



NUI Galway
OÉ Gaillimh



Supporting the Irish housing system to address housing market failure

Cost Rental Housing and Services of General Economic Interest (SGEI)



Executive Summary

- There is a clear and demonstrable gap in the market supply of affordable rented housing in Ireland.
- There is a long accepted general/public interest in ensuring the availability of affordable rented housing in Ireland.
- EU rules on Services of General Economic Interest (SGEI) allow Member States to support their housing systems to address market failure.
- Defining the housing services to be provided as an SGEI is a Member State competence, and the European Commission only intervenes where there is a 'manifest error' by the Member State, in its interpretation of the SGEI rules.
- Irish State support in this area has been recognised as an SGEI in EU law for twenty years.
- Approved Housing Bodies (AHBs) have benefitted from this recognition, and have expanded their housing provision to now include cost rental housing.
- Cost rental housing should clearly target those households who are excluded from the private rented sector, or who cannot access housing at affordable rents, especially those in Income Deciles 4–8. As such, it is a proportionate response to the demonstrable gap in the Irish private rented market.
- Cost rental housing in Ireland, as well as addressing market failure, has a key role in supporting a functioning stable housing system, especially in the supply of new high quality homes.
- The introduction of cost rental housing is very much about reflecting the evolution of the Irish housing market, addressing key housing market failures towards a defined cohort of household, and is aligned to the SGEI parameters that Irish Governments have defined over two decades.
- Irish AHBs are ideally suited to the provision of cost rental housing as their objectives are entirely compatible, and there is no conflict of interest between shareholders and tenants.
- The long term general/public interest mission of Irish AHBs underpins the long term security of tenants, but also the maturation guarantee, which is essential for the cost rental model to succeed in Ireland.
- To achieve more certainty on the delivery of affordable cost rental (and to move beyond an annual expression of interest) it is recommended to have an ongoing multi annual cost rental delivery programme to enable AHBs and their stakeholders to facilitate greater delivery in a more strategic way.

Affordable 'cost rental' housing is set to become a specific category of long-term rented housing in Ireland. It is targeted at households who cannot afford to purchase a home, but who may be ineligible, or who choose not to avail of social housing supports under the Housing Acts. Approved Housing Bodies (AHBs) – common known also as non-profit housing associations in Ireland, and internationally, are ideally suited to the provision of this new housing model, for a number of reasons. The publication of the recent European Semester Report (2020) for Ireland by the European Commission explicitly included a recommendation to increase the delivery of social and affordable housing.

Of course, access to adequate and affordable housing is a significant public policy issue, not just in Ireland, but across European cities. The European Union has a role in relation to standards, financial regulation and in supporting Member States housing policies. The European Commission recognises Member State discretion to define, organise and finance their social and affordable housing. Such housing can play a part in the realization of the housing rights recognised across European countries, while the EU internal market/competition law and State Aid rules are also significant.

The EU Treaties prohibit State Aid which could distort competition, but some State Aid is permitted to designated SGEIs. These are economic activities, which deliver outcomes for the overall public good, that would not be supplied (or would be supplied under different conditions in terms of quality, safety, affordability, equal treatment or universal access) by the market, without public intervention. The explicit designation of an economic activity, with a public interest mission, as an SGEI, by a Member State, is recognised in EU law.

Since the construction and management of housing is regarded as an economic activity, Member States must define their social, affordable, or cost rental housing in terms of a public interest mission, and an SGEI. The Commission role is to check if the State has made a 'manifest error' in this classification, but the 'provision of social housing for disadvantaged citizens or socially less advantaged groups, who due to solvency constraints are unable to obtain housing at market conditions' is specifically recognised by the Commission as an SGEI.

This eligible SGEI criteria has been applied to preferential loans from the Housing Finance Agency (HFA) to local authorities and AHBs, in 2001 and 2004, respectively. The beneficiaries were socially disadvantaged households whose economic circumstances did not permit them to purchase or rent houses on the open market, and they were unable to get a mortgage. The European Commission Decisions on SGEIs found that Irish AHBs were active in the 'real estate market' but their non-profit nature, public interest mission and application of assets for charitable purposes was significant. State funding was limited to the amounts necessary. More recent Decisions relating to The Netherlands require that the public interest mission be precisely defined in terms of the target group, which must be socially disadvantaged in some way.

Competition Commissioner Vestager, in 2017, has stated that to be an SGEI, "social housing must respond to a public need: the provision of accommodation to disadvantaged citizens or socially less advantaged groups who due to solvency constraints are unable to obtain housing at market conditions. Member States may not define a social housing SGEI so broadly that it manifestly goes beyond responding to this public need."

In relation to affordable cost rental as an SGEI in Ireland, it is important to establish the public interest mission, define affordability, identify market failure, clarify the role of AHBs, and establish the relevant State housing policy measures. The public interest mission for social and affordable housing in Ireland is set out in the Housing (Miscellaneous Provisions) Act 2009, and other legislation, including the Affordable Housing Bill 2020, which facilitates the provision of housing support and cost rental housing. Such State support includes some 26,000 units of subsidised home ownership in the first decade of this century.

There is a legally defined metric of affordability in the Housing (Miscellaneous Provisions) Act 2009 at 35% of net household income. Data on private sector rents show that those in Income Deciles 1–8 cannot afford average rents in Dublin, although other metrics can also be used (See Appendix 6) and this has been widely acknowledged as market failure. However, the eligibility thresholds for social housing support in Ireland (last set in 2016) comprise three geographic bands, and are confined largely to the lowest four Income Deciles. There were over 60,000 households on waiting lists for social housing support in 2020. This leaves a great many people in an unaffordable 'rental trap', who are not eligible for social housing support, and this is the cohort whose needs could be met through cost rental.

The housing policy measures promoting affordable cost rental can also be found in *Rebuilding Ireland* (2016) and the *Programme for Government* (2020). These refer to the Vienna model of cost rental, whereby the principle of maturation enables additional rental properties to be developed by non-profit housing providers, based on a pooling of rents, resulting in small overall increases. It can be contrasted with the for-profit approach of setting rents at maximum market levels, which may not reflect costs of production of the housing. The European Commission Semester Report for Ireland (2019) recommends that Ireland take action to invest in affordable and social housing.

Draft legislation and significant funding establishing 'cost rental' tenancies in Ireland has now been commenced, with one scheme nearing completion. The target group are those who cannot access affordable rented (or purchased) housing due to their income level and high market costs. Rents will be set at 25% below market rents and will cover development, management, maintenance and life-cycle costs.

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