

## Ireland's growing Mica / Pyrite Quarry Scandal Turning into Humanitarian Crisis for Thousands of Homeowners: -

The Mica / Pyrite debacle is now rightly being described as a Humanitarian Crisis by some commentators. Having given the issue much thought, I felt compelled to provide some perspective on the background, the issue of redress, where responsibility lies, who should pay and how political parties that have been in Government down through the years, have been complicit in creating the crisis and should of themselves be held accountable.

### 1] The Question of Redress:

- Unless and until Government unequivocally signs up to 100% Redress with no strings or caps attached, there should be **no engagement** via the “*working committee*”. It is a very simple commitment that is required. The announcement on the “*working committee*” was little more than a ploy to take the sting out of the mounting anger and to buy time, conveniently until the end of the political term. That is not good enough.
- That said, all victims should be entitled to **damages** for the sheer trauma that their families have been put through, so that means 100% **PLUS DAMAGES**.
- Damages are however simply unachievable due to a host of Barriers to Justice that exist in the Irish Legal system. For example, Ireland does not provide for: -
  - (i) Class Actions
  - (ii) Third Party Funding of Litigation
  - (iii) Assignment of Claims to third parties (accept in exceptional circumstances)
  - (iv) Contingency Fees for solicitors

The big problem facing would be litigants is the “***Maintenance and Embracery Act 1634***”. This archaic Act was repealed by the British in 1967. Most modern economies provide for Third Party Funding, Class Actions and Assignments. The Irish legal structure effectively precludes Irish citizens, farmers and SME'S from obtaining Access to Justice.

- Why is Government pussyfooting over “90% Redress” or “as close to 100% as possible”? when the real issue lies elsewhere? This posturing is a disgrace and an insult to all Mica / Pyrite victims.

As per Sunday's media reports, the estimated cost of redress is €1.5bn (I believe that this figure will turn out to be wildly conservative, as the fall out continues). But let us for a moment work with €1.5bn. This would mean government funding €1.350bn and innocent victims having to pay €150m.

We know that public procurement in Ireland is a chaotic mix of incompetence, misfeasance, and criminal price-fixing scams, with as close to zero accountability as makes no difference. If the National Children's Hospital is anything to go by, then every €1.5bn in estimates could run into €9bn in spending. Make no mistake, the redress scheme will turn into a feeding frenzy with little regulation or control.

It is quite laughable really, if it weren't so serious. Government at one stage recognised its appalling mismanagement of public funds and set up the Department of Public Expenditure and Reform back in 2011 with the following mission statement: -

***"To serve the country, its people and the government by delivering well-managed and well-targeted public spending, through modernised, effective and accountable public services."***

Ten years on, taxpayers can attest to this Department's catastrophic failure, e.g., National Children's Hospital (NCH), National Broadband Plan, Dáil Printer, it just goes on and on. The head of this department, Robert Watt has just been "*promoted*" to take charge of the Department of Health, complete with a €80k plus salary increase, to €292k. Taoiseach Micheál Martin defended this outrageous salary as "*appropriate*". The lunatics have definitely taken over the asylum!

## **2] Who is responsible for the MICA / PYRITE scandal & who should foot the Bill & Why?**

There is a chain of responsible entities, all of whom are using any means at their disposal to evade paying / contributing to the cost of redress.

**(i) Clearly, the manufacturers / suppliers** of the failed product carry direct responsibility, that's a given, but where lies the **ultimate control** of the various offending quarries around the country. I believe it pertinent to point out some background on the cement / concrete / quarry sector.

CRH plc, of which Roadstone is a subsidiary, is Ireland's largest company and the third largest construction materials company in the world. The company has been involved in a host of criminal behaviour across Irish construction materials markets, including controlling a **"family" of secretly owned independent quarry / concrete operators** and price-fixing and market sharing activities. Successive governments have protected the company and its criminal structures and behaviour for decades. When CRH plc was attempting to secretly acquire our family concrete business, National Concrete, a senior CRH executive informed me that: - ***"you can't own a concrete business in Ireland, you can just be a figurehead"***.

The ODCE (Office of Corporate Enforcement) has repeatedly refused to investigate CRH's family of secretly owned operators (see link below to our letter to retiring Director of ODCE, Paul Appleby, 2012). Because of this failure, it is not possible to ascertain for certain, the identities of all these operators, though several are well known within the industry. With the scale of the Mica / Pyrite crisis, surely the time has come to unravel the quarry / concrete mafia, and hold the correct entities responsible, to minimise the bill for taxpayers.

**(ii) Insurance companies**, not least Homebond (in cases where the company has provided cover). Homebond's web-site states:

***"Homebond is the leading provider of structural defect cover for new homes in the Republic of Ireland since 1978. To date, more than 600,000 homes have been registered with Homebond. For Home Buyers the purchase of a new home is probably the biggest investment they are ever likely to make. It is vital therefore that this asset is protected"***.

There is talking the talk and there is walking the walk! Where is Homebond?

**(iii) The State** represented by the current government. This one is especially important to fully understand how the scandal unfolded. The construction materials sector, i.e., cement / concrete / quarry sector has long had a toxic influence over government, which in turn has led to a regime of light touch and wholly inadequate standards for some building materials, particularly the production of primary aggregates, as used in concrete blocks, readymix concrete and tarmac / asphalt, e.g., failure to detect these high levels of Mica / Pyrite. Traditionally, this influence has been exerted through CRH plc and ICF [Irish Concrete Federation].

**(iv) The Political Parties** who have been in power and have allowed themselves to be captured by the cement / concrete / quarry lobby, in the guise of CRH plc and the ICF (Irish Concrete Federation, which incorporates the ICMA (Independent Concrete Manufacturers Association). These political parties are Fianna Fáil, Fine Gael, Labour, Green Party and the now defunct Progressive Democrats. Corporate capture of these same parties (accepting the PD's) led directly to the €69.7billion bank bailout and has led directly to the current massive humanitarian crisis that is the Mica / Pyrite scandal.

Is it any wonder that we don't have Class Actions or Third-Party funding in Ireland?

With regard to (iii) and (iv) above and by way of example, when CRH plc subsidiary Irish Cement was fined for its leading role in the pan-European cement cartel, the EU Commission found that among the tactics used by the cement sector as barriers to competition were the use of: -

- (i) *"Administrative Obstacles"* (such as the illegal *Cement Certification Scheme* introduced by the Government in the early /mid '80's)
- (ii) *"Imposition of Quality Standards"*
- (iii) *"Actions by Associations"*

So, we need not be in any doubt about the influence of the sector over successive governments.

By way of further explanation, this influence can best be described as **"Legal Corruption"**, which is described by economists Daniel Kaufmann and Pedro Vicente in their paper of 2011, as taking many forms including **"Cronyism"**, **"Patronage"** and **"State Capture, when powerful groups manipulate policy formation to serve their own interests rather than the public interest."**

Transparency International, in its 2009 National Integrity Systems report, states: - *"Significantly however, Ireland is regarded by domestic and international observers as suffering high levels of "Legal Corruption". While no laws may be broken, personal relationships, patronage, political favours, and political donations are believed to influence political decisions and policy to a considerable degree. The situation is compounded by a lack of transparency in political funding and lobbying."*

### **3] Prioritizing Roll-out of Redress Scheme:**

The Mica / Pyrite victims can be divided, broadly speaking, into the following: -

1. Homes of victim families.
2. Holiday Homes
3. Public Buildings
4. Farmyards / Industrial Developments / Septic Tanks

All these categories are equally entitled to redress and compensation. Few will disagree that family homes are the most urgent category of victims and accordingly should be prioritised. Clearly however, any dangerous building, regardless of category must be prioritised also and faulty septic tanks that are causing environmental pollution should also be prioritised.

#### **4] Composition of Working Committee:**

It is of some concern that Government is stuffing the working committee with officials from the Department of Housing, Local Government and Heritage and officials from both Donegal and Mayo County Councils. These arms of the State have all been complicit in the crisis, have handled it appallingly, lack competence and have poor track records when it comes to obtaining value for money. Mica and Pyrite victims should be funded by the State to bring appropriate expertise, where required, to the committee. Budgeting, cost control and procurement needs particular attention, the Department cannot be relied upon to obtain value for money for taxpayers.

Finally, stand up to the politicians who created this mess and please stay together. Government is a past master at dividing and conquering.

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