

Society of Chartered Surveyors Ireland

Defects in our Built Environment

Submission to Department of Planning, Housing, Communities and
Local Government



Key recommendations

- A high-level study should be undertaken to examine the extent to which high risk residential buildings, particularly multi-occupancy units constructed between 2000 and 2008 should be considered for inspection and to establish the extent of possible significant defects within such properties. A methodology for risk rating should be developed in consultation with industry stakeholders and government, leading to a phased investigation of targeted properties.
- Government should consider the establishment of an emergency fund to tackle the most urgent and serious building defects where there is a potential risk to life.
- SCSl proposes that government set up a long term loan facility for building owners to remedy building defects that would be outside the scope of any emergency relief scheme.
- Establish a government/industry working group to refine details of such as a scheme.
- Establish the CIRI register of competent contractors on a statutory footing to protect consumers in the future against recurring defects.

Introduction

In recent times, a number of high-profile cases concerning building defects within multi-unit developments and single occupancy units have been reported in the media. While these issues have centred primarily on fire safety hazards, which leave the occupants of the buildings in a potentially life threatening situation in the event of a fire, there are other areas which can also impact on the health and well-being of occupants.

Chartered Building Surveyors and other construction professionals have assisted in remediation of a number of developments to restore assets and to maintain the safety and well-being of the occupants. In some cases, this has been done where owners' management

companies identify problems and take the decision to remediate from their own funds where there are no receivers or developers funds available.

The primary concern in relation to fire safety issues is to maintain the health, safety and well-being of the occupants which is the general requirement under the Fire Services Act 1981.

Our members are concerned that there are more defective developments built, particularly during the Celtic Tiger era. It is also a concern that persons in control of these buildings may not have the appropriate technical expertise to investigate possible issues pertaining to their developments and there may also be some reluctance given the potential impact and the lack of remediation support available. It is this cohort that we wish to particularly highlight as part of this submission.

The problem currently evident throughout the country is directly related to the inadequacy of the former regulatory system. The Building Control Act 1990, which came into effect in 1992, replaced the previous Bye law regulations which operated in eight urban areas of the country.

The Building Control Regulations 1991 implemented a system that relied heavily on self-compliance by owners, designers and builders with limited independent oversight by inadequately resourced local authority building control staff. While other inspection regimes such as those operated by third party insurers offering Structural Guarantees were in existence, these also proved to be ineffective in key areas. It relied disproportionately on the extent to which the system was implemented by the developer and the evidence of a number of recent high profile failures is the legacy of these regrettable failures. Many buildings were inadequately designed and constructed with negative consequences.

In parallel with the lack of a mandatory inspection regime, the conveyancing process often required a certificate (opinion) of compliance with the certification based often on a visual inspection. This regime of self-certification was extremely flawed and often relied disproportionately on limited discretionary parallel conveyancing certification.

The mechanisms of oversight and certification implemented in the Building Control (Amendment) Regulations 2014 (BCAR) was originally provided for in the 1990 Building Control Act and was not implemented until BCAR was introduced. This would undoubtedly have mitigated the worst effects experienced to date.

The 2014 BCAR regulations incorporated the provisions initially envisaged in the 1990 Act to provide for a certification scheme that would address the requirements for certification from the design process right through to completion stage with certified inspection at key stages by Registered Architects, Registered Building Surveyors and Chartered Engineers and this is welcomed.

The Forum for the Construction Industry proposed registration of Builders and related specialist contractors. A voluntary Construction Industry Register Ireland (CIRI) registration scheme with oversight by an Independent Board (CIRB), has been in operation for the past two years. The majority of this Independent Board (CIRB) are independent of contractor members. The Society welcomes this positive development to identify and upskill/train builders and related service providers to a satisfactory level and this should result in a significant reduction in the legacy issues identified in the past, however this will only be truly effective if the statutory CIRI registration is enacted in the interest of consumer protection.

The negative effect of the costs incurred by Dublin City Council in paying for alternative accommodation and the lack of immediate viable alternatives for people evacuated from high profile developments in the media is a significant issue. It is our concern that more homeowners may be affected by serious building defects and we are calling on government to carry out a selective study and engage in a proactive manner to tackle this issue.

SCSI would also welcome a comprehensive and coherent examination of latent defect insurance products to mitigate potential insurance issues in the future.

Conclusion

The Society of Chartered Surveyors Ireland requests that an examination of high risk developments should be undertaken to allay concerns expressed in the interest of consumer protection.

We would recommend that the evaluation of the issues, remediation and certification are only undertaken by competent professionals, such as those referred to in the Building Control Amendment Regulations 2014.

The statutory introduction of the CIRI registration scheme is required as a matter of urgency to complement the BCAR process and provide consumer protection where the use of competent and clearly identifiable builders and related trades are a precondition in the interest of consumer protection.

Recommendations

Inspections

- Establish a mechanism whereby a study of high risk multi-unit residential buildings built during the 'Celtic Tiger' era are considered in relation to serious immediate building defects impacting on safety health and well-being of it's occupants

Emergency Fund

- Serious consideration should be given to setting up an emergency fund to deal with the most urgent of issues such as:
 - Notification of fire to occupants
 - The risk of fire spread from apartment to apartment
 - The risk of fire spread from common area to apartment

Mitigation of future defects in this area

- Establish the CIRI register of competent contractors on a statutory footing to protect consumers in the future against recurring defects of this kind.

Long Term Loan facility

SCSI proposes that government consider setting up a loan facility over a relatively long term for building owners in relation to building defects that would be outside the scope of any emergency scheme and where there is a current funding shortfall.

We would request that government review the above proposals and consider convening a multi-stakeholder working group, involving relevant industry players and governmental agencies, representatives of Owners' Management Companies and licensed Managing Agents.