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Library & Research Service

Briefing Paper

Proposals for Affordable Housing

Briefing paper to support consideration of the proposed legislation

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Abstract

The General Scheme of an *Affordable Housing Bill* was published on 20 January 2021. Pre-legislative scrutiny (PLS) of the General Scheme (GS) commenced on 9 February 2021. This paper provides an analysis of the GS, with the purpose of providing research support to consideration of the proposed legislation.

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Introduction

The General Scheme of an *Affordable Housing Bill* was published on 20 January 2021. Pre-legislative scrutiny (PLS) of the General Scheme (GS) commenced on 9 February 2021. This paper provides an analysis of the GS, with the purpose of providing research support to consideration of the proposed legislation. The paper is structured as follows:

- Summary
- Key issues relating to the proposed legislation
- Principal provisions of the proposed legislation: Affordable dwelling purchase arrangements, Shared Equity Scheme, and Cost Rental.

Table 1: Table of abbreviations

AHBs	Approved Housing Bodies
APSE	Affordable Purchase Shared Equity
BTR	Build to Rent
CPI	Consumer Price Index
CREL	Cost Rental Equity Loan
HAP	Housing Assistance Payment
HFA	Housing Finance Agency
HICP	Harmonised Index of Consumer Prices
LDA	Land Development Agency
MoA	Memorandum of Agreement
RAS	Rental Accommodation Scheme
REITs	Real Estate Investment Trusts
RPZs	Rent Pressure Zones
RTB	Residential Tenancies Board
SHCEP	Social Housing Current Expenditure Programme
SPV	Special Purpose Vehicle
PLS	Pre-Legislative Scrutiny
PRS	Private Rented Sector
PTI	Price to Income ratio

Summary of provisions

Table 2: Overview of the General Scheme

Head 1	Short title, collective citation and commencement.
Head 2	Interpretation.
Head 3	Amendment of section 78 of the Act (Interpretation).
Head 4	Amendment of section 79 of the Act (Provision of dwellings).
Head 5	Amendment of section 80 of the Act (Direct Sales Agreement).
Head 6	Amendment of section 83 of the Act (Affordable Dwelling Purchase Arrangements).
Head 7	Amendment of section 84 of the Act (Assessment of eligibility for affordable dwelling purchase arrangement).
Head 8	Amendment of section 85 of the Act (Schemes of priority for affordable dwelling purchase arrangements).
Head 9	Insertion of section 85A into the Act ("Arrangements with the Land Development Agency pursuant to section 84 and section 85").
Head 10	Amendment of section 86 of the Act (Charging Order).
Head 11	Amendment of section 87 of the Act (Payments by purchaser during the charged period).
Head 12	Amendment of section 88 (Registration of charging orders and agreements with financial institutions).
Head 13	Substitution of section 89 (Repayment on expiration of the charged period).
Head 14	Amendment of section 90 of the Act (Control on resale of dwelling purchased under affordable dwelling purchase arrangement).
Head 15	Deletion of section 91 of the Act (Recovery of amounts due to housing authority).
Head 16	Amendment of section 92 of the Act (Valuation of dwelling for certain purposes).
Head 17	Amendment of section 93 of the Act (Discharge of charging order).
Head 18	Amendment of section 94 of the Act (Affordable Dwelling Fund).
Head 19	Amendment of section 95 of the Act (Regulations Part 5).
Head 20	Amendment of section 96 of the Act (Transitional arrangements and savings provisions).
Head 21	Insertion of sections 96A and section 96B into the Act.
Head 22	Insertion of Part 5A into the Act (Cost Rental).
Head 23	Amendment of section 3 of the Local Government Services (Corporate Bodies) Act, 1971.

Provisions relating to affordable dwelling purchase arrangements

This General Scheme is made up of three Parts and 23 heads. Within the General Scheme, 20 heads contain amendments to the *Housing (Miscellaneous Provisions) Act 2009*. These amendments deal with local authority-led affordable purchases, and as noted by a Department official during pre-legislative scrutiny, are mostly administrative in nature and intended to improve its operation. There are four key amendments proposed and these relate to (1) purchaser eligibility, (2) the scheme of priority, (3) charging period, and (4) the Land Development Agency.

Regarding purchaser eligibility, it is proposed that a number of changes are made. These changes include amending how a household is defined, how applications for affordable housing to the local authority are made, the suitability of accommodation, and assessing income eligibility. This is dealt with in Head 7 of the General Scheme.

On the scheme of priority, it is proposed that amendments are made to streamline the process to determine how priority will be established. It is proposed that it will depend on the suitability of the unit for the eligible household, the length of time a person has been living in the administrative area and the time of application. This is dealt with in Head 8 of the General Scheme.

Regarding the charging period, there are several amendments proposed that relate to its duration, the enforceability of the charge, payments during the charged period and repayments on expiration of this period. These are detailed in Heads 3, 10, 11 and 13 of the General Scheme. As noted by a Department official during pre-legislative scrutiny:

> "Rather than lapsing after a charging period, an amendment is proposed to allow the local authority charge or its equity stake on the property to remain in place until bought out by the household. This charge or equity stake would become enforceable by the local authority on a breach of the agreement or at the end of a given period to accommodate the senior mortgage maturity."

Finally, in respect of the Land Development Agency (LDA), the General Scheme proposes that a new section is included to allow for the affordable purchase of homes provided by the LDA to local authority households that are deemed eligible and a priority.[1] The is dealt with in Head 9 of the General Scheme.

Provisions relating to Shared Equity Scheme

Part of Head 21 of the General Scheme proposes to insert a new section 96A into the *Housing (Miscellaneous Provisions) Act 2009* (the 2009 Act).

This section would provide the statutory basis for the Minister to contribute funds to a special purpose vehicle (SPV) to fund a national Affordable Purchase Shared Equity (APSE) Scheme. The APSE Scheme would be governed by a memorandum of agreement (MoA) made by the Minister

[1] A L&RS Bill Digest in respect of the Land Development Agency 2021 was published by the L&RS in February 2021 prior to second stage debate (reflecting the Bill as published) and is available here.

with the SPV, allowing the SPV to acquire an equity stake in dwellings (helping people to purchase homes).

Shared-equity loans involve an equity partner (lender) paying for a percentage of the market price of a property. The lender then holds an equity stake in that property until such time as the purchaser satisfies the requirements to have the equity portion released by the lender. As the loan amount is normally defined by the portion of the property held in equity (not the amount borrowed), the lender takes on some of the capital risk associated with the property, and consequentially, the lender will also benefit from capital growth.

The Note to the Head explains that it is intended that the APSE Scheme would be targeted at first-time buyers who have demonstrated a lack of capacity to secure a mortgage to purchase the dwelling in question at open market value. Further, it is expected that the APSE Scheme would only assist in the purchase of new-build homes. Finally, it is intended that the equity charge will rank second to the mortgage provided by a commercial lender. The Note also states that a number of these matters remain under active consideration.

Provisions relating to cost rental

Definition of cost rental

The Affordable Housing Bill will provide, for the first time, a legal definition of a cost rental tenancy. It provides that this form of housing is one where rents are set to cover the cost of provision. The intention is for this category of housing to be developed over the coming years, aimed at moderate income households. Moderate income household is not defined.

Control of rents

The General Scheme provides for how rents will be controlled, while ensuring that costs are covered. The proposals would allow rents to be increased at the rate of consumer inflation. The notes attached to the General Scheme suggest that either the Consumer Price Index (CPI) or the Harmonised Index of Consumer Prices (HICP) could be used, or "another form prescribed by the Minister".

Role of the housing agency

The proposed legislation would amend the *Local Government Services (Corporate Bodies) Act 1971*, so that the Housing Agency will be enabled to administer the new cost rental equity loan scheme (CREL). The CREL scheme will allow Approved Housing Bodies (AHBs) to borrow up to 30% of the cost of delivering a cost rental scheme. The remainder is expected to be delivered through long-term loans from the Housing Finance Agency (HFA).[2]

Equity return and Ministerial power to set rents

A Department official told the Oireachtas Joint Committee on Housing, Local Government and Heritage "the Committee", on 9 February, that the legislation would allow the Minister to temper private returns on long-term investment in cost rental units. Head 22 refers to "equity return" which,

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[2] Department of Housing, Local Government and Heritage (2021). Minister O'Brien announces 'Call for Proposals' to AHBs for delivery of 350 Cost Rental Homes in 2021.

the Department explained, would allow the Minister to put a cap on the return of any private investor, e.g. a pension fund:

> "The Minister could set a regulation, for instance, to say that any private funds put in to developing cost rental units would have a maximum return of 4% or 5%, or something like that."

Elements of the cost rental model to be dealt with through regulations

The General Scheme provides that the Minister may make regulations on the following:

- Eligibility criteria for the cost rental programme;
- What will constitute costs for the purposes of setting rents; and
- How rent reviews will be decided

Details of the above are not therefore contained in the proposed legislation.

Key Issues

The following key issues have been identified by the authors of this paper, with the sole purpose of facilitating scrutiny of the proposed legislation.

Key Issue 1: Restricting the Affordable Purchase Shared Equity (APSE) Scheme to new builds may counteract affordability

Targeting first home buyers would appear to improve the purchasing power of that cohort, allowing them to move away from reliance on the private rented sector, should they choose to. However, limiting their purchase choice to new-build homes may have a negative effect on affordability when the new-build premium is considered. Research has shown that in the UK the average new-build premium is a 29% mark up, but this does vary dramatically based on the location of the new build (London saw a 3% mark up, while in Harlow, Essex the premium stood at 108%).[3] The UK National Audit Office has noted that this may not affect the long term economic prosperity of purchasers in a static or growing market, but at points when the market turns down and when interest rates rise (whether over the near, medium or longer term), property owners could face the trap of mortgage arrears and negative equity, both of which would be exacerbated by the new-build premium.[4] A discussion of the proposed national APSE Scheme is provided in the 'Share Equity Loans' section of this briefing paper.

Considering the new-build premium evident in the UK data, Members may wish to consider whether restricting the scheme to new builds may similarly counteract affordability benefits to first home buyers in Ireland.

Key Issue 2: Is the APSE Scheme targeted at the right cohort?

A 2019 ESRI policy paper that explored affordability in the Irish housing market found that of those households in the private rented sector, those living in Dublin (and the surrounding commuter regions) and those on low incomes face the greatest challenges. The paper finds that low income households in the private rented sector have always faced high accommodation costs. This issue was not restricted to the recent high rental price inflation, implying that the affordability issues are not necessarily cyclical but are more than likely structural. Households in the lowest 25% of the income distribution were paying between two-fifths to more than one half of their income on average (40-50%) on housing costs, depending on tenure, as compared to one-fifth (20%) on average. This may be explained in part by the fact that the macroprudential rules[5] combined with relatively high housing costs in Dublin have restricted mortgage accessibility (at historically low

[3] See Rosalind Renshaw, 'New build premium is an average 29% mark-up – but can be over double', *Property Industry Eye*, 28 August 2019.

[4] National Audit Office UK, 'Help to Buy: Equity Loan scheme – progress review', 13 June 2019.

[5] Macroprudential rules (or policies) are financial and regulatory policies introduced with the objective of maintaining financial stability in an economy. In 2015, the Central Bank of Ireland introduced a series of macroprudential rules relating to the mortgage market. These mortgage measures set limits on the amount of money that can be borrowed to purchase residential property. Further information on these measures is available here.

interest rates) to those in higher income brackets, forcing those in lower income brackets to rely on the private rented sector.[6]

If, as the data suggests, housing affordability is a structural issue affecting those on lowest incomes, Members may wish to consider whether, to improve housing affordability, measures need to explicitly target this cohort, not just those who fall just short of satisfying the macroprudential rules.

Key Issue 3: Should the APSE Scheme be scrutinised as a supply mechanism, rather than an affordable housing measure?

Irrespective of who the Scheme is targeting, given that it envisions the injection of private investment and up to €75 million in Government investment into the purchase of new-build homes, the Scheme would almost certainly stimulate demand for new-build homes, which may result in greater supply. As explained by a Department official at the Joint Committee hearing of 9 February 2021:

> "… what we were looking at from a policy perspective was whether one could boost supply in the short term on the basis of it being a demand-led scheme designed to turn potential demand into realisable demand and through that process then to boost supply. It would give assurances to the construction sector that if it builds homes that they would actually be sold. When we look at the planning permissions that have turned to commencements and been sold, they are based on a certainty around demand, whether that is demand from the private sector in terms of purchase or from the State in terms of social housing, student housing and other housing. The housing that has worked to deliver the supply tends to be based on a high certainty of demand. That linkage was a key policy consideration."

In other words, one of the key considerations in developing the APSE Scheme was to boost demand for new-build homes, so that potential demand could be converted into realisable demand, incentivising developers to commence building sooner. If this is the case, it could be argued that the APSE Scheme will also indirectly subsidise developers by providing more demand certainty, limiting their exposure to risk, and reducing economic cost of risk.

The UK Collaborative Centre for Housing Evidence at the London School of Economics noted in a recent report that the English Help to Buy equity loan scheme:

> "… was not branded as an affordable housing product but more as a means of helping a wider range of households either become owner-occupiers or to move to more suitable accommodation. A major objective was to support the housebuilding industry by increasing demand."[7]

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[6] Eoin Corrigan, Daniel Foley, Kieran McQuinn, Conor O'Toole and Rachel Slaymaker, 'Policy Paper: Exploring Affordability in the Irish Housing Market' *The Economic and Social Review*, Vol. 50, No. 1, Spring 2019, pp. 119-157.

[7] Christine Whitehead and Peter Williams, UK Collaborative Centre for Housing Evidence, London School of Economics, *Thinking outside the Box: Exploring innovations in affordable home ownership*, 11 November 2020, p. 45.

The fact that in England, 50% of people were able to buy back the Government's stake within the first five years of purchase (when there was no interest fee)[8] further highlights that many of those who availed of the scheme were not suffering from affordability issues.

Members may wish to consider, if the APSE Scheme was designed as a mechanism to stimulate supply, whether it should be scrutinised as a 'fit-for-purpose' affordable housing measure, or should it be evaluated relative to other supply mechanisms.

Key Issue 4: Potential for conflicts of interest issues arising from the APSE Scheme?

Financial institutions may benefit from the APSE Scheme. As explained by the UK Collaborative Centre for Housing Evidence, shared-equity schemes allow mortgage providers to expand their market, lending to individuals who may not have looked to purchase a property in the absence of the scheme. Furthermore, as the loan to value ratio of the mortgage is reduced by the Government stake, the mortgage provider benefits from a lower capital weighting on those loans. At the same time, the mortgage provider holds the primary charge on the property.[9]

The Government may also benefit from the APSE Scheme. In England, as of 30 September 2020, the total value of equity loans was £17.4 billion, with the total value of property subject to an equity loan approaching £80 billion.[10]

According to the Office of National Statistics, from 2013 to the end of 2020, English house prices have risen on average by 51%.[11]

Given that there is a very low rate of default in shared-equity loans,[12] it appears that the UK Government has significantly benefited from its 'investment' in the housing market.

Members may wish to consider whether an inherent conflict of interest issues arises in a scenario where the Government determines housing policies while holding an equity stake in real property across the State.

Key Issue 5: Is there any need for Government investment in the APSE Scheme?

On 9 February 2021, at the Joint Committee hearing a Department official confirmed that, regarding macroprudential rules, the Central Bank had not yet given its approval to the APSE Scheme; rather, it was awaiting details of the Scheme before making its determination. It has been

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[8] Department of Housing, Local Government and Heritage, 'General Scheme of the Affordable Housing Bill 2020', Joint Committee on Housing, Local Government and Heritage debate, 9 February 2021

[9] Christine Whitehead and Peter Williams, UK Collaborative Centre for Housing Evidence, London School of Economics, *Thinking outside the Box: Exploring innovations in affordable home ownership*, 11 November 2020, pp 17-18.

[10] Samantha Evans, '2018 Churchill Fellowship to investigate how Shared Equity can become a mainstream solution to housing affordability in Australia', August 2019, p. 39; UK Ministry of Housing, Communities and Local Government, 'Help to Buy: Equity Loan scheme. Data to 30 September 2020, England', *Official Statistics*, 18 February 2021.

[11] See ONS, 'UK House Price Index: December 2020: 'Monthly house price inflation in the UK, calculated using data from HM Land Registry, Registers of Scotland, and Land and Property Services Northern Ireland.'

[12] Samantha Evans, '2018 Churchill Fellowship to investigate how Shared Equity can become a mainstream solution to housing affordability in Australia', August 2019, p. 39.

reported that by allowing private investors (including financial institutions) to contribute to the Special Purpose Vehicle (SPV), those investors may find themselves in breach of the current lending rules.[13] The Department of Finance is working with the Department of Housing, Local Government and Heritage to keep the Central Bank informed.

Members may wish to consider, if the Central Bank allows the private sector to invest in the APSE Scheme, a question arises as to why public funds need to be invested in the scheme. Members may wish to also consider whether (some or all of) the €75 million be used, instead, to increase the scale of investment in other affordability schemes?

Key Issue 6: Could private sector involvement in the APSE Scheme inadvertently infringe mortgage measures?

In its submission to the Committee, the Central Bank noted that if the private sector were allowed to participate in the scheme, it would create additional risk exposure (over and above the exposure through mortgage lending) and it would be expected that lenders would need to mitigate the exposure to these additional risks by holding sufficient capital to cover potential default. The Central Bank also stated:

> "A full financial stability assessment of the Affordable Purchase Shared Equity Scheme will require finalisation of a number of key design features, which do not explicitly form part of the General Scheme of the Bill. The Central Bank will be considering three specific dimensions from a financial stability perspective: (i) the impact of the additional financing through the scheme on households' ability to withstand income shocks and avoid excessive indebtedness or negative net wealth; (ii) any additional risks to the banking sector, which in turn may be adequately mitigated through capital-based prudential regulation, and (iii) the potential for any additional credit facilitated by the scheme to result in pro-cyclical house price dynamics.
>
> …
>
> there is also potentially a more direct implication in considering the interaction of the scheme with the mortgage measures. The Statutory Instrument on which the mortgage measures are based (S.I. No.47/2015 [*Central Bank (Supervision and Enforcement) Act 2013 (Section 48) (Housing Loan Requirements) Regulations 2015*]) includes an 'anti-avoidance' clause. This sets out that lenders shall not engage in a practice; enter into an arrangement or transaction; execute a document; or structure or restructure a loan, for the purpose of, or having the effect of, avoiding their obligations under these Regulations. Depending on the precise design of the scheme, including the issues set out above,

[13] See Paul Hosford, 'Government trying to involve banks in shared equity scheme' *Irish Examiner*, 17 January 2021.

> lenders' participation in the scheme could potentially be interpreted as being in contradiction with that anti-avoidance clause."[14]

Members may wish to consider whether participation of the private sector may infringe the anti-avoidance clause found in regulation 3(2) of S.I. No 47 of 2015.

Key Issue 7: Inflationary impact of the APSE Scheme on the market.

There is a major difference in scale between the proposed APSE Scheme and the English Help to Buy: Equity Loan Scheme. The Irish Government has committed €75 million to the SPV to help implement the APSE Scheme. While, as noted by the UK Collaborative Centre for Housing Evidence:

> "[one] attribute of the [English] scheme has been the Government's preparedness to fund all those coming forward who meet the criteria. Scale therefore was only constrained by demand and by the availability of appropriate new-build housing. Earlier schemes which involved developer funding were limited by the Government's short-term financial commitment and the negative impact on builder balance sheets which in turn impacted on output levels."[15]

Even though the Irish scheme is small in scale, when compared to the English Scheme, there is still potential for it to have profound effects on markets, especially when there are already supply shortages in those markets. On 16 February 2021, at a hearing of the Joint Committee on Housing Local Government and Heritage, a representative from the ERSI stated:

> "… [given] the fact that housing supply is so constrained in Ireland … increasing purchasing power for households through a loosening of credit constraints will likely lead to higher house prices. Such rises in house prices are likely to exacerbate affordability problems down the line.
>
> … Credit market supports such as the shared equity scheme and other interventions may lower credit constraints by facilitating home purchase for buyers who otherwise would have been unable to enter the market. However, on balance, with the current supply shortages it is likely these benefits will be outweighed by inflationary pressures."

The ESRI representative also highlighted the potential inflationary impacts of scale:

> "In terms of their impact on the inflationary channel, there are a number of aspects to the intervention that would, for example, exacerbate or lower the degree to which that price inflation may materialise. The larger the intervention, the shorter the timeframe in which that intervention takes place. The number of recipients of that intervention is also important.

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[14] Central Bank of Ireland, Submission to the Joint Committee on Housing, Local Government and Heritage regarding Pre-Legislative Scrutiny of the General Scheme of the Affordable Housing General Scheme, 12 March 2021.

[15] Christine Whitehead and Peter Williams, UK Collaborative Centre for Housing Evidence, London School of Economics, *Thinking outside the Box: Exploring innovations in affordable home ownership*, 11 November 2020, p. 17.

> For example, if it is spread among a large number of users of the scheme and all of those users have more purchasing power, that can have an impact as well as the general level."

The Central Bank followed a similar line of reasoning in its submission to the Committee, highlighting that the policy of shared equity, when taken in isolation may have "a limited impact on the ultimate supply-side problem in the Irish housing market." The Central Bank stated:

> " … we would encourage those considering the detailed parameters of the scheme – including its size, the time period over which it is allocated, eligibility criteria and the eventual exit strategy – to be mindful of the potential implications of increased demand for house purchases in a supply-constrained market."[16]

At the 16 February 2021 hearing of the Joint Committee, an ESRI representative acknowledged that inflationary pressures could be reduced by limiting the scheme to those who are most in need. He noted that stronger calibration parameters could help to limit eligibility and thereby ensure that those who can afford to purchase a property without the subsidy cannot access the scheme.

In relation to the APSE Scheme, it appears that the fundamental question to be determined in relation to eligibility will be whether the applicant is able to secure a mortgage on the dwelling in question in the open market. There would not appear to be a requirement to look behind the transaction, for example, to establish whether the applicant could afford to buy a different (new build or second hand) dwelling in a similar area, or whether the dwelling in question is necessary to meet the immediate needs of the applicant. It appears that the only objective restriction would be whether the home falls under the relevant price cap. This could have the effect of attracting applications from those who would otherwise be able to afford to buy a property that could satisfy their needs but are using the subsidy to purchase a more expensive (new) property. That said, price caps could limit the extent to which this may occur.

Members may wish to consider whether, in a market where there is high demand and limited supply, an intervention that increases the purchasing power of a cohort of actors can have an inflationary impact on the market, and that impact will be affected by the size of the cohort, the size of the intervention and the speed at which the intervention is rolled out. Members may wish to particularly consider whether, in relation to the proposed APSE Scheme, each of these variables (previous) have been sufficiently controlled for in the design of the Scheme.

Members may wish to consider whether, to limit scale and inflationary pressures, if access to the Scheme should be limited to those cohorts most in need. This could be achieved by, for example, a subjective examination of needs and affordability in the eligibility criteria.

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[16] Central Bank of Ireland, Submission to the Joint Committee on Housing, Local Government and Heritage regarding Pre-Legislative Scrutiny of the General Scheme of the Affordable Housing General Scheme, 12 March 2021.

Key Issue 8: Limiting the market in which a participant may sell on an APSE Scheme and the creation of an affordable home market.

Another issue that affects the long-term sustainability of many affordable housing schemes that has not been discussed is the issue of leakage – homes are purchased using the scheme, but they are then eventually sold on to the market, meaning that future home purchasers do not benefit from the initial Government subsidy. The corollary of this is that for the scheme to be sustainable, the subsidy must be ongoing until the affordability challenge is met. By contrast, subsidy retention models allow for the initial subsidy to be retained in the scheme. However, a necessary consequence of using a subsidy retention model is that the participant loses flexibility, restricting the participant's ability to enjoy all the benefits of homeownership and creating a two-tiered system of home ownership, which may make moving between tiers difficult. In a subsidy retention scheme:

- Participants are usually required to use the property as their primary place of residence. Other limits may be placed on the use and occupation of the dwelling that could affect the homeowner's quality of life.
- The ability of participants to make capital alterations to the property may be restricted (financial benefits from alterations may also be limited).
- The ability of a participant to leave the scheme will be affected by the limited market.[17]

Creating a new market in affordable homes could also help to limit any inflationary effect of the subsidy on the general market. Moreover, as explained by Dr Alison Wallace, the shared-equity homeownership sector has been developed with transitional ownership in mind, that is, it is considered as a 'stepping-stone' or 'foot-on-the-ladder'. Constrained control of the property or asset withdrawal may be of less importance if the intention is to live there for only a short period with a mind to using the accumulated equity to fund a deposit for a home purchase on the open market. The question is whether the potential for equity gains and the ability to adopt the epithet 'homeowner' adequately compensates participants in a subsidised scheme for the inherent limitations on control and management of 'their' property. This may become a bigger issue depending on the duration of the homeowners' tenure and the capacity of participants to sell in the affordable homes market.[18]

It is important to remember that even with a subsidy retention scheme, leakage will occur. Any restrictions would be subordinate to the borrower's first mortgage, meaning the lender's interest will take precedent. A foreclosure on a mortgage would therefore give the mortgage provider vacant possession of the property, effectively removing restrictions designed to retain the original

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[17] See generally, Samantha Evans, '2018 Churchill Fellowship to investigate how Shared Equity can become a mainstream solution to housing affordability in Australia', August 2019; Local Housing Solutions, 'Deed-restricted homeownership; US Department of Housing and Urban Development, Office of Policy Development and Research, ' Shared Equity Models Offer Sustainable Homeownership', *Evidence Matters*, Autumn 2012; John Emmeus Davis, 'Shared-equity homeownership: The changing landscape of resale-restricted, owner-occupied housing', National Housing Institute, 2006.

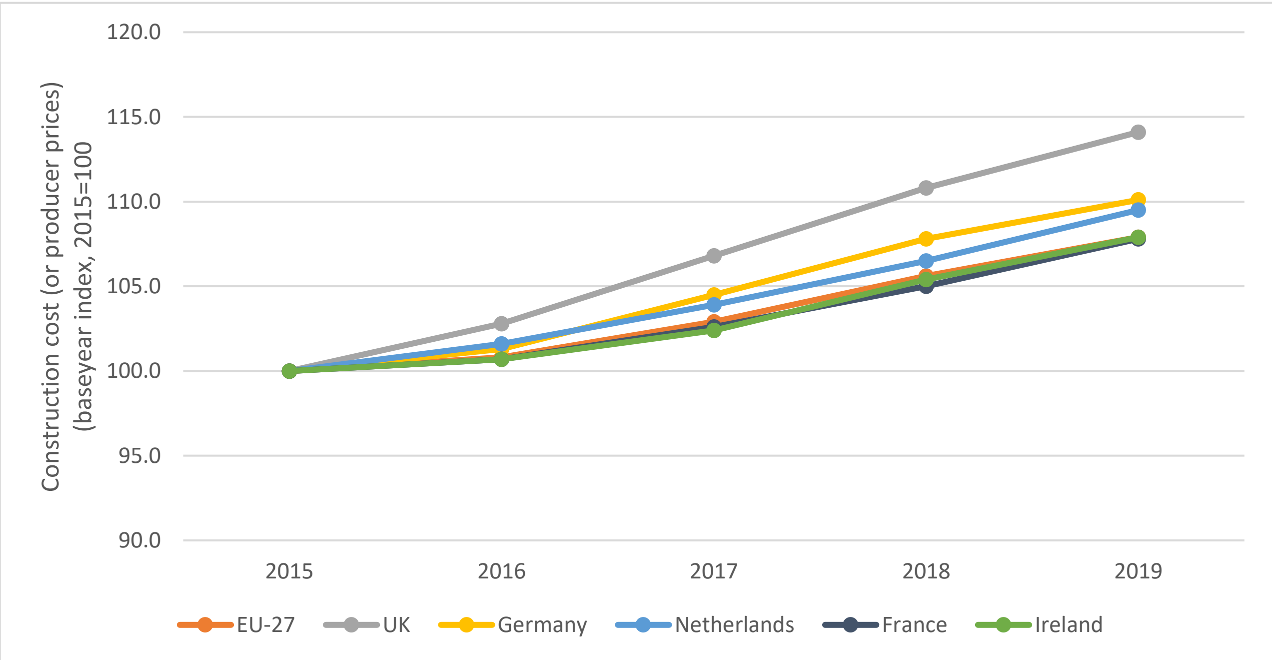
[18] Alison Wallace, Centre for Housing Policy, University of York, UK, 'Shared Ownership: Satisfying Ambitions for Homeownership?', *International Journal of Housing Policy* Vol. 12, No. 2, 205–226, June 2012, p. 221.

subsidy. In other words, the lender would retain the capacity to sell the property in the open market to satisfy the charge.[19]

Limiting the market in which a participant may sell on an APSE Scheme home could help to limit inflationary pressures associated with the subsidy. The creation of an affordable home market may also improve the sustainability of the scheme in the medium to long term limiting the need to provide ongoing subsidies.

The two main stakeholders outside the Government, private investors and participants would be developers and financial institutions. As the APSE Scheme would be limited to new builds, the construction industry will be especially affected. According to a 2018 study into the costs of residential developments across several European countries published by the Housing Agency, Ireland has similar construction costs to European countries with comparable economic and climatic conditions.[20] Eurostat publishes indices for construction cost for new residential buildings which includes materials and labour costs. These statistics also show that since 2015 the rate of change of Irish construction costs is comparable to other European countries. For example, in Germany residential building costs have risen by 10.1%, in the Netherlands they have increased by 9.5%, and in France by 7.8%. In Ireland, costs have risen at the EU-27 average rate of 7.9%. It is noticeable that in the UK over the same period residential building costs have risen by 14.1%. A comparison on these indices is graphically represented in Figure 1.

Figure 1: Comparison of construction costs for new residential buildings



Source: Eurostat

[19] Local Housing Solutions, 'Deed-restricted homeownership'.

[20] The Housing Agency, *Comparison of Residential Construction Costs in Ireland to other European Countries*, March 2018.

The injection of Government and private investment via the SPV into the construction sector would lead to a growth in demand for construction services. This in turn could have an inflationary effect on construction costs in Ireland. It would be reasonable to assume that any increase in the cost of construction would be passed on to purchasers, having an inflationary effect on the price of new builds and possibly on the cost of housing generally. It is also important to ensure that developers do not use the fact that the augmented purchasing power of first home buyers resulting from the APSE Scheme is not used as an excuse to increase developer profit margins, further increasing the price of new builds. Any inflationary impact would further affect the capacity of the scheme to target affordability.

It is important that developers approach the APSE scheme in good faith, ensuring that inflationary costs associated with construction are kept to a minimum to ensure the effectiveness of the scheme.

Members may wish to consider:

- **Whether limiting the market in which a participant may sell on an APSE Scheme home (leakage) could help to limit inflationary pressures associated with the subsidy.**
- **Whether sustainability of the Scheme will be improved with the creation of an affordable housing market in the medium to long term, limiting the need to provide ongoing subsidies.**
- **That the APSE Scheme be designed in such a way as to not incentive development simply for profit and inadvertently increase the cost of housing.**

Key issue 9: A need for buy-in from mortgage providers and on-going monitoring.

For the APSE Scheme to work, financial institutions as mortgage providers will have to be assured to lend to Scheme participants. If the scheme follows the English model, there would be relatively few reasons for loan refusal. As noted previously, banks will be beneficiaries of the scheme. Mortgage providers would be able to expand their market while still managing their risk (they would retain a primary charge on the property). They would be able to lend to individuals who may not have looked to purchase a property, in the absence of the scheme. Furthermore, as noted above, the loan to value ratio of the mortgage will be reduced by the Government stake and so lenders would benefit from a lower capital weighting on the loans.

Members may wish to consider whether the APSE Scheme needs to incorporate a level of ongoing monitoring to ensure it works as intended, that it targets the cohorts it intends to target, it improves access to affordable housing, and it improves supply, without too many negative effects (such as inflation). The integration of an evidence-based or data capture model into the scheme could allow for this ongoing monitoring.

Key issue 10: How will this affect Ireland's housing supply gap?

The significant gap between housing supply and demand remains a key concern for Ireland's housing market. According to research by the Central Bank of Ireland (2019)[21], an average of approximately 34,000 new dwellings is required each year for the next 10 years just to keep pace with the projected growth in Ireland's population.

According to the latest data from the CSO, there were 20,676 new dwelling completions in 2020 (this represented a fall of 1.9% compared to 2019). The ESRI's Quarterly Economic Commentary released in March 2021 stated that the disruption to the construction sector caused by COVID-19 pandemic is likely to see the supply of new homes fall to 15,000 in 2021 and 16,000 in 2022.

In a statement to the Joint Committee during pre-legislative scrutiny on 16 February 2021, a representative from the ESRI stated:

> "Since 2011, the share of homeowners in Ireland has dropped due to many co-determining factors such as tighter credit conditions on the part of banks and the new macro prudential rules, labour market developments, high house prices and a limited housing supply. Of these, the supply channel is likely the most important. The number of housing completions in recent years is well below he estimates of structural demand. Estimates by the ESRI and other commentators put the structural housing demand levels at between 30,000 and 35,000 units per annum, which is well above the current level of housing supply. The disruption of the pandemic will only widen this gap between supply and structural demand."

Additionally, research shows the demand for housing is likely to increase further in the coming years – the CSO project the population increasing to approximately six million persons by 2051. It also estimates that household size will fall to 2.12 persons per home in the same timeframe. Currently, Ireland has the second highest household size in the EU at 2.7 persons per home. The same report by the Central Bank of Ireland (2019) estimated that if the household size moved in line with the European average of 2.3 persons per home, there would be unmet demand for over 260,000 homes.

Given this, a key issue relating to the proposed General Scheme is whether supply can increase sufficiently to bridge this gap. During pre-legislative scrutiny on 2 March 2021, it was noted:

> "The primary delivery mechanism enabling local authorities to deliver affordable housing is the serviced site fund. To date, funding of almost €188 million has been approved in principle in support of 38 infrastructure projects in 14 local authority areas, which will assist in the delivery of almost 4,000 more affordable homes. Of these 140 homes will be delivered this year, with an additional 700 in 2022 and a further 1,500 in 2023."

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[21] Conefrey, T., and Staunton, D. (2019), "Population Change and Housing Demand in Ireland", Economic Letter, No. 14, Dublin: Central Bank of Ireland. Available here.

Members may wish to consider, given public data on the housing (supply/demand) gap, whether the affordable housing plan is sufficiently resourced to bridge this gap considering current demographic projections.

Key issue 11: Cost rental: will rents be affordable on an average income?

The General Scheme, if enacted, will provide a legal definition for a cost rental tenancy and allow the Minister to make regulations in relation to who will be eligible for this form of tenancy. Much of the detail regarding how this policy will be implemented will be contained in the subsequent regulations.

Research shows that housing costs are higher as a proportion of income, for renters than homeowners. A common affordability benchmark states that households should not spend more than 30% of their income on housing costs.[22] A 2019 ESRI paper found that, using this definition, 33% of households in the private rented sector (PRS) faced high housing costs in 2016, compared with fewer than 15% of mortgaged households.[23]

Incomes have not kept pace with rental inflation.[24] The Residential Tenancies Board (RTB) Rent Index Q 4 2020 report shows that standardised average rents nationally are €1,256 per month, while in Dublin they are €1,745. While high rents have been a characteristic of the Dublin private rented market for many years, other counties are also experiencing affordability issues. The RTB index shows that eight counties have standardised average rents above €1,000 per month. These are Cork, Dublin, Galway, Kildare, Limerick, Louth, Meath, and Wicklow. The RTB state that the largest annual increase in rents to Q4 2020 occurred in Leitrim (11.4%).

It is intended that the rental cap for Ireland's first cost rental scheme in Stepaside will be set at €1,200 per month (for a two-bedroom apartment). This may be compared with an average rent for an equivalent property of €1,808 per month in Dublin (as per Q4 2020). The Government's stated intention is to target "moderate income" earners.[25] It is not clear what 'moderate' means, but for the purposes of analysis it will be assumed that it means average.

According to the CSO County Incomes and Regional GDP 2018, annual average **disposable** income per person, in the Dublin region, was €24,969 (or €2,081 per month). In the case of the Stepaside cost rental project, an average Dublin single-income household would spend 57.6% of their disposable income on household costs for a two-bed apartment. The same household would spend 87% of their disposable income on the private rented market.[26] If a two-income household were to rent these units, this proportion would change to 29% (cost rental) and 43% (private rented market).

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[22] ESRI. (2019). Exploring Affordability in the Irish Housing Market.

[23] Ibid.

[24] European Commission. (2020). Housing Affordability in Ireland.

[25] Department of Housing, Local Government and Heritage (2021). Minister O'Brien announces 'Call for Proposals' to AHBs for delivery of 350 Cost Rental Homes in 2021.

[26] Average standardised rent for a 2 bed apartment in Dublin in Q4 2020 was €1,808 per month.

The figures above are for illustrative purposes, and it is not yet known how much other schemes will cost. While cost rental schemes clearly offer more affordable rents than the market, in the case of Stepaside they are still close to the affordability benchmark discussed earlier.

Members may wish to consider that the existing high costs of rents means that even with subsidies, these units will be prohibitively expensive for average income workers and particularly, for a single income household.

Key issue 12: Cost rental schemes are often accompanied by rent regulation in the private rented sector

One of the proposed benefits of cost rental schemes is that, once there is enough stock, they can have a downward effect on private sector rent inflation. The Government has acknowledged that this may take upwards of twenty years to eventuate. The National Economic and Social Council (NESC) (2014)[27] report recommended that a movement towards cost rental housing would also require housing assistance payments to be adapted, so that the State's exposure to rent inflation in the private sector is limited.

As discussed by Kemeny (1995), initial State subsidies directed towards cost rental schemes are typically accompanied by rent controls in the PRS. Allowing unimpeded inflation in rents, with greater subsidisation of the PRS through housing payments, may mean there is less exchequer money available for cost rental subsidies. For instance, the Government's 2021 Expenditure Report shows the following expenditure on social housing supports in the private rented sector:[28]

- Housing Assistance Payment (HAP) - €558m supporting over 67,000 HAP tenancies;
- Rental Accommodation Scheme (RAS) - €130m, supporting over 18,000 tenancies; and
- Social Housing Current Expenditure Programme (SHCEP) (leasing) - €250m supporting over 21,000 tenancies.

In total, €938m of State housing benefit payments are directed towards the PRS. Rental inflation could cause this expenditure to increase further, should it be adjusted upwards to meet rising rental costs.

Institutional investment and unregulated rents

While rent regulation does exist in Ireland, it is targeted at existing units via Rent Pressure Zones (RPZs). However, new units are not subject to rent controls and many of these have been built in the Build to Rent (BTR) sector, particularly in Dublin.[29]

BTR refers to residential rental accommodation which is built with the purpose of being used as long-term rental accommodation. It is professionally owned and managed by an institutional landlord. However, as these new units are not subject to rent controls, they may fuel rent inflation,

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[27] NESC. (2014). Social housing at the crossroads: possibilities for investment, provision and cost rental

[28] Government of Ireland. (2021). Expenditure Report 2021.

[29] CBRE. (2019). Capital Flows into European Multifamily Housing.

especially if established landlords point to these properties when justifying rent increases within the rent control limits.

Ireland has sought to attract institutional investment in the residential property sector through favourable taxation schemes. According to the Department of Finance, the policy idea behind Real Estate Investment Trusts (REITs) (2019) is as follows:[30]

> "Prior to the introduction of the REIT regime, investment in property via corporate vehicles was not generally attractive due to the double layer of taxation that applies to profits earned in a company and then paid out to shareholders in the form of dividends."

According to the Department of Finance, REITs were designed to remove this double layer of taxation. A REIT may qualify for an exemption from tax on qualifying income and gains:

> "…making REIT investments suitable as a long-term investment alternative to traditional pension funds, equity shares and direct property investment."

The European Commission 2020 report *Housing Affordability in Ireland* looks at the impact that these investors may have on land values, and finds:[31]

> "The concentration of land by a limited number of promoters could reduce competition and may fuel inflation in the price of land."

The *IMF Global Financial Stability Report April 2018* discusses the increased role of REITs in housing markets around the world and finds:

> "…purchases of housing assets by private and institutional investors in major cities around the world may limit the affordability and availability of housing for the local population."

While the private rented sector in Ireland is still predominantly made up of smaller landlords, REITs and other institutional investors have invested heavily in the Irish property market since 2014.[32] In a letter to the Irish Government, in March 2019, the UN Rapporteur on housing noted that 93% of all assets sold by NAMA went to foreign investors, and by 2016, one third of all properties sold in Ireland were being purchased by investors.[33]

By the end of 2020 there were 15,500 residential units under the ownership of institutional landlords.[34] In 2020, €1.75 BN was invested in the Irish residential market". The majority (97%) was in Dublin. The Department of Finance state that while company ownership of rental units is

[30] Department of Finance (2019). Real Estate Investment Trusts, Irish Real Estate Funds and Section 110 Companies as they invest in the Irish Property Market.

[31] European Commission. (2020). Housing Affordability in Ireland.

[32] Byrne, M. (2019). The financialization of housing and the growth of the private rental sector in Ireland, the UK and Spain. UCD Geary Institute.

[33] Full letter may be accessed here

[34] CBRE. (2021). Ireland Residential Investment MarketView, Q4 2020.

small nationally, it is substantial in some local areas.[35] The report gives examples of Sandyford, where 32% of registered tenancies are with company landlords. The equivalent percentage is 41% in Tallaght-Springfield, and in Chapelizod it is 49%. The Department of Finance does not determine if this influences rent inflation, but states:

> "Ownership shares in the rental market beyond a certain level in any particular locality may bestow rent-setting power to an individual or group of firms."

In addition, there has been criticism of so-called "cuckoo funds", or institutional investors that buy up entire housing developments, meaning units are not available to individual purchasers. Some have argued that such investment incentivises supply of housing. However, there has been sufficient concern in other countries to prompt legislation. In Berlin, a law was passed which gives the State first-refusal on apartment blocks which come on the market.[36]

Members may wish to consider if a successful cost rental sector requires greater rent control in the private rented sector.

Key issue 13: Will the private sector invest in cost-rental?

The Government expects investment by the private sector, such as a pension fund, in cost rental housing. As already discussed, this is the idea behind "equity return" which, as the Department explained, would allow the Minister to put a cap on the return of any private investor. For such funds to invest in cost rental, it would have to be sufficiently profitable for them to do so, as it is in the private rented sector, through the REIT model. It may be that these funds continue to prioritise investment in the PRS.

Members may wish to consider whether it is practical for the private sector to invest in cost-rental housing and what impact any changes may have on the PRS.

Key issue 14: Competition between cost rental and home ownership

The General Scheme also provides for a shared equity loan scheme, to make the purchase of housing more affordable for those who want to own their own homes. As discussed later in this paper, Davidson (1999) argues that cost rental is most effective when home ownership is not incentivised over renting. In a sense, the two tenures are competing with one another - workers on average incomes deciding if they wish to rent or purchase. As cost rental requires scale, and continued investment, it also requires willing tenants for that sector.

This is unlikely to be an immediate concern in the Irish situation where cost rental is in its infancy, and the demand for rent, as well as homeownership, is high. It is worth considering, however, in smaller housing markets around the country, as well as into the long-term as implementation continues. It is also worth considering whether the legislation should provide that these units may

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[35] Department of Finance. (2019). Institutional Investment in the Housing Market.

[36] Irish Times – Housing crisis: the Berlin solution and the Vienna model 6 April 2019.

not be sold for a defined period. Experience from other countries suggests that where stock has been sold, it has left a residualised sector, damaging the potential for growth of the model.

Members may wish to consider how cost rental (particularly the sale of cost rental housing units) will impact on the demand for rent and home ownership.

Key issue 15: Will this adequately address Ireland's affordability gap?

As noted by the NESC (2020), an affordability gap exists in Ireland. According to Daft.ie[37], the average national listing price of a home is now €269,522, while in Dublin, it is considerably higher at over €400,000. Data published by the CSO shows the total median annual earnings were €36,095 in 2018.

There is significant variation in listing prices across the country. For example, in Dublin the average listing price ranges from €310,085 in Dublin West to €619,012 in South County Dublin. In Wicklow, Kildare, and Meath, average listing prices are €342,607, €275,217, and €273,384, respectively. In Munster, average listing prices range from €186,698 in Tipperary to €296,017 in Cork City, while in Connaught and Ulster, they range from €132,409 in Leitrim to €158,409 in Donegal and €317,235 in Galway City.

Research by Initiative Ireland (2020) suggested that, in the Greater Dublin area, households on the current average income would be able to access less than 5% of new homes built in 2019.

As provided in the notes accompanying Head 7 of the General Scheme of the Affordable Housing Bill, it is proposed that the housing authority assesses income eligibility on "the basis of regulations on the matter to be made by the Minister with the consent of the Minister for Public Expenditure and Reform".

Members may wish to consider whether additional clarity is required as to how income eligibility will be assessed and whether this (targeted income thresholds, etc.) should be explicitly set out in legislation.

[37] The Daft.ie House Price Report: An analysis of trends in the Irish residential 2020 sales market. Available here.

Affordable Housing on State Land

As mentioned in the summary, there are 20 heads within the General Scheme containing amendments to the *Housing (Miscellaneous Provisions) Act 2009*. These amendments deal with local authority-led affordable purchases, and as noted by a Department official during pre-legislative scrutiny, are mostly administrative in nature and intended to improve its operation.

There are four key amendments proposed:

- Purchaser eligibility (Head 7)
- Scheme of priority (Head 8)
- Land Development Agency (Head 9)
- Charging period (Heads 3, 10, 11 and 13)

This section examines these key amendments in detail. A brief overview of the remaining Heads is provided in the final section of this briefing paper.

Purchaser eligibility and scheme of priority (Heads 7 and 8)

Key provisions proposed in the General Scheme

How will eligibility be determined?

Head 7 of the proposed General Scheme provides for the amendment of section 84 of the Act (Assessment of eligibility for affordable dwelling purchase arrangement). As provided in the accompanying notes, section 84 deals with eligibility for affordable dwelling purchase arrangements. A number of changes have been proposed which are discussed below:

Defining a household

In subsection (1), which defines a household, it refers to a single person as a "person who lives alone". This appears to exclude a single person currently living with others but wishing to apply to buy his / her own dwelling from the definition of a "household". This excludes them from being considered eligible under these arrangements. It is proposed to add "or who intends to live alone in the affordable dwelling" to "a person who lives alone".

Application for affordable housing to the local authority

The current wording of subsection (2) appears to allow a person to apply to a housing authority at any time and have his / her application assessed even if there are no affordable housing schemes ongoing in the housing authority area. The amendment to subsection (2) will provide that a person may apply for affordable housing to a housing authority only in response to an advertisement for it. Rather than establishing a housing authority waiting list, this scheme proposes that housing authorities make available homes in developments when they arise. When all homes in the development have been sold, the application list will be discontinued.

Suitability

References to the suitability of current accommodation, distance from school, workplaces, etc., will be removed from the eligibility criteria. Regulations made in 2019 addressed the provisions in terms of distances from schools, workplaces under schemes of priority, not eligibility. As stated in the Explanatory Note to the Head, it is proposed that these Regulations be amended.

Income eligibility

Previously, the income eligibility criteria were that the person would be unable to afford a property that suited their needs because the repayments on a 90% mortgage would exceed 35% of their net household income. These income eligibility criteria are removed. Rather, it is proposed that the housing authority assesses income eligibility on “the basis of regulations on the matter to be made by the Minister with the consent of the Minister for Public Expenditure and Reform”. As provided in the Explanatory Note to the Head, the regulations are expected to provide that the income criterion for eligibility will be that the applicant cannot secure a mortgage for 90% of the market value of the unit. The applicant will be required to take out the maximum bank mortgage and the percentage equity charge will be based on the difference between the purchase price the individual can afford to pay with their full mortgage, or the lowest price the housing authority agrees the unit can be sold for (whichever is the lower), and the market value of the unit. Part 5 does not allow a unit to be sold at a greater discount from market value than 40%.

Other assets

Currently, there is a requirement that other assets of the households (for example, savings, capital assets, etc.,) are considered in determining eligibility. It is proposed to replace this with a provision that the Minister may make regulations that require such means be taken into account. An eligibility criterion in subsection (2) is not affected, in that the household or any household member must not own or be beneficially entitled to “an interest in any dwelling or land in the State or elsewhere”.

Assessing eligibility

The current provisions for assessing eligibility of households is based on the average price being paid by first time buyers in the housing authority area for a unit suited to the households needs. However, it is noted that it isn’t possible to robustly establish the average price paid by first time buyers for particular units (one bed, two bed, etc.) in a housing authority area. While the CSO produce statistics on prices paid by first time buyers, these do not distinguish between types of units. Rather, it is considered more appropriate to measure a household’s capacity to buy against the actual unit being sold by the housing authority. As a result, it is noted that these provisions are being removed. The provisions allowing the Minister to make regulations on assessment and assessable income are to be determined, but, as provided in the Explanatory Note, it is expected that assessable income will be the same as those set out for eligibility for social housing in the Household Means Policy (i.e. to exclude payments such as Child Benefit).

Which households will be prioritised?

Head 8 of the General Scheme looks at the amendment of section 85 of the Act which is related to schemes of priority for affordable dwelling purchase arrangements.

Scheme of priority

As provided in the Explanatory Note to the Head, Part 5 was commenced in June 2018 and housing authorities were required to make schemes of priority within a year. The Minister was required to make regulations which effectively prescribed what should be contained in the scheme of priority. The scheme of priority which would give preference to eligible households was as follows:

1. Households whose housing needs would be adequately met by the affordable home in question.
2. Households where at least one member has been resident in the housing authority area for the 12 months preceding application.
3. Households with a household member attending an educational facility within a certain distance of the unit concerned.
4. Households with a household member working within a certain distance of the units concerned.
5. Prioritised according to the date/time they applied.

Housing authorities were left to decide on appropriate distances for priority 3 and 4. It was noted that many housing authorities were unhappy with this and some adopted such long distances as to effectively negate what it is assumed was the intention of the provisions.

As a result of engagement with housing authorities, the Head proposes that the schemes of priority be reduced to the following:

1. Suitability of the unit for the eligible household;
2. Length of time living in the administrative area; and
3. Date/time of application.

As stated in the Explanatory Note to the Head, it would be intended that these regulations would require (new) housing authority schemes of priority to provide that 70% of dwellings in a scheme will be allocated on the basis of (1) suitability of unit for the household and (2) the date/time of application and that the remainder of dwellings may be allocated on a basis to be decided by the housing authority and included in their scheme of priority.

Regarding the scheme of priority, a witness from the County and City Management Agency (CCMA) stated, during pre-legislative scrutiny on 2 March 2021, that:

> "On priority, it is effectively first come, first served. If there is an affordable housing scheme available, it will be advertised, people will apply, they will be assessed on their length of time living in the area, the suitability of the house and when they applied. Rather than going into distance from home to work and home to school which is cumbersome and inconsistent around the country, it simplifies it. The plan is to have 70% of units allocated on those priorities and then 20% through a local scheme which local councils will arrive at. That is very welcome."

In addition, the witness stated:

> "We will be looking at priority in terms of whether a house is suitable to the needs of people, how long people are living in the area and how long it has been since their application was made. We may well go for expressions of interest when we are assessing the demand in a particular area. As soon as we have concrete schemes, they will be

advertised. As soon as we have data on what will be delivered and what the targets are, we will send them to the committee".

Policy Context

Defining housing affordability

As outlined by Corrigan et al. (2018)[38], housing affordability typically refers to the ability of a household to repay both housing costs and non-housing expenditures from its income. Housing is usually classified as unaffordable when it costs more than a certain percentage of a household's income. Within the housing affordability literature, generally the rule of thumb is to use 30% of one's income as the benchmark[39]. This is called the 'ratio income' approach.

However, this 30% benchmark is not without its limitations[40]:

- it does not allow for any differentiation between low- and high-income households;
- it does not consider differences in household size and composition; and
- there is no theoretical justification for using a 30% (arbitrary) cut-off.

Given these limitations, Corrigan et al. (2018) note that a series of Australian studies used an alternative: the 30/40 measure. According to the 30/40 measure, housing is classified as unaffordable if a household spends more than 30% of their income on housing payments *and* if that household is in the bottom 40% of the income distribution. This approach allows for household composition to be considered.

Within the housing affordability literature, there is also an additional method of assessing affordability. This method is based on how much income a household has left after it has paid its housing cost: this can be referred to as the 'residual income approach'. Within this approach, residual income is estimated by subtracting housing expenses from household income and then determining if the remaining income allows the household some minimum level of consumption[41]. The drawback of this approach is that it usually requires detailed data which is often not available. It also makes cross-country comparison difficult.

Measuring housing affordability in an Irish context

Corrigan et al. (2018) notes that a formal definition of housing affordability has not been explicitly established in statute or in policy terms. However, there are examples from individual schemes where explicit affordability criteria have been used previously:

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[38] Corrigan, E., Foley, D., McQuinn, K., O'Toole, C., and Slaymaker, R. (2018), "Exploring Affordability in the Irish Housing Market", *The Economic and Social Review*, Vol. 50, No. 1, Spring 2019, pp. 119 – 157.

[39] This threshold was chosen by Quigley and Raphael (2004) in the US because many US federal housing assistance programmes usually subsidise housing costs so that households don't have to pay more than 30 per cent of their incomes on housing costs (Corrigan et al., 2018).

[40] Ibid.

[41] This is based on budget standards constructed according to the average spending behaviour of different types of households.

- Part V of the *Planning and Development Act 2000* uses a 35% income adequacy threshold. A person is classified as being eligible for affordable housing if (i) in need of accommodation, and (ii) if payments on a mortgage for the purchase of a house would exceed 35% of that person's annual income net of income tax and pay related social insurance (PRSI).
- Policy measures intended to support first-time buyers purchasing newly built residential units at below market price incorporated affordability thresholds such as the Local Authority Affordable Housing Scheme and the Shared Ownership Scheme. The income tests applied to these schemes were not uniform, however, a common eligibility requirement was a 35% income threshold.

All noted affordable housing programmes were discontinued in 2011.

Studies examining housing affordability in Ireland

Fahey et al. (2004)[42] uses Household Budget Survey data to provide estimates of household expenditure by tenure, expressing rent and mortgage payments as a percentage of total household expenditure over the period 1973 to 2000. They found that there was differing levels of growth across the tenure groups: from a 68% increase among private renters to zero growth among social renters. The authors use the 35% of household expenditure as a threshold. Their rationale was that it is the upper limit of the Local Authority mortgage burden for tenant purchasers. They found that in 1999-2000, 20% of private renters had housing expenditure above the 35% affordability threshold, compared with just 1% of households with a mortgage. They also examined regional variations and found considerable differences between those renting in Dublin and in rural areas; the rent burdens of 26% of households in Dublin exceeded the 35% threshold compared to 12% of rural households.

In another study, Fahey and Nolan (2005)[43] compared housing expenditure in Ireland with those in 13 other European countries[44] using data from 1996 and 1999-2000. They found that expenditures were relatively low in Ireland in general, even when excluding households with no housing payment costs (for example, owner occupiers without a mortgage), but relatively high for Irish home-owning households with a mortgage and in the 25-39 age group.

McCarthy and McQuinn (2011)[45] use data from the Survey on Income and Living Conditions (SILC) to examine the ability of Irish households to sustain their mortgage repayments. In

[42] Fahey, T., Nolan, B., and Maître, B., (2004), "Housing, Poverty and Wealth in Ireland", No. 34, Combat Poverty Agency.

[43] Fahey, T., and Nolan, B., (2005), "Housing Expenditures, Housing Poverty and Housing Wealth", Housing Contemporary Ireland Policy, Society and Shelter, Dublin: Institute of Public Administration.

[44] These 13 countries are Spain, Greece, Italy, Belgium, Luxembourg, UK, Portugal, Finland, France, Denmark, Austria, Netherlands, and Germany.

[45] McCarthy, Y., and McQuinn, K., (2011), "How Are Irish Households Coping with their Mortgage Repayments? Information from the Survey on Income and Living Conditions", The Economic and Social Review, Vol. 42, No.1, pp. 71-94.

particular, they estimate the mortgage repayment to income ratio (MRTI) which measures the cost of mortgage payments as a share of income. They found that more highly-burdened households tend to have heads of households who are younger, more often female and more highly educated than heads in households with lower mortgage burdens. They also tend to be based in urban locations, have taken their mortgage out in recent years and face a longer mortgage term than households with a lower mortgage burden.

Corrigan et al. (2018) found that, on average, households were paying 20% of their income on housing costs in 2016, but there was substantial variation across households. Private renters, those living in Dublin and the Mid-East region, and low-income households were paying a significantly higher proportion of their incomes on housing payments. In particular, households in the bottom 25% of the income distribution were spending, on average, between 40% to more than 50% of their income on housing costs, depending on tenure. The repayment-to-income ratio has increased considerably for low-income households since the onset of the financial crisis in 2008. The impact of a reduction in income for the bottom 25% of the income distribution was more dramatic than for other earners regarding the amount of income for which the repayment accounted. Their findings show that low-income households (in the bottom 25% of the income distribution) who are in the private rented sector have always faced high housing payments.

As previously mentioned, Corrigan et al. (2018) use two approaches to measure affordability: the 30% rule and the 30/40 rule. Using the 30% rule, they find that 16% of households had housing payment-to-income ratios greater than 30% in 2015-2016. This figure was double for private renter households and increased to 75% for private renter and mortgaged households in the lower quarter of the income distribution. Households defined as having high housing costs had higher levels of economic strain; they had higher rates of mortgage or other payment arrears, higher rates of consistent poverty, and a lower level of residual income (disposable income remaining after housing payments have been made).

Using the 30/40 calibration and focusing on households with high housing costs as defined by this metric, Corrigan et al. (2018) found that the majority of these households were private renters, with very low residual incomes after paying their housing payment costs. Their evidence shows that affordability challenges do not start to rise substantially until they reach the 60th percentile of the income distribution indicating that the 40% income threshold may be too low in the Irish case. The authors suggest that "*a graduated refinement of the housing affordability definition which increases the housing payment-to-income threshold as households move up the income distribution but still allows them to be classed as facing housing affordability challenges*". [46]

County-level housing affordability in Ireland

An [ESRI (2019)] paper examined the trends in county-level housing affordability in Ireland. In this paper, the authors examine how affordability has developed for first time buyers (by estimating the mortgage payment and subsequent mortgage repayment-to-income ratio they would face if they were to purchase a property at the mean first time buyer price in each county) and whether

[46] Corrigan, E., Foley, D., McQuinn, K., O'Toole, C., and Slaymaker, R. (2018), "Exploring Affordability in the Irish Housing Market", *The Economic and Social Review*, Vol. 50, No. 1, Spring 2019, pp. 119 - 157

households would be left with sufficient residual income after paying housing costs to attain a minimum essential standard of living.

The paper drew on data from two sources: potential first-time buyer incomes[47] for each county and county-level data on first time buyer house prices from the CSO's Residential Property Price Index[48] (RPPI) dataset. Their findings showed that in 2018, the mortgage-to-income ratio for potential first-time buyers was more than 30% in Dublin, Wicklow, Kildare and Meath. In 11 of the 26 counties, the ratio was at or below 20%. It is noted, however, that this analysis only focuses on a dual-earning couple who earn the mean first-time buyer income attempting to buy the mean first-time buyer priced house in each county. As such, the paper notes that the affordability challenges for potential first-time buyers at the lower end of the income distribution will be even greater, particularly in Dublin, the Greater Dublin Area, Cork and Galway. In areas where those earning the mean income are unable to borrow at a 90% loan-to-value (LTV) and meet the loan-to-income (LTI) limits, they are likely to purchase houses at the lower end of the house price distribution. The authors note that this may represent a further challenge to lower-income potential homeowners[49].

Measuring housing affordability: Price-to-income ratio

Housing affordability can be affected by multiple factors including rising house and rental prices, a mismatch between the supply and demand for housing, and more restrictive mortgage lending rules. The price-to-income (PTI) ratio is a useful measure of housing affordability. This is the ratio of average house prices to average income. PTI data from the 16th Demographia International Housing Affordability Survey (2020) can be used to compare housing markets across nine countries including Ireland. As outlined by the Housing Agency, this index rates middle-income housing affordability using the "Median Multiple". This is the median house price divided by the median household income.

This index rates PTIs as follows:

Rating	Median Multiple
Severely unaffordable	5.1 and over
Seriously unaffordable	4.1 – 5.0
Moderately unaffordable	3.1 – 4.0
Affordable	3.0 or less

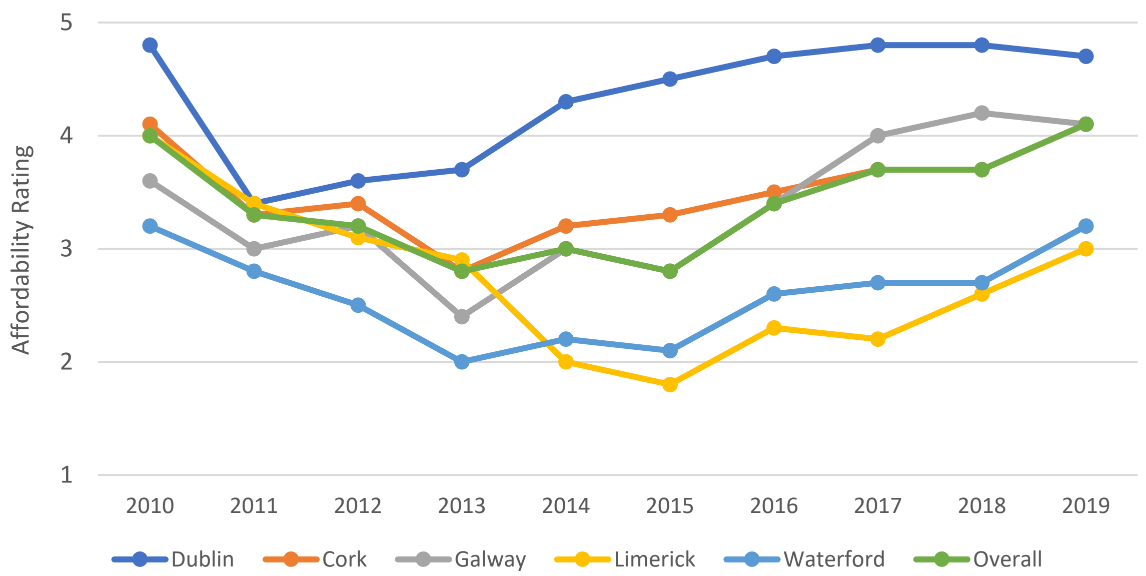
47 It combines data from CSO disposable income data from the regional accounts with Survey of Income and Living Conditions (SILC) data which contains information on both income and age, to obtain a measure of potential first-time buyer incomes for each county.

48 The Residential Property Price Index measures the change in the average level of prices paid for residential properties sold in Ireland. Available here.

49 Allen-Coghlan, M., Judge, C., O'Toole, C., and Slaymaker, R. (2019), '*A county-level perspective on housing affordability in Ireland*', ESRI Research Notes 2019/4/2

As shown in Figure 2 below, most Irish cities have become less affordable since 2013. Using the PTI, we see that Dublin and Galway are both considered “seriously unaffordable” using this metric. Waterford and Limerick are considered “moderately unaffordable”. This coincides with the ESRI (2019) report that highlighted greater affordability pressures in and around the capital city (Dublin, Wicklow, Kildare, and Meath), but suggested affordability pressures were not as evident elsewhere.

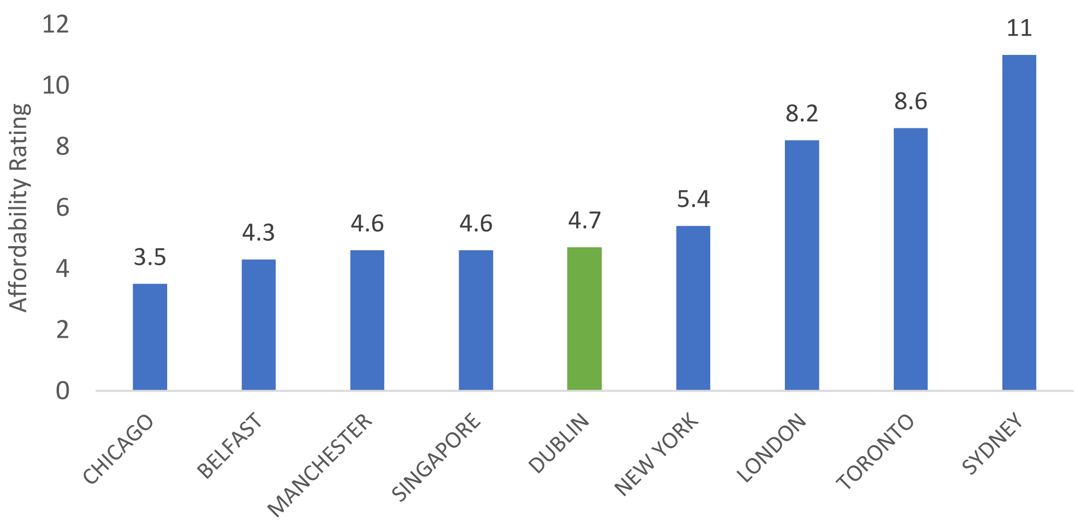
Figure 2: Trends in housing affordability in selected Irish cities (2010 – 2019)



Source: 16th Annual Demographia International Housing Affordability Survey **and** The Housing Agency

Figure 3 shows where Dublin stands relative to other global cities in terms of affordability. While Dublin is not at the level of the most unaffordable cities like London or Sydney, it is classed as ‘seriously unaffordable’ by the survey’s metric.

Figure 3: Dublin housing affordability in an International context (2019)



Source: 16th Annual Demographia International Housing Affordability Survey and The Housing Agency

Arrangements with the Land Development Agency (Head 9)

Head 9 of the General Scheme relates to the insertion of section 85A into the Act ("Arrangements with the Land Development Agency pursuant to section 84 and section 85"). It provides that the following is inserted after section 85:

85A – A housing authority may enter into an arrangement with the Land Development Agency whereby the housing authority will

(a) Advertise affordable dwellings to be sold by the Agency;
(b) Assess applicants for eligibility for an affordable dwelling purchase agreement pursuant to section 84;
(c) Prioritise eligible applicants pursuant to section 85

Such dwellings will be sold by the Agency to eligible purchasers in accordance with an agreement between such purchasers and the Agency, with any charges on such properties being made in favour of the Agency.

As detailed in the Explanatory Note attached to the Head, the purpose of this section is to allow housing authorities to select and prioritise purchasers for homes being sold by the LDA in accordance with the Scheme of Priority applicable to the local authority area within which the LDA has developed affordable homes for sale under this scheme.

The LDA will sell the units directly to the purchasers and all other matters (for example, charges on the property) would be arranged between the LDA and the purchasers. The housing authority's role would be limited to nominating purchasers.

The management of issues such as the charging order, repayment of the charge, payments made against the charge, etc., is left to the LDA. As such, the LDA would be in the position of a developer or contractor providing units for the housing authority to be sold to purchasers (probably through a direct sales agreement).

Policy Context

General overview of the Land Development Agency

The Land Development Agency (LDA) was established on an interim basis in September 2018, by way of an Establishment Order made under the *Local Government Services (Corporate Bodies) Act 1971*, pending the enactment of the Land Development Agency Bill. Once established, the LDA had access to nine sites that have near term delivery potential for approximately 4,000 new homes (see Table 4 below). In terms of funding, the LDA will receive capital funding of €1.25 billion from the Ireland Strategic Investment Fund (ISIF) upon enactment of the Land Development Bill. In addition, they can borrow another €1.25 billion[50]. It is anticipated that capital expenditure will be €205 million in 2021, of which €60 million will be provided by the Department. [51]

Table 4: Land Development Agency current sites

Site	Size	Projected number of units	Stage / target completion date	Existing partners (where applicable)
Shanganagh, Shankill, Dublin 8	17.37 acres	Total: 597 homes Social: 200 Affordable: 91 Cost Rental: 306	Part 10 application submitted to An Bord Pleanála and granted. Construction anticipated to start in second half of 2021. Stage 1 Procurement has commenced	Site being developed in conjunction with Dún Laoghaire-Rathdown County Council (DLRCC). Design Team (DT) appointed by DLRCC. ABK Architects. Architect led DT.
Central Mental Hospital, Dundrum	28 acres	1,300 homes (estimated)	Design team appointed and pre-planning public consultation and master planning underway. LDA expects to lodge an application for SHD in mid-2021. Construction start is projected for mid-2022.	
Devoy Barracks, Naas	10.08 acres	221 homes (estimated)	Pre-application consultation with Kildare County Council and An Bord Pleanála completed. Anticipated lodgement in March 2021 and Grant of Permission in July 2021.	
St. Kevin's Hospital, Cork	14.5 acres	266 homes	SHD planning application decision due in April 2021	
Meath Hospital, Dublin 8	0.75 acres	100 homes (estimated)	Redevelopment Options Review to be completed Q1 2021	

[50] As noted by the Minister for Housing Government and Heritage during a Dáil Éireann debate on the Land Development Agency Bill 2021: Second Stage on 17 February 2021. Available here.

[51] Press Release by the Minister for Housing Government and Heritage (14 October 2020) which detailed the housing budget for 2021.

Hacketstown, Skerries	16.8 acres	344 homes (estimated)	Pre-application consultation with Fingal County Council and An Bord Pleanála completed. SHD application submission expected in Q2 on 2021.	
Castlelands, Balbriggan	55 acres	815 homes (estimated)	Pre-application consultation with An Bord Pleanála requested and expected in March 2021.	
Columb Barracks, Mullingar	24.7 acres	100 Phase 1 (estimated)	Pre-planning. Feasibility stage, advancing development framework.	
Dyke Road, Galway	4.5 acres	TBC	Currently preparing a vision statement in conjunction with Galway City Council prior to preparing a scope of works and commencement of a tendering process	

Source: Dáil Éireann Debate, Land Development Agency, 24 February 2021 and the Land Development Agency 2021 Bill Digest

In addition to the expected delivery of approximately 4,000 new homes on the nine sites, an official from the LDA stated to the Committee during its pre-legislative scrutiny on 9 March 2021, that they expect capacity to increase soon:

> "With regard to nearer-term sites for the delivery of homes, the LDA is currently active on nine sites with a capacity to deliver at least 4,200 homes. In addition to this, we will likely shortly announce the addition of further sites that adds capacity for another 3,000 homes, giving a total delivery capacity of at least 7,200 homes."

It was also noted that the LDA is working on "three strategic, transformational areas in our cities that will eventually deliver vibrant new city quarters, including around 13,000 new homes between them"[52]. These three areas include the Colbert Station development in Limerick, both the Sandy Road and Dyke Road developments in Galway, and a partnership with Cork City Council for the delivery of the Cork City Docklands Project.

In terms of housing delivery, the witness stated during pre-legislative scrutiny that the LDA will deliver a minimum of 50% affordable housing along with the required 10% of Part V social housing:

[52] Ibid.

> "The Land Development Agency Bill supports it [the Affordable Housing Bill] in that it will deliver a minimum of 50% affordable housing in addition to the standard 10% of Part V social housing requirement. The critical point is that can be revised upwards depending on the situation. For some of the sites we currently have access to, where affordable housing is absolutely necessary, I imagine the Minister, who can increase the percentage, will require much closer to 100% social and affordable housing on that site. Similar to Shanganagh, I would say 100% social and affordable housing will be required on many sites."

Land use policy in other countries

As detailed by NESC (2020) in their report "Housing Policy: Actions to Deliver Change", land in public ownership is the most critical resource available to the State. The report notes:

> "A substantial amount of state-owned land exists in our cities and towns, including large city-centre areas that were former docks or rail depots, and other areas in key locations and along new public transport corridors opened up by infrastructure projects or new dedicated bus routes."

In order to develop the land in a timely and appropriate manner, the report argues that it should be put in the hands of actors that can "develop it in a timely and appropriate manner, rather than seeking to maximise state revenue by selling it outright". This sentiment is mirrored in a 2018 report[53] by NESC in which they recommended giving public institutions a strong developmental mandate, political authorisation and executive capacity to drive sustainable urban development. This includes the increased provision of affordable housing.

Examples of successful urban developments with public agencies leading the process can be found in some European countries:

Austria

One example of Austrian land development policy is Wohnfond which operates in Vienna. Wohnfond is a non-profit organisation owned by the City of Vienna and headed up by the city counsellor responsible for housing and urban development. It has been operating in Vienna since 1984. As outlined in a 2019 report by Smart Land Use Policy for Sustainable Urbanization (SmartLand[54]), land development opportunities are sought in appropriate areas as specified in the City's long-term urban strategy (STEP). Wohnfond coordinates property developers, house owners, municipal departments and service centres of the municipality of Vienna. It uses the STEP plan to guide land acquisition and development proposals and the long lead time of the plan enables acquisitions well in advance of actual development. The report notes:

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53 NESC (2018), "Urban Development Land, Housing and Infrastructure: Fixing Ireland's Broken System", No. 145, April 2018.

54 This work was funded by the Strategic Research Council at the Academy of Finland.

> "Once a site is required for development, Wohnfond liaises closely with the city on the desired density and composition of dwellings, related land uses (employment, transport, recreation etc) and the location and quality of social and physical infrastructure."

The report also notes price implications for landowners wishing to sell to housing developers:

> "If an owner wants to sell land to a developer for housing, who in turn wishes to utilise public subsidies, he or she must offer the site within an acceptable price range. This acceptable price is specified per square meter in the subsidy laws of the City of Vienna and is also indexed to inflation and adjusted annually. The specified limit is so well entrenched that landowners do not seek a higher price when selling land and consequently speculative practices are eradicated."

Germany

In Germany, one method for facilitating development is land re-adjustment or the pooling of fragmented land ownership. As outlined in a report by the NESC (2018):

> "The municipality decides the boundaries of the scheme. It virtually merges all of the land into one area and a plan is devised for developing the combined land in the scheme. Some land is allocated for public purposes, such as roads, parking lots or playgrounds. The remaining land is then redistributed among the original landowners."

The report notes that there are two methods of land reallocation in use:

1. **Land size:** The municipality can retain up to 30% of the combined land area on greenfield land for public purposes without compensating landowners. In the case of previously developed land, the maximum retention without compensation is 10%. The landowner receives a building plot proportionate to the size of the original holding but one that should be of higher value.
2. **Land value:** In this instance, the landowner is entitled to receive a building plot that is at least as valuable as the original plot. If this plot has increased in value as a result of land readjustment, the landowner is required to make a payment to the municipality for it.

Netherlands

The Netherlands is regarded as having an effective system of land-use planning that includes active land management (NESC, 2018). As noted by Needham (2014)[55], in the Netherlands land-use planning goes beyond the standard 'passive planning' whereby changes in land use require permission. Rather, the Dutch approach to land-use planning is referred to by Needham as 'planning by projects' and it is managed by the planning agency:

> "Whereas with passive planning a land use plan is made to guide the objectives of unknown others during an indeterminate period, with planning by projects (integral area development) the plans are made in order to manage a construction project which has already been designed."

[55] Needham, B. (2014), *Dutch Land-use Planning: The Principles and the Practice*, Oxon: Routledge and as quoted in the NESC (2018).

One approach undertaken in the Netherlands is the VINEX plan. In 1991, the Fourth National Spatial Strategy Supplementary Volume (known as VINEX) was published by the Dutch Department of Housing, Planning and the Environment. This formed the basis of their 10-year housing programme from 1996 to 2005 (with the implementation of this programme has continued beyond this period). As noted by Hall (2014)[56]:

> "The provinces and municipal Governments were asked to implement the national spatial strategy, by drawing up proposals for local housing growth, expressed as 'covenants'; in response the Government provided grants for land decontamination and towards connecting up sites. The process was relatively simple, with few controls over what was to be built other than the requirement to provide 30% of social housing, and to concentrate housing where there was already infrastructure."

The NESC (2018) report that the VINEX plan has been incredibly successful and this is, in part, due to the following factors:

- Planning is taken seriously.
- Local authorities have expertise in land management and can hire specialists.
- Ability to borrow money at low cost due to their triple-A credit rating.
- Those adversely affected by planning are compensated.
- Effective instruments such as compulsory purchase can be used to break through stalemates.

As a result, NESC (2018) report that Dutch land use planning continues to be widely acclaimed for its achievements.

Charged periods (Heads 3, 10, 11 and 13)

Changes to the charging order period

Head 3 of the General Scheme relates to the amendment of section 78 of the Act. Under the current provisions, the property can be charged for a specified period (not to be less than 25 years) after which all amounts outstanding become repayable. However, if at the end of that period the purchaser does not repay, the housing authority would need to go to court to seek a judgement mortgage on the property which would last for a maximum of 12 years. The Note attached to the Head state that legal advice obtained on this indicated that the original charge no longer stands once the "charged period" has expired (or at the very least, it is very uncertain that it does).

As such, it is proposed that this approach be replaced with the following:

- **No finite duration on the charging order period:** the charge will remain on the property until the amount outstanding is paid.
- **Affordable dwelling purchase agreement period**: this is likely to be prescribed as 30 years during which the charge will not be enforceable (except for breach of the

[56] Hall, P. (2014), Good Cities, Better Lives: How Europe Discovered the Lost Art of Urbanism, Oxon: Routledge and as quoted in NESC (2018).

agreement). At the end of the period, the charge becomes enforceable if the amount outstanding is not paid. However, this will be at the discretion of the housing authority.

- **Enforceability of the charge**: It is noted that housing authorities would not (except in the most exceptional circumstances) decide to enforce the charge during the lifetime of the purchaser(s). Rather, they are expected to wait to get the repayment of the disposal of the purchaser(s) estate after death.

Enforcement of the charging order

Head 10 of the General Scheme relates to the amendment of section 86 of the Act, specifically the charging order. A new subsection (2A) is being inserted which states that the charging order becomes enforceable by the housing authority on a breach of the agreement or at the end of the affordable dwelling purchase agreement period if the outstanding amount is not repaid. It also states that the charge may be enforced at the discretion of the housing authority during the lifetime of the purchasers. It is intended to issue statutory guidelines to housing authorities saying that in the ordinary course of events, the charge should not be enforced by the housing authority during the lifetime of the purchaser(s). However, it is considered desirable to retain the ability to enforce the charge in unforeseen or exceptional circumstances.

Payments during the charged period

Head 11 of the General Scheme relates to payments by the purchaser during the charged period. It proposes two amendments to section 87 of the Act. As provided in the accompanying notes, the first amendment relates to the replacement of the “charged period” by the “affordable dwelling purchase agreement period” (see Head 3 above). The second amendment relates to the form on which the purchasers notified the housing authority that s/he intends to make a payment against the charged amount. This section is being amended to allow the Minister discretion as to whether to prescribe it or not.

Repayments on expiration of the charged period

Head 13 of the General Scheme relates to repayment on the expiration of the charged period. As it currently stands, section 89 provides that the amount of the outstanding charge becomes repayable by the purchaser at the end of the charged period. It proposes now that the charge becomes enforceable by the housing authority at the end of the affordable dwelling purchase agreement period. It may be enforced by the housing authority during the lifetime of the purchaser(s), but according to the Explanatory Note attached to the Head, it is not envisaged that the authority will do so, in the ordinary course of events.

The proposed new section 89 provides that the housing authority will write to the purchaser(s) at the end of the period to remind them of the amount outstanding and that the charge will remain on the property until the amount is repayed, and to inquire if they intend to pay it. If the housing authority does decide to enforce the charge, they must inform the purchaser of this and allow six months to pay the outstanding amount.

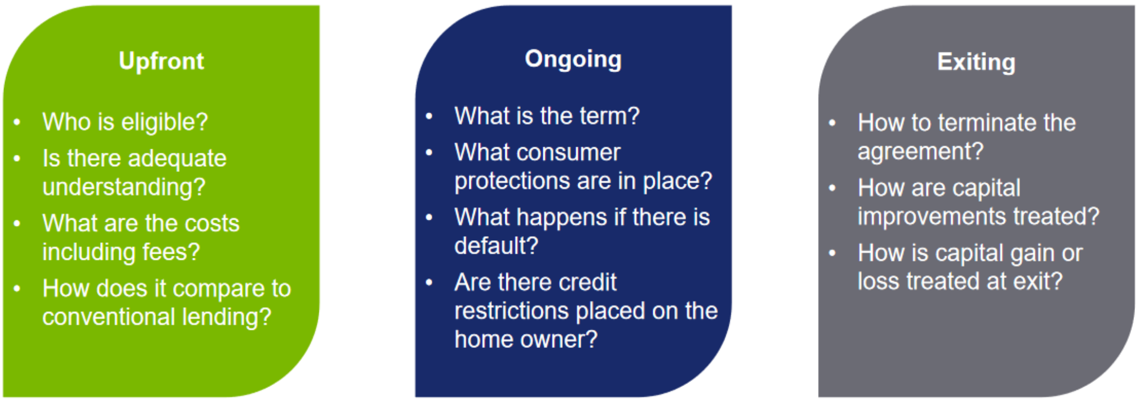
Shared-Equity Loans

Policy context

Shared-equity loans involve an equity partner (lender) paying for a percentage of the market price of a property. The lender then holds an equity stake in that property until such time as the purchaser satisfies the requirements to have the equity portion released by the lender. As the loan amount is normally defined by the portion of the property held in equity (not the amount borrowed), the lender takes on some of the capital risk associated with the property, and consequentially, the lender will also benefit from capital growth. The equity stake held by the lender is usually only realisable when the property is sold or transferred, and/or when the loan is refinanced, but this would depend on the terms of the specific loan.[57] Depending on the conditions attached to the loan, the lender could benefit from favourable terms. For example, a recent shared-equity scheme in Denmark (set up by an American financial services provider) provided an interest free loan of 10% of the market value of the property in exchange for a 25% equity share in the property.[58]

Some benefits of a shared-equity loan to the purchaser are that he or she will maintain a right of possession while reducing future interest and (often) capital payments (when compared to a normal home loan). As there are no (or low) repayment requirements on the shared-equity portion, the purchaser can often afford to borrow more than they traditionally could through a standard home loan. So, in the absence of an inflationary spike, by giving the purchaser more purchasing power, a shared-equity loan could improve housing affordability for the purchaser. Figure 4 provides a summary of the main points a purchaser may need to consider before entering into a shared-equity loan agreement, some of which will be examined later in this paper:

Figure 4: Considerations affecting a shared-equity loan agreement



Source: Australian Affordable Housing Securities Ltd, '[Shared Equity: Overseas Experience]'

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57 See generally, Oireachtas Library & Research Service, 2020, *Spotlight: Shared-equity homeownership*.

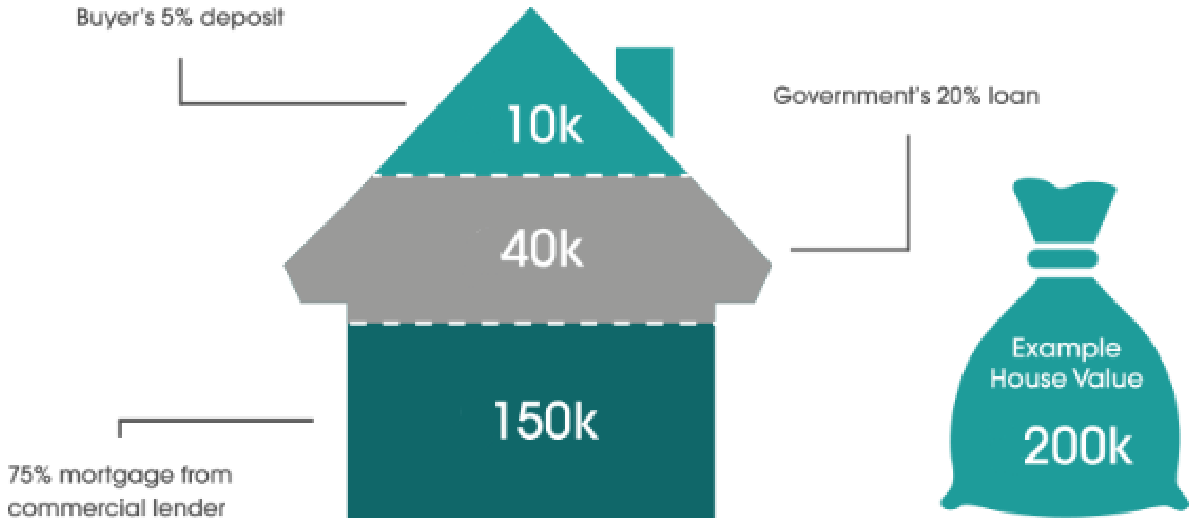
58 See Christine Whitehead and Peter Williams, UK Collaborative Centre for Housing Evidence, London School of Economics, *Thinking outside the Box: Exploring innovations in affordable home ownership*, 11 November 2020, p. 26.

Government-backed schemes

Government-backed shared-equity loan schemes are not always linked to affordable housing policy. However, they would tend to target low-to-moderate income households who can prove a level of assured, long-term financial capacity.

The schemes provide a subsidy, giving an eligible purchaser an interest-free period of the loan that will then shift to below-market interest rates. The schemes also allow for a purchaser to buy a property with a reduced deposit, potentially enabling a purchaser to circumvent macro-prudential rules. Figure 5 provides a typical example.

Figure 5: Example of a shared-equity loan arrangement



Source: UK Government, 'Help to Buy: How does it work'.

As shown in Figure 6, the extent to which a scheme improves affordability will be affected by four main action areas. To be effective the scheme would need to be targeted at the right purchaser, it would need to be introduced in such a way that it wouldn't have a negative impact on housing markets, it would need to be supported by external stakeholders such as financial service providers and it needs to be monitored (and amended if necessary). [59]

[59] Samantha Evans, '2018 Churchill Fellowship to investigate how Shared Equity can become a mainstream solution to housing affordability in Australia', August 2019, p. 16; Samantha Evans, CEO, Australian Affordable Housing Securities Ltd, *Shared Equity: Overseas Experience*, August 2019.

Figure 6: Government-backed scheme action areas

Source: Australian Affordable Housing Securities Ltd, 'Shared Equity: Overseas Experience'

The proposed national Affordable Purchase Shared Equity Scheme

Part of Head 21 of the General Scheme proposes to insert a new section 96A into the *Housing (Miscellaneous Provisions) Act 2009* (the 2009 Act).

This section would provide the statutory basis for the Minister to contribute funds to a special purpose vehicle (SPV) to fund a national Affordable Purchase Shared Equity Scheme (APSE Scheme). The APSE Scheme would be governed by a memorandum of agreement (MoA) made by the Minister with the SPV, allowing the SPV to acquire an equity stake in dwellings (helping people to purchase homes). The proposed section states the MoA **may** define:

- the eligibility requirements for applicants,
- the class of dwelling (with further conditions potentially linked to price, geographical location and levels of equity support),
- the composition of funding to the SPV (allowing for private sector investment in the APSE Scheme),
- the forms, types and ranking of security required,
- the relevant conditions to allow or require the purchaser to buy out the equity share,
- the rate of interest to be charged if applicable,
- the means by which money may be recovered from the purchaser,
- the relevant fees and charges, and
- the conditions related to developer participation in the APSE Scheme.

The Note to the Head explains that it is intended that the APSE Scheme would be targeted at first-time buyers who have demonstrated a lack of capacity to secure a mortgage to purchase the dwelling in question at open market value. Further, it is expected that the APSE Scheme would only assist in the purchase of new-build homes. Finally, it is intended that the equity charge will rank second to the mortgage provided by a commercial lender. The Note also states that a number of these matters remain under active consideration.

Given the generality of the proposed section it is very difficult to determine with any accuracy the final form that the APSE Scheme would take.

At the time the General Scheme was published the Minister for Housing, Local Government and Heritage, Darragh O'Brien T.D., noted that €75 million of Government money had been set aside in

Budget 2021 to help fund the APSE Scheme and it was hoped that this amount would be boosted through additional private investment. The Minister confirmed that the final scheme would comply with Central Bank macroprudential rules and European regulations. The Minister also explained that development of the scheme was informed by international practice, making specific reference to the UK Help to Buy: Equity Loan Scheme.[60]

The UK Schemes

Under the Help to Buy: Equity Loan Scheme in England, the Government lends purchasers up to 20% of the cost of their newly built home (up to 40% in London). The purchaser is required to provide a deposit of only 5% of the market price upfront. The other 75% (or 55% in London) of the price of the home could be provided through a standard mortgage lender. The purchaser is not charged interest on the equity loan for the first five years of owning their home. After five years, the homeowner is charged 1.75% on the outstanding amount as a fee. Where applicable, the fee must be paid on a monthly basis, it cannot be left to accumulate.

Repayments of the equity may be made at any time, but they must comprise at least 10% of the homes value at the time of the repayment. An independent valuation would need to be commissioned at the time of repayment and this is at the expense of the purchaser (approximately £200). However, there is no specific requirement to repay the equity loan in full until the subject property is sold, or 25 years have passed.

To incentivise paying off the equity loan quicker, the repayment amount is aggregated annually in accordance with the Retail Price Index plus 2% (1% for those who took out the equity loan prior to December 2019). Purchasers must also pay a monthly £1 management fee until the equity loan is repaid.[61]

Under the English scheme, the subject property must be a new build and valued under the set price cap of £600,000. The scheme may only be used to purchase a primary place of residence – subletting is prohibited, and the potential purchaser may not own any other real property at the time of sale. At present, the scheme is open to all home buyers but from 1 April 2021 until the scheduled end of the scheme in March 2023 it will be restricted to first-time buyers, and new regional price caps will be instituted – there are no plans for extensions.[62]

Scotland and Wales have operated separate, but similar, equity loan schemes. The Scottish scheme only provided up to 15% of the purchase price and closed for new applications on 4 February 2021. The Welsh scheme provides up to 20% of the purchase price for homes valued at up to £300,000, but from April 2021 until March 2022 (with a possibility of an extension until March 2023, subject to funding) the house price cap will be reduced to £250,000.

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[60] Department of Housing, Local Government and Heritage, 'Minister O'Brien publishes Affordable Housing Bill 2020', *Press Release*, 20 January 2021.

[61] Homeowners Alliance, 'Help to Buy equity loan scheme explained'; UK Government, 'Affordable home ownership schemes – Help to Buy equity loan'.

[62] Ibid.

For each of the UK schemes, the home must be purchased from a developer registered with the relevant scheme.

Committee hearings

On 9 February 2021, the Joint Committee on Housing, Local Government and Heritage held a hearing to debate the General Scheme of the Bill. Officials from the Department attended the hearing explained that much of the detail of the APSE Scheme (including the applicable interest rates) will be finalised soon and proposals will be forwarded to the Minister. Some detail on possible eligibility was shared with the committee.

An official noted that primarily the APSE Scheme will be targeted at first home buyers, but further eligibility criteria may be considered, possibly covering individuals who have gone through a marital breakdown. Furthermore, although the income of the purchaser(s) will not affect their eligibility, a de facto income cap would apply to the scheme, in that, an applicant under the scheme would need to prove that they could not avail of a normal commercial mortgage to affect the purchase. In other words, if a purchaser can afford a house at normal market prices (using a market-based mortgage), they will not be eligible for the scheme.

In the absence of this detail, any attempt to properly scrutinise the APSE Scheme would involve a good deal of speculation. However, it may be useful to evaluate the merits of the scheme in line with its potential effects, focussing on the action areas outlined above.

Cost Rental Housing

Policy context

Cost rental housing refers to a model of housing where the amount of rent charged, covers only what it costs to deliver, manage and maintain the units.[63] As no profits are earned, rents are less than market rents. In some countries, those who cannot afford the rent are given a State subsidy. The objective of cost rental housing, therefore, is to provide a more affordable alternative to the private rented sector. It is primarily aimed at moderate-income workers.[64]

Cost rental housing has been on the policy agenda in Ireland since the National Economic and Social Council (NESC) 2014 report *Social housing at the crossroads: possibilities for investment, provision and cost rental*.[65] In this report, NESC (2014) stress the importance of housing providers to be able to finance housing, without it going on the State's balance sheet. The report states:

> "Cost-rental provision with secure occupancy to a significant share of the population is the best available response to the dynamics of rental systems and housing markets."

In 2016 the Committee on Housing and Homelessness met with experts who advocated for a cost rental model in Ireland. The report produced by that Committee quotes Professor PJ Drudy of Trinity College Dublin:[66]

> "The State would effectively regulate rents and the gardaí, teachers, nurses and so on who rent the homes would have security of tenure and standards would be good."

Strategy for the Rental Sector, published in December 2016, contains a commitment to develop a cost rental model for lower-income families.[67] That strategy concedes, however, that cost rental housing requires a lengthy maturation period (the report suggests 20 years) before it pays its "core dividend". This conclusion is supported by Kemeny (1981), who found that:[68]

> "…cost-renting becomes competitive with home ownership only when the number of debt-free dwellings approaches 50 per cent of the stock."

The reason is that, over time, as loans used to develop the scheme are paid off, ongoing rent payments may be invested in new cost rental schemes.

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[63] Housing Agency. (2019). Delivering an affordable, sustainable rental sector through Cost Rental.

[64] Ibid.

[65] NESC. (2014). Social housing at the crossroads: possibilities for investment, provision and cost rental.

[66] Joint Committee on Housing and Homelessness. (2016). Report of the Committee on Housing and Homelessness

[67] Department of Housing, Local Government and Heritage. (2016, p.16). Strategy for the Rental Sector.

[68] Davidson, A. (1999). Alternative Models of Social Housing: Tenure patterns and cost-renting in New Zealand and Sweden. *Housing Studies* Vol 14 (4).

The current Programme for Government: Our Shared Future (2020) states that the Government will develop a cost rental model for the delivery of housing, informed by international approaches, such as the ‘Vienna Model’.

Ireland’s first Cost Rental scheme – Enniskerry Road, Stepaside, Dublin 18

Ireland’s first cost rental scheme is being developed on the Enniskerry Road in Stepaside, Dublin 18. It is due to be completed in 2021. The mixed-tenure development will consist of 155 two-bedroom apartments (105 social homes and 50 Cost Rental Homes). Initial rents for the cost rental homes will be €1,200 per month.[69]

Conditions attached to the transfer of land, state that the homes must be used for social housing and cost rental for at least 70 years.[70] In addition, a determination of the amount of rent to be set, will be subject to the approval of the Department of Housing, Local Government and Heritage (DHLGH) and the Housing Agency. Also, any rent increases will be linked to general consumer inflation.

It is intended that cost rental properties will be professionally managed by housing associations. Tenancies will be subject to the provisions of the *Residential Tenancy Act 2004*.

Budget 2021 set aside up to €35M to Approved Housing Bodies (AHBs) to deliver approximately 350 cost rental homes in 2021. Government approval has been granted to three AHBs (Respond, Tuath, and Cluid) to deliver 390 cost rental homes in Dublin and Cork.

Practical applications of cost rental schemes

To understand cost rental housing, it is useful to note the work of Kemeny (1995), who identified two types of rental system – dualist and integrated (also called unitary). Under the dualist model, there is a clear distinction between those who live in social housing, and those who live in the private rented sector. Under an integrated system, there is little distinction between social and private housing.[71]

Dualist/integrated systems

According to Kemeny (1995), the cost-rental model will follow a different path, depending on which system it operates in. In the **integrated system** the State must subsidise the cost-rental sector initially, while regulating the private sector. Eventually the cost-rental sector subdues rents in the private sector. The Government may, at this point, abolish rent control and the market will become integrated.[72] According to Kemeny, an integrated rental market will be highly competitive with

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[69] Housing Agency. (2019). Delivering an affordable, sustainable rental sector through Cost Rental.

[70] Ibid.

[71] Kemeny, J. (1995). From Public Housing to the Social Market: Rental Policy Strategies in Comparative Perspective, London: Routledge

[72] Stephens, M. (2020). How Housing Systems are Changing and Why: A Critique of Kemeny’s Theory of Housing Regimes. *Housing Theory and Society*, Vol 37 (5) 521-547.

owner occupation, and a large proportion of households, including those who are better off, will prefer this tenure.[73] At the time of writing Kemeny (1995) considered Sweden, the Netherlands, Germany, Switzerland, Austria and Denmark were moving towards an integrated system.

In the dualist system, when maturing public stock causes rents to fall relative to market rents, the Government tightens control over the cost-rental sector, limiting access to the scheme, causing market rents to rise. The Government eventually sells-off cost rental units, leaving a residualised sector (i.e. the concentration of lower income tenants).[74]

Kemeny (1995) argued that cost-rental housing has the potential to create self-perpetuating housing tenure, with the non-profit sector refinancing new construction of cost rental properties, as housing stock. Stephens (2020) disagrees, arguing that non-profit integrated rental markets have disappeared, and it is not possible to build new cost rental schemes without public funding.[13] Using Sweden as an example, he claims that the non-profit sector has shrunk since the 1990s, with sale of publicly-owned properties reducing the available stock. This disruption in the rental market has turned more people towards homeownership.[14]

According to Stephens (2020) "…the unitary rental market has collapsed from within…". Stephens (2020) also cites the situation in Germany, where Government-subsidies for new housing are increasingly targeted at home-ownership, and any new funds dedicated to cost rental do not derive from "recycling" of surpluses, contrary to Kemeny's theory. In addition, large amounts of public housing stock have been sold (e.g. all of Dresden's 48,000 city-owned apartments, and 150,000 units in Berlin), to help balance public-spending deficits.[15]

As a result of this, according to Stephens (2020), the cost-rental sector in Germany exerts less influence on the private market than it did in the past, and the State relies more on regulation of the private rented sector to ensure a level of housing affordability in the rental market.

Of Sweden and Germany, Stephens (2020) stresses the importance of state subsidies in new cost rental developments, rather than relying on maturation to finance developments. He writes:

> "The failure to anticipate the necessity of subsidy in maintaining the new supply of cost-rental housing and instead to rely on maturation is perhaps the most significant factor in weakening the ability of the cost rental sector to influence and shape the rest of the housing system."

Davidson (1999)[75] too has emphasised difficulties associated with setting up cost-rental schemes in the absence of State assistance:

> "Any cost-rental organisation which builds its first house can only offer rents which are higher than those on the private rented market, and which are in fact no different from the housing costs of first-time individual buyers."

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[73] Ibid.

[74] Ibid.

[75] Davidson, A. (1999). Alternative Models of Social Housing: Tenure patterns and cost-renting in New Zealand and Sweden. *Housing Studies* Vol 14 (4).

Davidson (1999) writes that a consistent level of construction must be maintained. Otherwise, while rents fall, stock will age and shrink. He refers to New Zealand, where State investment in the model ceased after 15 years, a period that he felt was not sufficient for the benefits of the model to be felt. Davidson suggested that part of the reason the model was abandoned was due to the "strength of the home ownership lobby." According to Davidson (1999), in Sweden homeowners could be seen to have actively lobbied against, and hindered the growth of, the cost-rental movement. This antagonism could be attributed to the fact that any benefits given to cost rental are generally linked-to a reduction in tax subsidies for homeowners, with a mind to achieving tax neutrality between owning and cost-renting. Davidson (1999) argues that the cost rental model is most effective when one tenure (e.g. home ownership) is not favoured over another:

> "In the home ownership society, taxation is manipulated to favour owner occupiers, and higher-income earners have generally received higher subsidies than lower-income homeowners. These measures are not defined as 'welfare', thus helping to legitimise home ownership and stigmatise non-owners. Although private profit-renting may be a socially accepted form of tenure for an initial period before becoming an owner occupier, 'social' cost-rental housing enjoys no such legitimacy."

In May 2015, the Housing Agency and the Urban Land Institute (ULI), hosted a roundtable forum to explore rental solutions for Ireland, particularly the cost rental model.[76] It was attended by housing professionals and academics from: Ireland, the UK, the Netherlands, Belgium, Germany and North America. Participants in the roundtable discussion found that there has been some abuse of cost rental schemes, by those who can afford to pay market rents. They suggested that:

> "Any cost rental model for Ireland would have to be carefully tailored to the market and only form part of the solution."

Some participants, particularly those from Germany and the Netherlands, warned that there may be unforeseen problems with the cost rental approach, particularly if used in tandem with rent controls, leading to a lack of private supply, forcing the State to provide subsidised rental accommodation to some who would normally be able to afford to rent from the private sector.

Best practice models of cost rental

Those participating in the Housing Agency/ULI roundtable discussion noted that in countries such as the Netherlands and Sweden, some cost rental schemes command higher rents than the private market.

Some of those attending the roundtable discussion suggested that an "affordable rent model" may be preferable. An affordable rent model involves a state subsidy in return for guaranteed "reduced" rent for a defined period. The Housing Agency/ULI report states that this would enable quicker

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[76] Urban Land Initiative. (2016). Report: Exploring better rental options for Ireland.

delivery than the cost rental model. Affordable rent models set rents relative to a Mid-market rent (MMR), which can be determined in a number of ways, including 80% of any State Housing Allowance (e.g. HAP in Ireland), 80% of the median private rent (in that area), 33% higher than social housing rent, or a rent-to-income ratio of 30%.[77] This model exists in Edinburgh.[78]

The Austrian model

During pre-legislative scrutiny of the *General Scheme of an Affordable Housing Bill*, an official from the Department of Housing, Local Government and Heritage ("the Department") told the Joint Committee on Housing, Local Government and Heritage that draft legislation is influenced, to some degree, by the approach taken in Vienna. In Austria, where 20% of people live in "social rent", the principles of social renting are that rents should cover costs, profits should be limited, and companies are obligated to reinvest in housing stock.[79] Over 60% of households in Vienna live in subsidised apartments.[80] In addition, there is strong rent control in the private sector.

However, as Matznetter (2020)[81] notes, Vienna has built its stock of social and private rented housing over 100 years. It follows that it would not be simple to transplant this model to another setting. A department official, speaking to the Committee in relation to the Vienna model, acknowledged the importance of building up the stock as soon as possible.

In considering the effects of implementing a cost rental programme in Ireland, the following question and sub-questions - included in the Housing Agency/ULI report - may be relevant:

What is Ireland's primary objective in introducing a cost rental system?

- to provide a better range of supports for intermediate households; or
- to dampen costs in the for-profit rental sector; or
- to reduce long-term revenue costs to the exchequer under the existing leasing system.

The ESRI, speaking to the Committee on 16 February 2021, said that the effectiveness of the intervention could be determined using three metrics: the number of units (which would need to increase rapidly over the coming years), the pricing of units (which would have to remain affordable, while covering maintenance costs), and the eligibility criteria.

The above are unknown, as of now, but international experience suggests that for cost rental to be successful, there must be continued investment so that the amount of stock may compete with home ownership as a tenure of choice.

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[77] Scottish Government. (2019). Rent affordability in the affordable housing sector: literature review

[78] The City of Edinburgh Council – Mid Market Rent

[79] Housing Agency. (2020). Social, affordable, and co-operative housing in Europe.

[80] Housing Agency. (2020). Social, affordable, and co-operative housing in Europe.

[81] Walter Matznetter (2020) How and Where Non-profit Rental Markets Survive – A Reply to Stephens, Housing, Theory and Society, 37:5, 562-566.

Proposals contained in the General Scheme of the Affordable Housing Bill

Head 22 will insert Part 5A into the *Housing (Miscellaneous Provisions) Act 2009.* The proposed section **96C** would define 'Cost rental' as where rent is set by the landlord at a cost covering level, to be prescribed in regulations. Costs will include:

(i) delivery/capital development costs;

(ii) financing costs, including debt finance costs, interest charges and equity returns;

(iii) management costs of the properties; and

(iv) maintenance costs, including cyclical maintenance, life-cycling and sinking fund costs;

Other costs may be prescribed in the regulations.

Section 96 D as proposed provides for cost rental tenancies to be reviewed annually, only to be increased in line with changes in consumer inflation indices published by the Central Statistics Office, or as otherwise prescribed by the Minister in regulations.

Section 96 E (1) would deal with eligibility to obtain a cost rental tenancy. It provides that to be eligible for a cost rental tenancy, the entire household would need to meet the criteria to be prescribed in regulations. This would include maximum and/or minimum annual household income, and might vary depending on housing authority, household size, household composition, specific housing development, and/or specific unit.

(2) Applicant households in receipt of the Housing Assistance Payment (HAP), would not be eligible to enter a cost rental tenancy agreement.

(3) A tenant who becomes eligible for HAP, during the course of a cost rental tenancy, could apply for the HAP payment, provided that at least six months have elapsed from the commencement of the tenancy.

(4) The Minister may make Regulations to prescribe how income is to be assessed for eligibility for cost rental tenancies. The Minister may revise prescribed income eligibility thresholds, but these revisions would not affect existing cost rental tenants. The proposed **section 96F** (1) provides that a cost rental tenancy would not be a social housing support, therefore it would not be subject to the provisions of the *Housing Act 1966*.

(2) provides that cost rental tenancies would be subject to the provisions of the *Residential Tenancies Act 2004*, with some exceptions, such as those relating to the Table in section 34 (Ground for termination):

(a) That the landlord is selling the unit;

(b) That relatives of the landlord will be occupying the unit;

(c) That the unit is being substantially refurbished; or

(d) That the landlord intends to change the use of the dwelling.

(3) provides that cost rental tenants will be prohibited from subletting their property.

Remaining provisions

This section provides an overview of the remaining provisions relating to affordable housing on state land that haven't been covered in detail in this briefing paper.

Head 4 of the General Scheme proposes to amend section 79 of the Act which relates to the provision of dwellings. Specifically, it adds a paragraph to allow a housing authority to enter into an arrangement with the Land Development Agency and/or the Housing Agency for the provision of affordable dwellings. It also proposes an amendment to subsection (4) with the requirement that housing authorities should have regard to any housing services plan made in the provision of dwellings. However, the amended provision does not, as the current one does, assume that such plans currently exists.

Head 5 of the General Scheme proposes the amendment of section 80 of the Act which is related to the direct sales agreement. It provides that section 80 is amended by the substitution of the following subsections for subsection (5):

> (5) Where the amount due to a person referred to in subsection (1) under the arrangement for the provision of dwellings is greater than the purchase money which the housing authority has fixed to be paid by the purchaser under the direct sales agreement, the amount of any such difference shall be paid by the housing authority to that person.
>
> (6) Where the amount due to a person referred to in subsection (1) under the arrangement for the provision of dwellings is less than the purchase money which the housing authority has fixed to be paid by the purchaser under the direct sales agreement the amount of any such difference shall be paid by that person to the housing authority, save as may otherwise be provided in regulations made by the Minister.

As detailed in the accompanying notes to the Head, section 80(5) relates to the case whereby the amount due to the developer by the housing authority under the Part V arrangement is *greater* than the amount for which the housing authority wishes the unit to be sold. The current provision provides that in this case, the housing authority pays the difference directly to the developer. This situation may also arise in arrangements other than Part V (for example, a housing authority commissions housing other than under Part V and wants the units to be sold to purchasers at a price lower than the housing authority has agreed to pay for them). For example, the housing authority may commission units from a developer at €230,000 each but provides an additional subsidy of €50,000 per unit: the housing authority wants the developer to sell the units to purchasers under the direct sales agreement for €170,000 each. The new subsection (5) therefore allows the housing authority to pay the difference to the developer with whom it has entered an arrangement to provide housing in any case (not only under Part V). Without this provision, the housing authority would have to first take the units into its ownership and sell them themselves to the purchasers (and therefore would not be able to avail of the direct sales agreement).

Section 80(6) provides for the reverse situation. For example, a housing authority has commissioned units from developers for €250,000 each and the market value of the units is €300,000 – not all the units will be sold for €250,000 as not all eligible purchasers will require the maximum discount and therefore some units will be sold for more than €250,000 (i.e. more than the developer has agreed to provide them for). In this case, the developer will pay the difference to the housing authority. There is an exception included here "save as may otherwise be provided in regulations made by the Minister" has been added as it's not fully confirmed how such arrangements made with the LDA would work in practice.

Head 6 of the General Scheme relates to the amendment of section 83 of the Act, specifically, affordable dwelling purchase arrangements. A new subsection (1A) is proposed to provide for an affordable dwelling purchase arrangement to be expressed in a written agreement. The purchaser confirms in writing that s/he agrees to the conditions of the arrangement, and in particular, the placing of a charge on the property.

Head 12 of the General Scheme relates to the amendment of section 88 of the Act which deals with the registration of charging orders and agreements with financial institutions. As detailed in the accompanying notes, the *Conveyancing Acts 1881 to 1911* were repealed in 2009 (after the enactment of the *Housing (Miscellaneous Provisions) Act 2009*) and replaced by the *Land and Conveyancing Reform Act 2009*.

Head 14 of the General Scheme refers to the amendment of section 90 of the Act. This relates to control on resale of dwellings purchased under affordable dwelling purchase arrangement. These amendments are consequences of previous amendments (substitution of "affordable dwelling purchase agreement period" for "charged period" and the deletion of subsection (3) as a result of the deletion of section 91).

Head 15 of the General Scheme relates to the deletion of section 91 of the Act. This refers to the recovery of amounts due to the housing authority. Given amendments in relation to this charge, and the system proposed whereby the purchaser will be able to choose whether to repay the amount during his/her lifetime or allow it to be collected from his/her estate, this provision is no longer required.

Head 16 of the General Scheme refers to the amendment of section 92 of the Act which relates to valuation of dwellings for certain purposes. It provides that section 92 is amended in subsection 1 by the deletion of ", who are of a class or description prescribed under section 95". As provided in the Explanatory Note to the Head, section 92 as currently worded compels the Minister to prescribe the class of "suitably qualified persons" to be placed on a panel of valuation professionals established by the housing authority to carry out valuations of properties in connection with repayment of amounts under the charge, in cases where the purchaser is not satisfied with the valuation carried out by the housing authority. Section 95 allows the Minister to prescribe such class of persons and it is considered desirable to leave it to the Minister's discretion whether to prescribe such class of persons, and thus the requirement to so prescribe is being removed.

Head 17 of the General Scheme refers to the amendment of section 93 of the Act which relates to the discharge of the charging order. This amendment is a consequence of previous amendments (deletion of section 91 and the insertion of "affordable dwelling purchase agreement").

Head 18 of the General Scheme relates to the amendment of section 94 of the Act which refers to the affordable dwellings fund. The proposed subsection (2) provides that clawback monies under the previous schemes received by housing authorities after coming into operation will be paid into the Affordable Dwellings Fund. It is also proposed that the HFA will advance moneys to housing authorities for housing purposes in accordance with directions provided by the Minister.

Head 19 of the General Scheme refers to the amendment of section 95 of the Act (Regulations Part 5). As provided in the note to the Head, this amendment would ensure that the Minister may make regulations not only on the maximum or minimum that may be charged under a charging order, but on the amount in each case, having regard to the purchasers' income. It also proposes to amend paragraph (l) to ensure that the Minister makes regulations relating to the manner in which units for sale will be advertised by the housing authority.

Head 20 of the General Scheme relates to the amendment of section 96 of the Act which deals with transitional arrangements and savings provisions. It provides that section 96 is amended by deletion of subsections (1) to (4).

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