



An Roinn Tithíochta, Pleanála agus Rialtais Áitiúil
Department of Housing, Planning and Local Government



Mr. Conan McKenna
Assistant Secretary
Civil Law Reform and Courts Policy
Department of Justice and Equality
Bishop Square
Redmond's Hill
Dublin 2

16th February 2018

Dear Conan,

I refer to your recent correspondence in relation to the review being undertaken of the Administration of Civil Justice in Ireland. This Department welcomes the review and wishes to offer the following input.

Encouraging alternative methods of dispute resolution.

In relation to this heading, it is well-known that certain building defects have emerged in houses and apartments built during the so-called 'Celtic Tiger' years. Common problems have included major structural and fire safety defects in apartment blocks and housing estates, the pyrite problem and problems with defective blocks. Issues range from non-compliance with the Building Regulations to instances of significant damage. In many cases it is a distressing situation for homeowners, who can find themselves facing significant remediation costs. Often there is no effective legal recourse or, by the time the defect or damage is uncovered or manifests, the owners may be statute-barred from taking any action.

This issue has been the subject of recommendations in a number of reports, including:

- *Safe as Houses: A Report on Building Standards, Building Controls and Consumer Protection* - published by the Joint Committee on Housing, Planning and Local Government on 24 January 2018, and
- Report of the Pyrite Panel - June 2012 (Recommendation 20: Statute of Limitations).

The Law Reform Commission has carried out some work in this area previously and it has been the subject of recommendations in the following reports:

- Report *Limitation of Actions* - (LRC 104 - 2011).
- Report on the Statutes of Limitations: Claims in Contract and Tort in respect of latent damage (other than personal injury) – (LRC 64 – 2001).
- Report on Defective Premises - (LRC 3 – 1982).

In addition, we are aware that a recent Supreme Court judgement, given on 15 November 2017, discussed the issue of Statute of Limitations in this area and, though the written judgement has not yet been delivered to date, we understand that the Court found that the key date for the Statute of Limitations when bringing a claim in tort for property damage is the date of the manifestation of damage from defective work, rather than the date of the defective work itself.

The Department has introduced a number of reforms to the Building Control Regime which ensure stronger oversight of building projects by industry and local authorities. The new Regulations support competence and professionalism on site and make owners, designers and construction professionals accountable for ensuring their building is in compliance with the requirements of the building Regulations. In addition, steps are being taken to improve local authority building control administration and inspection activity; arrangements for the statutory registration of construction professionals are fully operable; a voluntary register of builders has been created; draft heads of a Bill to place this register on a statutory footing have been agreed by Government and the Bill has been identified as one of the Department's legislative priorities.

The proposed changes represent a considerable step forward in terms of ensuring consumers are delivered quality homes, however, further consumer protection measures may be worth considering also e.g. consumer-orientated insurance products for construction projects; affordable and speedy alternatives to civil legal actions; statute of limitations restrictions; and capacity to deal with unscrupulous operators under company law.

The following reports prepared by the Law Reform Commission are also relevant to this issue:

- Report on Consumer insurance Products (7 July 2015); and
- Report on Alternative Dispute Resolution: Mediation and Conciliation (16 November 2010)

If you would like to discuss any of the above issues further, please contact Catriona O'Grady in the Strategic and Business Support Unit via email at Catriona.O'Grady@housing.gov.ie or by telephone at (053) 911 7469.

Please note that Agencies/Bodies under the Department's aegis and the Local Authority Sector have been requested to respond directly to your working group in relation to this request.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Fiona Quinn', written in black ink.

Fiona Quinn
Assistant Secretary
Head of Corporate & Business Support