

Need for Regulator for OMC Sector
Discussion Paper prepared by the MUD Act Reform Group (www.mudreform.ie)
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Requirement for OMC Regulator

Paul Mooney's seminal report for the Housing Agency and Clúid Housing – *Owners' Management Companies: Sustainable apartment living in Ireland*, published in 2019 – clearly set out that its key recommendation was “that the Government establish a regulator for OMCs on a statutory basis”

According to this report the regulator's functions would be to:

- Offer guidance;
- Maintain a register of OMCs;
- Collect data and carry out research;
- Provide a dispute resolution process;
- Impose sanctions for non-compliance;
- Appoint independent directors to OMC boards where required/requested;
- Provide mandatory training to OMC directors;
- Carry out research;
- Provide emergency assistance where an OMC fails.

The MUD Act Reform Group – which is comprised of the Apartment Owners' Network and a number of Approved Housing Bodies (AHBs) with the support of the Society of Chartered Surveyors of Ireland (SCSI) – expected that this proposal to put a regulator in place would have already been acted upon emerging from the review of the MUD Act promised in the Programme for Government, which came into effect in June 2020.

However, nearly 1,300 days later, the review has not yet taken place so no action has been taken on this very pressing issue.

Urgent Need to Act

The urgency around acting on the call for an OMC Regulator has become even greater than when Paul Mooney's 2019 report was published:

- The country will be embarking on a major defects remediation scheme for multi-unit developments in 2024 or 2025 and still does not have a register in place of the OMCs that will be crucial to the management of that scheme;
- Billions of Euro in funding will likely be going through those OMCs for defects remediation works – yet many OMC boards have serious governance challenges that could put public money at risk;
- The challenge of ensuring there is adequate sinking fund provision in our OMCs for long-term maintenance work is now even greater in late 2023 than it was in 2019 as the

buildings are all four to five years older. In addition, rampant construction inflation has eaten away at the value of the funds set aside;

- And the challenge of collecting service charge debt and delivering basic services to residents remains unresolved.

Therefore, a regulator for the OMC sector is now essential.

Interim Non-Statutory Solution

While the 2019 report for Clúid and the Housing Agency rightly calls for the OMC Regulator to be underpinned by statute, given the urgent need to put a regulator in place the MUD Act Reform Group is calling for this to be done on an interim non-statutory basis and its operations funded by a levy on owners' management companies

There is precedent for this being done as the Electoral Commission commenced its operations nearly two years before it was formally established in February 2023. In that instance, Art O'Leary was appointed in early 2021 to work on the preparatory institutional and administrative arrangements for the Electoral Commission, pending its formal establishment (<https://www.gov.ie/en/press-release/289aa-appointment-of-secretary-general-to-the-president/>)

The Act underpinning the Electoral Commission was signed into law by the President on 25 July 2022 and – as was mentioned above – the Commission was formally established on 9 February 2023. Meanwhile the Commission issued its first report on the Dáil Constituency Review in August, just six months later. The Commission was able to undertake this work so quickly because it had been enabled to get underway on a non-statutory basis while the legislation underpinning it was being debated and enacted.

We are proposing that the same be done with regards to the OMC Regulator. This would enable it, for example, to put a register of OMCs in place and to address some of the pressing governance issues facing OMCs and their residents like conflicts of interest amongst OMC directors.

Copper Fastened by Legislation

Ultimately, the MUD Act Reform Group is looking for the OMC Regulator's remit and functions – as set out in the 2019 Report – to be underpinned by legislation, namely an amended Multi-Unit Development Act.

In addition, we would like the amended Act to address the need to improve the financial sustainability of OMCs – tackling service charge debt and the adequacy of sinking funds – improve OMC governance and the quality of life for MUD residents.

Ends.