

Pre-Budget Submission 2018



Calling for
secure, affordable,
good quality
homes for all



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Chairperson's Statement

Threshold is a national housing charity with regional advice centres in Dublin, Cork and Galway, providing frontline advice and tenancy protection services to people with housing problems. Our vision is an Ireland where everyone has access to affordable, secure, suitable and good quality housing.

The housing and homeless crisis carries an enormous human cost for the individual or family affected, but it also carries a large budgetary cost for the State. We cannot afford to overlook the importance of the private rented sector (PRS), the third pillar of a functioning housing market, when considering Ireland's future economic health. As highlighted by the National Competitiveness Council in June 2017, "*our previous property boom was at the epicentre of so many of our recent economic problems.*"¹

Renting is now the reality, whether by choice or necessity, for many households in Ireland and this must be reflected in budgetary and policy considerations. At present the PRS provides a home to the most vulnerable households in Ireland. The Rebuilding Ireland commitment to provide 47,000 new social housing units by 2021 has been pushed back,² which means that many of the 91,000 households in need of social housing support will remain in the PRS for the medium to long term. This is in addition to a target of supporting 83,760 households through the Housing Assistance Payment (HAP) by 2021.³ Those in receipt of HAP support remain tenants in the PRS and are indicative of the reliance of the sector in terms of overall housing provision. Government spending on the HAP scheme in 2016 was in excess of €57 million and Budget 2017 increased the Exchequer funding for the HAP scheme to €152.7 million.⁴

As more children grow up in and more adults grow older in the PRS we urgently need to address the affordability, availability, security and standards issues in the sector. National homelessness prevention measures, for vulnerable groups renting throughout the State, need to be at the heart of budgetary and policy considerations. In its first year of operation the Galway Tenancy Protection Service protected more than 1,000 people including over 400 children from homelessness in west of Ireland.⁵ Census 2016 highlights that almost a third (30.7 per cent) of primary school children are living in rented accommodation, accounting for 168,878 children.⁶ A prominent European study has found that two-thirds of homeless family households are headed by lone mothers aged in their 20s or 30s, who became homeless after losing privately rented housing.⁷

¹ National Competitiveness Council, "Costs of Doing Business in Ireland 2017" June 2017. Available at <https://www.djei.ie/en/Publications/Publication-files/Costs-of-Doing-Business-in-Ireland-2017.pdf>

² <http://rebuildingireland.ie/news/dail-statements-on-rebuilding-irelandquarterly-report-july-2017/>

³ <http://rebuildingireland.ie/address-homelessness/>

⁴ <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2017050900068>

⁵ <https://www.threshold.ie/download/pdf/thresholdgalwaytps20162017.pdf>

⁶ CSO, Census 2016 Profile 3 - An Age Profile of Ireland, June 2017. Available at <http://www.cso.ie/en/csolatestnews/presspages/2017/census2016profile3-anageprofileofireland/>

⁷ Mayock, Paula, Bretherton, Joanne (eds.), 'Women's Homelessness in Europe', 2016.



The Census recorded that 458,874 individuals aged 18 and over were living with their parents. It is our experience that they simply cannot afford to move out and start independent lives.



According to the Residential Tenancies Board (RTB) the average national rent is €987 per month.⁸ Rent is now the biggest expense for households, with rents accounting for almost half (47 per cent) of a single person's expenditure in Dublin.⁹ The Census recorded that 458,874 individuals aged 18 and over were living with their parents. It is our experience that they simply cannot afford to move out and start independent lives.¹⁰ Through our services we are seeing an increase in the number of clients drawing from their social welfare payments to top-up their rents. This means that they are dipping into their already limited finances and cutting back on essentials such as food, clothing and utilities. Unaffordable rents combined with weak security of tenure means that low income households are more vulnerable to tenancy terminations, evictions and ultimately homelessness.

Supply is at an all-time low and we need to keep small-scale landlords, who make up 91 per cent of the market, in the PRS through the introduction of attractive tax reform. The construction of rental accommodation needs to be increased and should reflect the different ends of the market. We should learn from the lessons of the past and ensure that any new tax measures increase supply and construction quantities rather than further stimulating demand and rent inflation.

In the wake of Brexit, and in trying to attract foreign direct investment, a carefully balanced policy approach is required to ensure that an already dysfunctional PRS does not become more fraught and exacerbate the homelessness crisis. A situation should not be created whereby low to middle income households are further priced out of the market because of the lack of supply and competition from higher earning households.

Aideen Hayden

Aideen Hayden
Chairperson

⁸ [http://www.rtb.ie/docs/default-source/default-document-library/rtb-rent-index-2017-q1-\(3\).pdf?sfvrsn=2](http://www.rtb.ie/docs/default-source/default-document-library/rtb-rent-index-2017-q1-(3).pdf?sfvrsn=2)

⁹ <https://www.budgeting.ie/living-wage/>

¹⁰ <http://www.cso.ie/en/csolatestnews/pressreleases/2017pressreleases/pr-esstatementcensus2016resultsprofile4-householdsandfamilies/>

Summary of Budgetary Priorities

1

Security of Tenure

Introduce the Deposit Protection Scheme and a legal definition of deposit to mean one month's rent.

Introduce indefinite tenancies.

Remove the sale of a property as grounds for terminating a tenancy of a rented property, by amending Section 34 of the Residential Tenancies Acts, except in situations where it can be demonstrated that the purchaser requires the property for their own occupation.

Amend Section 34 of the Residential Tenancies Acts so that where a tenancy is to be terminated for reason of sale, the tenant can remain in the property until the sale has been finalised as is commonly the practice for commercial properties.

Delete Section 34(b) of the Residential Tenancies Acts which allows for 'no reason' evictions at the beginning of every further Part Four tenancy.

Introduce a defence for tenants on the grounds of hardship similar to the provision in German law. Hardship could arise, for example, on grounds of age, a serious disease or when alternative accommodation cannot be procured on reasonable terms.

Amend the Residential Tenancies Acts to bring licensees under the remit of the RTB and introduce standard license agreements with minimum mandatory rights for licensees.

2

Rent Certainty

Roll out Rent Pressure Zones nationally and beyond the three years envisaged by the current legislation.

Introduce a legal provision stating that any agreement to pay rent above the RPZ formula amount is void.

Review section 19(5)(b)(i) of the Residential Tenancies Acts relating to "substantial change in the nature of the accommodation" to avoid the use of minor renovations as an avoidance measure.

Make the RTB rent index publically accessible and searchable. Introduce a requirement that landlords must update the RTB register with every change of rent.

3

Tackling Substandard Accommodation

Introduce a gradual ban on leasing properties that do not meet minimum standards.

Introduce an 'NCT' for Housing, integrating key compliance and standards requirements.

Introduce a legal definition for overcrowding in private rented accommodation into minimum standards legislation.

Ensure local authorities have appropriate resources to carry out inspections and to pursue enforcement proceedings.

Maintain the ban on bedsits.

Introduce minimum energy efficiency standards in the rented sector.

Summary of Budgetary Priorities

4

Homelessness Prevention

Provide an appropriate and secure funding framework for the delivery of housing advice and advocacy supports.

Implement a national public awareness campaign about the Tenancy Protection Service free telephone helpline for families and individuals at risk of homelessness.

Increase Housing Assistance Payment (HAP) and Rent Supplement (RS) limits to reflect market rents.

Ensure that the HAP scheme can provide discretionary uplifts where necessary, similar to the Interim Tenancy Sustainment Protocol in operation for Rent Supplement clients, to ensure top-ups by tenants are a last resort.

Extend Homeless HAP to other urban centres across the country.

5

Repossessions & Receivers

Amend the Residential Tenancies Acts to extend the definition of 'landlord' to include both receivers and lenders in relation to repossession of a property.

Introduce of a code of conduct for buy-to-let mortgage arrears.

6

Supply

Introduce tax reforms in order to sustain small scale landlords in the sector.

Ensure new subsidies or tax incentives to promote rental supply are contingent on the provision of permanent, quality and affordable rental accommodation.

Urgently develop a cost rental system of social and other forms of affordable rental accommodation.

Ensure that adequate subsidies are put in place to help cover the initial up-front costs associated with cost rental accommodation.

Develop an appropriate regulatory and policy framework for Build-To-Rent schemes.

Security of Tenure

Deposit Protection Scheme

Threshold calls for the immediate introduction of a Deposit Protection Scheme, as set out in the Residential Tenancies (Amendment) Act 2015, to include a legal definition of deposit to cover one month rent only. This will make a real difference to the lives of tenants who face financial difficulties due to the unlawful retention of that deposit or who face the prospect of becoming homeless because they are unable to pay the rent for a new private rented home.

Terminations

So far in 2017, tenancy terminations have been the biggest issue recorded by our frontline services. We are concerned that legislation providing security for tenants remains inadequate, particularly in the context of loopholes allowing tenancies to be terminated, sometimes in spurious circumstances. The high number of rented households facing the loss of their home due to the proposed sale of the property or a landlord / landlord's family member moving into the property is a growing concern. Other emerging trends which we expect to see more of include terminations on the grounds of renovations, which are particularly prevalent in Rent Pressure Zones (RPZs), and so called 'no reason' evictions at the beginning of every further Part Four tenancy permitted under Section 34(b) of the Residential Tenancies Acts.

In addition to calling for the introduction of indefinite tenancies, Threshold seeks the deletion of Section 34(b) terminations and amendments to the law to protect the position of tenants where properties are being sold or are being re-possessed by lenders.

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Budgetary Priority

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Budgetary Priorities

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Results of Threshold's flash survey over 2 weeks (17th-28th July 2017)

100+ CLIENTS

Over 100 clients contacted Threshold in relation to tenancy terminations over a 2 week period (17-28 July 2017)

85% of calls related to landlords terminating tenancies (96 calls)

15% of calls related to tenants terminating tenancies (17 calls)



Breakdown of Reasons for Notice of Termination by Landlords



CASE STUDY

Section 34(b) Eviction to Avoid Rent Certainty Legislation

Ian's tenancy had been terminated on the 'no reason' ground provided for by section 34(b) of the Residential Tenancies Acts. He contacted Threshold when he discovered that the property had been re-advertised with a rent of €2000 per month. Ian informed us that he had previously only paid €1400 per month. Ian wished to challenge the termination notice as he saw it as a way for the landlord to avoid the RPZ legislation.

Threshold advised that the notice was valid and that unfortunately as unfair as section 34(b) may seem, it is a legitimate reason to serve notice. In relation to challenging the illegal rent increase, Threshold informed Ian that he would have to contact the RTB. However because of the current legislation he was advised that the chances of success were very limited as he is not currently a tenant and the onus would be upon the new tenants to bring a case against their landlord.

Licensees

The increasing number of people renting a room in their landlord's home or subletting from other tenants is a cause for concern as these individuals are known as 'licensees' and have no formalised tenancy rights. Threshold has partnered with University College Cork to conduct an exploratory research project on the prevalence and precariousness of licensee arrangements in Cork City.

Budgetary Priority

Amend the Residential Tenancies Acts to bring licensees under the remit of the RTB and introduce standard license agreements with minimum mandatory rights for licensees.

Rent Certainty

Long Term Rent Certainty Measures

Threshold welcomed the introduction of Rent Pressure Zones (RPZs) in the Strategy for the Private Rented Sector (December 2016) and its extensions in January and March 2017. Threshold contends that it is vital that rent certainty measures become a permanent fixture in Ireland in order to promote a functioning housing market.

Rent predictability is good for the rental sector as a whole. A predictable return on investment suits investors and large institutional landlords and discourages short term property speculation. Predictability is important for the public finances since the state invests considerable sums in the rental sector via Housing Assistance Payment (HAP) and Rent Supplement (RS). Rent certainty measures allow for more certain fiscal planning because rents cannot exceed a determined level.

Early indications suggest that RPZs are having a positive effect on the market¹¹ and any moderation in rents is to be welcomed. However it must be remembered that any decrease in rents is starting from a very high base and there is an urgent need to increase the supply of affordable rental homes for low to middle income tenants. In addition the three year sunset clause in the RPZ legislation is not sufficient to assess the full effectiveness of the measures. For many tenants the rent freeze introduced by the 2015 Residential Tenancies (Amendment) Act is still in place and they will not have experienced a rent review before the clause expires.

Rollout RPZs Nationally

It is our experience that low and middle income households living outside the RPZs are facing substantial rent increases of 20, 30 and in some cases 40 per cent. In addition the current spatial classifications of RPZs are based on Local Electoral Areas and this is distorting local housing market areas by cutting estates and streets in half.

¹¹ The RTB Rent Index for the first quarter of this year suggests that the rate of increase in private rents nationally is moderating and that rents in Dublin declined by 1.5%. [http://www.rtb.ie/docs/default-source/default-document-library/rtb-rent-index-2017-q1-\(3\).pdf?sfvrsn=2](http://www.rtb.ie/docs/default-source/default-document-library/rtb-rent-index-2017-q1-(3).pdf?sfvrsn=2)

Budgetary Priorities

Roll out Rent Pressure Zones nationally and beyond the three years envisaged by the current legislation.

Introduce a legal provision stating that any agreement to pay rent above the RPZ formula amount is void.

Review section 19(5)(b)(i) of the Residential Tenancies Acts relating to “*substantial change in the nature of the accommodation*” to avoid the use of minor renovations as an avoidance measure.

Make the RTB rent index publically accessible and searchable. Introduce a requirement that landlords must update the RTB register with every change of rent.

CASE STUDY

Substantial Rent Increases Outside RPZs

Laura contacted us in May concerning a rent increase. She lives in a housing estate in Ballincollig County Cork. The RPZs were extended to include Ballincollig on 27 January 2017. Laura had received a rent increase of €500. Her rent had increased from €850 to €1,350. When our advisors looked into the matter they discovered that the RPZ cuts through her housing estate. Laura was on the ‘wrong side’ of the line and therefore subject to a 59% increase in rent whereas houses on the opposite side of the street were limited to 4%.

Monitoring & Enforcement of RPZ Legislation

The RPZ legislation needs to be properly enforced and strengthened to make sure that it protects existing tenants from terminations and new renters entering the market from rent above the RPZ formula.

New Renters

Currently a tenant is entitled to know the previous rent on a property only after the tenancy has begun and there is no way for her or him to verify that this rent is correct. This loophole allows the minority of dishonest landlords to escape the RPZs completely. In order to prevent avoidance this rule must be changed. As supply is at an all-time low, and particularly in areas of high demand, landlords may demand unlawful rents with impunity secure in the knowledge that either those desperately seeking accommodation accept the unlawful rent or do not secure the accommodation.

Sitting Tenants

We know from people contacting our Tenancy Protection Service that an increasing number of sitting tenants are being served with notices of termination, with rent reviews and terminations becoming increasingly intertwined. Existing tenants have to choose between paying an illegal rent hike or possible eviction and homelessness. In this competitive market with limited supply, tenants are hesitant to challenge rent increases at the RTB for fear of a relationship breakdown with the landlord.

Substantial Renovations

Threshold has serious concerns that the exemptions to the RPZ legislation have not been effectively implemented. We have encountered a number of landlords who are manipulating the “*substantial renovations*” exemption in the legislation.

CASE STUDY

Sitting Tenant - Illegal Rent Increase followed by Notice of Termination

Sarah has rented a one-bed apartment in Dublin for five years. In May, her landlord texted her to warn her of a rent increase, saying he was under pressure from the banks to get ‘market value’. The landlord had already raised the rent in 2016 for other apartments in the same complex. This latest increase would raise the rent by up to 40% (to €1,700) for a one bed-apartment. The maximum permitted increase in a RPZ is 4%.

Sarah told the landlord that they would not pay the illegal rent increase. The landlord texted Sarah with four week’s notice of termination instead of the 20 weeks that she was entitled to, and advertised the property for sale. Sarah consulted Threshold about the situation.

We spoke to the landlord, clearly explaining that the notice was invalid. We also helped her draft a letter for the landlord that she then issued. This issue is on-going and it may result in a case being brought to the RTB.

CASE STUDY

Rent Increase in RPZ due to Renovations

A client in Cork was quoted a close to 30 per cent increase on the previous tenant’s rent (from €850 to €1,100) on the basis that carpet had been replaced and the property had been painted in the last year. In Dublin a landlord was unsuccessful in introducing an illegal rent review and subsequently declared the property would undergo substantial renovations. Similar to the situation in Cork the repairs were minor (internal insulation, new boiler, rooms painted, other cosmetic improvements) but the landlord demanded a rent increase of almost 30 per cent (from €2500 to €3200).

Tackling Substandard Accommodation

‘NCT’ for Housing

Minimum standards and repair issues are one of the daily complaints Threshold deals with.¹² Threshold is calling for the gradual ban on leasing properties that do not meet minimum standards. Threshold advocates for the introduction of a certifications scheme or ‘NCT’ for rented housing as a step towards greater compliance. An integrated framework of physical standards improvements is a key component of an ‘NCT’ for housing, comprising of legal obligations in the following areas: energy efficiency, fire safety, tax obligations, and registration with the RTB. The burden of proof for compliance with minimum standards would rest with the landlord, who would be required to provide a certificate of fitness to the local authority.

Overcrowding

One of the greatest fire safety risks in private rented accommodation is overcrowding. In recent years we have seen examples in the media of so-called ‘budget’ accommodation targeting international students and migrant workers. What is less often reported, but is regularly seen through our services, is the increase of intergenerational overcrowding with several generations of the same family living under the one roof because of the lack of affordable accommodation. Census 2016 shines a light on the stark reality of the overcrowding situation showing that almost ten per cent of the population are living in homes with more persons than rooms. There is strong need for the introduction of a legal definition for overcrowding in private rented accommodation.

Budgetary Priorities

Introduce a gradual ban on leasing properties that do not meet minimum standards.

Introduce an ‘NCT for Housing’.

Introduce a legal definition for overcrowding in private rented accommodation into minimum standards legislation.

Ensure local authorities have appropriate resources to carry out inspections and to pursue enforcement proceedings.

Maintain the ban on bedsits.

Introduce minimum energy efficiency standards in the rented sector.

“

One of the greatest fire safety risks in private rented accommodation is overcrowding.

¹² In 2016, substandard accommodation was Threshold’s number one issue, with 1,432 cases nationally.

Threshold's 'NCT' for Housing

How?

Introduce a certification scheme or 'NCT' for rented housing where the burden of establishing compliance with the minimum standards regulations would rest with the landlord.



Why?

13,066 private rented dwellings inspected by local authorities in 2015 with 8,440 (65 per cent) of those dwellings failing to meet minimum legal standards. Legal Action only initiated in 27 cases.

The benefit to the state

Such a scheme would reduce the number of low-income tenants that are living in substandard accommodation and it would facilitate enhanced targeting of local authority inspections.

How would it work?

- + Landlord would need up-to-date certification endorsed by approved professionals to rent their property and avail of tax credits, subsidies or housing payments delivered in the private rented sector.
- + Integrate the new system with fire safety, building energy regulations, tax obligations, and registration with the RTB.
- + Introduce on a phased basis.

The benefits

- + A prospective tenant would be assured that the dwelling complies with all legal requirements where they see the cert and avoid problems later in the tenancy.
- + Enable local authorities to maximise the use of available resources by carrying out targeted inspections.
- + Ensure that State funds are not expended on subsidising substandard accommodation.
- + Improve the standards of rented accommodation, especially for low-income tenants.

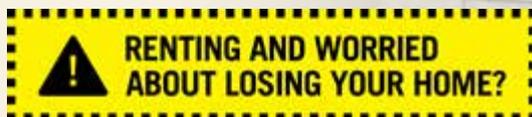


As with vehicles which must have the NCT certificate to show that they are roadworthy, landlords of private rented accommodation could be required to show that it meets minimum standards.

Homelessness Prevention

Secure Funding for Advocacy & Advice Supports

The provision of independent advice and advocacy services to tenants has an important role to play in preventing homelessness, particularly amongst vulnerable and at risk households. This is evidenced by the success of Threshold's Tenancy Protection Service (TPS). Current Government policies, focused on investing in increased emergency homeless services, runs contrary to the aim of *Rebuilding Ireland* to provide more lasting solutions to homelessness through increased preventative measures.¹³ Homelessness is not just an issue affecting Dublin¹⁴ and the number of 'hidden homeless' or people accessing Threshold services identifying as staying with family/friends, 'sofa surfing', living in informal house-shares, overcrowded family homes, and short-term lets have increased in recent years. There is a strong need for the Tenancy Protection Service to be promoted nationally to target these vulnerable groups. There is also a need for streamlined homelessness prevention funding to be introduced to enhance Threshold's advocacy capacity. This would enable Threshold's expert staff to represent clients before the RTB if they are at risk of losing their home. Threshold strongly contends that such preventative measures are a much more cost-effective approach than paying for emergency accommodation.



¹³ In June 2017 a further investment into the provision of emergency accommodation of €10 million was announced. According to figures from the Dublin Region Homeless Executive almost €39 million was spent accommodating homeless families in hotels and B&Bs in Dublin in 2016, which is more than double the amount spent in 2015.

¹⁴ The latest homeless figures highlight that there were 278 homeless persons in Limerick, 265 in Cork and 189 in Galway. Available at http://www.housing.gov.ie/sites/default/files/publications/files/homeless_report_-_june_2017.pdf

Budgetary Priorities

Provide an appropriate and secure funding framework for the delivery of housing advice and advocacy supports.

Implement a national public awareness campaign about the Tenancy Protection Service free telephone helpline for families and individuals at risk of homelessness.

Launch of TPS promotional campaign 23 May 2017:
 Lord Mayor of Dublin, Brendan Carr; Minister for Housing, Planning, Community and Local Government, Simon Coveney; Director of the Dublin Regional Homeless Executive (DRHE), Eileen Gleeson and CEO Threshold, John-Mark McCafferty



Housing Supports

The current gap between HAP and RS limits and market rents means that households in receipt of this payment, both within and outside the RPZs, are struggling to meet current market rents. A survey carried out by Threshold in 2014 found that 44 per cent of clients in receipt of RS were paying top-ups.¹⁵ We are seeing a repeat of this trend among our current clients in receipt of HAP. It is our experience that many of these tenants face extreme financial strain which can put tenancies at risk in the longer term, as well as the risk of hardship and going without household essentials in the shorter term. Top-up payments are typically drawn from a tenant's social welfare payments, meaning that limited financial resources for food, clothing and utilities will be reduced to unsustainable levels.

Renting in Galway and worried about losing your home?

For help and advice contact...

The Tenancy Protection Service
 Freephone 1800 454 454 Email itspgalway@threshold.ie

Threshold
 Solving housing problems, preventing homelessness

The Tenancy Protection Service is supported by the Department of Housing, Planning, Community and Local Government, Department of Social Protection, Galway City Council and Galway County Council.

Renting in Meath and worried about losing your home?

For help and advice contact...

The Tenancy Protection Service
 Freephone 1800 454 454 Email tps@threshold.ie

Threshold

Renting in Kildare and worried about losing your home?

For help and advice contact...

The Tenancy Protection Service
 Freephone 1800 454 454 Email tps@threshold.ie

Threshold

Renting in Wicklow and worried about losing your home?

For help and advice contact...

The Tenancy Protection Service
 Freephone 1800 454 454 Email tps@threshold.ie

Threshold

Renting in Mayo and worried about losing your home?

For help and advice contact...

The Tenancy Protection Service
 Freephone 1800 454 454 Email itspgalway@threshold.ie

Threshold

Renting in Roscommon and worried about losing your home?

For help and advice contact...

The Tenancy Protection Service
 Freephone 1800 454 454 Email itspgalway@threshold.ie

Threshold

Budgetary Priorities

Increase Housing Assistance Payment (HAP) and Rent Supplement (RS) limits to reflect market rents.

Ensure that the HAP scheme can provide discretionary uplifts where necessary, similar to the Interim Tenancy Sustainment Protocol in operation for Rent Supplement clients, to ensure top-ups by tenants are a last resort.

Extend Homeless HAP to other urban centres across the country.



The provision of independent advice and advocacy services to tenants has an important role to play in preventing homelessness, particularly amongst vulnerable and at risk households.

PREVENTING HOMELESSNESS IN D15

THRESHOLD'S TENANCY PROTECTION AND ADVICE SERVICES can help you with

- Advice on seeking accommodation
- Anti-discrimination rights
- Housing Assistance Payment (HAP)
- Standards and repairs
- Rent reviews
- Lease queries
- Help with your rent
- Legally ending your tenancy
- Getting back your deposit
- Taking further action

RENTING AND WORRIED ABOUT LOSING YOUR HOME?

Freephone 1800 454 454
 or visit us every **Tuesday** at our outreach clinic

Fingal County Council offices, Blanchardstown, Dublin 15

Threshold
 Solving housing problems, preventing homelessness

Promotional posters for TPS campaign from regions across the country.

¹⁵ Threshold, Advisory Report on Rent Supplement, October 2014. <https://www.threshold.ie/publications/threshold-advisory-report-on-rent-supplement/>

Repossessions & Receivers

Extend the Definition of Landlord and Introduce a Code of Conduct

There are still a large number of buy-to-let properties in arrears in Ireland.¹⁶ The appointment of receivers to such properties can create great difficulties and uncertainty for tenants. The Residential Tenancies Acts need to be amended so that receivers are regarded as the landlord in relation to existing tenancies and thereby take on the responsibility for providing adequate notice of termination, returning the rental deposit and ensuring the upkeep of the property.

Threshold is seeking the introduction of a code of conduct on buy-to-let mortgage arrears similar to the one in place for residential mortgage arrears. A code for buy-to-let arrears would: introduce a transparent process for financial institutions, landlords and tenants; set out the required steps for engagement with the landlord and tenant and the forms of communication required; and ensure that financial institutions respect and uphold tenants' rights.

At present tenants do not have an automatic right to be heard in the court proceedings relating to the repossession of their rented home, and the court is not required to have regard to the tenant's rights or interests in making an order for possession and/or sale. Threshold contends that this may mean the State is deficient in its obligations under European Union law pursuant to Directive 93/13/EEC on Unfair Contract Terms as mortgage deeds and leases are consumer contracts for the purpose of this Directive.¹⁷

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At present tenants do not have an automatic right to be heard in the court proceedings relating to the repossession of their rented home.

¹⁶ Some 24,553 buy-to-let properties were in arrears in Q1 2017 according to the Central Bank of Ireland.

¹⁷ See Court of Justice of the European Union (CJEU) decisions in *Aziz v Caixa d'Estalvis de Catalunya* (2013) Case C-415/11 and *Kušionová v SMART Capital a.s.* (2014) Case C-34/13 quoting *McCann v. the United Kingdom* [2008] ECHR 385.

Budgetary Priorities

Amend the Residential Tenancies Acts to extend the definition of 'landlord' to include both receivers and lenders in relation to repossession of a property.

Introduce of a code of conduct for buy-to-let mortgage arrears.



Supply

Maintaining Small Scale Landlords in the Sector

Maintaining supply in the PRS is paramount in the current housing and homelessness crisis. It is our experience that small scale landlords, those with one or two properties, house the overwhelming majority of vulnerable tenants in Ireland. The introduction of attractive tax measures for small scale landlords is necessary to reverse the trend of market exits. Lessons need to be learned from the past whereby tax measures on rental income had a detrimental effect on small scale landlords, who by their very nature were treated less advantageously than institutional landlords, REITS or non-bank entities. Previous general changes to the tax code such as the introduction of USC and PRSI obligations on rental income have made it more difficult for small scale landlords to survive in this sector. Threshold favours tax incentives which increase supply and security in the PRS for low income households. We also advocate for strong tax compliance and the introduction of deductible expenses focused on upgrading existing rental stock above minimum standards and in line with energy efficiency standards.

Affordable Rental

Threshold supports initiatives to drive supply of affordable accommodation such as mixed tenure and cost rental accommodation. This is a crucial part of a co-ordinated approach to addressing affordability issues, in tandem with the long term rent certainty measures and increased security of tenure.

Threshold urges that any new subsidies or tax incentives to promote rental supply must be contingent on the provision of permanent and affordable rental accommodation. Such incentives should be time-bound, focussed on large urban areas where demand exceeds supply, and subject to regular review. We must ensure that any new measures ultimately increase supply and construction quantities rather than further stimulating demand and rent inflation in an already dysfunctional PRS.

Threshold supports the immediate introduction of a cost rental model proposed by the National Economic and Social Council in its 2014 report. Cost rental has the potential to provide greater certainty for Government in terms of social housing provision.

Budgetary Priorities

Introduce tax reforms in order to sustain small scale landlords in the sector.



Maintaining supply in the PRS is paramount in the current housing and homelessness crisis.

Budgetary Priorities

Ensure new subsidies or tax incentives to promote rental supply are contingent on the provision of permanent, quality and affordable rental accommodation.

Urgently develop a cost rental system of social and other forms of affordable rental accommodation.

Ensure that adequate subsidies are put in place to help cover the initial up-front costs associated with cost rental accommodation.

Develop an appropriate regulatory and policy framework from Build-To-Rent schemes.

Supply (continued)

Cost Rental will help to address the difficulties that arise in the supply of local authority housing from borrowing constraints and on-going costs not being covered by differential rent. A cost rental sector of sufficient size means the cost of providing housing supports such as HAP would be more predictable and less subject to rapid cost increases.

Threshold awaits the recommendations of the Expert Group on Cost Rental, established by the Rental Strategy and due to report in Q4 2017. Threshold is particularly keen to ensure that sufficient subsidises are put in place at the outset of cost rental schemes to moderate high initial sunk costs. This is extremely important as rents will increase for some social housing tenants, who in many cases pay about 15% of their disposable income on differential rents at the moment.

Threshold would like to see stronger commitment in relation to Build-To-Rent schemes. We call for the development of a supportive regulatory and policy framework for these schemes with appropriated guidelines for all stakeholders and greater use of pathfinder sites.





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