



An Ghníomhaireacht
Tithíochta
The Housing Agency

Affordable Purchase Housing in Practice

Chair:

Catriona Lawlor, The Housing Agency

Speakers:

- Kevin McFlynn, Legal Advisor, The Housing Agency
- Trish Matthews, Fingal County Council
- Laura Behan (Head of AHF & LDA Affordable Delivery, Department of Housing)

Affordable Purchase - Resources



Public:

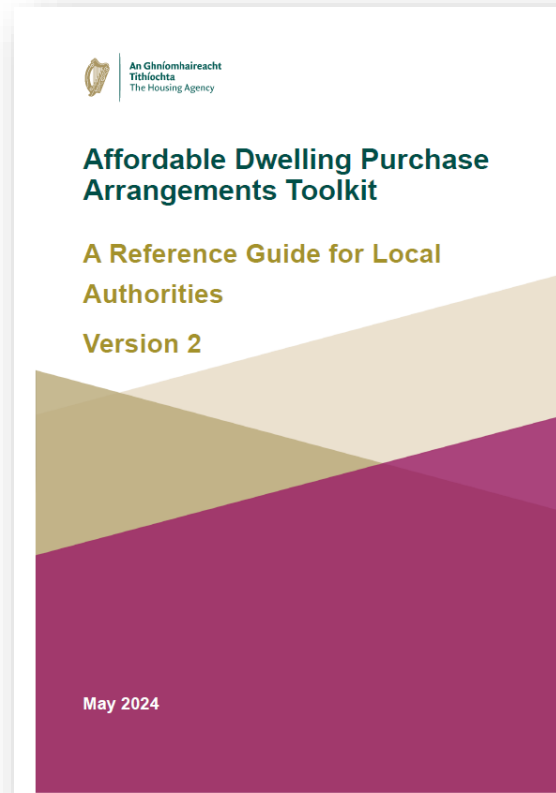
www.affordablehomes.ie



The Housing Agency

Local Authority:

www.housingmanual.ie



Practitioners' Teams Channel



- HDCO/ Housing Agency Microsoft Teams Channel for local authority affordable housing practitioners
- Aim is to provide an improved communication platform for practitioners to:
 - share experiences and best practice,
 - build relationships, and
 - seek assistance with queries from other practitioners, The Housing Agency and the HDCO
- Link to register on Housing Manual



Affordable Purchase Housing in Practice Conveyancing Context

Kevin McFlynn

Legal Advisor
The Housing Agency



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What is Conveyancing?

- Conveyancing is the term used to describe property transactions and the transfer of legal ownership of immovable property
- A conveyancing solicitor will represent one of the following parties:
 - Purchaser
 - Vendor
 - Lender
- The conveyancing process will generally involve 5 stages:
 - pre-contract
 - contract
 - post-contract/pre-closing
 - closing/completion
 - post closing/completion



Registered v Unregistered Title

Registered Title

- Documentary Evidence: **Folio**
- Registered in the Land Registry with a specific folio number
- Every subsequent transaction in respect of the property will be recorded and registered on the folio

Unregistered Title

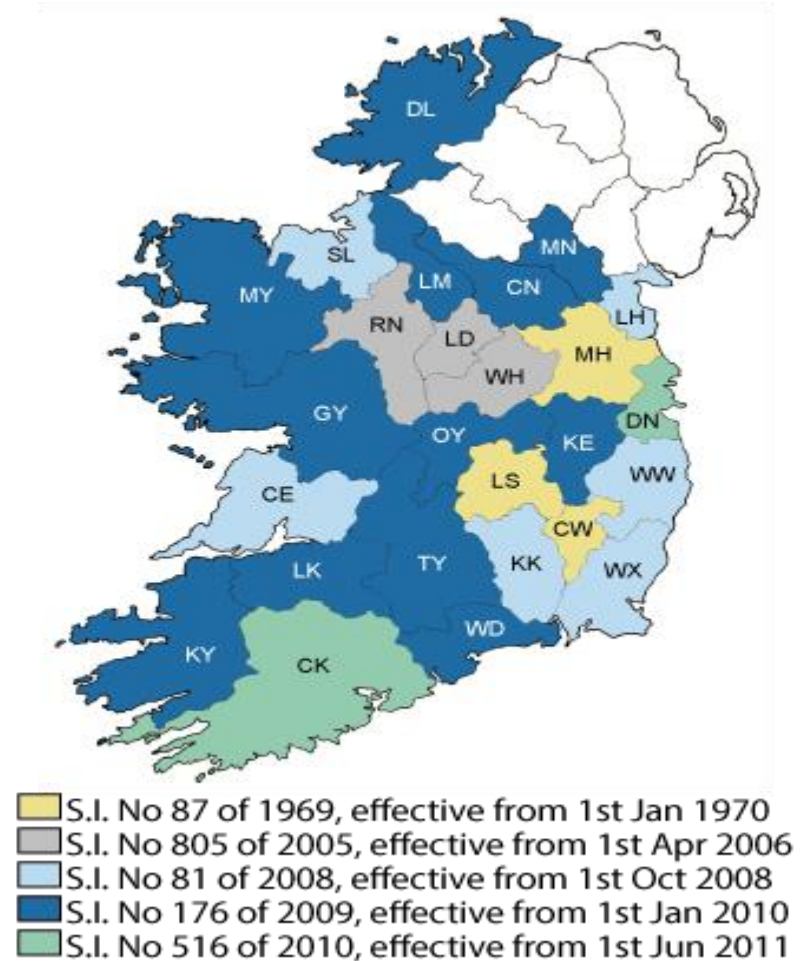
- Documentary Evidence: **Various old title documents (aka deeds)**
- Recorded in the Registry of Deeds with a specific dealing

Land Registry		Folio [REDACTED]
County Dublin		
Register of Ownership of Freehold Land		
Part 1(A) - The Property		
<small>Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent</small>		
No.	For parts transferred see Part 1(B) Description	Official Not
1	The property shown coloured Red as plan(s) DXVT4 on the Registry Map, situate in the Townland of CREMONA, in the	



Compulsory Registration

- Almost 90% of legal title in Ireland is now registered in the Land Registry
- Compulsory to apply for registration in the Land Registry of unregistered title where that property is subject to a transaction for sale
- Goal is to see an end to the old Registry of Deeds unregistered title system
- Any new build will be registered with the Land Registry and a folio will be issued



Freehold v Leasehold

On a folio **F** means freehold and **L** means leasehold

Freehold

- Owner has absolute right over the land and any buildings on the land. There is no time limit on the ownership. When the owner disposes of the freehold the new owner has absolute right over the land and any buildings on the land

Leasehold

- Means the owner owns the building and not the land the building stands on. A lease has a fixed time limit e.g. 999 years and a ground rent is payable to the owner of the land the building is built on. An example of leasehold would be an apartment block where the original developer will own the land the apartment block is built on and the owner would lease the apartment for 999 years and pay a ground rent to the original builder



Folio

Part 1A – The Property

- This sets out a description of the property (usually an address or some other identifiable feature with the use of a map) and the interest held i.e. freehold, leasehold

Land Registry

County CavanFolio

Register of Ownership of Freehold Land

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent.

For parts transferred see Part 1(B)

No.	Description	Official Notes
1	<div>The property shown coloured Red as plan(s) BAU5E on the Registry Map, situate in the Townland of DUNAREE, in the Barony of CLANKEE, in the Electoral Division of KINGSCOURT.</div> <div>The Registration does not extend to the mines and minerals</div>	From Folio <div></div>

Folio

Part 1B – Property Parts Transferred

- This sets out any new folios created from the original folio. In some cases you may see many listings on this page e.g. in the case of a housing development

Land Registry

County Cavan

Folio XXXXXXXXXX

Part 1(B) - Property Parts Transferred

No.	Prop No.	Instrument	Date	Area(Hectares)	Plan	Folio No.

Folio

Part 2 – Ownership

- This sets out the registered owner of the property. Previous owners will have a line through their names

Land Registry	
County Cavan	Folio [REDACTED]
Part 2 - Ownership	
Title ABSOLUTE	
No.	The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965
1	24-MAY-2010 [REDACTED] and [REDACTED] [REDACTED] are full owners.

Folio

Part 3 – Burdens and Notices of Burdens

- This sets out any mortgages, charges, inhibitions registered to the property. As with Part 2, if the wording has been struck through, the burden or notice of burden has been lifted

Land Registry

County Cavan

Folio [REDACTED]

Part 3 - Burdens and Notices of Burdens

No.	Particulars	
1	24-MAY-2010 [REDACTED]	The property is subject to rights, covenants and conditions relating to the use and enjoyment of the property.
2	24-MAY-2010 [REDACTED]	Charge for present and future advances repayable with interest. [REDACTED] is owner of this charge.

Important Terms



Affordable Dwelling Purchase Agreement:

An agreement signed by the purchaser and the local authority setting out terms and conditions. The content of this agreement is prescribed in regulation 6 of S.I. 21/2023 and a standard template agreement has been prepared for use by local authorities.

Form 52:

Land Registry form to create a specific charge for present and future advances arising on the creation of a commercial mortgage or debenture. This is available to download from the [Property Registration Authority Website](#) and should be completed for all affordable homes.

Inhibition on title:

The registration of an inhibition prevents any dealing with the lands for a time, or until the occurrence of an event specified, or except with the consent or notice to some specified person. The registration of an inhibition with the Property Registration Authority by the local authority prevents the sale or re-mortgaging of the property without the consent of the local authority.

Important Terms



Long stop date: The long stop date is the date before which a housing authority cannot seek to realise its equity share except for breaches of the affordable dwelling purchase arrangement. Regulation 6(5) provides that the period between the making of the agreement and the long stop date will be at least 40 years. The long stop date is specified in the Affordable Dwelling Purchase Agreement.

Letter of inhibition:

This is to ensure that the local authority's interest under the Affordable Dwelling Purchase Arrangement is noted as an inhibition on the property.

Market Value: The price for which the property might be expected to be sold for on the open market disregarding any increase in the value of the property due to material improvements carried out by the purchaser and disregarding any reduction in the value of the property due to want of repair on the part of the purchaser. Defined in section 14(1) of the Affordable Housing Act 2021.

Important Terms



Realisation of equity share:

The date on which the purchaser must pay back the equity share to the local authority. The amount payable is calculated as a percentage of the market value. A "realisation event" is something which occurs to make the equity share payable by the purchaser. This is defined in the Affordable Dwelling Purchase Agreement and includes the long stop date, a breach of the agreement or if the purchaser stops using the property as their principle private residence.

Inhibition

- It is a condition of this scheme that the Local Authority will register an inhibition on the property equal to the “Affordable Dwelling Equity”, or equity share, representing the percentage discount below market value that the home is purchased for
- Inhibition will prevent any dealing with respect to the property until a certain date without the consent of the Local Authority – security mechanism
- Purchaser solicitor must lodge this with the Land Registry after completion. Local Authority should seek confirmation this is done

Conveyancing Process: Step 1

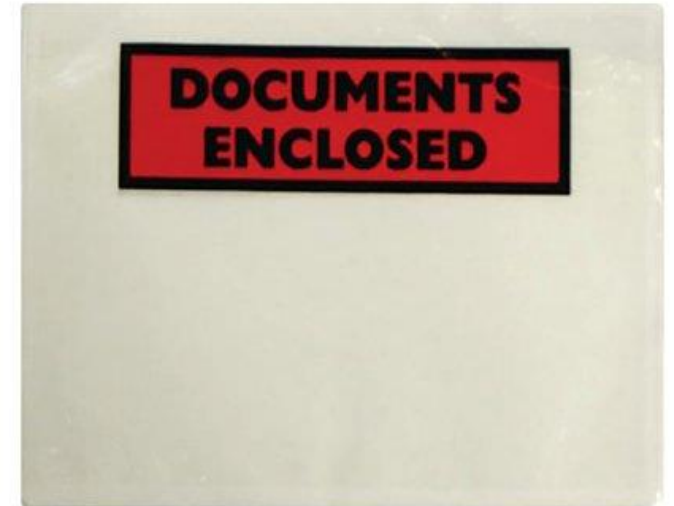
Step 1: Pre-contract

- Local Authority issues a conditional letter to the purchaser and the purchaser's appointed solicitor. This outlines:
 - Amount advanced or the affordable dwelling contribution
 - Affordable dwelling equity percentage
 - Term (period encompassed by the long stop date)
 - Homeowner's details
 - Property details (as per Affordable Dwelling Purchase Agreement)
 - Statement that any approval is conditional on securing lending from the lender
 - Eligible buyer status
 - Scheme's legal pack to the purchaser solicitor

Conveyancing Process: Step 1

Scheme's legal pack to the purchaser's solicitor

- Certificate of Title
- Undertaking from the purchaser's solicitor re entry of inhibition in the Land Registry
- Application form for the entry of inhibition in the Land Registry
- Letter signed by purchaser consenting to the entry of the inhibition in the Land Registry
- Statutory Declaration by purchaser that they fall within the eligibility criteria of the Scheme



Conveyancing Process: Step 1

Step 1: Pre-contract

- Letter of Approval will issue to the purchaser. Purchaser will instruct solicitor and provide a copy of this letter to commence conveyancing process
- Purchaser solicitor will review title to the property in question and raise any queries as may be necessary to ensure good marketable title is being obtained
- Once satisfied title is in order and the acquisition can proceed, the purchaser solicitor will return to the law department/or local authority:
 - Signed and witnessed Affordable Dwelling Purchase Agreement
 - Solicitor's undertaking
 - Letter from the purchaser confirming understanding of the inhibition and consenting to their solicitor lodging same and consenting to it being registered against title

Conveyancing Process: Step 2

Step 2: Contract

- The Certificate of Title will be returned to the lender to allow drawdown of the mortgage monies on closing
- Contract for Sale will be signed by the purchaser and sent to the developer for counter-signing along with the relevant deposit payable. Each party will hold one original part Contract for Sale. The transaction is now deemed to be 'contract-exchanged'
- All closing documentation will be agreed in advance of closing; i.e. form of Deed of Transfer, any declarations required on closing, Form 76 inhibition etc

Conveyancing Process: Step 3

Step 3: Post-contract/pre-completion

- Purchaser solicitor will:
 - Ensure all documentation to be executed for closing is executed
 - Ascertain what closing searches are required and tee up for closing
 - Transfer outstanding balance payable for closing
 - Fix a closing date suitable to all parties

Conveyancing Process: Step 4

Step 4: Closing/completion

- Review closing searches and ensure in order
- Review closing documentation and ensure in order
- Purchaser solicitor will declare sale completed
- Lodge Deed of Transfer, Form 52 Mortgage Deed, Form 76 Inhibition with the Land Registry and provide the Local Authority with the dealing number issued by the Land Registry

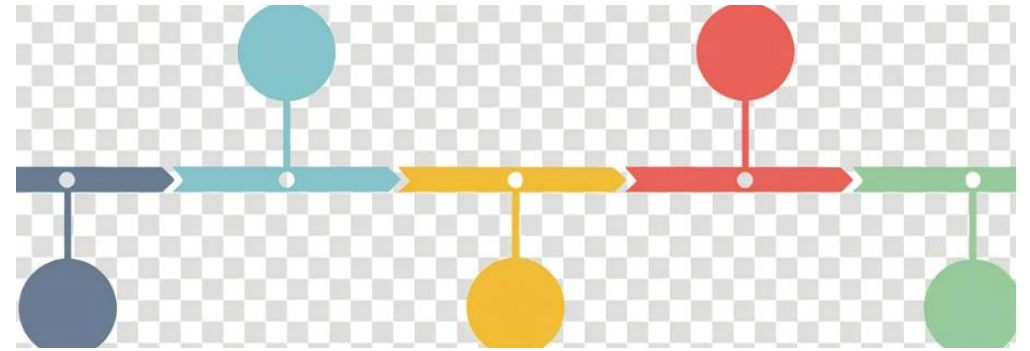
Conveyancing Process: Step 5

Step 5: Post-closing/completion

- Registration will take place – this process can take several weeks, sometimes months. Once registration completes a folio will issue to the purchaser solicitor
- Purchaser solicitor will send confirmation of this, including either the folio number or a copy of the folio itself to the Local Authority (which should also evidence the inhibition registered) and a copy of the Certificate of Title
- Purchaser solicitor updates the details of the Affordable Dwelling Purchase Agreement on a register with the property registration details

Timelines

- Stage of build
- Developer deadline pressures
- Legal
 - Anything untoward/unforeseen will delay – get your ducks in a row as best you can
 - Title review – Certificate of Title
 - Purchaser solicitor is liaising with developer, local authority, lender and their own client
- Lender's role
- All parties must be proactive as best they can – failure to do so will have knock on effect



Joint Application Requirement

Joint Application requirement

- Section 9(5) Affordable Housing Act, 2021 provides:
 - Where a person is married, in a civil partnership or in a committed relationship with a partner with whom he or she intends to reside in the affordable dwelling, he or she may not apply to purchase an affordable dwelling under an affordable dwelling purchase arrangement on his or her own but should make any such application together with his or her spouse, civil partner or partner, as the case may be
- Both applicants' names should be included on the mortgage approval in principle letter

Usual Practice

- Most lenders typically require married couples/civil partners to apply jointly for a mortgage – it is lender and circumstance specific however
- Solo mortgage application (if married or civil partners) can sometimes be made but the property will vest in that partner's name only i.e. the sole mortgage holder will be the sole title holder only – enforcement purposes
- Will non-named spouse/partner be a dependent? This will be a factor

Protections

If you reside in the property but you are not a legal owner nor named on the mortgage, are there protections afforded to you?

- Beneficial interest earned through paying the deposit, spending money on the property e.g. renovation
- Family Home Protection Act, 1976 (as amended) and Civil Partnership and Certain Rights and Obligations of Cohabitants Act, 2010 prevent one spouse/civil partner, in whose sole name the family home was vested, from dealing with the property without the knowledge and/or consent of the non-owning spouse/civil partner
- Non-owning spouse/civil partner will have an entitlement to the property in the event of divorce (of a marriage) or dissolution (of a civil partnership) irrespective if they are named on title or not
- These provisions do not apply to cohabiting couples – cohabitation agreement

Thank you



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Fingal County Council

Affordable Housing Team

Engaging a Business Partner Model – Delivery of Affordable Housing schemes



Fingal County Councils Affordable Housing Sales Team

**Comhairle Contae
Fhine Gall**
Fingal County
Council



Tricia Matthews	Administrative Officer
Fiona Smithers	Senior Staff Officer
Ashling Turley	Staff Officer
Vacant	Staff Officer
Barry Mooney Lorraine Mulhaire	Assistant Staff Officer Assistant Staff Officer
Nicole Kinsella	Clerical Officer
Ava Kane Sam Power	Clerical Officer Clerical Officer

Background



Initial Plan (January 2023):

- **18 months** to deliver **250 affordable homes**
- **50 homes** planned for delivery in 2023

Changes:

- Large developers proposed delivery of large-scale developments
- Scope increased to **942 homes** over 24 months
- Delivery of **7 different schemes** in one year

Challenges

- Resources
- Workload
- Stakeholder Expectation
- Sickness and Stress

Solution:

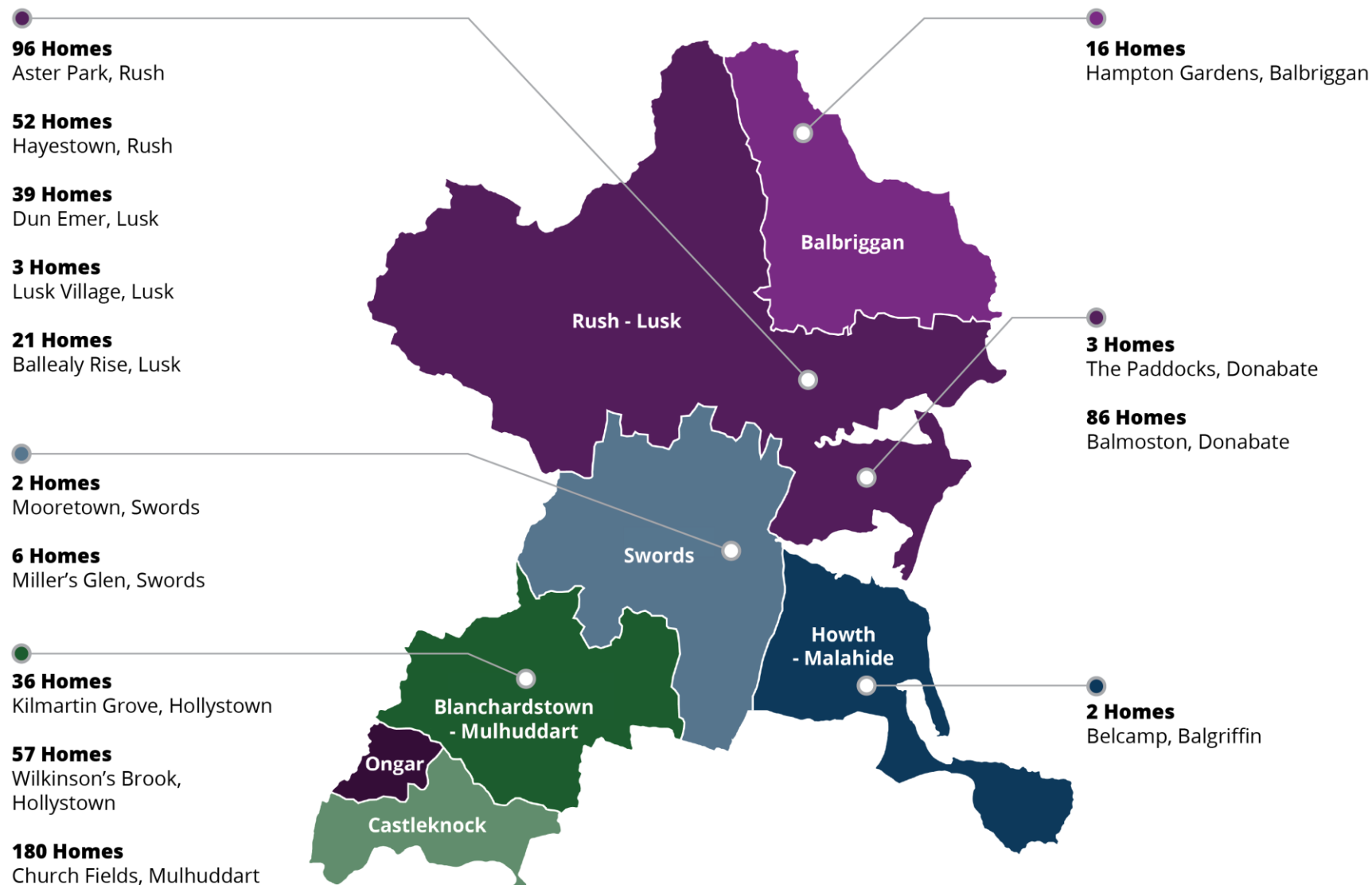
- Engage Business Partner

Fingal County Council



fingal.ie

Fingal Affordable Housing Delivery 2024



The Stats



Affordable Scheme	Available Homes	Applications received
Aster Park	96	792
Hayestown	52	271
Dun Emer	39	316
North County Home	16	376
Kilmartin Grove	36	498
Wilkinsons Brook	57	651
Church Fields	180	1108
Balleally Rise	21	340
Hampton Gardens	16	82
Balmoston	86	755

6 Team members (2024)

FCC requirements for Business Partner



Next Steps

Finding the business Partner to meet our needs

Research to identify potential partners with the right expertise and resources.

Recommendations from trusted sources provided insights potential business partner's reliability and performance..

Past Experience & Credential's

indicated ability to deliver on complex schemes.



Fingal Affordable Housing team



Business Partner's Role



Application Validation & Assessment

**Skills &
Experience**

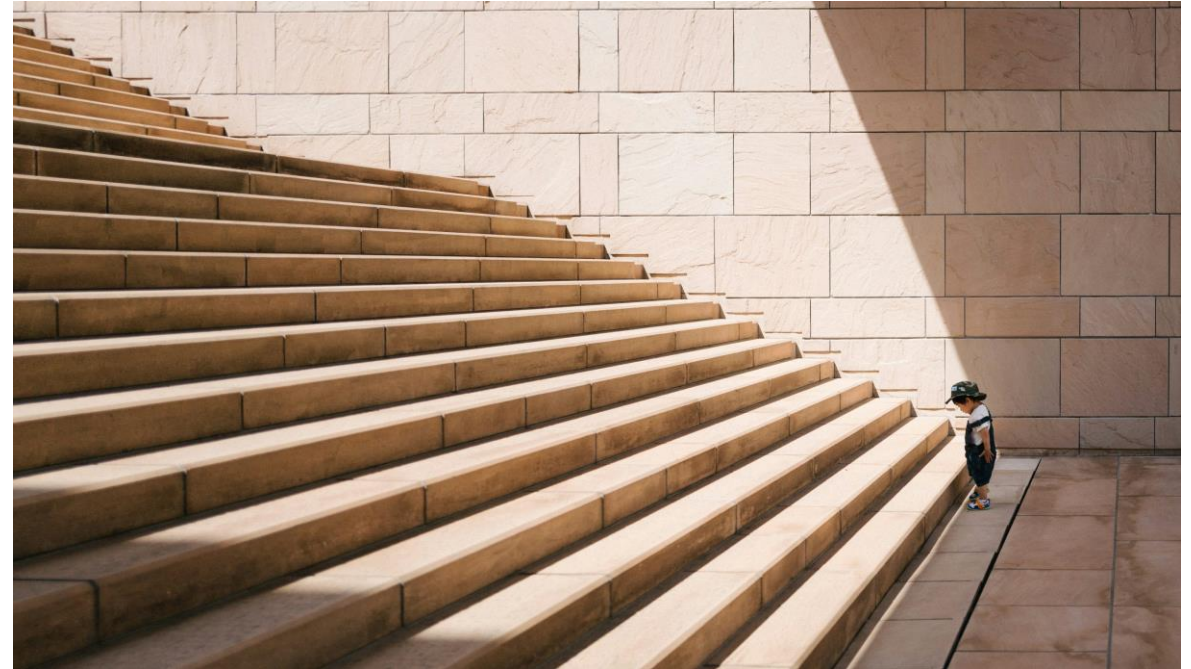
**Processes
& Systems**

**Time &
Resources**

**New Ideas
&
Efficiencies**

Key challenges

- **Urgent engagement in a complex environment**
- **Emergency Procurement**
- **Communication Barriers**
- **Alignment of Goals & Objectives**
- **Resource Management**
- **Risk Management**
- **Decision-Making**
- **Managing Costs & ensuring value for money**
- **Oversight of 3rd party role**
- **Quality Control**



Learnings



- **Establish Clear Roles and Responsibilities**
- **Set Clear expectations**
- **Develop Strong Communication Channels**
- **Align on Objectives Early**
- **Build Trust and Respect**
- **Be Flexible and Adaptable**
- **Document Everything**
- **Remain open to new ideas**

Weighing up the Costs



Impossible task

- **Challenge:** Overwhelming impossible task
- **Benefit:** Shared workload, prevented burnout and ensured efficiency and delivery

Invaluable Assistance

- **Challenge:** Lack of expertise in certain areas.
- **Benefit:** Business Partner provides crucial support and enhances project quality.

Weighing up the Costs



Skills Set & Resources

- **Challenge:** Limited skills, time and resources.
- **Benefit:** Diverse skill sets and innovative solutions.

Successful Delivery

- **Challenge:** Ensuring delivery of Affordable housing targets.
- **Benefit:** Combined efforts increase chances of successful delivery



Any Questions?



An Roinn Tithíochta,
Rialtais Áitiúil agus Oidhreachta
Department of Housing,
Local Government and Heritage

Preparing your LA Affordable Reserve Return

Laura Behan

**Head of AHF & LDA Delivery,
Affordable Housing Division**

26th February 2025

LA Affordable Reserve



- Department supports Affordable delivery with subsidy from Affordable Housing Fund.
- Grant to Local Authority not to developer or to purchaser.
- Grants to LA represent recyclable funds ring-fenced for provision of Affordable Housing.
- All funding must be accounted for – by LA and by Department.

LA Affordable Reserve – Legislative and administrative framework



S.20 of Affordable Housing Act 2021

Accounting for certain moneys received by housing authority

20. (1) The following moneys received by a housing authority shall be accounted for by the housing authority in a **separate account** which identifies the moneys as having been so received:

- (a) **redemption payments** under section 16 (1);
- (b) **payments to the housing authority** of sums representing the monetary value of the affordable dwelling equity under section 17 (9);
- (c) the remaining balance of the affordable dwelling equity recovered by the housing authority from the homeowner as a simple contract debt under section 17 (10);
- (d) moneys applied by the housing authority towards the discharge of the affordable dwelling equity, and the balance of the affordable dwelling equity recovered by the housing authority from the homeowner as a simple contract debt, under section 17 (11)(c);
- (e) **moneys applied by the housing authority in discharge of the affordable dwelling equity** under section 19 (16)(c);
- (f) the balance of the affordable dwelling equity recovered by the housing authority from the homeowner as a simple contract debt under section 19 (18).

(2) Moneys referred to in subsection (1) **shall be used by a housing authority for** all or any of the following purposes:

- (a) the **provision of dwellings** under section 6 ;
- (b) the **provision of financial assistance** under section 8 ;
- (c) the **provision of or facilitating the provision by it of cost rental dwellings** within the meaning of Part 3 under and in accordance with that Part.

LA Affordable Reserve – Legislative and administrative framework



- Housing Circular 49/2023 : Establishing LA AHF Reserve and use of AHF monies.
Robust arrangements for management & use of monies and accountability for same
- Finance Circular 5/2023 : Affordable Housing Fund.
Issued July 2023 to address the treatment of AHF for accounts purposes.
- All read in conjunction with Housing Circular 23/2021 : AHF Scheme, and follow-up circulars.

LA Affordable Reserve – Money In



LA keeps on reserve as specified purpose funding towards provision of affordable housing

- AHF subsidy not used as payment towards development costs of scheme in question.
- Redemptions / recovery of equity shares retained by LA in affordable homes (in line with Affordable Housing Act 2021).
- Part V Affordable excess funds from purchasers

LA Affordable Reserve – Money Out



Monies held in reserve can be used for –

- Cross subsidising further affordable homes within the approved scheme concerned;
- To contribute towards the development costs of further AP or CR schemes
e.g. design costs; construction costs; unforeseen costs from approved levies and procurement amendments; and additional costs under approved public levies;
- Land costs, in the case of land earmarked for the delivery of a proposed AHF AP or CR scheme;
- Making affordable homes available in the future.

Preparing your Reserve Return



- Department want to demonstrate VFM & inform future policy
- Challenges:
 - ✓ *Equity share administration will require long-term corporate memory*
 - ✓ *OMV and purchasing power vary for each transaction irrespective of standard grant payment*
- Require details of the following during reporting period
 - ✓ *For each house in every scheme transacted: Unit subsidy, OMV, Discounted affordable price paid by purchaser, Residual monies placed in reserve; and Equity share % & Value;*
 - ✓ *Equity redemption payments referencing relevant scheme and operable provision of Act of 2021*
 - ✓ *Payments made by LA from its reserve to facilitate provision of affordable housing;*
 - ✓ *Balance held on reserve.*

Preparing your Reserve Return



- First circular will seek returns for 2022, 2023 & 2024. 6 monthly thereafter.
- Not as onerous as it seems at this point -

	2022	2023	2024
Homes sold	323	499	728

- Good scheme detail in most Schedule 6 returns and relevant information can be transferred into Reserve Return.

LA AHF Reserve – Any Questions?



Thanks for your attention!



**An Ghníomhaireacht
Tithíochta**
The Housing Agency

Questions?

What's Next?

Housing Practitioners' Conference 2025

7 pm ➡ Pre-dinner Reception



8 pm ➡ Conference Dinner (Marina Suite)

Enjoy!