

SOCIAL HOUSING FOR THE FUTURE:  
CAN HOUSING ASSOCIATIONS  
MEET THE CHALLENGE?

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MEET THE CHALLENGE?

Simon Brooke

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## **Executive summary**

This paper examines a number of aspects of housing association provision in Ireland in the context of government support for an expansion of this sector. The objectives of the research are two-fold:

- to identify obstacles to housing associations substantially increasing their output over the next few years, and make proposals for removing them
- to examine ways in which housing associations can build successful mixed communities and move towards making social housing a tenure of choice.

### **Housing associations in Ireland**

Most of the 300 or so housing associations in Ireland are small and provide special needs housing. Only a very small proportion, generally larger housing associations, provide general needs housing. The National Development Plan (NDP) envisages an increase in housing association output to 4,000 dwellings per year by 2006, divided equally between special needs housing and general needs housing. Meeting the general needs element of the target will require very substantial development programmes from the small number of existing housing associations who are currently providing general needs housing and a few new and emerging housing associations. It is on this group that this paper focuses.

### **Development**

Problems with the current development process include: too many agencies involved at all stages with too much indirect contact between housing associations and other bodies; duplication of responsibilities; an inappropriate role for local authorities; and wide variation in local authority practice.

This paper proposes that the wide range of experience and capacity to sustain substantial development programmes within the housing association sector should be formally acknowledged by the establishment of a two-strand approach to the housing association development programme. It proposes that those housing associations



that have or plan to have a substantial development programme be eligible to apply to the Department of the Environment and Local Government (DOELG) for Authorised Developer status. This would have to be accompanied by appropriate regulation, which is dealt with below. The principal effect of Authorised Developer status would be that designated housing associations would be able to deal directly with the Housing Finance Agency (HFA) and the DOELG rather than via local authorities. Local authorities would, however, be required to approve all housing association housing schemes by issuing a 'Certificate of Authorisation' stating that the proposed scheme meets housing need. The local authority function as a planning authority would continue unchanged.

It is further proposed that new and emerging housing associations that are currently hampered by the lack of start-up finance would be assisted by a Housing Association Development Fund established by the DOELG.

## **Regulation**

This paper proposes a regulatory structure for housing associations for the following reasons:

- it is a corollary of Authorised Developer status
- the present system is both inadequate and unevenly applied
- existing and future tenants need protection
- public funds need protection
- government policies and priorities need to be seen to be delivered
- to act as a confidence-building measure for other bodies.

The proposed structure is based on a relatively high entry test, followed by a relatively low level of monitoring and inspection. The conditions for acquiring Authorised Developer status would be the same as those required for the regulatory regime.

Regulation of governance and finance will be carried out primarily through the provision of prescribed information by the housing association to the regulator. Regulation of social housing standards – the development process, housing management, rents, lettings policy, tenant participation, repairs and maintenance, and equal opportunities – would be carried out by inspection in the case

of the development process, and by the provision of written policies, approved by its board or committee, in the case of other social housing standards.

It is proposed that, in the medium-term, a non-governmental body be established with appropriate legislative powers to act as regulator. However, in the short-term, whilst a relatively small number of housing associations come under the regulatory structure, it is proposed that a Housing Association Regulatory Unit be established within the DOELG. The paper argues for an evolutionary approach to regulation starting with those housing associations with Authorised Developer status and then expanding appropriately to include all housing associations.

### **Making social housing a tenure of choice**

The twin and related problems of a concentration of socially excluded households in social housing, and social housing's relative unpopularity compared with owner-occupation are probably the biggest challenges facing social housing policy-makers and providers in Ireland. A strategy for tackling these two problems involves, in part, challenging the supremacy of owner-occupation by offering an alternative to it. The strategy proposed in this paper comprises a package of related measures: lettings policies; security of tenure; rental systems; and an equity tenant scheme.

### **Lettings policies**

S.11 Housing Act 1988 requires local authorities to let their housing primarily according to housing need. Allocating according to housing need appears at first sight to be equitable and so on this basis alone has an immediate attraction. However, this system may itself contribute directly to residualisation and increasing numbers of commentators are championing a move away from a strictly needs-based lettings system.

Housing associations have some freedom over their lettings systems. Thus there is an opportunity for them to devise a lettings system that meets the criteria of equity, transparency and efficiency, whilst at the same time aiming to create and maintain a mixed community.

This paper proposes that 75 per cent of lettings be allocated to people via nomination from the local authority housing waiting list.

The other 25 per cent of lettings would then go to households who may have a lower housing need (although they must be registered on the local housing waiting list) but fulfil other criteria. Such criteria might include: people with a personal or family local connection; key workers who need to move to be closer to their work; people with experience of locally-based community activity.

### **Security of tenure and other rights**

Security of tenure in Ireland varies widely between tenures, with owner occupiers having an extremely high security of tenure whilst other tenants have very little security of tenure. There is no evidence of arbitrary eviction by local authorities or housing associations. However, the fact of such an imbalance of rights between landlord and tenant can only reinforce tenants' perception that they are entirely dependent on the good will of their landlord.

This paper proposes that housing associations provide their tenants with legally enforceable security of tenure and additional rights. This would be provided by a contract between the housing association and the tenant. In addition, it is suggested that a package of tenants' rights might include: the right to pass the tenancy on to children and some others in the event of the tenant's death; and the right to take in lodgers or make improvements with the housing associations consent.

### **Rental systems**

Currently, both local authorities and housing associations operate a differential rent system in which payments made by tenants are directly proportional to the household income, subject to a minimum and maximum. Because the rent level does not relate at all to the dwelling being rented, a prospective tenant, offered a choice of two dwellings, one of which is more attractive than the other, will always choose the more attractive one. This arises because there is no trade-off in choosing, for example, an older cheaper house over a newer more expensive house, in accordance with the household's wider priorities. There is, therefore, a very strong case to be made for a complete overhaul of the rental system replacing the differential rent system with a national rent structure in which rents are related to qualities tenants value in properties. A rental structure based on a points system may be the best way

forward. Points might be allocated depending on the size of the dwelling, its age, state of repair, whether it has a garden, central heating, a garage etc. This provides a clear link between rents and quality, though it has a potential drawback in that it is difficult for a points system to take account of location. Also a points system would have significant implications for affordability. In particular, if such a system were implemented, it would be necessary to provide assistance with rent for households that are in employment but on low incomes.

### **Equity tenant scheme**

The sale of local authority housing to tenants has long been a feature of Irish housing policy but housing association tenants do not currently have the right to buy their homes. If housing association tenants were given the right to buy at a discount, this would constitute a substantial additional subsidy to the housing association sector. It would, however, further distort the housing market, increase residualisation, reduce the rented social housing stock and pose serious housing management problems for housing associations. This paper therefore rejects an extension of the local authority right to buy scheme to include housing association tenants, but acknowledges that the current inequality of rights between the two tenures must be addressed.

An equity tenant scheme is proposed. A tenant would be given the opportunity of purchasing a proportion of the capital value of the dwelling on a leasehold basis. The tenant would continue to pay rent on the remaining proportion. The tenant would not be able to sell her/his share of the dwelling until she/he ended the tenancy and moved on, except with the agreement of the housing association. When the tenancy was ended and the tenant moved on, she/he would have to sell her/his share of the dwelling and the housing association would guarantee to purchase the tenant's share at current market value.

The advantages of this proposal are that tenants are enabled to obtain a financial stake in their home; the market is not distorted by discounts; the housing association does not lose the dwelling; and the scheme involves no subsidy.

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I would also like to thank all those whom I interviewed in Ireland and England. All of whom were extremely patient and generous with their time.

The views expressed in this paper are my own, and the responsibility for any errors lies solely with me.

Simon Brooke

## Abbreviations

DOE	Department of the Environment
DOELG	Department of the Environment and Local Government
ICSH	Irish Council for Social Housing
IPA	Institute of Public Administration
HFA	Housing Finance Agency
NDP	National Development Plan
RSL	Registered Social Landlords

# Introduction

## 1.1 Background

This paper examines a number of aspects of housing association provision in Ireland, in the context of government support for a substantial expansion of this sector. In 2000, housing associations and co-operatives in Ireland completed 951 houses for rent. This compared with 2,204 local authority house completions and 46,657 private house completions (Department of the Environment and Local Government, 2000d). The government's National Development Plan (NDP) envisages an increase in housing association output to 4,000 dwellings per year by 2006, divided equally between special needs housing and general needs housing (Government of Ireland, 1999a).<sup>1</sup> This is a four-fold increase in six years, and clearly represents a very considerable challenge to the housing association sector. If such an increase is achieved, it will reposition housing associations as sub-stantial providers of general needs social housing together with local authorities.

## 1.2 Aims of the research

The aims of the research are two-fold:

- to identify obstacles to housing associations substantially increasing their output over the next few years, and make proposals for removing them
- to examine ways in which housing associations can build successful mixed communities and move in the direction of making social housing a tenure of choice.

## 1.3 Methodology and sources of information

Very little research has been carried out into the provision of general needs housing by housing associations in Ireland to date. There are a number of reasons for this: a generally low level of housing research

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<sup>1</sup>See section 1.5 for an explanation of these terms.

in Ireland; the lack of funding opportunities for such research; the inability of housing associations to fund and commission their own research to any great extent; and the fact that housing associations producing general needs housing are in their infancy.

In the absence of local material, it is sometimes helpful to look further afield for assistance. But comparative housing research carries its own perils. The purpose of most comparative housing research is to seek out common patterns, underlying causes, sometimes with the aim of establishing a theory to explain these, or perhaps for the purpose of establishing typologies of housing provision (Kemeny and Lowe, 1998). Such a model would not help to achieve the aims of this research. However, a critical examination of elements of another housing system and related research may be of value where it can provide information about structures, processes and evaluation of policy initiatives that are applicable to the Irish housing system. Therefore a housing system that is substantially similar to Ireland's system, and on which data are available, is likely to be the most productive source of useful information.

Of all European countries, Britain's housing system is by far the closest to Ireland's system, especially in aspects relevant to this research. In contrast with most European countries, both Britain and Ireland rely on local authorities directly for their state housing. In particular, housing associations in England, Wales, Scotland and Northern Ireland have many similarities with housing associations in Ireland. There are, of course, different political contexts, a different security of tenure regime and different funding arrangements. However, there are enough similarities between the two to make comparison useful.

For these reasons, and because a great deal of research has been carried out there, England was chosen as the most fruitful source of relevant material, with supplementary information from Wales, Scotland and Northern Ireland. A further reason for making this choice is that the Housing Corporation in England, which regulates Registered Social Landlords (RSL, formerly called housing associations), has been in existence for nearly twenty-five years, and has employed a number of models of regulation. The regulatory function was decentralised in 1989 and separate bodies were established in Wales and Scotland.

Information from England was gathered from a literature review and a number of semi-structured interviews. Interviews primarily



dealing with practitioners' perspectives on the English regulatory system were carried out with the chief executive of a large and developing RSL, senior staff at the Housing Corporation, and the National Housing Federation, which is the representative body for RSLs in England. Interviews concerning the development process and lettings policies were carried out with the relevant staff of a large RSL, the chair of the board of a large RSL, and an academic specialising in social housing and in particular lettings policies.

In Ireland, a literature review was undertaken, and further semi-structured interviews carried out. Wide-ranging interviews were carried out with housing association staff and board members, and the Irish Council for Social Housing (ICSH) (the representative body for housing associations in Ireland). These interviews were concerned with establishing the practitioners' perspectives on: the development process, its problems and solutions; a regulatory process; and, in some cases, ways of tackling residualisation through lettings policies, security of tenure, rental systems and alternatives to the right to buy.

Interviews were also carried out with six local authorities and the Housing Unit at the Institute of Public Administration (IPA). For the most part, these covered the development process and regulatory mechanisms as well as their views of the role of housing associations. Interviews with civil servants at the Department of the Environment and Local Government (DOELG), and the Housing Finance Agency (HFA) covered their present and potential role in the development process and regulatory structure.

#### **1.4 Structure**

Chapter 2 provides a brief history of housing associations in Ireland; describes the housing association sector; proposes dividing housing associations into two groups for the purpose of the paper, and argues against the use of the word 'voluntary' when describing housing associations.

Chapter 3 examines the current development process. It identifies problems and constraints, and proposes a two-strand approach to housing association development involving the DOELG granting Authorised Developer status to some housing associations. It proposes that new and emerging housing associations be assisted through a Housing Association Development Fund established by the DOELG.

Chapter 4 argues that housing associations be subject to a specific regulatory regime and examines a number of models of regulation. It also proposes a regulatory structure for Authorised Developer housing associations.

Chapter 5 proposes moving towards making social housing a tenure of choice as a way of tackling the twin problems of residualisation and the unpopularity of social housing. A package of measures is put forward including a community lettings system, security of tenure and other rights, rental systems and an equity tenant scheme.

Chapter 6 concludes by summarising the main policy recommendations arising from the paper.

### 1.5 Definitions

A number of different definitions of 'social housing' are in current usage. This paper adopts the definition used by Fahey (1999), which refers to social housing as rented housing provided by a local authority or a housing association. The definition of social housing in this paper does not include the private rented sector.

'Special needs housing' means housing provided for people who have a particular need in addition to a housing need. This includes elderly people, people with disabilities, people who have been homeless, and women who are victims of domestic violence. The housing may be long-term or short-term, and the provision of this kind of housing includes specific services aimed at the needs of the people being housed. These services might include communal facilities, twenty-four-hour staff cover, health care and counselling.

'General needs housing' means housing provided for people who have no particular need other than a housing need. These are people who, before they were housed by the housing association, were living in inadequate housing and did not have the resources to provide their own housing.

'Housing associations' refer to bodies with 'approved' status under s.6 Housing (Miscellaneous Provisions) Act 1992.

For the purposes of this paper, housing associations are assumed to include housing co-operatives. This is not to deny the particular ethos or organisational structure of housing co-operatives, but to acknowledge that the funding schemes and development process are common to both housing associations and housing co-operatives. However, some of the proposals in Chapter 5 may need modifying before they can be applied to housing co-operatives.

## Housing Associations in Ireland

### 2.1 A brief history

In most European countries moves to improve housing conditions originated in urban areas rather than rural areas (Aalen, 1992). However, in Ireland much of the political activity in relation to housing in the latter half of the nineteenth century was concerned with the vast majority of the population who were living in rural areas, many of whom were suffering extremely poor housing conditions. The activities of the Land League between 1879 and 1882, the granting of fair rent, fixity of tenure and free sale by the Land Act 1881, the Labourers Acts, which made the first provision for public investment in rural housing, and in 1903 the radical Wyndham Act, which resulted in a huge increase in owner-occupation among farmers were all concerned primarily with rural housing.

Whilst improvements in rural housing conditions were initiated in the main by extremely well-organised tenant campaigns, there was an absence of such campaigns in urban areas. The impetus for improvements in urban housing conditions originated with 'semi-philanthropists' (Fraser, 1996).

These semi-philanthropic organisations began to provide housing for rent in the 1870s, thirty years before local authorities started to build on any great scale. The first serious initiative in relation to housing for the working classes in urban areas was the passing of the Artisans' and Labourers' Dwelling Act in 1876 that led to the establishment of the Dublin Artisans' Dwelling Company. This organisation was both commercial and philanthropic, paying its shareholders a dividend of between 4 per cent and 5 per cent, and providing housing at reasonable rents. It built 3,600 dwellings until, in 1907, the building slump led to an end of philanthropic building (Fraser, 1996). After this, local authority housing provision grew steadily and took over the primary social housing role.

In 1890, the Guinness Trust was formed. Strongly influenced by the Peabody Trust in London, it built 600 dwellings by the outbreak of the first world war. In 1903, the Iveagh Trust was created by a

merger of a number of Guinness Trusts. It continued to provide housing and was for many years the largest housing association in Ireland.

## **2.2 Recent housing association growth**

Small community-based housing associations began to be established later in the twentieth century, often with religious connections. The majority of these bodies provided a small number of dwellings for elderly people; almost all provided special needs housing rather than general needs housing for low-income households. Other groups catered for included people with disabilities and homeless people. By the early 1980s, approximately seventy-five housing associations were registered with the Department of the Environment (Geoghegan, 1983), with a total rented housing stock of about 2,000 dwellings (ICSH, 1999).

Housing co-operatives, in contrast to housing associations, provided mostly general needs housing for low-income families. They began to expand substantially during the 1970s. Therefore, with the exception of co-operative housing, the early growth in housing associations comprised small community-based groups providing special needs housing, which were entirely run by voluntary activity.

In 1984, the first specific funding scheme for housing associations, the Capital Assistance Scheme<sup>2</sup> was introduced. This resulted in a significant expansion of housing association activity (see Table 1), which continued in the main to be the provision of special needs housing. This included housing for elderly people, people with disabilities and emergency accommodation for homeless people.

## **2.3 The changing role of local authorities**

In 1991, *A Plan for Social Housing* (Department of the Environment, 1991) was launched. This document signalled major changes for local authorities and introduced a new funding scheme for housing associations. Until this time local authorities' activities in relation to social housing had been almost exclusively concerned with the provision of housing (although the Housing Act 1988 gave local authorities some enabling and strategic functions in relation to homelessness and assessments of housing need).

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<sup>2</sup>This scheme is discussed in more detail in Section 3.2

*A Plan for Social Housing* introduced a range of new measures (Department of the Environment, 1991:30):

The policy measures ... imply significant changes in the traditional role played by local authorities in the social housing area. The overwhelming emphasis by local authorities on the building of dwellings for rent will be replaced by a wider approach.

These additional measures included:

- shared ownership
- improvement of private houses by local authorities
- house purchase loans
- a subsidised sites scheme
- a new funding scheme for housing associations (see below).

The introduction of these measures marked a substantial change in the role of local authorities in relation to social housing and established them as providers and enablers, as well as giving them a key strategic function. This meant that local authorities had an array of measures to deploy when responding to housing need in their area.

This process of widening the role of local authorities has continued with:

- the introduction of the affordable housing scheme under which local authorities build homes for sale at cost price
- the proposed transfer of housing payments from health boards to local authorities
- the preparation of action plans under *Homelessness - An Integrated Strategy* (DOELG, 2000b)
- the requirement in the Planning and Development Act 2000 that local authorities must develop housing strategies that identify the housing needs of communities and propose policy responses for meeting these needs.

## **2.4 A new funding scheme**

A new funding scheme for housing associations was announced in *A Plan for Social Housing*. The Rental Subsidy Scheme<sup>3</sup> provided a

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<sup>3</sup>This scheme is discussed in more detail in Section 3.2.

100 per cent capital subsidy to housing associations via local authorities (technically a non-repayable loan) together with a continuing subsidy paid for each unit. This scheme was much more attractive to organisations providing or planning to provide general needs housing, and marked the beginning of an expansion of housing association activity into general needs housing.

Activity under this new scheme was very slow for some time compared with activity under the Capital Assistance Scheme (see Table 1). This was for a number of reasons. Firstly, the development process is a slow one, commonly taking two years or more from initial discussions to letting a housing scheme. Secondly, cost limits failed to keep pace with rising land and building prices. Thirdly, very few housing associations had the capacity to sustain a significant development programme.

After peaking in 1996 at 416 units, output under the Rental Subsidy Scheme fell away sharply, so that two years later output was just under half this amount. This was mainly because funding levels failed to keep up with building costs. Since then it has risen again, reaching 467 in 2000.

*Table 1: Housing Association Completions under Rental Subsidy Scheme and Capital Assistance Scheme*

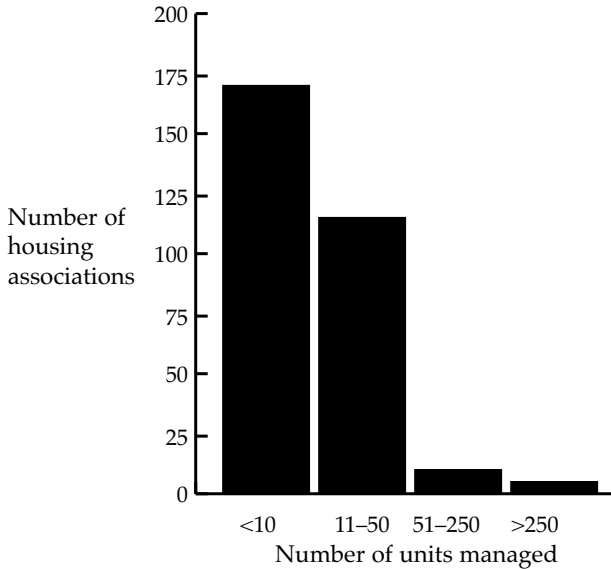
<i>Year</i>	<i>Rental Subsidy Scheme</i>	<i>Capital Assistance Scheme</i>	<i>Total</i>
1993	141	749	890
1994	294	607	901
1995	398	613	1011
1996	416	501	917
1997	411	345	756
1998	202	283	485
1999	265	314	579
2000	467	484	951

*Source:* Department of Environment and Local Government, *Annual Housing Statistics Bulletins* (various years)

## 2.5 Housing associations today

Research by Rhodes and Clayton shows that there are currently approximately 300 active housing associations in Ireland (Rhodes and Clayton, 2001). Figure 1 provides an estimate of the number of units managed by these housing associations.

*Figure 1: Number of Units Managed by Housing Associations in Ireland*



*Source:* Rhodes M.L. and V. Clayton 2001, 'Changing Role of the Housing Association Sector: Profile of the Republic of Ireland', paper delivered at Irish Council for Social Housing biennial conference, 18 September 2001.

Just over half of the 300 active housing associations (56 per cent) are very small, managing 10 or fewer units, with another 116 (39 per cent) managing between 11 and 50 units. At the other end of the scale, only 5 (1½ per cent) housing associations manage more than 250 units and only 12 (4 per cent) manage more than 50 and less than 250. Therefore, the housing association sector is characterised by a large number of small housing associations, and a very small number of larger housing associations.

Rhodes and Clayton also show that the majority of housing associations provide special needs housing. Housing for the elderly, which is provided by 46 per cent of housing associations, comprises the largest category, followed by housing for people with disabilities, people who have been homeless, and women who are victims of domestic violence. Only 6 per cent of housing associations provide general needs housing. Generally, small housing associations are more likely to be providing special needs housing and large housing associations are more likely to be providing general needs housing.

The NDP's target of 4,000 units per year by 2006 is divided equally between special needs housing and general needs housing (Dáil, 2000a). Meeting the special needs element of this target will generally fall to a large number of small housing associations, each developing perhaps one or two schemes. This is not the complete picture, because there are a number of larger housing associations involved in the provision of special needs housing, but much of the growth in this area will come from small housing associations.

However, meeting the general needs element of the target will require very substantial development programmes from the small number of existing housing associations who are currently providing general needs housing and a few new and emerging housing associations. As has been stated earlier, this represents a considerable challenge, and it is on this group – providers of primarily general needs housing, for the most part using the Rental Subsidy Scheme – that this paper focuses.

## **2.6 Residualisation and unpopularity**

Two enduring and related features of social housing in Ireland are prominent: residualisation and relative unpopularity compared with owner-occupation. Residualisation – a concentration of socially excluded households – has been a characteristic of social housing for many years and is a Europe-wide phenomenon, although particularly pronounced in Ireland. Social housing's relative unpopularity with owner-occupation is equally well established, and is both reflected in and reinforced by Irish housing policy. These two present a major obstacle to achieving the overall aim of Irish housing policy:

To enable every household to have available an affordable dwelling of good quality, suited to its needs, in a good environment,



and, as far as possible, at the tenure of its choice (Department of the Environment, 1995b).

Chapter 5 discusses these in more detail and argues that tackling them is the biggest challenge facing social housing policy-makers and providers in Ireland. This chapter also contains a proposed package of measures that together aim to make social housing a tenure of choice rather than a tenure of last resort.

## 2.7 'Voluntary' housing?

The housing association sector is frequently referred to as the 'voluntary housing sector', and it is here that the first obstacle to increasing housing association output is encountered. During the course of this research a number of interviewees referred either explicitly or implicitly to housing associations' perceived inexperience and relatively recent involvement in general needs housing. One local authority official said, 'They have yet to prove themselves', expressing a view that was shared by others.

This paper contends that the label 'voluntary' exacerbates this tendency, through its commonly understood connotations: 'non-professional' (i.e. *unprofessional*), 'amateur' and 'unskilled'. It is of course acknowledged that the word 'voluntary', strictly applied, does describe the structure of many housing associations whose work is entirely dependent on voluntary effort, but here too the connotations of non-professionalism are neither factual nor beneficial. Fortunately it is very easy to avoid the use of this pejorative label, by referring to 'housing associations' or 'the housing association sector'. This practice is rigidly adhered to in this paper, as a small step along the road which may lead to the elimination of the use of the term 'voluntary housing sector'.

## Increasing output

### 3.1 Introduction

This chapter argues that if the output of existing housing associations is to increase greatly, the development process must be streamlined. The challenge is to remove cumbersome constraints, whilst at the same time ensuring that existing and future tenants are protected, public funds are safeguarded, and government policies and priorities are delivered. Measures are also required to encourage and assist the growth of new and emerging housing associations.

To this end, the chapter describes existing funding schemes for housing associations, outlines the development process, identifies obstacles and blockages, and proposes a structure that will enable existing housing associations to increase substantially their output. Finally, proposals are made that aim to facilitate an increase in the number of housing associations providing general needs housing.

### 3.2 Funding schemes

There are two funding schemes for housing associations: the Capital Assistance Scheme, which is used primarily although by no means exclusively for special needs housing, and the Rental Subsidy Scheme which is used primarily for general needs housing.

The Capital Assistance Scheme was introduced in 1984. It comprises a non-repayable loan from a local authority to a housing association of up to 90 per cent (or 95 per cent where accommodation is for people who have been homeless) of the capital costs of the housing scheme. Tenants must be in housing need as determined by the local authority and the housing association may charge any rent that is reasonable.

The scheme has two principal weaknesses: the housing association has to raise 5 per cent (people who have been homeless) or 10 per cent of the capital costs through its own fundraising; and, perhaps more importantly, it makes no provision for housing management costs. In particular, there is no provision for recouping the additional housing management costs that may arise in the management of special

needs housing, for example, provision of twenty-four-hour staffing. Projects providing accommodation for homeless people may be eligible for revenue funding under s.10 Housing Act 1988 and other projects have received funding from health boards. But these arrangements are *ad hoc* and the lack of a defined special needs housing management funding scheme means that many housing associations are heavily or entirely dependent on voluntary effort to provide a housing management service. This deficiency seriously inhibits the growth of special needs housing. The need for a consistent scheme is acknowledged by the present government in its report *Homelessness: An Integrated Strategy* (DOELG, 2000c). If the principle is accepted in relation to provision for homeless people it should be accepted for other special needs housing.

The Rental Subsidy Scheme was introduced in 1991, 'in order to further enhance the opportunities for voluntary housing bodies to respond to social housing needs and to widen the housing options available to low income households...' (DOE, 1991a). The scheme has undergone significant changes since its inception, and now comprises a non-repayable loan (in effect a 100 per cent grant) for capital works, followed by a fixed annual subsidy per unit, which contributes to housing maintenance and management costs.

The finance for capital works comprises a non-repayable loan from the local authority to the housing association, which the local authority in turn funds with a loan from the HFA. Repayments on this loan are recouped from the DOELG. Figure 2 below illustrates the operation of the Rental Subsidy Scheme.

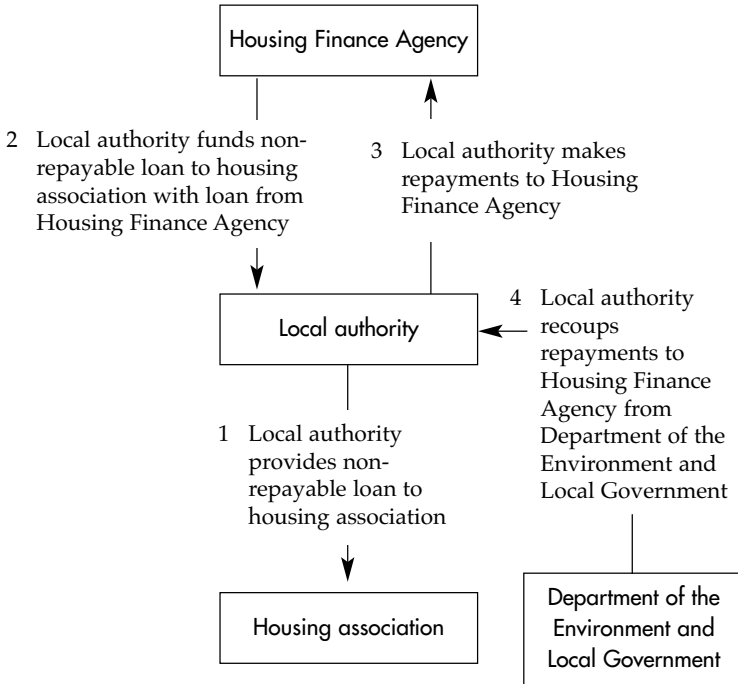
The management and maintenance allowance is currently set at £320 [€406] (£425 [€540] in main urban areas) per dwelling per year and is paid by the local authority to the housing association and recouped from the DOELG. Housing associations' only other continuing source of income is the rent paid by tenants.

The scheme requires that housing associations establish a differential rent system in which tenants' rent is based solely on household income (subject to a maximum and minimum) and bears no relationship to the quality or size of their housing. Housing associations have some flexibility in its application.

The circulars that describe the operation of the scheme make it clear that local authorities are expected to carry out a monitoring and supervisory role during the entire development process and during the period when the annual subsidy for maintenance and

housing management costs is being paid (DOE, 1991b; 1992; 1995a; 1996b; 1999c).

Figure 2: Capital Funding under the Rental Subsidy Scheme



There is a general question as to whether it is sensible to continue with two separate funding schemes as described above. The principal disadvantage of having two separate schemes running in parallel is that it provides scope for considerable confusion. Combining the two would remove this, and provide an opportunity to address the main weakness of the Capital Assistance Scheme.

A simple way of doing this would be to abolish the Capital Assistance Scheme, and add a Special Needs Housing Management Grant to the Rental Subsidy Scheme based on a simple band system. A housing association providing special needs housing would fund the capital costs and normal management and maintenance costs of the housing project through the Rental Subsidy Scheme. In addition,

it would apply for a Special Needs Housing Management Grant to fund the additional housing management costs arising from the nature of the housing or accommodation provided. The level of this grant would depend on the level of support provided, so a project requiring residential staff on a twenty-four-hour basis would be eligible for the highest level of grant at the top band. A project requiring a much lower level of support but still greater than housing management for general needs housing, for example regular visits by housing support staff, would be eligible for a lower level of grant at a lower band.

### 3.3 Land

There are no legal impediments to housing associations purchasing land themselves, but there are substantial practical obstacles, particularly in relation to accessing finance, which mean that in practice it is extremely difficult for housing associations to purchase land on the open market. The Subsidised Sites Scheme, which was introduced in *A Plan for Social Housing* in 1991, enables housing associations (and individuals) to acquire land from local authorities at a very low cost (DOE, 1991a). It has been a substantial source of land opportunities for housing associations. However, of late, less land has been available under this scheme, primarily because local authorities are being asked to expand considerably their own house building programmes. The multi-annual local authority housing programmes established in 1999 notified local authorities of their housing starts allocations for four years, from 2000 to 2003. This has encouraged them to look carefully at their land requirements in years to come.

Some religious institutions have provided land and/or buildings to housing associations at no cost or low cost. However, they have only a finite supply of land that is surplus to their requirements and which they can afford to give away or sell at low cost. Indeed the Minister for the Environment's call in 1999 for churches to provide land or property to assist in meeting the increased demand for social and affordable housing was unsuccessful. Speaking in the Dáil, the Minister said,

The general view of all the bodies was that there was unlikely to be a substantial amount of surplus land or property available in the near future (Dáil, 200b).

There have been increasing instances of housing associations working directly with private developers on a 'design and build' basis. This involves a housing association agreeing to purchase all or part of a housing scheme from a private developer at some stage after planning permission has been obtained. This can offer considerable benefits to the developer and the housing association alike. It is likely that there will be an expansion of this type of scheme in the future.

Two new initiatives that will assist housing associations to acquire land are in the pipeline:

- direct access by housing associations to the HFA for the purchase of land. It is understood that a forthcoming Housing Finance Agency Bill will give the HFA the power to provide loans to housing associations, a power that it does not currently have
- land made available under the Planning and Development Act 2000. Part V of this Act enables local authorities to require that up to 20 per cent of land being developed for housing be reserved for the provision of social housing.

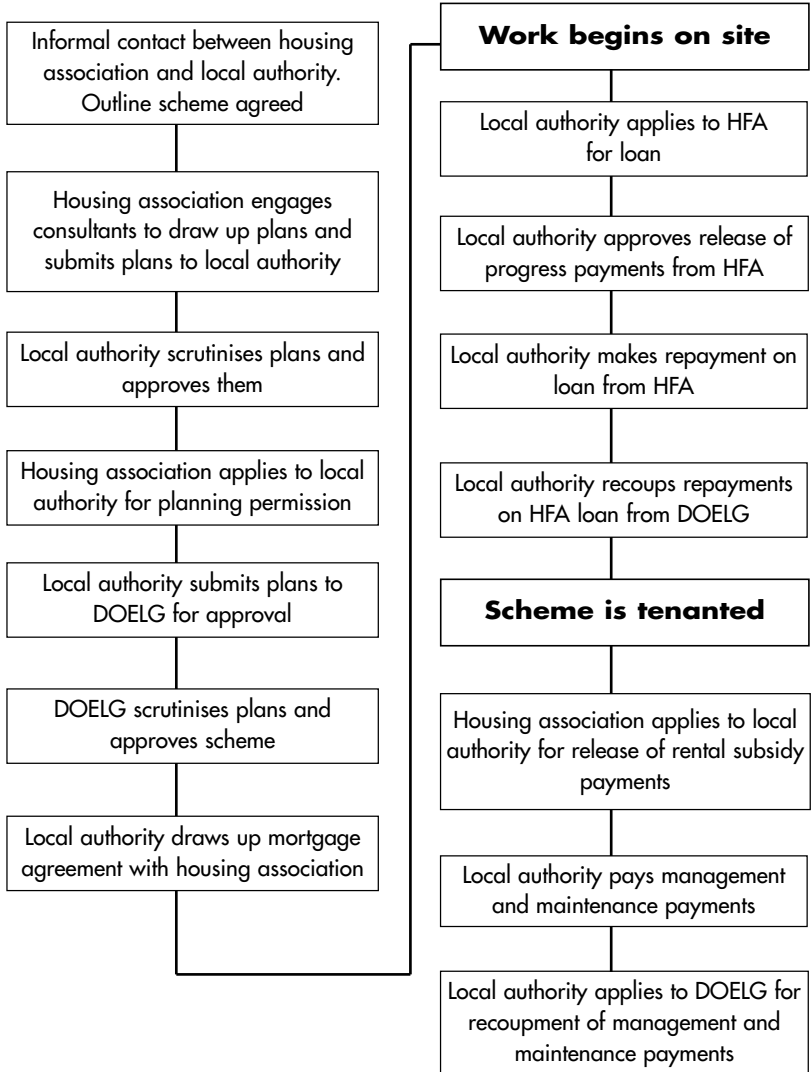
There is widespread agreement that these two initiatives have the potential to offer substantial opportunities to housing associations. However, there is some uncertainty about how they will work in practice, and whether their potential will be realised. It will not of course be possible to gauge their impact until they are up and running. In the face of this uncertainty, this paper does not deal with the question of supply of land in any detail. It will of course be most important to monitor closely the impact of both direct access to the HFA, and the Planning and Development Act 2000 in relation to land acquisition by housing associations.

### **3.4 The current development process**

Before proposing mechanisms for streamlining the development process it is necessary first to examine the current process, which is illustrated diagrammatically in Figure 3. The initial stages of the process will vary somewhat, depending on the source of land. In particular, if the scheme is a 'design and build' scheme with a private developer, the housing association may not become involved until after planning permission has been granted. However, the substantial

part of the process with which this paper is concerned is common to all schemes.

Figure 3: Current Development Process (simplified)



Whilst Figure 3 provides a chronological representation of the process, the key to understanding it is to examine the roles of each of the main players: the individual housing association, the DOELG, the HFA and the local authority.

The housing association is the social housing provider. It is the developer and will be the landlord of the dwellings when they are completed. Either the housing association or the local authority may be the initiator of a housing scheme. Following informal contact between the housing association and the local authority, land is identified, an outline scheme is agreed including the size, type and number of housing units involved. The housing association then employs architects, quantity surveyors and other consultants as necessary and submits drawings to the local authority and the DOELG for approval. The housing association applies for planning permission and when work begins on site seeks approval of release of funds at various stages. Alternatively, if the scheme is one that involves a direct relationship with a private developer on a 'design and build' basis, planning permission will usually have been obtained before the housing association becomes involved. Informal contact between the housing association and the local authority will follow.

The DOELG implements government policy through legislation, circulars and advice. The Minister for the Environment and Local Government grants approved status to housing associations, which makes them eligible for funding. It provides the funding for housing associations by recouping from local authorities their capital loans to housing associations, and recouping the management and maintenance allowances paid by local authorities to housing associations. The Department's technical staff scrutinise plans to ensure that they comply with minimum technical standards and that they are within current unit cost limits.

The HFA is an independent body under the aegis of the DOELG. Its primary function is to lend money to local authorities to enable them to carry out their functions under the various Housing Acts. It lends local authorities the capital costs of the housing association's scheme.

The local authority has multifarious roles.

- It carries out local assessments of housing need under s.9 Housing Act 1988 and will develop housing strategies under s.94 Planning and Development Act 2000.



- It may provide continuing support and guidance to small community-based housing associations.
- It provides a loan to the housing association, secured through a mortgage agreement.
- It acts as an agent for the housing association, it applies to the HFA on behalf of the housing association, it makes repayments on that loan on behalf of the housing association and then applies to the DOELG for recoupment of the loan repayments. It applies to the DOELG for scheme approval on behalf of the housing association.
- It acts as an agent for the DOELG: it pays housing associations the management and maintenance allowance and recoups these payments from the DOELG.
- It is a technical overseer. The circulars that relate to the Rental Subsidy Scheme require local authorities to ensure that the proposed scheme is within cost limits; local authorities are asked to confirm that the scheme conforms to technical and space standards and before payments are released to the builder the local authority must confirm that the work being paid for has been carried out (DOE, 1991b; 1992; 1995a; 1999b).
- It is a governance and financial overseer. The circulars require that local authorities should be satisfied that the housing association has the organisational capacity to manage the scheme and that other finance is in place if required. In addition local authorities are asked to confirm that the scheme represents good value. In relation to the management and maintenance allowance, local authorities must satisfy themselves that this payment is used only for management and maintenance.
- It provides the tenants for the scheme, because all prospective tenants must be registered on the waiting list.
- Finally, the local authority is a planning authority that grants or refuses planning permission for the proposed housing scheme.

### 3.5 Problems

The description above indicates the source of many of the difficulties. Firstly, there are too many agencies involved at all stages, and too much indirect communication between housing

associations and other bodies. For example, the housing association cannot access funds directly from the HFA but instead has to go through the local authority. The housing association cannot claim the management and maintenance allowance directly from the DOELG but instead has to claim it from the local authority who in turn recoups it from the DOELG. The effect of these complicated and indirect paths is to build in the potential for substantial unnecessary delays, and in practice this frequently happens.

Secondly, the local authority role is inappropriate in some cases. The scheme has not changed substantially since it was set up as a pilot in 1991. It was specifically designed for small community-based housing associations without experience, which is why local authorities are expected to have such close involvement with the entire development process. However, this level of scrutiny, in particular the role of the local authority as an intermediary between the housing association and the HFA, and between the housing association and the DOELG, is inappropriate for experienced regional or national housing associations with substantial development programmes. In addition, local authorities may well not have the resources to regulate the governance and financial affairs of regional or national housing associations.

Thirdly, there is duplication and indeed triplication of responsibilities. For example both local authorities and the DOELG are expected to ensure that schemes are within cost limits, and both are expected to regulate governance and financial affairs of housing associations. A consequence of this is that by the time a scheme receives approval, the drawings may have been scrutinised by three separate sets of architects and quantity surveyors: from the housing association, the local authority and the DOELG.

Fourthly, there is wide variation in local authority practice. Some local authorities exercise very detailed scrutiny, passing drawings to several departments in the process; others interpret their role differently and simply satisfy themselves that the overall scheme is in line with the informally agreed outline.

Finally, the administration of the scheme places considerable burdens on local authorities that are already overstretched. The workload is directly proportional to the volume of schemes and so will increase as output increases, thereby increasing the likelihood of yet further delays.

The combined effect of all of these is to create a cumbersome

system that does not work in the best interests of any of the key players, or potential tenants.

### **3.6 A proposed two-strand approach**

Local authorities provide a great deal of support and guidance to local community-based housing associations. In some cases a local authority may do much of the development itself through the provision of its own in-house services such as architects and advice and guidance throughout the period of the development. Most of these housing associations have no employed staff and are entirely dependent on a voluntary committee. This aspect of the local authority role may well be entirely appropriate in these circumstances. However, where housing associations have experience of operating the Rental Subsidy Scheme, such a close involvement by local authorities at all stages can be a hindrance rather than a support.

Chapter 2 showed that the great majority of housing associations are small providers of special needs housing, with general needs housing being provided by a few generally larger housing associations. It argued that meeting the general needs portion of the targets set down in the NDP will require a small number of housing associations to engage in substantial development programmes. This paper proposes that the wide range of experience and capacity to sustain substantial development programmes within the housing association sector should be formally acknowledged, by the establishment of a two-strand approach to the housing association development programme. It is proposed that housing associations that have, or plan to have, a substantial development programme, would be eligible to apply for Authorised Developer status. Applications would be assessed by the DOELG, which would grant this status if it was satisfied that the housing association met appropriate criteria.

It is important to stress that this paper recommends that the granting of Authorised Developer status must be accompanied by appropriate regulation, and furthermore that the two mechanisms are compatible, with the minimum possible duplication. The criteria for granting Authorised Developer status are therefore dealt with in Chapter 4, which discusses regulation of housing associations.

The principal effect of Authorised Developer status would be that such housing associations would be able to deal directly with

the HFA and the DOELG rather with via local authorities. Local authorities would however be required to approve all housing association housing schemes, but using new specific criteria.

This two-strand approach would ensure the continued provision of valuable support and guidance to housing associations that need it and at the same time would remove unnecessary constraints that impede development programmes of other housing associations.

The proposed development process is illustrated in Figure 4. Again, rather than offering a detailed chronological commentary, the new roles of the key players are identified. As before, either the housing association or the local authority would be the initiator of a housing scheme. Following informal contact between the housing association and the local authority, land would be identified and an outline scheme would be agreed including the size, type and number of housing units involved.

The housing association would employ appropriate consultants and plans would be prepared. The housing association would certify that the plans comply with its minimum design standards, and whether the scheme is within current unit cost limits. It would submit the plans to the local authority and the DOELG for approval and apply for planning permission.

The local authority would issue a Certificate of Authorisation (see below), and after planning permission is granted and the DOELG has approved the scheme, the housing association would apply directly to the HFA for a loan, using a standard mortgage agreement.

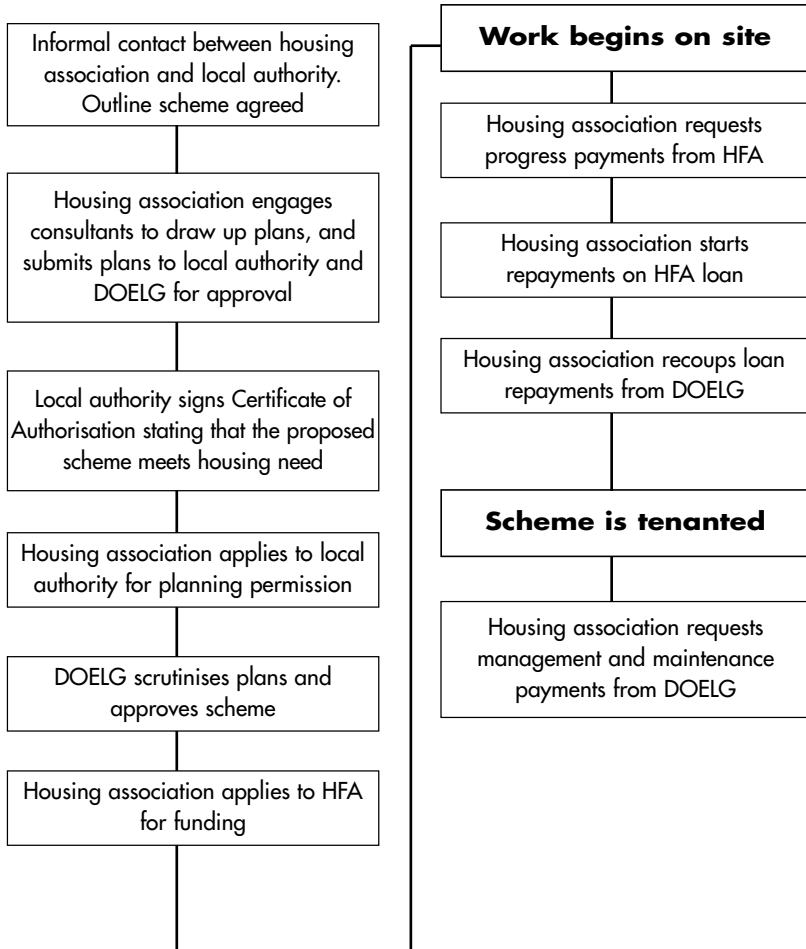
After work begins on site, the housing association would request progress payments from the HFA, make repayments on the loan, and recoup loan repayments directly from the DOELG.<sup>4</sup>

When the scheme is tenanted, the housing association would request management and maintenance payments directly from DOELG.

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<sup>4</sup>Because loan repayments would be made by the housing association to the HFA, it would be easier for housing associations to provide their auditors with accurate financial information about each of their loans. This would be a substantial beneficial spin-off from the proposed two-strand approach.

Figure 4: Proposed Development Process (simplified)



The DOELG would continue to implement government policy through legislation, circulars and advice. It would deal with applications for Authorised Developer status from housing associations.

The Department’s technical staff would scrutinise plans to ensure they are within current cost limits. It is important to note that this is the only area for scrutiny by the Department; minimum design standards would be dealt with through the regulatory

system. Where costs are above current unit cost limits, ministerial approval would be required, as with the present arrangements, if the housing scheme is to be approved.<sup>5</sup>

The Department recoups loan repayments (that the housing association makes to the HFA) directly to the housing association.

When the scheme is tenanted, the DOELG would pay management and maintenance payments directly to the housing association on receipt of appropriate certification from the housing association.

The HFA would lend the capital costs of the housing scheme directly to the housing association, secured on a standard mortgage agreement with the housing association. On receipt of appropriate certification from the housing association, it would release progress payments. This too would come under the regulatory regime described in Chapter 5.

The principle of direct access to the HFA has already been agreed by the DOELG. This is to be welcomed, although it is to be limited to the purchase of land. Hopefully, it will be the harbinger of direct access for the purpose of borrowing funds for capital works, which is a crucial element in the proposed process. Of course, this will make additional demands on the HFA, and funding for additional staffing will be required.

To address concern expressed in some quarters, it is proposed that for an interim period (perhaps during the operation of a pilot scheme; see below), the DOELG should underwrite a proportion of the loan from the HFA. This is proposed not because any substantial risk is identified, but in order to address the lack of confidence in housing associations referred to in Chapter 2.

The local authority would have two roles. First, as a strategic housing body (see Chapter 2 for a discussion of the development of this role), and second as a planning authority. On the basis of plans prepared by the housing association, the local authority would issue a 'Certificate of Authorisation' stating that the local authority supports the proposed scheme. The proposed criteria for granting

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<sup>5</sup>If the proposed system were working satisfactorily this procedure could be modified so that routine scrutiny of plans certified by the housing association would be replaced by spot checks under the monitoring system proposed in the next chapter. The DOELG would then only routinely scrutinise plans certified by the housing association to be above unit cost limits. This would further speed up the development process.

approval are that the scheme meets housing need in its area as assessed by the local authority either under s.9 Housing Act 1988 or in some other way, and that neither the local authority nor another housing association has plans to provide housing to meet that need. Local authorities should make specific reference to their housing strategies, made under s.94 Planning and Development Act 2000.

Other criteria, such as design standards and unit costs would be assessed by the DOELG or come under the new regulatory regime. A scheme could not proceed without a signed Certificate of Authorisation. In the vast majority of cases this would not be a problem because the question of local housing need would have been dealt with at the earlier informal stage.

The primary reason for proposing this change in the local authority function is that it would consolidate the local authorities' strategic role by ensuring, through the 'Certificate of Authorisation', that housing association schemes only proceed with their approval. The role of local authorities is central to the development of housing association activity, and their active support is crucial if housing association output is to increase substantially. The second local authority function would be its role as a planning authority, and this role would continue unchanged. Proposals to streamline the planning permission procedure are beyond the scope of this paper.

A key feature of the proposed process outlined above is that it provides for a substantial overall reduction in administration and shifts the main burden of administrative responsibility from the local authority to the housing association. This is illustrated in Figures 3 and 4.

Figure 3, which shows the current development process, identifies fifteen separate sequential steps. The local authority is directly involved in fourteen of these and the housing association directly involved in six. Figure 4 shows the proposed development process with ten separate sequential steps. The local authority is directly involved in only four steps, all early on in the process, and the housing association is directly involved in eight steps.

The DOELG might wish to run this proposed development process as a pilot scheme, with an initial maximum number of Authorised Developer housing associations. Ten might be an appropriate number, providing enough variety to test the various elements of the proposed system without making too many demands on the various players.

With the exception of the HFA, these proposals do not require legislative change. However, they will require substantial changes to circulars issued by the DOELG.

It is important to emphasise the following three points. Firstly, application for Authorised Developer process would be open to any housing association. Although it is primarily aimed at larger or growing housing associations involved in the provision of general needs housing, it would not be restricted to these categories. For example, a larger housing association providing mainly special needs housing would not by virtue of this be excluded from applying for Authorised Developer status. If it is able to satisfy the DOELG that it can perform satisfactorily in each of the prescribed areas, then such a housing association would receive Authorised Developer status. This would also apply to a consortium of community-based housing associations, where one association might be designated the 'lead' association and apply for Authorised Developer status, in effect on behalf of the consortium.

Secondly, as the housing association sector evolves, the number of Authorised Developer housing associations would be expected to expand considerably. Finally, any set of proposals such as these must be flexible. The housing association sector will evolve and develop in ways not anticipated here; it is essential that the development process changes with it.

### **3.7 New and emerging housing associations**

If housing association activity is to increase to the levels of output envisaged in the NDP and be maintained at such levels beyond 2006, it will be necessary for the number of housing associations to increase. There are, however, currently significant obstacles lying in the way of new and emerging housing associations operating a significant development programme.

A major obstacle is finance and, in particular, staffing costs. A housing association providing housing under the Rental Subsidy Scheme has two continuous sources of income: the management and maintenance allowance; and rent paid by tenants. Separately from this, a development fee may fund a proportion of the housing association's costs relating to development (but the first payment of this is not made until the scheme is on site). There is also currently an *ad hoc* funding system by which the DOELG funds 'the administrative and general expenses of housing associations', and in 2000



it gave a total of £362,000 to housing associations for this purpose. However, this system needs to be placed on a more formal footing.

By definition, the management and maintenance allowance and rent depend on an existing housing stock, and the development fee on a rolling development programme. Therefore, without an active development programme or housing stock, a housing association has no source of income and no assets to offer as security on a loan. This means that it cannot employ staff until enough dwellings are occupied to generate funds for staffing costs and so in the early days a housing association has to rely on voluntary work, or other sources of income, which are extremely difficult to generate. A new housing association starting from scratch would be most unlikely to receive any income for up to three years.

It is not possible for a housing association to sustain a significant development programme without employing development staff. The effect of this obstacle is to delay the evolution of a development programme until the housing association is large enough to generate adequate funding to employ development staff. Even this assumes a housing association determined enough to produce its initial schemes using voluntary labour.

This paper, therefore, proposes that the DOELG establish a Housing Association Development Fund, which would provide a small number of grants to housing associations to enable them to employ development staff. It is suggested that grants might be of the order of £200,000 paid over three years and that the total fund might be set initially at £500,000 per annum. This would allow for approximately seven housing associations to be grant aided for the first three years. Applicants for funding under this scheme would have to satisfy the DOELG that they have

- a legal structure
- objectives relating to the provision of housing
- a board with relevant skills and expertise
- a business plan covering a period of at least three years.

Housing associations that apply for start-up funding would be expected to apply for Authorised Developer status when they are ready to do so.

A condition of the grant could be that the housing association establish a 'mentoring' system for an initial period in which expertise would be purchased from an existing, experienced housing

association. Clearly, applications would be accepted from existing smaller housing associations that are planning a significant development programme, as well as entirely new housing associations without any employed staff. In the latter case, the composition of the board would obviously be of particular importance.

## Regulation

### 4.1 Introduction

This chapter argues that many areas of housing association activity are currently unregulated. As the housing association sector expands, with corresponding increases in the expenditure of public funds and the number of tenants housed, the need for an effective and appropriate regulatory structure will become greater. In addition, one of the consequences of the proposal in the previous chapter relating to the granting of Authorised Developer status is a transfer of responsibility from local authorities to housing associations. This adds weight to the need for a regulatory regime.

First, this chapter briefly discusses regulatory reform in Ireland. Second, it addresses the need for a regulatory system for housing associations. Third, it discusses issues that need to be addressed when designing a system and proposes an appropriate regulatory structure. Finally, it sets out some principles and further aspects of such a regulatory system.

### 4.2 Regulatory Reform in Ireland

Regulatory reform has been a government concern for some time. It is a key element in the Strategic Management Initiative (SMI) set up in 1994 with the aim of modernising the public service. *Delivering Better Government* set out the principles of regulatory reform very clearly (Government of Ireland, 1996):

- improve the quality, rather than the quantity, of regulations
- eliminate unnecessary and/or inefficient regulations (including legislation)
- simplify necessary regulation and related procedures as much as possible
- lower the cost of regulatory compliance
- make regulations more accessible to the public.

A central theme of *Delivering Better Government* was that the cumulative impact of regulation is excessive and that reform should be carried out to reduce the level of regulation. This has been taken up with the publication of *Regulatory Reform in Ireland* by the OECD (2001). In its forward, the report states (OECD, 2001:3):

The Regulatory Reform Programme is aimed at helping governments improve regulatory quality – that is reforming regulations which raise unnecessary obstacles to competition innovation and growth, while ensuring that regulations efficiently serve important social objectives.

The report's principal focus is on economic regulation: pricing, competition, the protection of consumer interests, and the freedom to enter and exit economic markets. It devotes considerable attention to electricity, gas, pharmacy, legal services as well as the telecommunications industry. Where a free market does not exist because an area is dominated by state-owned bodies, as for example in the case of energy supply, the report recommends creating circumstances whereby free market forces can operate by removing constraints on additional providers entering the market.

However, the consumer of a housing association (a tenant) is not operating in a free market. Indeed, the very existence of housing associations and local authority housing provision is an explicit acknowledgement of the failure of the free market to provide suitable and adequate housing for all (DOE, 1995b). The quotation above from the OECD report contains the sole reference in the report to 'social objectives'. Social regulations that protect the public interest in such areas as health, safety and social cohesion are barely mentioned.

The principles of regulatory reform set out in *Delivering Better Government* can be very helpful when designing a regulatory system. A little rewording of these principles produces the following characteristics of an effective regulatory system:

- an emphasis on the quality rather than the quantity of regulations
- no unnecessary or inefficient regulations
- regulatory procedures to be as simple as possible
- the cost of regulation compliance to be low
- regulations to be accessible to the public.

Boyle (1999) proposes three issues that must be addressed when considering regulatory reform or the introduction of new regulation: defining the problem; considering alternative solutions; and analysing the benefits, costs and regulatory burden. These three are covered in the following three sections of this chapter.

### 4.3 Why regulate housing associations?

In phrasing this question it might be thought that housing associations are currently *not* regulated. This is of course far from the truth; elements of housing associations' activities are regulated by the DOELG, local authorities, building regulations, employment law, health and safety, company law and many others. However, whilst housing associations are undoubtedly regulated in some areas of their work, in practice there is very little regulation of their activities as providers of social housing.

A regulatory structure for housing associations is necessary for a number of reasons. First, it is a corollary of Authorised Developer status. As stated above, the proposed Authorised Developer status transfers some responsibilities from local authorities to housing associations, and it is recommended that this be accompanied by an appropriate regulatory mechanism.

Second, the present system is both inadequate and unevenly applied. Reference was made in the previous chapter to the regulatory role that is required of local authorities in relation to technical, governance and financial oversight. Local authorities are supposed to act as a governance and financial overseer, satisfying themselves that a housing association has the organisational capacity to manage a housing scheme and that the management and maintenance allowance is used only for the purpose for which it is given. However, no guidance is given as to how a local authority is expected to carry out these functions which, moreover, comprise a very limited form of regulation. Furthermore, in practice, much of this oversight very rarely occurs. In addition, if local authorities did attempt to fulfil these duties, a national housing association could find itself being regulated by each local authority with which it was involved, perhaps with each one applying a different system. In any event, the very narrow areas for regulation laid down in the circulars would be supplanted by the proposed Authorised Developer status.

Third, existing and future tenants need protection. Tickell (1999) argues that the social housing 'market' is a very imperfect one, with

prospective and existing tenants in a weak position compared with landlords. Prospective tenants have very little choice; housing is essential. Existing tenants have little or no ability to choose a different landlord if they are dissatisfied. There is sometimes no direct correlation between the rent paid and the quality or size of the property rented. For all these reasons, tenants need the protection of an appropriate regulatory system.

Fourth, public funds need protection. An output of 4,000 units per year will represent an annual capital investment of the order of £400m. This does not of course include the management and maintenance allowance on existing dwellings. By any standards, this is a substantial amount of public money and the government must be able to satisfy itself that these funds are used efficiently, effectively and for the purpose for which they are intended.

Fifth, the government needs to show that it is delivering on its policies and priorities. To the extent that housing associations are instruments of government housing and social policy, the government must be satisfied that these policies are being implemented.

Finally, a regulatory system is a necessary confidence-building measure for other bodies. This is a beneficial spin-off of many regulatory systems, and is particularly helpful in the present context of a lack of confidence in housing associations, as reported in Chapter 2 (Tickell, 1999).

Together these elements make an overwhelming case for regulation of some areas of housing association activity. If these arguments are accepted, it is important to act sooner rather than later. In the absence of a regulatory mechanism, a housing association may find itself in difficulties, in circumstances which might otherwise have been avoided. A regulatory system imposed in this situation would very likely have a greater emphasis on policing than enabling. If however, a regulatory system is put in place without the pressure of an immediate problem, a measured debate is possible, resulting in a more balanced system.

It is important to acknowledge here that no regulatory system is infallible, and no regulatory system can be expected to prevent all fraud and mismanagement. Day and Klein (1996:10) in a salutary reminder of this suggest applying two tests:

The first is to ask whether the system is alert and sensitive enough to detect and react to early warning signals before fraud or mismanagement reach catastrophic proportions. .... The

second is to ask how effective the regulatory system is in learning from failure by carrying out an inquest and applying the lessons learnt.

Finally, it is important to emphasise that regulation should be seen by housing associations to be an enabling process, which encourages best practice, rather than an inspection that aims to find failure. The approach of the regulator is of critical importance. This is not to suggest, however, that regulation is only working when all participants are content. As Day and Klein point out, '...it is of the nature of all regulatory systems that the regulated will always complain about excessive demands of information and the imposition of over-demanding conditions'. Referring specifically to housing associations, they warn them not to complain too loudly (Day and Klein, 1996:24):

... perhaps they should reflect that the price of access to public money is, inevitably and rightly, accepting the burden of public accountability; to the degree that they have become the instruments of the Government's social policies, so they must expect to have their compliance with public objectives monitored.

#### 4.3.1 *Aims of a regulatory system*

Day *et al* (1993), in their description of the regulation of Registered Social Landlords (RSLs) in England by the Housing Corporation, set out three main aims of the regulatory function:

- (i) to ensure that housing associations manage their affairs not only with probity but also economically, efficiently and effectively
- (ii) to ensure that housing associations maintain adequate standards of management, and service provision for their tenants
- (iii) to ensure that housing associations implement national social policy objectives, such as an appropriate ethnic mix and tenant participation.

These three cover the ground set out in the arguments above in favour of establishing a regulatory system in Ireland. Together with the principles set out in Section 4.2 they provide a very helpful benchmark against which to measure a proposed regulatory structure.

## 4.4 A regulatory system for housing associations

### 4.4.1 *Which housing associations should be regulated?*

This paper does not advocate a 'big bang' approach to regulation, in which a regulatory system covering all housing associations is established in one go. Rather, it proposes an evolutionary approach starting with one group of housing associations; those with Authorised Developer status. The reason for starting with this group is that for these, the regulatory function of local authorities (which as stated above is very rarely applied comprehensively, but exists nevertheless) would be removed, and furthermore this status would confer greater responsibility than has been the case up until now.

The arguments in favour of the regulation of housing associations in section 4.3 above apply both to large and small housing associations, and it is proposed that once a system is established to regulate housing associations with Authorised Developer status, it should be expanded appropriately to include all housing associations.

It is important to enter a caveat here that it is not proposed that the same regulatory regime would apply to all housing associations. In particular, it would be important to design a system that is appropriate for smaller housing associations, perhaps those with less than fifty units (which would of course be a large majority of housing associations). It would be likely to have a rather different shape to that which is proposed for Authorised Developer status housing associations, probably characterised by a requirement for less information, and a requirement for less detailed policies in relation to social housing standards.

It is of course most important that all relevant bodies including housing associations, the ICSH, local authorities, the HFA, the DOELG should be consulted as part of the process of developing a regulatory structure.

### 4.4.2 *How should housing associations be regulated?*

There are many ways in which activity may be regulated. Tickell (1999) in his discussion of the principles of regulation in relation to social housing outlines a number of these ways:

- **Licensing:** the 'gate keeping' entry test function in which an organisation must be approved in some way before being allowed to carry out defined activities



- **Setting the framework:** this includes standards, codes, procedures and so on, and may range from detailed mandatory instructions to general non-compulsory guidelines
- **Consents, notifications and approvals:** issue of consents or permission before certain actions may be taken
- **Inspection mechanisms:** spot-checks, visits and so on to ensure that policies are being delivered on the ground or that procedures are being complied with
- **Monitoring mechanisms:** audits, desktop reviews and so on, gathering and reviewing information to ensure that standards have been maintained, codes of practice are being adhered to
- **Enforcement:** use of statutory powers, orders or directions to take particular actions or measures.

These are of course not mutually exclusive and there will be some areas of overlap. Most regulatory systems incorporate more than one of these elements.

The Housing Corporation in England operates a regime that is generally accepted to involve an intensive and wide-ranging level of inspection and monitoring. Some commentators take the view that the Housing Corporation's regime is too prescriptive. Interviewees in England with wide experience of different aspects of RSLs suggested that it would be inappropriate to apply such a regime to the housing association sector as it currently stands in Ireland. First, because the regulatory system in England has evolved over many years to the present system and second such a level of regulation would be unlikely to be readily accepted by housing associations in Ireland. In the words of one interviewee 'successful regulation requires the consent of most of the regulated most of the time'.

This paper rejects such a model for these and other reasons. Such a model would be expensive and would deflect housing associations from their core task of providing social housing. It would be an ambitious model to replicate, especially in 'one leap' and may have the effect of limiting the extent to which housing associations can be innovative. This is not to say, however, that there should be *no* continuing monitoring and inspection, because in the absence of these it would not be possible to ensure that performance is being maintained.

A corollary of a relatively low level of monitoring and inspection

is a relatively high entry test that aims to ensure housing associations have the capacity to perform to a high standard. The recommendation in Chapter 2 concerning Authorised Developer status fits in with this model, and it is proposed that the conditions to be satisfied in order to acquire Authorised Developer status would be the same as those that would be required for the regulatory regime. In other words, any housing association that acquires Authorised Developer status would be deemed to have passed the 'entry test' for the regulatory regime.

#### *4.4.3 How would a housing association acquire Authorised Developer status and join the Regulatory Regime?*

A housing association seeking Authorised Developer status would need to satisfy the DOELG that it has the capacity to carry out a substantial development programme. It is suggested that the housing association would need to meet the following requirements.

- It would be an approved body under s.6 Housing Act 1992: that is, it has a legal structure; it has the provision of housing in its objectives; and it is non-profit making.
- It must be able to demonstrate competence in developing housing schemes: it is unlikely that a housing association with no experience of development would be granted Authorised Developer status. However, it may be possible for a housing association with connections to an existing housing association from another jurisdiction to be in a position to demonstrate such competence, or a housing association that has established a mentoring arrangement with an existing experienced housing association could similarly demonstrate such competence. Amongst other things, the housing association would need to show that it carries out an appropriate risk assessment as an integral part of its development process.
- It must be employing staff with relevant qualifications and experience: as stated in earlier chapters, it is not practicable for a housing association without employed staff to carry out a significant development programme.
- It must have a three-year business plan: this would demonstrate that the housing association has the

strategic and planning capacity to undertake a development programme. The plan must include elements peculiar to the provision of rented housing such as a sinking fund for long-term maintenance.

- It must have a detailed set of minimum design standards: these would have to be of a standard acceptable to the DOELG.
- It must have a board containing members with relevant skills and expertise.

#### *4.4.4 Process regulation or outcome regulation?*

Much of the literature about regulation of social housing argues for outcome regulation rather than process regulation. Day and Klein (1996) support the 'self-evident' appeal of outcome regulation which 'promises to judge providers by their results instead of by the way in which they organise themselves – thus giving more freedom to experiment with different models of service delivery'. They go on however to warn of '...the difficulty of designing appropriate and valid outcome indicators'. Day *et al* (1993) also acknowledge the superiority of outcome regulation over process regulation, and share the same caveat, '...theory is usually betrayed in practice because of the difficulty of designing outcome indicators'. Kennedy (1997) supports outcome regulation on the basis that whilst outcome indicators are difficult to design, 'regulation of processes is fraught with difficulties'. So whilst support for outcome regulation is widespread, it is qualified by the acknowledged difficulty of designing appropriate indicators. A further argument against process indicators is that that regulators appear to find it extremely difficult to know where to stop, so process regulation begins to take on a life of its own, losing sight of the original objective and merely making ever greater demands for more detailed information from the regulated body.

The distinction between the two is not always completely clear and whilst this paper favours outcome regulation over process regulation, it is acknowledged that it is not possible to get rid of process regulation completely, as will be seen below.

#### *4.4.5 Which areas of activity should be regulated?*

Deciding which areas of activity are to be regulated is clearly a key decision. Pick the wrong areas, and a great deal of time and expense

will be wasted; pick the right areas and a modest quantity of time and expense will result in well-targeted useful data. Mullins (1997) identifies two types of regulation, 'economic' and 'social'. This is mirrored in the Housing Corporation's classification which differentiates between regulation of governance and finance on the one hand, and regulation of social housing standards on the other (Housing Corporation, 1997).

Governance and finance standards are concerned primarily with the way the housing association runs itself, with particular emphasis on financial management. Social housing standards are concerned with the activities of the housing association as a developer and landlord, and so include such areas as the development process, housing management, rents, lettings policy, tenant participation, repairs and maintenance and equal opportunities. This is a useful distinction and will be used in this paper.

**Regulation of governance and finance:** The primary purpose of the regulation of governance and finance is to ensure the financial probity of the housing association. It is considered that this can best be done through the provision of pre-scribed information by the housing association to the regulator. Appropriate financial information would include audited accounts of course, but might also include bi-annual management accounts and cash flow analyses. The regulator might require financial information to be set out in such a way that important information peculiar to housing associations, such as a sinking fund for long-term maintenance, provision for rent arrears etc, is clearly identified.

Regarding governance, information would be needed to satisfy the regulator that the board or committee of the housing association is carrying out its role effectively; in particular, that it has established appropriate systems of financial control and it manages prudently the financial affairs and financial risks of the association. Here it is easy to enter the territory of process regulation, so the monitoring should not be too prescriptive. It is suggested that the board or committee would simply need to demonstrate that it receives a full financial report at regular intervals, including financial information such as management accounts, cash flow analyses and balance sheets. In addition, the regulator should have the power to carry out 'spot checks' as required.

**Regulation of social housing standards:** It is helpful to make a distinction here between the housing association as a developer, and the housing association as a landlord. As far as the development process is concerned, it is proposed that the regulator will have the power to carry out inspections. Such inspections might take the form of the regulator scrutinising the development of a particular housing scheme through all its stages, to ensure that agreed procedures have been complied with. It is not considered that this would be a frequent occurrence. The frequency would in large part depend on the results of inspections.

The other social housing standards, which relate to the housing associations' activity as a landlord, would be regulated in a different way. It is proposed that each housing association would be required to provide written policies, approved by its board or committee, in each of the following areas:

- housing management
- rental structure
- lettings policy
- tenant participation
- repairs and maintenance
- equal opportunities (a code of practice to ensure compliance with Equal Status Act 2000).

It is not proposed that the regulator would prescribe the details of such policies, only that where they do not already exist, the housing association would be required to establish them within a stated time limit, and provide a copy to the regulator. The development of a Housing Management Manual, currently being carried out by the ICSH, will be of considerable assistance in developing such policies.

The reason for taking this approach is to attempt to draw a line between the 'dead hand' of over-regulation, and imprudent under-regulation in which housing associations would be free to ignore these areas, possibly resulting in a poor quality service to tenants. It would be most important to monitor this aspect of regulation carefully, to ensure that the right balance is being struck.

#### *4.4.6 Who should regulate?*

There are really only two possible regulators: the DOELG, or a non-governmental body. It is not practicable for local authorities to take

on this role, particularly in relation to regional or national housing associations. As stated earlier, resource constraints may well prevent them from taking on such a role anyway. In addition, it would result in a regional or national housing association being regulated by many different local authorities.

The DOELG as regulator may have significant advantages:

- a regulatory system would be cheap and easy to set up and could therefore be established very quickly
- no legislation is required, and sanctions are already available
- potential duplication is avoided since the funder will have to satisfy itself that a recipient of funding is exercising proper stewardship of public funds.

But it may also have significant disadvantages:

- the Department might be vulnerable to political interference
- there may be conflict between the funding and policy role (maximise output of dwellings) and the regulation role (maintaining standards).

Similarly, a non-governmental body may have significant advantages:

- being at arms-length from the civil service, it may be relatively free from political interference
- it may be more likely to be perceived by housing associations and the public as being independent.

Equally, there are disadvantages:

- it would require legislation, which would lead to delays
- it may be considered overkill in the context of the recommendation in this paper that a small number of housing associations be subject to the regulatory regime in the first instance.

The arguments for a non-government body as regulator in the medium-term are considerable. Interviewees in England were strongly in favour of establishing a non-governmental regulator in time. In the medium-term a non-governmental body should be established with appropriate legislative powers to act as regulator. However, as stated earlier a relatively small number of housing

associations should come under the regulatory structure. Taking this, together with the imperative of establishing a system without delay, a Housing Association Regulatory Unit should be established within the DOELG. The life span of the Housing Association Regulatory Unit will depend on how quickly the regulatory regime develops and how quickly appropriate legislation can be implemented. This, like all other elements of the system, will need to be kept under review.

#### *4.4.7 How should enforcement operate?*

Regulation means nothing without enforcement. Although the tenor of a successful regulatory regime will be one of support rather than attack, where a housing association persistently fails to maintain standards at an acceptable level, the regulator must have the ability to apply sanctions.

Where the regulator identifies weaknesses, the proposal here is that the regulator would first offer a range of suggestions as to ways in which these deficiencies might be overcome. The regulator would encourage and assist the housing association to bring its standards up to an acceptable level and continue to provide social housing. There are many ways in which this can be done, depending on the severity of the problems. This role would need to be explicitly set down in relevant circulars. Only if these steps fail to result in improved performance would sanctions apply. The ultimate sanction available under current legislation is the removal of the 'approved' status of a housing association granted under s.6 Housing (Miscellaneous Provisions) Act 1992. This is explicitly provided for in s.6(6)(e) which states: 'The power to approve a body ... shall be construed as including the power to amend the terms of such approval or to withdraw such approval'.

Removal of 'approved' status would have catastrophic consequences for any housing association and its tenants with housing stock provided under the Rental Subsidy Scheme. Even if it were not currently developing, it would no longer be eligible for the management and maintenance allowance on its existing stock, and would in all probability very quickly find itself in financial difficulty. It is clearly most important that applying this sanction would be a last resort and would be accompanied by a rescue plan, perhaps involving another housing association.

#### 4.4.8 *How should transparency be promoted?*

*Reducing Red Tape* recommended making regulations more accessible to the public. In the context of housing associations, this is of course of particular relevance to housing association tenants (Government of Ireland, 1996b). It is proposed that reports produced by the regulator in relation to the operation of its regulatory powers be available to the public (generally they would be anyway under the Freedom of Information Act 1997, but for the avoidance of doubt this should be explicitly expressed), thus ensuring maximum transparency.

### 4.5 **Benefits, costs and regulatory burden**

The third issue identified by Boyle (1999) that must be covered in a review of proposed regulation is benefits, costs and regulatory burden. Boyle argues that the purpose of this is ‘...to demonstrate that the benefits of regulatory requirements are greater than their costs and the burden they place on regulated entities’. This assessment is commonly called a regulatory impact assessment.

Boyle acknowledges that a full and rigorous cost benefit analysis is only carried out in relation to the most significant regulation, and that in the case of less important regulations, ‘rough cost assessments and qualitative assessments are more common’. The regulatory system proposed in this paper clearly falls into the latter category.

Some costs and most benefits are difficult if not impossible to quantify. Accordingly, this paper makes no attempt to offer a quantitative analysis of the proposed regulatory structure. A qualitative assessment can, however, be of considerable assistance in determining whether the benefits are likely to be greater than the costs. The costs fall into two groups: costs to government and costs to housing associations.

#### 4.5.1 *Costs to government*

The principal costs to government relate to the setting up and subsequent operation of the regulatory system. Setting-up costs include the staffing costs of consultation, preparation of legislation and establishment of detailed mechanisms for the operation of the regulatory system. Operational costs include the staffing and associated costs of the proposed Housing Association Regulation Unit and, later, a non-governmental organisation.



This paper advocates an evolutionary approach to regulating housing associations, so these costs would be very modest initially, growing somewhat as more housing associations come within the remit of regulation. However, the fact that intensive and wide-ranging levels of inspection and monitoring are explicitly rejected in favour of predominantly outcome regulation means that the costs of operating a fully-fledged system covering all housing associations would still be modest.

#### 4.5.2 *Costs to housing associations*

The compliance costs to housing associations fall into three categories.

- *Those associated with the regulation of governance and finance*  
Most, if not all the information required by the regulator should be information that the housing association normally produces as part of best practice in financial control and governance, so the cost should be negligible.
- *Those associated with the regulation of social housing standards*  
Here too, the preparation of written policies in the areas specified ought to be part of best practice, so the regulator would not be asking the housing association to do anything it should not be doing as a matter of course. The cost therefore should again be negligible.
- *Those associated with inspection by the regulator*  
Clearly there will be staffing costs associated with an inspection from the regulator, which will depend on the level of the inspection. It is not envisaged that inspections will be carried out regularly and, in any event, they are most likely to occur in response to a perceived or anticipated problem.

Benefits also fall into two groups: benefits to government and benefits to housing associations. Both derive directly from the arguments provided earlier for the regulation of housing associations.

#### 4.5.3 *Benefits to government*

The primary benefits to government of a regulatory structure are a public demonstration that government funds are being spent appropriately and in accordance with government policies and priorities and that tenants are being protected.

#### 4.5.4 *Benefits to housing associations*

The main benefits to housing associations are that tenants and prospective tenants received good quality services. In addition housing associations are encouraged to manage their affairs economically, efficiently and effectively, and to maintain good quality standards of housing management. The granting of Authorised Developer status (which is concomitant with regulation) should result in reduced staffing costs and other costs associated with delays. An unquantifiable but vital element of a successful regulatory system is prevention. Early and appropriate intervention by the regulator should result in major problems being averted. This is primarily a benefit to tenants but is, of course, also a benefit to government. Finally, as a confidence-building measure the stock of housing associations should be raised in the minds of others.

The benefits of regulation outlined here, which are substantial, clearly outweigh the costs, which in the case of housing associations should be negligible and in the case of government, modest.

#### 4.5.5 *Conclusion*

A regulatory system for housing associations is proposed to address inadequacies in the current system, to protect tenants and public funds, to ensure that government priorities are delivered and to act as a confidence-building measure for other organisations. In addition, such a system is an integral feature of the Authorised Developer status mechanism for streamlining development programmes.

Section 4.2 sets out a number of principles of an effective regulatory system: an emphasis on quality, efficiency, simplicity, low cost of compliance and accessibility. The following section described three main aims of the regulatory function: ensuring probity, efficiency and effectiveness; ensuring adequate standards of management and service delivery; and ensuring implementation of government objectives.

Proposing regulation to be carried out initially by the DOELG, and subsequently by a non-governmental body, is an attempt to balance the competing needs of acting quickly and, at the same time, devising a system that is appropriate to current circumstances and will have the capacity to evolve over time. The regulatory system proposed in this paper meets these standards and, furthermore, offers benefits that substantially outweigh the costs.

## Making social housing a tenure of choice

### 5.1 Introduction

This chapter argues that the twin and related problems of a concentration of socially excluded households in social housing and social housing's relative unpopularity compared with owner-occupation are the biggest challenges facing social housing policy-makers and providers in Ireland. Increasing output will not, of itself, deal with either of these two issues. Government policy in this area has been weak and does not have the capacity to achieve its professed aim of reducing segregation.

Achieving the second objective of this research – to examine ways in which housing associations can build successful mixed communities and move towards making social housing a tenure of choice – requires action on a number of fronts. A number of initiatives aimed at achieving these objectives are described and a package of measures proposed covering: lettings policies; security of tenure and other rights; rental systems; and an equity tenant scheme.

### 5.2 Residualisation

A concentration of socially excluded households in social housing is a deep-rooted feature of the Irish housing landscape. This characteristic, frequently referred to as residualisation is, as O'Connell and Fahey (1999) point out, a European-wide phenomenon. However they assert that it is particularly pronounced in Ireland (O'Connell and Fahey, 1999:37):

Even at its peak in the 1960s, Irish local authority housing was always somewhat residual in character. At that point it amounted to less than 20 per cent of total housing stock and was consistently targeted on low-income families. It did not aspire to house the broad range of social classes accommodated by the mass models of social housing in countries like Britain and the Netherlands.

O'Connell and Fahey found that local authority tenants in Ireland were characterised by high levels of poverty, low levels of economic

activity and low levels of educational achievement, compared with the rest of the population. This is underlined by Fahey and Watson (1995:64) in their examination of households on waiting lists:

In general, local authority housing applicants are drawn from the most marginalized and vulnerable sectors of the population.

No rigorous survey of general needs housing association tenants has been carried out in Ireland, but since all of them come from local authority housing waiting lists, it is reasonable to assume that the social profile of housing association tenants is similar to that of local authority tenants.

Fahey and Watson (1995:190) identify an obvious but extremely important consequence of residualisation:

Present applicants for local authority accommodation ... are an overwhelmingly marginalised segment of the community, and it will be a major challenge to house them without ghettoising them in clusters of deprivation. One objective of *A Plan for Social Housing* was to reduce social segregation in housing ... The social characteristics of applicants indicate how difficult that task will be, and how urgent it is that creative ways of promoting integration be found.

In fact the proposals in *A Plan for Social Housing* were very modest: local authorities were urged to consider purchasing existing houses; and to avoid building large estates (DOE, 1991a). *Social Housing – The Way Ahead*, published four years later, reiterated these, and in addition promoted shared ownership and housing association activity as ways of diversifying social housing provision. (DOE, 1995b). Whilst these were important steps, they did not have the capacity to counteract residualisation in social housing.

### **5.3 Social housing: a poor second**

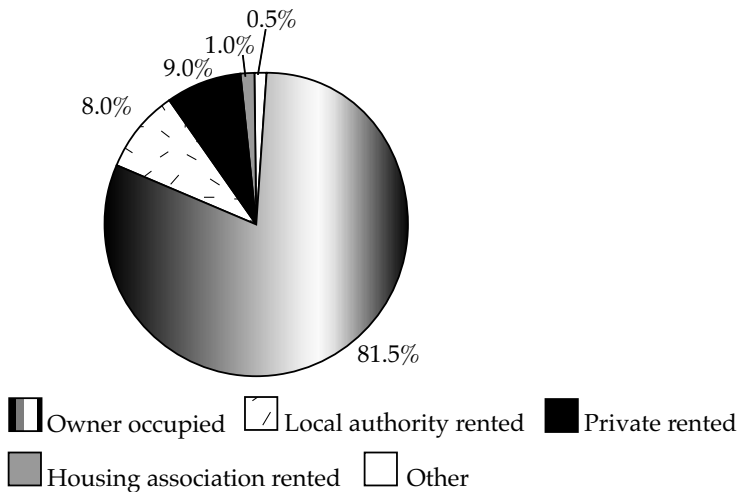
Of all housing tenures, owner-occupation is by far the most preferred and has been so for many years. Figure 5 below provides a breakdown of housing tenure.

Fahey (1999) quotes unpublished data from the *Living in Ireland Survey 1994*, showing that 89 per cent of owner-occupiers gave a positive rating on the question of overall satisfaction with their housing, compared with under 60 per cent of local authority tenants. This preference is both reflected in and reinforced by Irish

housing policy. *Social Housing – The Way Ahead* (Department of the Environment, 1995b) identifies owner-occupation as ‘the widely preferred form of tenure’. *An Action Plan for the Millennium* refers to ‘...the deeply held ideal of so many Irish people to home ownership’ (Government of Ireland, 1997). Fahey (1995:5) relates social housing and owner-occupation:

... the shrinking significance of social housing has reflected an emphasis on home ownership as the ‘normal’ housing tenure.

Figure 5: Housing Tenure in Ireland (percentage of households)



Source: CSO (1998), Quarterly National Household Survey, 3rd quarter 1998, Dublin: CSO.

Fahey and Watson (1995:21) state the problem succinctly:

The emphasis on home ownership has meant that renting (whether private or social) has been treated as the second-best option. While people everywhere may desire to own their own homes, Irish housing policy has endorsed that desire to an unusual degree and elevated it to the level of an unquestioned social good.

There are no known data for tenure preferences in Ireland that include housing associations, so it is not possible to compare

preferences for housing associations with preferences for local authority housing. However, it is reasonable to assume that currently, a housing association tenancy would be less attractive than owner-occupation for most people if they had choice in the matter.

Reasons for social housing's relatively low status are not hard to identify. The very fact that it is housing provided explicitly for those unable to afford to buy their own home contains the seeds of its weak standing in comparison with owner-occupation. Complementing this, the unceasing promotion of owner-occupation by successive governments has ensured that all other tenures remain firmly subordinate. Residualisation, referred to above, itself contributes to the unpopularity of social housing. O'Connell and Fahey (1999) and Guerin (1999) point to maintenance deficiencies, problem estates and the local authority sector's increasing association with antisocial behaviour, as disadvantages of local authority housing. O'Connell (1999:1) refers to, '...the extent of stigma, prejudice and distorted imagery which they had to contend with from media, state institutions and the wide community'.

#### **5.4 An alternative to owner-occupation**

Some of the mistakes made by social housing providers in the past have been identified and action taken to remedy them. Large estates devoid of facilities and infrastructure are no longer being built and problems on some existing estates are being tackled. Sometimes, as in the case of Ballymun in Dublin, which is being demolished and replaced with more appropriate housing, the remedy is drastic; in others, it is less so. However, if the fundamental difficulties posed by residualisation and unpopularity are to be tackled, further action is needed.

Action in this area by housing associations acting alone must be seen as a spearhead to change across the social housing sector so that all social housing tenants – housing association and local authority – may benefit. Housing associations, by virtue of their independence and comparative freedom to be innovative, are in a unique position to develop new strategies as outlined below, but local authorities must also be given the opportunities to take appropriate action.

In addition, it is important to acknowledge the limitations of independent action by housing associations to tackle residualisation. The relationship between social exclusion and housing is a

complex one. Lee and Murie (1997:51) identify a number of dimensions to social exclusion:

... we are not simply talking about exclusion from the labour market, or about poverty, but rather about the interaction between a range of services and processes which leave households and communities with long-term disadvantage.

They go on to identify 'employment, education, health, housing and a range of other activities', as processes which sustain disadvantage within society, giving emphasis to the role played by housing (Lee and Murie, 1997: 52):

Housing, as much as employment or income could be seen to be the glue which holds together patterns of social exclusion in British cities.

Power (1994) identifies residualisation as a key feature of local authority housing in Britain and advocates tackling estate problems through action on a number of different fronts, involving a range of statutory and voluntary organisations. However, whilst housing associations cannot alone influence the nature and extent of social exclusion in society as a whole, there are areas where housing associations have the capacity to reduce significantly the degree of residualisation.

Many commentators have referred to the importance of this role. Lee and Murie (1997:52) express it concisely:

It is not sufficient to provide housing alone but rather an environment which enables housing to be part of the way out of social exclusion.

Page (1993:10) in his extremely influential study, is unequivocal:

Housing associations therefore owe it to the disadvantaged and vulnerable households for whom they provide to learn the lessons of residualised housing areas and not repeat them. Housing associations have the creativity and innovative skills to build housing for communities which will stand the test of time: in the long run, that must also be good value for money.

The dual aims of the strategy outlined in this chapter are to reduce residualisation and to move towards establishing social housing as a tenure of choice rather than the tenure of last resort. Such a strategy involves, in part, challenging the supremacy of owner-occupation.



The magnitude of this challenge is not to be underestimated, because the pre-eminent position of owner-occupation in Irish housing policy is deeply entrenched. However, a strategy that aims not to undermine the concept of owner-occupation but to offer an alternative to it may have a chance of success.

The strategy proposed in this paper comprises a package of related measures: lettings policies; security of tenure and other rights; rental systems; and an equity tenant scheme. These four are dealt with in turn in the remainder of this chapter.

## 5.5 Lettings policies

### *5.5.1 Prioritising households in greatest housing need*

S.11 Housing Act 1988 requires local authorities to let their housing primarily according to housing need. Most local authorities measure housing need by points or by a simpler less quantified system (Fahey, 1999). In a points system, applicants are awarded points according to the degree of housing need they experience and are housed accordingly. This has the advantage of transparency but does not permit flexibility. In a less quantified system, housing is allocated according to a scheme of letting priorities which might include: unfitness of existing accommodation; overcrowding; inability to afford existing accommodation; and medical or compassionate grounds. This system allows for considerable discretion and flexibility, but offers a less transparent decision-making process.

Allocating according to housing need appears, at first sight, to be equitable and so on this basis alone has an immediate attraction. However, as Fahey and Watson (1995:81) comment:

It is very difficult, in the abstract, to compare the urgency or severity of need across broad categories of need. Even within categories such as unfitness and overcrowding there are variations in the severity of the problem, and the degree of distress caused by either of them is likely to depend to some extent on the characteristics of the household members. Overcrowding for instance may be more tolerable for some families when children are young than when they are teenagers, but may cause severe problems for other households who are sharing with relatives.

David Cowans, chief executive of a large British housing association, has suggested that the objectivity is more apparent than real:

‘This simplistic notion that all allocations should be based on need overlooks the fact that there are many definitions of it’. (Goodwin, 1999:20). He continued pithily, ‘People with high levels of need or particularly difficult life styles are not best served by coming to the top of some queue and ending up in a vacant property in the middle of an area where they don’t know anybody and where nobody else wants to live’.

Another consequence of allocation wholly by housing need is that it may itself contribute directly to residualisation (Lee, 1998). Lee and Murie (1997:52) underline this:

Those with low bargaining power are concentrated in the least desirable parts of the housing market and their bargaining power is diminished even further by this.

In addition there are ways in which the administration of a lettings system based on housing need may increase residualisation, because those in the greatest and most urgent need may be more willing to accept accommodation in an unpopular estate where there are immediate vacancies (Mullins and Niner, 1998). Indeed many commentators have identified allocation policies as a key source of problems (Murie, 2000). Power and Mumford (1999) go further and claim that it is the emphasis on rehousing tenants according to housing need that has destroyed the social viability of much council housing.

There is a vigorous debate over the issue of whether lettings should be by need alone or by other criteria and increasing numbers of commentators are championing a move away from a strictly needs-based lettings system. John Perry, policy director of the Chartered Institute of Housing wrote (Perry, 2000):

Councils and housing associations must move away from ‘need’ as the only criterion for allocating housing, and try to ensure that estates have a balance of people in work, and that child densities and proportions of vulnerable tenants are not too high.

Some of the adverse consequences of this lettings system have been acknowledged in Irish housing policy. As stated above, *A Plan for Social Housing* called for an end to segregation but offered inadequate measures for tackling it. The Memorandum on Housing Management provided a very cogent analysis (Department of the Environment, 1993:16):

The procedures and policies of an authority in regard to the letting of dwellings have an important part to play in counteracting the ill-effects of social segregation in housing, in improving the social mix in local authority housing estates and avoiding the creation of ghettos ...

The First Report of the Housing Management Group (1996:17) also referred to the importance of lettings schemes:

Lettings schemes should ensure that houses are allocated in a manner which will create a viable social mix.

Unfortunately, whilst the analysis was there, there was a conspicuous lack of advice about how lettings schemes might be used to tackle residualisation. Before proposing an alternative lettings system, this paper briefly examines three issues that may assist in the development of a new lettings policy.

#### 5.5.2 *A balanced community*

The concept of a balanced community has received considerable attention in recent housing literature. Page (1994) has been a powerful advocate of balanced communities and has been an extremely influential commentator. He defines a balanced community as '... a social mix on the estate which reflects, as far as possible, the balance of household types, incomes, numbers of children and people from racial and ethnic minorities found in the wider community' (Page, 1993:15). His views have received considerable support, although the difficulties of quantification and the problems of defining a wider community have been noted by Cole *et al* (1997), Wagstaff (1997) and not least by Page himself (1994).

The very concept of a balanced community is, of course, problematic. If for example it is decided that a balanced community is one with a certain proportion of elderly people, it follows that a community with *less* than this proportion of elderly people is unbalanced. Equally, if a community has more than this proportion of elderly people, it is also unbalanced. A corollary of this is that too many elderly people is a bad thing, and that, in turn, leads to a pejorative perception that elderly people are somehow a problem. Apply this analysis to lone parents, racial or ethnic minorities, or people on very high incomes and the difficulties increase.

Griffiths *et al* (1996:36) take a sceptical and pragmatic view:

The debate has been confused by the frequent use of the term 'balanced' communities and social 'mix' which implies that there is a 'norm' or 'ideal'. The reality is more mundane – what landlords are doing is trying to avoid concentrations of young single people, lone parents, and families with children. Such an approach will affect concentrations of extreme deprivation and child density and are likely to be more useful than seeking some form of ideal 'balanced' community.

The 'common-sense' view expressed by Griffiths *et al* (1996) avoids the pitfalls of a more rigorous approach and at the same time retains the concept of attempting to attain a wider social mix. The expression 'mixed community' will be used in this paper in this 'common-sense' way, describing a community that has a range of household types and is not dominated by any one group.

### 5.5.3 *Introducing choice*

An initiative that is worth examining arises from a well-known initiative in Delft in the Netherlands some ten years ago in which, instead of social housing being *allocated*, vacancies were advertised and households *applied* for them (Kullberg, 1997). This system introduces a substantial element of choice and the principle has been taken up with enthusiasm by some British commentators.

Clearly a system based on choice rather than rationing has many attractions, but it is difficult to see how such a system could be adopted wholesale in Ireland, where demand is currently significantly greater than supply. In this situation, the housing provider would still have to allocate between large numbers of competing households with high housing need who had applied for a popular dwelling.

It should not be forgotten that in the current system there is a small element of choice in that prospective tenants may usually give a preference for a particular area and are able to refuse one or more offers without penalty. This is, of course, choice on a small scale. As will be seen below, a lettings system that attempts to reduce residualisation could incorporate a somewhat greater element of choice, even in a situation where demand exceeds supply.

### 5.5.4 *Community lettings*

Griffiths *et al* (1996:1) explore a number of variations of 'community

lettings', which they define as 'social housing allocations policies which operate alongside or in place of a consideration of housing need and take account of the potential tenant's contribution to that community in which the vacancy has occurred'. Most of the community lettings systems that have been tried in Britain have been developed as a response to a problem, usually a low-demand estate that is in decline. They have been developed as short-term initiatives with the aim of restoring 'normal' lettings when the perceived problem has been adequately addressed. Most of the schemes appear to be quite limited in scope, often being restricted to local people preference over outsiders.

In their discussion of community lettings, Griffiths *et al* (1996:6) refer to '... a general assumption that meeting priority housing needs and creating and maintaining successful communities are not entirely compatible objectives, but that an effective and acceptable balance between these two is both possible and desirable'. They question the fact that community lettings are usually applied only in exceptional circumstances and suggest that the system be applied more widely.

When considering a system of community lettings there is one difficulty that needs to be faced head-on. Any system of lettings that aims to create a mixed community rather than house the greatest number of people in the greatest housing need, is likely to involve at some stage housing a low-housing-need household ahead of a high-housing-need household. At first glance this might appear to be to the disadvantage of the high-housing-need household that was not housed. However, there is widespread agreement that a lettings policy that increases residualisation will trap people in social exclusion. Indeed, there was wide agreement among the housing practitioners interviewed for this research that a lettings policy based purely on housing need created unbalanced communities, which was to the detriment of the people living in them.

Community lettings have in the main been employed in a very limited, half-hearted fashion, and have yet to be evaluated to any great extent (Iqbal, 2000). They have not fulfilled their potential as one arm of a broader lettings system aimed at creating and maintaining a mixed community.

#### 5.5.5 *A proposed system of community lettings*

As stated above, the principle of allocation by housing need is well-

established, although at the same time local authorities are exhorted to work to use their lettings policies to reduce segregation. Housing associations are less constrained. Under the Rental Subsidy Scheme, 75 per cent of lettings must go to households who are registered on the housing waiting list and have an income of less than £12,000 per annum and 25 per cent of lettings may go to households with a higher income provided that they also are registered on the housing waiting list. The effect of this is that whilst all households housed by housing associations must be in housing need, they are not required to house those in greatest need first. Thus, there is an opportunity for housing associations to devise a lettings system that meets the criteria of equity, transparency and efficiency, whilst at the same time aiming to create and maintain a mixed community.

This paper proposes a model of lettings that meets the above criteria and overall aims, and combines elements of the following: prioritising households in the greatest housing need; introducing an element of choice; and applying the concept of community lettings.

According to this model 75 per cent of lettings would be allocated to people via nomination from the local authority housing waiting list (which is what happens now, although the precise mechanism varies somewhat between local authorities). The other 25 per cent of lettings would then go to households who may have a lower housing need (although they must be registered on the local housing waiting list) but fulfil other criteria.

Appropriate criteria might include:

- people who are in work or have been involved in economic regeneration, or can make some other economic contribution
- people with a personal local connection
- people who need to move to be closer to their place of work, especially key workers
- people with family connections, especially where support is a factor, for example assistance with childcare or care of elderly people
- people with experience of locally-based community activity.

These would need clarification and amplification before they can be incorporated into a lettings system. Phrases such as 'local connection' and 'key worker' would need to be defined carefully to

create a system that is workable, comprehensible to prospective tenants and transparent. In order to maximise the transparency of a community lettings system, a housing association should produce a clear statement of how this process of lettings is administered and how decisions are made. Furthermore, it would be necessary for the housing association to monitor such lettings very carefully in order to ensure that discrimination, unintentional or intentional, did not occur. If the housing association was subject to the regulatory regime proposed in Chapter 4, it would be required in any event to produce a written policy on its lettings system. Housing associations would want to consult with their existing tenants before introducing such a system.

It is proposed that these 'community' lettings should be advertised locally together with the criteria applicable, and that people be encouraged to apply for these vacancies. A lettings system such as this could, along with other initiatives outlined below, play a significant part in creating and maintaining successful communities.

## 5.6 Security of tenure and other rights

Security of tenure in Ireland varies very widely between tenures. Owner-occupiers, especially those who have paid off their mortgages, have an extremely high security of tenure; however at the other end of the scale, housing association tenants, private rented sector tenants and local authority tenants currently have virtually no security of tenure and may be evicted quite arbitrarily without being given any reason whatsoever, provided the landlord follows the correct procedure. Recovery of possession by local authorities is taken under the Housing Act 1966, whereas recovery of possession by housing associations and private landlords is taken under various Landlord and Tenant Acts.

Most housing association tenants have periodic tenancies. The tenancy comes to an end at the expiry of a Notice to Quit which must give at least twenty-eight days notice. If the tenant refuses to leave after this period, the housing association may take ejection proceedings, usually in the District Court. Once the court has satisfied itself that the correct procedure was followed, it *must* award possession to the housing association. There is no hearing on the merits of the case and the court has no discretion.

It is worth remembering that absolute security of tenure does not exist. Owner-occupiers' security of tenure has limits: a mortgagee who defaults on her/his payments may end up losing her/his home; even a freeholder with no mortgage may, if she/he is very unlucky, find his/her home the subject of a compulsory purchase order.

It is striking that in the admittedly slim literature on social housing in Ireland there are very few references to security of tenure. There has of course been a much wider debate about security of tenure in the private rented sector, most recently in the *Report of the Commission on the Private Rented Residential Sector*, which amongst other things recommends a modest increase in security of tenure (DOELG, 2000a). This has been accepted by the current government and legislation to implement it is promised within two years. However, although housing association tenancies are currently regulated by the Landlord and Tenant Acts, it is thought that the legislation will explicitly exclude housing association tenancies.

So whilst there has been a debate about security of tenure in the private rented sector, the public and political debate about social housing is almost exclusively about increasing output rather than increasing tenants' rights. Critiques of security of tenure are almost non-existent, except in so far as they relate to the Housing (Miscellaneous Provisions) Act 1997, which provides local authorities and housing associations with powers to tackle anti-social behaviour through excluding orders, powers to refuse to let or sell a property, the removal of squatters and the refusal or withdrawal of Social Welfare Allowance. But even in this instance, where local authorities have been criticised for allegedly evicting drug users rather than drug pushers, there has been no call for general security of tenure for social housing tenants (*Irish Times*, 19 December 1997).

It is important to emphasise here that there is no evidence of arbitrary eviction by local authorities or housing associations and tenants are assured by their landlord that this will not happen so long as they behave themselves. However, the fact of such an imbalance of rights between landlord and tenant can only reinforce tenants' perception that they should be grateful to have a place to live in at all; and that they are entirely dependent on the good-will of their landlord if they want to continue to live in it.

This paper, therefore, proposes that housing associations should take a lead on this and provide their tenants with legally enforceable



security of tenure and additional rights. This would be provided by a contract between the housing association and the tenant. It is suggested that grounds for possession might include

- rent arrears
- nuisance, including racial harassment and anti-social behaviour
- having obtained the tenancy from another tenant on payment of a premium.

Of course, a housing association may need possession if it is planning to demolish or refurbish the dwelling, in which case alternative housing would be offered. In addition, it is suggested that a package of tenants rights might include the following:

- the right to quiet enjoyment
- the right to exchange
- the right to take in lodgers with the housing association's consent
- the right to make improvements with the housing association's consent
- the right to participate in an equity tenant scheme
- the right to certain information
- the right to pass the tenancy on to children and prescribed relatives in the event of the tenant's death.

'Fixity of tenure' was granted to tenant farmers in 1881. If it was a legitimate aspiration then, it should surely be granted to social housing tenants over a century later.

The rights outlined above, which mirror some of the rights enjoyed by owner-occupiers, would go some way to reducing the equity gap between social housing tenants and owner-occupiers.

### **5.7 Rental systems**

An efficient and effective rental system for social housing should have the following features:

- it should be affordable, that is people on low incomes are able to live in good quality housing
- there should be no employment or poverty traps
- it should be understandable to tenants
- there should be a close link between rents and qualities tenants value in properties

- the same system should apply to housing associations and local authorities.

Currently both local authorities and housing associations operate a differential rent system in which payments made by tenants are directly proportional to the household income, subject to a minimum and maximum. The particular system used varies somewhat between local authorities and housing associations, but the principle is the same. The differential rent system has two very substantial advantages: it is affordable and there are no employment or poverty traps.

However, the system also has a number of significant disadvantages. First, it does not relate at all to the dwelling being rented, so that two identical households with identical incomes living in two different types of housing pay exactly the same rent. This militates against choice, or rather it skews any choice prospective tenants many have. In addition, because the rent is based exclusively on the household's income, tenants do not relate their rent payment to the quality of their home. Second, it is extremely complex and time consuming to administer, and requires housing associations to gather a great deal of information about their tenants' income. Finally, in the current system housing association's rental income is unpredictable. In fact, under the current financial arrangements, there is a clear financial incentive for housing associations to house higher income households in preference to lower income households.

There has been very little debate about the merits of the differential rent system, and even less research. This is probably partly on the principle 'if it ain't broke, don't fix it'. Whilst this is an admirable precept, sometimes it becomes an excuse for inaction.

The way in which the differential rent system skews choice seriously inhibits the development of social housing as a tenure of choice. If the introduction of greater choice is to mean anything, it is highly desirable that there should be a close link between rents and qualities tenants value in properties. In the absence of such a link, a prospective tenant, offered a choice of two dwellings, one of which is more attractive than the other, will always choose the more attractive one because there is no financial benefit to choosing the less attractive dwelling.

The effect then of the differential rent system is that households do not equate their payments for housing with the rest of the

household's economy. There is no trade-off in choosing, for example, an older cheaper house over a newer more expensive house, in accordance with the household's wider priorities. This is a choice that practically all prospective owner-occupiers have to make.

There is, therefore, a very strong case to be made for a complete overhaul of the rental system; replacing the differential rent system with a national rent structure in which rents are related to qualities tenants value in properties. In doing so it is most important that the significant advantages of the current differential rent scheme – affordability, and the absence of poverty and employment traps – are retained.

There are a number of different rental systems that might be considered. Broadly, they break down into four types.

- Rents based exclusively on affordability. This is, of course, the basis for the differential rent system. Interestingly, it was explicitly rejected in Britain's Housing Green Paper for precisely the reasons given above (Department of the Environment, Transport and Regions, 2000).
- Discount on private rented sector market rents. This has considerable practical difficulties, not the least of which is that private rents would in many areas be a very unreliable benchmark on which to base social housing rents.
- Relating rents to property values. Variants on this system include taking account of local average earning, or amalgamating property values and landlords' running costs. Although using property values has some merits, in taking account of the real values placed on location, condition, proximity to facilities and so on in the present climate of spiralling house prices it would clearly be impracticable.
- Setting rents using a points system. Points might be allocated depending on the size of the dwelling, its age, state of repair, whether it has a garden, central heating, a garage and so on. This provides a clear link between rents and quality but has a potential drawback in that it is difficult for a points system to take account of location.

Clearly, further work is needed before opting for a new rental system, but taking account of the particular circumstances in Ireland a rental structure based on a points system may well be the best way forward. This would of course have significant implications for affordability. In particular, if such a system were implemented, it would be necessary to provide assistance with rent for households that are in employment but on low incomes. This could be done most effectively through a taper in which as household income increases, assistance with rent decreases, until it disappears altogether.

Eleven years ago Mills (1989) suggested something very similar. He proposed that the Social Welfare Assistance scheme should be extended to include the provision of rent/mortgage supplements to households in employment on low incomes and to such households in local authority housing. In a burst of optimism Mills (1989:71) went on:

This need not necessarily lead to massive inconvenience for administrators and claimants. People who establish an entitlement could have their rent reduced by the appropriate amount. The budgetary adjustment could be made at the end of the year by a stroke of the pen in the Department of Finance.

This proposal raises some difficulties and a detailed feasibility study would be necessary in the first instance. However, the benefits of a new system would be substantial, and furthermore would have the potential, by having a common rent assistance scheme across tenures, to move to a situation in which rent assistance would be tenure neutral. Identical households in identical private rented, housing association or local authority housing would be in the same financial position.

### **5.8 An equity tenant scheme**

Tenant purchase came early in Ireland and was a direct response to an extremely effective tenants' campaign (the Land League) run by Michael Davitt and Charles Stewart Parnell. Parnell, speaking in 1879, looked forward to a time 'when by purchasing the interests of the landlords it might be possible for every tenant to be the owner of the farm which he at present occupies as tenant...' (Lyons, 1979). The 1881 Land Act gave tenants the famous 3Fs: fixity of tenure, fair rent and free sale. The introduction of rent control squeezed

landlords' profits and so encouraged them to sell to their tenants. Tenant purchase was further encouraged by making public loans available to purchasing tenants.

The 1903 Wyndham Act took this a step further by providing compensation to landlords who sold their land and low interest rate loans to purchasing tenants, which meant that their mortgage payments were less than their rents. As Fraser (1996) comments, 'The result was the formation of a new peasant proprietorship and the steady extinction of the Anglo-Irish landed class'. Lyons (1971:271) adds a more cynical note: 'The feudal aristocracy gave way, not to any proletarian dictatorship, but to a rural bourgeoisie in its own way as conservative as the landlords it had displaced – a bourgeoisie composed for the most part of small farmers clinging immovably to their patches of ill-cultivated land...'

The principle of tenant purchase was not only established early but was also inextricably bound up with the struggle for Home Rule. The Land League's call for 'the land of Ireland for the people of Ireland' was a very potent symbol, offering the possibility of both liberation from Anglo-Irish landlords and enhanced status and self-respect for the peasantry.

Therefore, over a hundred years ago, owner-occupation was seen as a perfectly legitimate and achievable aspiration for rural tenants, and indeed this policy was supported both politically and financially by the British state. Perhaps it is here that the origins of Ireland's housing policy, which has given overriding priority to maximising owner-occupation at whatever cost, may be found.

The sale of local authority housing to tenants has long been a feature of Irish housing policy and is a policy that has been followed with great enthusiasm, offering ever greater discounts and improvements to the scheme to increase the number of owner-occupied households (Corcoran, 1989). The right to buy has, not surprisingly, been extremely popular with tenants, and it is supported by all the main political parties. However its benefits have been questioned by a number of commentators, including the NES (1999), O'Connell (1994) Fahey and Watson (1995) and O'Sullivan (1998). Power (1994:3) notes that the Right to Buy in Britain

... has largely failed to increase the social mix or social stability of the least popular estates in major urban areas and it has made council housing generally poorer.

Currently housing association tenants do not have the right to buy their homes. However, it is likely that as the sector increases in size, there will be political pressure to extend this right to include housing association tenants. It is of course important to stress that pressure will be there not only for the right to buy, but also for the right to buy at a substantial discount, mirroring the local authority scheme. The right to buy without a discount would mean little to the vast majority of tenants who could not afford to pay the market value of their home.

It is important to examine the consequences of the hypothetical introduction of a scheme which matched the current local authority scheme.

- It would constitute in effect a substantial additional subsidy to the housing association sector. For if a house were sold at a discount the gap between the discounted price and the outstanding mortgage would have to be met by the DOELG. If this were not guaranteed, housing associations would quickly find themselves in very serious financial difficulty.
- It would further distort the housing market. Any introduction of subsidies into a market would have the effect of increasing demand (Tansey, 1989).
- It would have the effect of increasing residualisation by offering very considerable state subsidies to those with enough income to buy at a discount, but denying these same subsidies to those on lower incomes (NESC, 1999).
- It would reduce the rented social housing stock at a time when demand far outstrips supply and is growing.
- If such a right were exercised by tenants in any number, it could pose serious housing management problems for housing associations.

This paper, therefore, rejects an extension of the local authority right to buy scheme to include housing association tenants. It is worth noting here that the Thatcher government in Britain, which promoted tenant purchase with great zeal, did not succeed in extending this right to all housing association tenants. Whilst some RSL tenants do enjoy a right to buy scheme on the same basis as local authority tenants, many RSL tenants are entitled to a 'right to acquire' which offers a far less generous discount than the 'right to buy' scheme, and it is believed that take-up has been low.

However, the issue must be addressed. Firstly, it is undesirable for housing association tenants and local authority tenants to have fundamentally different rights. Secondly, there is a need to offer a realistic alternative to the implementation of a tenant purchase scheme on the same basis as that enjoyed by local authority tenants. Reducing the discounts available to local authority tenants or taking away their right to buy is not likely to be a politically attainable proposition. However, introducing a way in which housing association tenants would be able to purchase a proportion of the capital value of their home, which they would be able to realise on moving out by selling back to the housing association, might provide an answer.

The proposed scheme would work like this: a tenant would be given the opportunity of purchasing a proportion of the capital value of the dwelling, perhaps between a quarter and a half, on a leasehold basis. The tenant would continue to pay rent on the remaining proportion.

The mortgage agreement would have a number of covenants:

- the tenant would not be able to sell her/his share of the dwelling until she/he ended the tenancy and moved on, except with the agreement of the housing association
- when the tenancy was ended and the tenant moved on she/he would have to sell her/his share of the dwelling and the housing association would guarantee to purchase the tenant's share at current market value.

The housing association would be required to maintain a special Capital Sales Account containing receipts from sales, from which purchases would be funded. The account would be ring-fenced, that is it could not be used by the housing association for any other purpose. The advantages of this proposal are as follows:

- tenants would be able to secure a financial stake in their home if they wished, which they could realise when they moved on (this does not, of course, guarantee a profit any more than any other form of house purchase)
- the market would not be distorted by incentives in the form of discounts. No-one would get a particular advantage over anyone else
- the housing association would not lose the dwelling
- the scheme does not involve any subsidy.

There are clearly issues that would need to be addressed in the proposal's design. For example: should the lease be a full repairing lease? What would happen to a tenant who transferred to another tenancy from the same housing association? A particular issue is the housing association's exposure to financial risk in operating a scheme like this. As long as the Capital Sales Account remains in credit all would be well and whilst there is a steady flow of both sales and purchases the account would remain healthy. However, there are circumstances in which funds may run low. If, for example, the private housing market was rising *and* a large number of tenant/purchasers decided to leave and sell their share back to the housing association at the same time *and* they were not replaced by large numbers of new purchasers, the Capital Sales Account could fall below a safe level. It would be necessary to determine the likelihood of this happening and what should be done in that event. One possible arrangement would be the establishment of a national Capital Sales Account operated by the DOELG. Alternatively, there are a number of measures housing associations could take either to regulate demand in order to reduce significantly the likelihood of the Capital Sales Account falling below a safe level, or in response to the Capital Sales Account approaching an unsafe level:

- housing associations could set a maximum number of sales to tenants for an initial period, and limit subsequent sales to the number of purchases, so that each purchase by the housing association of a tenant's share would be matched by a sale to a tenant from a waiting list
- housing associations could designate specific properties as buy/rent properties
- following the purchase of a share back from a tenant, housing associations could decide only to let that dwelling to a tenant who agreed to become a tenant/purchaser.

Each of these has some disadvantages and may in any event not be necessary. Similar schemes operate in the Netherlands, and in England the government is committed to introducing 'an early stake' scheme. This will enable tenants, especially those on low incomes, to have a financial stake in their home that is different from conventional ownership.

The proposal is presented in outline only; more work will be required to develop a practicable scheme. However, a scheme such



as this has the potential to enable tenants to have a financial stake in their home if they wish and at the same time prevent a loss of social rented housing.

## Conclusion

This paper has set out to address two issues:

- the obstacles preventing housing associations from increasing substantially their output to meet the targets set out in the NDP
- residualisation in social housing, and the unpopularity of social housing compared with owner-occupation.

So far as the first is concerned, this paper has argued that the development process must be streamlined by a transfer of responsibility from local authorities to some housing associations. A two-strand approach has been proposed, in which housing associations that have or plan to have a substantial development programme would be eligible to apply for Authorised Developer status. Such housing associations would be able to deal directly with the HFA and the DOELG rather than via local authorities. Local authorities, would, however, be required to approve all housing associations' housing schemes, but using new specific criteria. This aims to ensure the continued provision of valuable support and guidance to housing associations that need it; and at the same time remove the constraints that currently impede development programmes of other housing associations. The second strand of this approach is a proposal to establish a regulatory regime for housing associations that dovetails with the proposal for Authorised Developer status.

Combined, these measures would assist in expanding the capacity of housing associations to meet the targets set out in the NDP. At the same time, the proposed regulatory system would protect tenants and public funds, ensure that government priorities are delivered and would act as a confidence-building measure for other organisations.

The second issue has demanded a rather different approach. This paper has argued that the twin and related problems of a concentration of socially excluded households in social housing and social housing's relative unpopularity compared with owner-

occupation are the biggest challenges facing social housing policy-makers and providers in Ireland. These problems should be tackled with a package of measures including: lettings policies; security of tenure and other rights; rental systems; and an equity tenant scheme.

It is important to acknowledge that action in this area by housing associations acting alone must be seen as a spearhead to change across the social housing sector so that all social housing tenants – housing association and local authority – may benefit. Furthermore, the limitations of independent action by housing associations to tackle residualisation must be recognised. The relationship between social exclusion and housing is a complex one, and the landlord/tenant relationship is only one of a number of critical factors. Notwithstanding this, the implementation of such a package would help to reduce the equity gap between social housing tenants and owner-occupiers, and make social housing a tenure of choice rather than the tenure of last resort.

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