a tenancy popular in other European countries, notably Austria and the Netherlands. The premise is that rents will be divorced from the market and based instead on the cost of providing the property – building, finance and maintenance. This type of tenure has gained popularity in Ireland, however the scale of provision has been too low to have any real impact on market prices. One complaint about cost rental in Ireland is that rents continue to be out of reach of low-income households. At between €1,200 and €1,300 per month, this is true, however cost rents should remain at this level despite any inflation in the private sector, making it more cost-effective in the longer term. The Affordable Housing Act 2021 put cost rental on a statutory footing. Section 34 of the Act provides that cost rental tenants will not be eligible for housing subsidies available to tenants in the private rented sector generally unless they have had a change of circumstances making them eligible after 6 months. In the absence of real social housing provision, discussed later in this Chapter, this creates the unusual situation whereby social housing tenants in the private rented sector could be paying more in rent and top-ups than their wealthier counterparts who can avail of cost rent.

## Homelessness

The latest data indicate that 10,568 people accessed emergency homeless accommodation in the week 25-31 July 2022, the highest number since recording began. This figure includes 3,137 children in 1,423 families. The previous housing strategy, Rebuilding Ireland, committed to eliminating family homelessness, however since July 2016 (the commencement of Rebuilding Ireland), family homelessness has actually increased by 26 per cent.

These are the 'official' data on homelessness. They do not include those staying with family and friends, they do not include rough sleepers, they do not include homeless families temporarily accommodated in housing owned by their Local Authority, they do not include the women and children in domestic violence refuges, and they do not include asylum seekers in transitional accommodation. In 2019, a report commissioned by the European Commission referred to the current state of data collection on homelessness in Ireland as "statistical obfuscation if not 'corruption'." (Daly, 2019). This is unlikely to change with Housing for All. In July 2021, the Department of Housing, Local Government and Heritage reclassified dependents aged 18+ as adults, thus distorting the number of adults, families, and dependants accessing homeless accommodation.

Family Hubs were first introduced in 2017 as an alternative to hotels and B&Bs. In response, the Irish Human Rights and Equality Commission (IHREC) warned of the risks: of institutionalising families and normalising family homelessness (Irish Human Rights and Equality Commission, 2017). This warning was ignored, with Minister Eoghan Murphy TD urging Local Authorities to build more 'rapid build' Family Hubs at the Second Housing Summit in January 2018, and increased funding for Family Hubs provided in Budgets 2019 and 2020. The only mention of family hubs in the Programme for Government 2020 is a commitment to provide additional supports to students living there.

A report published in April 2019 by the Ombudsman for Children's Office (OCO) shows just how prescient IHREC's warnings were, as children as young as 10 describe their living conditions as being "like a prison" (Ombudsman for Children's Office, 2019). While the Report does point out that Family Hubs have been found to be better than hotel rooms, in the long-term they remain an unsuitable solution.

Emergency accommodation, including Family Hubs, are intended to be short-term measures. However, almost half of all single people and families (48 per cent each) presenting at emergency accommodation have been doing so for 6 months or more, and 14 per cent and 13 per cent respectively have been accessing this type of accommodation for 24 months or more (Department of Housing, Local Government and Heritage, 2022).

And what of our ageing population? The number of people aged 65 and above who are homeless has almost doubled since the introduction of Rebuilding Ireland (from 83 in July 2016 to 158 in July 2022), although there were fluctuations during that period. While there is a relatively low instance of homelessness among adults aged 65+, the rate of increase since the inception of the previous housing strategy is concerning. Frailty is often a challenge that comes with ageing and is exacerbated by poor living conditions.

## Financial Costs of Homelessness

The societal cost of homelessness is, as yet, unknown. Children born into, or at risk of, homelessness are presenting to services unable to crawl or walk due to lack of space and unable to chew food because their parents have no option but to maintain a diet of ready-made pureed food as a source of nutrition far beyond the stage when other children their age would have been weaned. This is also reflected in the concerns reported by Temple Street Children's University Hospital in its report of 842 children being discharged into homelessness in 2018 and a study conducted by the Royal College of Physicians of Ireland (Royal College of Physicians Ireland, 2019). Time lost in the first five years of a child's development is not easily recovered. It requires wraparound supports, including physical and speech therapies, counselling services and dieticians. It was therefore disappointing that no provision for Housing First for Families was made in the Housing for All Strategy.

The financial cost is easier to quantify. While decreasing since its peak in 2019, since 2014 €941 million has been spent by Local Authorities on emergency accommodation alone. Expenditure in this area peaked in 2019, €183 million, before decreasing to €171 million in 2020 and €153 million in 2021.This may be partly attributable to the pandemic and it will be interesting to see what impact that had when the 2022 figures are published.

The most recent rough sleeper count, taken in March/April 2022, showed 91 persons sleeping rough in Dublin over the course of the week of the count. Charity remains a key feature of the response to rough sleeping, with increasing numbers of food outreach services visible on the streets. This work is commendable, but it should not be used by Government to abdicate its responsibility to provide basic shelter for those in need.

In the breakdown of Specific Accommodation Requirements contained in the Summary of Social Housing Needs Assessments (Housing Agency, 2022), the number of households reporting 'Household member(s) is homeless' increased by 2.1 per cent (130 households) to 6,325. This is an increase of 33 per cent since 2017 when 4,765 households reported homelessness as their main need. Even with the continued decrease in official numbers in need of social housing, the homelessness crisis is undeniable and must be addressed.

## Social Housing

The number of homes owned by Local Authorities was 141,128 at the end of 2020. A further c.30,000 were rented by Approved Housing Bodies (AHBs). In total, only 9 per cent of all housing stock in Ireland is social housing. This is far lower than our nearest neighbour Northern Ireland (24 per cent), England (17 per cent) and our European peers such as Austria (24 per cent), France (16 per cent), Sweden (17 per cent) and The Netherlands (29.1 per cent) (Housing Europe, 2021).

The last three decades have seen 'a significant reduction in the traditional role of council housing as the primary source of accommodation for low-income renters due in part to the contraction of capital funding for council housing, which fell by 94 per cent between 2008 and 2013 (Norris & Hayden, 2018, p. 38). The expansion and contraction of capital spending on housing by central government demonstrates just how volatile this basic necessity for low-income families is, and how responsive it is to economic shocks. Analysis of capital and current expenditure on social housing delivery and supports states that prior to 2009, capital funding accounted for an average of 70 per cent of the total annual spend on housing (including Rent Supplement), however since the crash of 2008, there is a clear trend towards current expenditure and, since 2015, there has been an almost equal amount of capital and current expenditure each year – with an aggregate of €6.27bn on capital and €6.46bn on current housing programmes to 2021 (Parliamentary Budget Office, 2022).

### Social Housing Needs Assessments and HAP

According to the Summary of Social Housing Needs Assessments 2021, there were 59,247 households on the waiting list for social housing, presenting as a decrease of 4.3 per cent on the previous year (Housing Agency, 2022). However, the truth is that the housing crisis is worsening as Government continues to look to the private sector for solutions. The Summary of Social Housing Needs Assessments does not include households in receipt of the Housing Assistance Payment (HAP) as these households are deemed to have their needs met. This means that households who would, pre-2014, have been given Rent Supplement and included in the social housing waiting list data, are no longer included. As of 31st December 2021, there were 60,747 households in receipt of HAP.

There has also been some debate surrounding the methodology used by local authorities in collecting information about those still on the housing waiting list, namely an 'opt in' letter requesting information on housing status which, if not returned, results in automatic removal from the list. While discretion was given to local authorities to make further contacts by telephone and text message, this method of data collection adversely affects those with low literacy skills and those with reduced capacity to engage in this manner, whether through stress or other socio-economic factors. It therefore risks excluding the most vulnerable households and could be a contributory factor to the rising rate of family homelessness, discussed earlier. As stated, households in receipt of Rent Supplement are counted, and account for a sizable number of households on the social housing waiting list, those in receipt of the HAP, those living in local authority rented accommodation, those in accommodation under the Rental Accommodation Scheme, anyone in accommodation provided under the Social Housing Capital Expenditure Programmes or any households on the transfer list are not counted as in need of social housing assistance. According to estimates published by the Parliamentary Budget Office, the number of people with an ongoing social housing need (those on the waiting list and those in receipt of HAP) is 260,000 (Parliamentary Budget Office, 2022). More than one in every 20 people in Ireland is in need of a home.

## Mortgage Arrears

At the end of Q4 of 2021, there were 59,562 home mortgages (private dwelling house (PDH) and buy-to-let (BTL)) in arrears, with 43,145 of these in arrears of more than 90 days (Central Bank of Ireland, 2022). While this represents a decrease on the same period in the previous year, the number of PDH mortgages in arrears increased from 5,266 in December 2020 to 5,406 in December 2021. These borrowers are, arguably, most at risk of losing their home should the financial institution pursue their right to take possession of the property.

### Non-bank Entities

Non-bank entities are Retail Credit Firms and Credit Servicing Firms and do not, as the name might suggest, provide banking facilities. As of Q4 2021, non-bank entities owned 13.6 per cent of all PDH mortgage accounts and 67 per cent of all PDH mortgage accounts in arrears over one year. Of the 5,406 PDH accounts in arrears of more than 10 years, 76 per cent (4,117) are owned by non-bank entities (Central Bank of Ireland, 2022).

In recent years, mortgage banks have been selling mortgage loan books to non-bank entities as part of a strategy to reduce the number of non-performing loans (NPLs) to within EU parameters. Consumer advocates have expressed concerned about the lack of consumer protections for borrowers, particularly those whose loans were performing, while those in favour of this strategy cite the high level of NPLs acting as a barrier to accessing better credit terms, thereby contributing to Ireland's high mortgage rates. Data extracted from the Central Bank's quarterly statistical report on mortgage arrears show that while the number of PDH mortgages held by non-bank entities has risen by 158 per cent since 2016, the number in arrears was decreasing between 2016 and 2018, before increasing sharply in the years 2019 to 2022 (currently standing at 23,669).

### Local Authorities

Of the 14,735 Local Authority mortgages active as of Q4 2021, 34 per cent were in arrears, representing 5,053 low-income households, 45 per cent of which are in arrears of more than 90 days (Department of Housing, Local Government and Heritage, 2022a). This represents a reduction of 67 mortgages in arrears compared to the same period in 2020. During this period there were also 259 fewer mortgages recorded in total.

The latest local authority repossession figures show 7 forced and 2 voluntary repossessions in 2021 (Department of Housing, Local Government and Heritage, 2022b). The only option for these families is adequate social housing, which this and previous Governments have failed to provide.

### Insolvency Supports

In October 2017, the Government established the Abhaile project under the remit of the Citizens Information Board. This project increased funding to MABS (the State's Money Advice and Budgeting Service) existing mortgage supports in place since September 2015; continued to fund the Accountants' service, put in place in October 2017; and funded a new voucher system for borrowers in late-stage mortgage arrears to access a Personal Insolvency Practitioner for one meeting to determine eligibility for an insolvency arrangement or a Solicitor for legal advice as well as a system of Court Mentors at repossession hearings across the country.

According to the Third Report of the Abhaile Scheme, some 14,319 Personal Insolvency Practitioner (PIP) vouchers were issued between mid-2016 when the Scheme began and December 2019 (p.18). It should be noted here that PIP vouchers are provided per borrower, not per mortgage, and so the number of mortgages involved is less. Of these, 10,073 have been presented for payment. At €500 plus VAT of 21 per cent per voucher, this equates to a value of €6,255,333 redeemed out of a possible €8,892,099.

A breakdown of the outcomes for the 10,073 borrowers who presented their PIP Vouchers for payment (p.22) indicates less than 2 in 5 (39 per cent, n=3,929) have a solution or trial solution in place. Just 23 per cent were granted a Personal Insolvency Arrangement (PIA) (n=2,357); a further 13 per cent entered into an informal solution with their lender (n=1,336), either an Alternative Payment Arrangement (ARA) or Mortgage to Rent (MTR); and just 2.3 per cent were made bankrupt (n=236). Of the 41 per cent who were progressing solutions (n=4,130), 2,015 (20 per cent of the total) were in progress to a formal solution (PIA or bankruptcy) and 2,115 were in progress to an informal solution (21 per cent of the total). The remaining 20 per cent of borrowers who accessed a PIP voucher either surrendered their property or had it repossessed (2 per cent, n=201) or disengaged after advice (18 per cent, n=1,813).

So, for €6.25 million, less than half of all borrowers who presented their PIP voucher for payment (n=4,608, 45.7 per cent) had accessed or were in the process of accessing an insolvency solution. The 3,451 (34 per cent) who accessed or were in progress towards an informal solution could have achieved the same result by accessing MABS' free money advice supports without the need or expense of a PIP.

### Mortgage to Rent

Since its introduction in 2012, only 1,682 households have availed of the scheme out of a total of 6,089 cases (28 per cent) and a further 720 are being progressed. Even if all 720 were successful, that is still only two in every five applicants. Mortgage to Rent does not serve all counties equally. Counties Donegal, Sligo, Roscommon, Leitrim, Galway City and Longford have all had less than 100 successful cases since Q2 2015.

Mortgage to Rent has been reviewed twice, the first time in February 2017. While the eligibility criteria for borrowers in mortgage arrears remained largely unchanged following that review, one of the main outcomes was the introduction of a new funding model, using private equity. Private equity vehicles are, by their nature, profit driven and without tight regulations and buy-back options for the State, Mortgage to Rent tenants may fall foul of market fluctuations. The second review took place in February 2021 and resulted in welcome improvements to the eligibility criteria, including income limits, equity limits and size of the property. These improvements will no doubt help support some households, however based on the last ineligible cases summary report from the Housing Agency, 330 of the 460 cases (72 per cent) were ineligible on the grounds that the household was either over or under-occupied. The changes to this element announced in February 2021 apply only to borrowers aged 65+ or where there's a disability in the household. There is no evidence in the 2021 review that this will have a significant impact on the numbers eligible.

Of the 6,089 applications for Mortgage to Rent, 3,227 were terminated:

- 621 referred to duplicate applications that should not have been in the system at all, so that brings the number on both sides down to 2,606 out of 5,468 (48 per cent).
- 668 were declined by the AHB or Local Authority. AHBs were most likely to decline in Meath, Tipperary, Dublin City, Waterford, Fingal and Limerick. Local Authorities were most likely to decline in Cork County, Tipperary, Cavan, Roscommon and Meath.
- 240 had "No AHB Interest". Most likely to be the case in Tipperary, Limerick, Cork County, Galway County and Meath.
- 197 could not agree a sale. Most likely in Louth, Kildare, Meath, Waterford and Dublin City.
- 1,474 are listed as "Withdrawn", without any published data on why that might be.

Both Personal Insolvency Arrangements and Mortgage to Rent will work for some households, but there are still many in long-term arrears for whom there is little support.

## Private Rented Sector

Approximately 13 per cent of the population are living in private rented accommodation. According to the Residential Tenancies Board (RTB), there were 165,736 landlords registered with the RTB in 2020 and 297,837 tenancies. The number of landlords rose steadily from 2006, when there were 83,102 landlords and peaked in 2012 with 212,306 landlords. A sharp decrease to 160,160 landlords in 2014 was followed by some slight fluctuations in the following years. The narrative that landlords are "fleeing the market" is not quite true, however in the wake of the Global Financial Crash in 2008, and subsequent increase in property values, there was a decrease in the numbers continuing to rent their properties. In recent years, we have instead seen an increase in institutional landlords, corporations with property portfolios in the Buy to Rent (and lately the social housing) markets. In July 2021, the RTB published a report on large landlords, those with 100+ tenancies (Residential Tenancies Board and Amárach Research, 2021). Of the many interesting findings within this report, this quote stands out in terms of the effect institutional landlords have on the meaning of "home" within the rental context:

> They see what they offer tenants not as a property but as a proposition. They are marketing a location and an environmental context – not just the individual property.

Notwithstanding an increase in large landlords, the latest Daft.ie Rental Report states that 716 homes were available to rent on their site at the end of Q2 2022, of which fewer than 300 were in Dublin (Lyons, 2022).

As of 01st September 2022, there 15,657 entire homes or apartments listed on AirBnB[1].

In addition to a lack of supply, we also have an affordability issue. The same Daft.ie Rental Report referred to earlier indicates that the average asking rent nationwide in Q2 2022 was €1,618, an increase of 3.3 per cent on the previous quarter and 12.6 per cent annually. Annual growth was highest in Leitrim and Longford, at 21.3 per cent and 19.9 per cent respectively, while lowest annual growth rates were experienced in Louth and Kildare (8.2 and 8.1 per cent respectively) (Lyons, 2022). In Dublin, average asking rents range from €1,987 in North County Dublin to €2,387 in South County Dublin. These are the rents sought in respect of new tenancies and, as such, may differ from average rents being paid in existing tenancies. However, it does indicate that Rent Pressure Zones legislation is not having the desired effect.

In terms of existing rents being paid, the RTB Rent Index for Q1 2022, indicates that rents grew on an annualized basis by 9.2 per cent, higher than the previous quarter (Residential Tenancies Board, 2022).

### Rent Inspections

Each Local Authority has a target of inspecting 15 per cent of rental properties in their area. In 2019, the percentage of registered tenancies inspected rose to 9.93 per cent, from 7.39 per cent in 2018. It was hoped that this increase in inspections would be consistent, however in 2020, just 6.73 per cent of rental properties were inspected. Of these tenancies inspected, between 75.45 per cent (Leitrim) and 100 per cent (Carlow, Cavan, Galway City, Kilkenny, Laois, and Waterford) were found to be non-compliant (National Oversight and Audit Committee, 2021) One solution to this low standard is to make it mandatory for all landlords to have a certificate procured prior to letting, that states the rental property meets a minimum standard.

## Tenure and Poverty

With rent inflation outstripping increases in average earnings, it is perhaps unsurprising that tenants in private rented accommodation are most likely to experience poverty, both before and after paying their rent. In May 2022, *Social Justice Ireland* published a report 'Housing Costs and Poverty 2022' which analysed the impact of housing costs (mortgage interest and rent) on poverty rates, based on statistics provided by the Central Statistics Office from the EU SILC module for 2021 (Social Justice Ireland, 2022). This report found that of the of the 70.1 per cent living in owner occupied property, which equates to some 3.5 million people, 8.2 per cent are at risk of poverty (288,071 people). The poverty data breaks this down further, indicating that 5.2 per cent of owner occupiers with an outstanding mortgage and 11.2 per cent of those without are at risk of poverty before housing costs are taken into account, indicating an increase in poverty among homeowners without a mortgage or loan compared to 2020. When mortgage interest is factored in, 9.3 per cent of all people living in owner occupied homes are at risk of poverty, some 326,715 people, with the rate for those with a mortgage increasing by 2 percentage points to 7.2 per cent.

[1] Inside Airbnb: Ireland

The poverty rate of those living in rented or rent-free accommodation is higher than that of owner occupiers. Overall, 19.8 per cent of people living in rented or rent-free accommodation, some 296,691 people, are at risk of poverty before rent payments are considered. People in Local Authority rented accommodation had a pre-rent poverty rate of 36.9 per cent, and a post-rent rate of 50.5 per cent, a slight decrease on 2020. Those in subsidised accommodation had a pre-rent rate of 10.9 per cent and a post-rent rate of 59.1 per cent. The pre-rent rate represents a considerable decrease on 2020, when it was 25.9 per cent. People living in the rented sector and who do not receive subsidies had a pre-rent poverty rate of 9.7 per cent and a post-rent rate of 29.6 per cent.

As the calculation of income includes social transfers, defined to include housing allowances, data was requested from the CSO which excludes housing supports from income, but keeps the standard threshold. This indicates that a larger proportion of renters who receive subsidies are in poverty than renters in Local Authority accommodation before rent is deducted. Additional data suggests that if these households did not receive subsidies, their poverty rate after paying full rent would be 76.7 per cent.

This not only shows the deep inequalities experienced by people living in the private rented sector generally, but clearly demonstrates that private rented subsidies are not the solution and the inadequacy of low incomes when almost half of all people living in properties rented from the Local Authority are at risk of poverty after making rent payments.

## Accommodation for Persons with Disabilities

According to the Summary of Social Housing Needs Assessments, 4,000 households reported, within the specific breakdown of housing requirements, a household member as having an enduring physical, sensory, mental health or intellectual disability, a decrease of 3 per cent on the previous year (Housing Agency, 2021). A breakdown of the Main Need for Social Housing Support shows that 5,602 households reported some form of disability, a decrease from 5,800 the previous year.

In 2021, funding was allocated or increased to a number of schemes to support housing for older people and people living with a disability. In May 2021, Ministers O'Brien and Burke announced €23 million in funding for the Disabled Persons Grant scheme (DPG) which supports adaptations and extensions to existing Local Authority housing stock, and the Improvement Works in Lieu of Local Authority Housing Scheme (IWILS) which supports improvements or extensions to private housing stock where the tenant has been approved for social housing, "meeting their social housing need" and reducing the waiting list for social housing. These schemes are important and necessary, and the increases are to be welcomed, however they are still catching up from previous years of underfunding.

While the majority (almost 69 per cent) of people living with a disability own their own home with or without a mortgage (Central Statistics Office, 2017b), 12.4 per cent are living in the private rented sector (an increase of almost 13 per cent in real numbers of persons living with a disability in the private rented sector compared to Census 2011). The IWILS scheme is only available to people who are deemed eligible for social housing, which would exclude most of the 69 per cent who are owner occupiers. There is little incentive for private landlords to modify their properties to meet the needs of tenants living with a disability or older tenants when they could attract equal or higher rents with new tenants.

Housing Adaptation Grants is the collective term given to the three grants: Housing Aid for Older People, Housing Aid for People with a Disability and Mobility Aid Grant. These grants are provided to eligible people to modify their own homes, allowing them to live at home, within their communities, for longer. Given the large proportion of people living with a disability who own their own homes, the Housing Adaptation Grants are especially important. In 2010, a total of €77.3 million was paid in respect of 13,588 grants. These grants were subject to cuts during the austerity years, and in 2013 reached their lowest point in the decade, with €37.7 million paid in respect of 7,011 grants, less than half 2010 levels. Building on moderate increases since 2015, the total amount paid in respect of these grants in 2021 was €56.5 million in respect of 10,283 grants. An improvement on 2013, but still considerably lower than 2010 levels (Table 1).

In addition, delays in accessing the necessary Occupational Therapists to certify a need for home modifications means that people living with disabilities may be at risk in their homes due to lack of necessary works.

**Table 6.1: Housing Adaptation Grants, by Type, 2008-2021**

| | Housing Aid for Older People | | Housing Aid for People with a Disability | | Mobility Aid Grant | |
|---|---|---|---|---|---|---|
| | No. of Grants Paid | Value €,000 | No. of Grants Paid | Value €,000 | No. of Grants Paid | Value €,000 |
| 2008 | 1,439 | 6,421 | 788 | 7,733 | 415 | 1,442 |
| 2009 | 4,294 | 19,345 | 3,429 | 32,955 | 1,267 | 4,188 |
| 2010 | 7,205 | 30,775 | 4,347 | 39,849 | 2,036 | 6,688 |
| 2011 | 6,510 | 27,098 | 3,273 | 27,695 | 1,975 | 6,381 |
| 2012 | 4,848 | 19,910 | 3,088 | 26,147 | 2,066 | 6,764 |
| 2013 | 2,815 | 11,247 | 2,506 | 20,885 | 1,690 | 5,548 |
| 2014 | 3,634 | 13,498 | 2,192 | 17,386 | 1,721 | 5,570 |
| 2015 | 3,127 | 11,267 | 2,600 | 20,841 | 1,869 | 6,284 |
| 2016 | 3,425 | 12,647 | 2,714 | 20,867 | 1,871 | 6,548 |
| 2017 | 3,558 | 13,254 | 3,449 | 27,857 | 2,073 | 7,295 |
| 2018 | 3,640 | 13,904 | 3,622 | 29,739 | 2,151 | 7,601 |
| 2019 | 4,021 | 15,426 | 3,891 | 32,246 | 2,111 | 7,593 |
| 2020 | 3,290 | 12,762 | 3,165 | 26,653 | 1,682 | 5,960 |
| 2021 | 4,736 | 19,184 | 3,811 | 31,062 | 1,736 | 6,246 |

**Source:** Department of Housing, Local Government and Heritage, Housing Statistics, Other Local Authority Housing Scheme Statistics, Housing adaption grants, various years

Lack of availability of grants for home modifications coupled with low income, lower levels of educational attainment (13.7 per cent had completed no more than primary education (Central Statistics Office, 2017b), compared to 4.2 per cent of the general population) and a prevalence of poverty means that those with a disability are unlikely to be able to afford adequate accommodation to support independent or assisted living.

In January 2022, the Department of Housing, Local Government and Heritage published the National Housing Strategy for Disabled People 2022-2027 (Department of Housing, Local Government and Heritage, 2022b). The stated vision for the strategy is:

To facilitate disabled people to live independently with the appropriate choices and control over where, how and with whom they live, promoting their inclusion in the community. To further enable equal access for disabled people to housing with integrated support services.

This is a very welcome vision, which must be sufficiently resourced for delivery. The new strategy is centred around six themes:

- Theme 1: Accessible Housing and Communities. This focuses on the provision of accessible housing for people living with a disability and the promotion of universal design principles.
- Theme 2: Interagency Collaboration and the Provision of Supports. This will include better collaboration between Local Authorities and the HSE, inter-departmental cooperation and information sharing between agencies.
- Theme 3: Affordability of Housing. This focuses on enabling access to affordable housing for people with disabilities.
- Theme 4: Communication and Access to Information. This aims to ensure that people with disabilities are not disadvantaged in communicating their needs and in the communication they receive.
- Theme 5: Knowledge, Capacity, and Expertise: This theme seeks to increase awareness and understanding of disability and housing within the relevant organisations, such as Local Authorities, Approved Housing Bodies, the HSE, and disability service providers. It also places an emphasis on increasing awareness regarding disabled people’s effective participation and inclusion in their communities.
- Theme 6: Strategy Alignment. This theme focuses on ensuring that all Government strategies and policies from a housing perspective promote the rights of disabled people, in line with the UN Convention on the Rights of Persons with Disabilities (UNCRPD).

These themes are all very welcome and, if delivered simultaneously could work towards providing real, sustainable housing solutions for people with disabilities.

*Social Justice Ireland* believes that ensuring that people with a disability can live independently where possible should be a key policy priority. Providing the resources for this, including suitable housing and housing-related supports, must be one of the foundations of such a policy.

## Traveller Accommodation

According to statistics compiled by the Department of Housing, Planning and Local Government, the number of families in all Traveller accommodation increased by over a quarter (28 per cent) between 2008 and 2019. The highest rate of increase was in accommodation provided by Approved Housing Bodies with the assistance of the local authority which rose by over 200 per cent (from 119 to 427 families), followed by an increase of 170 per cent in shared accommodation (from 345 to 933 families), those accommodated from their own resources (35 per cent, from 513 to 744 families), and those in private rented accommodation (26 per cent, from 1,516 to 1,919 families). During this period, the number of families accommodated on local authority halting sites decreased (8 per cent, from 1,035 to 952), while those in standard local authority housing increased by 25 per cent (Department of Housing, Local Government and Heritage, 2021c).

In 2019, the highest proportion of families were housed in standard local authority accommodation (25 per cent, 4,034 families) and private rented accommodation (26 per cent, 1,919 families) with an overall drop of 211 or 1.9 per cent in the number of families.

In July 2019, the results of the Traveller Accommodation Expert Review were published (Traveller Accommodation Expert Review Group, 2019). In this Report, the Expert Review Group identified as a "fundamental problem" the lack of a strong evidence-base for policy making. The direction of housing policy generally, whereby social housing is now provided by way of the private sector, also presents particular difficulties for Travellers as they face "strong barriers" in accessing private rented accommodation. This Report concludes with a series of recommendations on all aspects of Traveller accommodation provision, from delivery suitable to the need; to planning; capacity and resources; and governance. Social Justice Ireland supports these recommendations and urges Government to develop an implementation plan to ensure that they are affected.

The reported conditions experienced by Traveller families, that of increased overcrowding, discrimination within the private rented sector, greater risk of homelessness, and associated health difficulties warrants that this issue be treated as an emergency and that local authorities be compelled to utilise the increased funding available to ensure that Traveller families and their children are supported to live with dignity.

A Spotlight report in 2018 identified an 'implementation gap' "in that it appears to have resulted in housing outcomes which contradict the policy intention" (Visser, 2018, p. 23). This would support the earlier reported suggestion that some politicians are "involved in LTACCs [Local Traveller Accommodation Consultative Committee] for the purposes of opposing Traveller accommodation" (RSM PACEC Limited, 2017, p. 33).

In July 2021, the Irish Human Rights and Equality Commission (IHREC) published accounts of the first Council-by-Council equality review on Traveller Accommodation in the history of the State (Irish Human Rights and Equality Commission, 2021). This review found that, between 2008 and 2018, of €168.8 million allocated to local authorities for Traveller-specific accommodation, just two thirds (€110.6 million) was drawn down, although it should be noted that the full budget was drawn down in 2020.

The review also found that there was poor information being gathered by Local Authorities to enable them to make policy decisions concerning Traveller accommodation; that not enough evidence existed to suggest that Local Authorities were taking proper account of Traveller culture and identity, with 22 Local Authorities not making any reference in its review to its Caravan Loan Scheme to provide caravans to Travellers who wish to live on halting sites. It also found a lack of meaningful engagement with Travellers on their perspectives of the private rented sector or provision of mainstream accommodation and services.

## The Need for a Right to Housing

The needs identified in this submission are not new. They are the result of decades of policy that has viewed property as an asset, rather than a home, and favoured those with the most resources. While some may argue that a referendum on the right to housing is unnecessary as the Constitution provides both for property rights (under Article 40.3.3) and attempts to balance those rights with Article 40.3.3

which places limits on the right to private property in accordance with "the principles of social justice" and the "exigencies of the common good". However, in its report on the Right to Housing, published in May 2016, Mercy Law Resource Centre provide a concise yet comprehensive overview of relevant legislation and case law in this area, which demonstrates that there is "no legal right to housing in Irish law" (Mercy Law Resource Centre, 2016). In light of record levels of homelessness; lack of adequate social housing; spiralling house prices and private rents; inadequate accommodation supports for people with disabilities, and under-utilisation of resources for Traveller accommodation, this is not acceptable.

The difficulties inherent in asserting housing rights in Ireland was comprehensively discussed by Nolan in her 2006 paper *Litigating Housing Rights* (Nolan, 2006) wherein she states:

> "The availability of effective remedies is likely to be a particular issue for advocates seeking to bring housing rights cases in Ireland. In light of the very restrictive approach adopted by a majority of the Supreme Court to the granting of mandatory orders in the case of *TD v Minister for Education*, it seems high tly unlikely that the Court would be prepared to grant more than a declaratory order directing the government to fulfil any housing-related obligations that it might have under the constitution."
>
> (Nolan, 2006, p.18)

It is acknowledged that the right to housing is not a panacea. It will not guarantee that everyone will have a home, and it certainly does not mean a free home for all. A further report by the Mercy Law Resource Centre, published in 2018, contains a comparative review of four jurisdictions in which the right to housing has been enshrined in national law – Finland, Scotland, France, and South Africa. The legal instruments used to introduce the right to housing vary across these countries, from a full constitutional provision in South Africa; to statutory protection in France and Scotland; to a type of hybrid model in Finland whereby provisions in the constitution mean that legislation is reviewed by a parliamentary constitutional committee. This review also considers the impact of the right to housing in these countries and finds that fears of risk to the separation of powers between the Oireachtas and the Judiciary are unfounded as the right "…does very little to alter the balance of power when it comes to decisions concerning the allocation of resources…". Rather, the right provides a "floor of protection" of adequate housing.

Access to adequate housing is a fundamental human right. Without proper shelter it is virtually impossible to participate fully in society, to live a life with dignity, or to protect ones health and personal safety. In its Programme for Government (2020), the Government committed to "securing good livelihoods from our land and housing for all…". Holding a referendum on the right to housing would provide a clear indication that Government intends to keep this commitment.

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**Social Justice Ireland** is an independent think-tank and justice advocacy organisation of individuals and groups throughout Ireland who are committed to working to build a just society where human rights are respected, human dignity is protected, human development is facilitated and the environment is respected and protected.

*Social Justice Ireland*,
1-3 Burton Hall Road,
Sandyford,
Dublin 18
D18 A094
Phone: 01 290 3597
Email: secretary@socialjustice.ie
Charity Number: CHY 19486
Registered Charity Number: 20076481
**www.socialjustice.ie**