



**Pre-budget Submission 2010**

**To: Department of Social, Community  
and Family Affairs**

**September 2009**

## **Introduction**

Threshold welcomes the opportunity to make this submission in advance of Budget 2010. The budget takes place against the background of the changes made to the rent supplement scheme in the April Budget as well as an increase in the number of rent supplement applicants to close to 100,000 households. The latter is a consequence of the increased numbers of new social welfare applicants who require assistance to meet their rental costs.

In summary, Threshold makes the following submissions in relation to rent supplement:

- The Department can make the most savings by directly negotiating new levels of rent with landlords;
- The Department should acknowledge that under the Residential Tenancies Act, tenants can only ask for a rent review once every 12 months;
- The Department should acknowledge that it is not practical to ask tenants to negotiate a second rent decrease from their landlords;
- The Department should publish the data it relies on in determining the maximum amount of rent supplement to be paid, in particular for single-person accommodation;
- Rent supplement should be reformed so that it is paid in advance, facilitating recipients to move to alternative accommodation;
- The Department should support the establishment of a Deposit Protection Scheme, to safeguard monies it pays out as rental deposits.

The Department has made significant changes to the rent supplement scheme in the past year. The tenant contribution was twice increased and now amounts to €24. In June, rates of rent supplement were cut of 8%, irrespective of whether the rent was below or at market rate. The rules in relation to eligibility were also tightened up.

Threshold recognises the imperative placed on the Department to reduce expenditure in the light of the current budgetary situation. We believe that by negotiating directly with landlords, the Department can most effectively achieve this outcome. Tenants cannot legally obtain a second reduction in rent and the Department should take responsibility for seeking further reductions from landlords. We make the following detailed submissions:

### **1. Department should negotiate lower rents directly with landlords**

If the Department seeks to reduce the cost to the Exchequer of the rent supplement scheme, it should achieve this by directly negotiating lower rents with landlords.

Threshold is strongly of the view that the Department cannot impose the obligation to negotiate lower rents on tenants, as it did in June. We say this because tenants are not legally entitled to more than one rent review in a 12-month period. All rent supplement recipients had their rents reduced in June and as a result of this, they will not be entitled to another rent reduction until June 2010.

Threshold calls on the Department to recognise the vulnerability of tenants, in particular those on rent supplement. Many recipients of rent supplement will be elderly or in receipt of a disability-related payment. Others have literacy or language difficulties. The Department should not place the burden of negotiating lower rents on vulnerable tenants when the Department itself is best placed to obtain competitive rents. We note that the Department makes no provision to provide assistance to vulnerable tenants to help them achieve lower rents. This could take the form of providing assistance to tenants via the voluntary sector, the CICs or specialist bodies such as Threshold.

Some 40% of the private rented sector consists of tenants who rely on rent supplement. The number of rent supplement recipients has increased to almost 100,000 households as people have lost jobs in the economic downturn. This highlights the strong position the Department is in to negotiate directly with landlords to ensure a good return on rents.

Threshold calls on the Department to adopt the model of the Rental Accommodation Scheme where the Government negotiates rents directly with landlords. This model enables Government to obtain competitive rents.

## **2. Rent reviews under the Residential Tenancies Act**

Threshold wishes to emphasise the legal provisions which apply to rent reviews. It is essential that tenants are not asked to breach their obligations under the Residential Tenancies Act.

Section 20 of the Residential Tenancies Act provides that rent can only be reviewed upwards or downwards once every 12 months. Neither a tenant nor a landlord is legally entitled to a rent review more frequently than once every 12 months.

The Department instigated a cut in rent supplement rates in June 2009 whereby all rent supplement payments were reduced by 8%. This reduction amounts to a review under section 20 and therefore, tenants are not entitled to a further review of their rent under June 2010. If it is the Minister's intention to further reduce the rates of rent supplement, this reduction can only come into force in June 2010.

Threshold further calls on the Department to implement no further cuts in rent supplement until a full evaluation of the impact of the June cuts has been carried out. Such an evaluation should consider how the cuts in payment have impacted on tenants and negatively affected their security of tenure. This assessment should gauge whether the cuts have placed vulnerable tenants in greater risk of homelessness. In carrying out this review, the Department should consult with front-line organisations such as Threshold.

The Department will be aware of the prevalence of lease agreements in the private rented sector. They are particularly prevalent amongst rent supplement tenants as Community Welfare Officers demand lease documents as evidence of a *bona fide* landlord-tenant relationship. Leases are therefore common currency amongst rent supplement tenants and this has implications for rent reviews.

In our previous submissions to the Department, we highlighted that the level of rent cannot be reviewed during the term of a one-year fixed term lease. A tenant who has signed a lease cannot serve a notice of termination or look for cheaper accommodation. They are legally bound to continue in occupation for the term of the lease. The Residential Tenancies Act provides limited grounds for a tenant to terminate a fixed-term lease early, but a cut in rent supplement is not one of those grounds.

A tenant who signed a fixed term lease in July 2009 is bound by the level of rent in that lease until July 2010 and cannot also terminate their tenancy because they are required to seek cheaper rent. The Department must take account of this situation in framing the forthcoming Budget. The Department cannot expect tenants in this situation to be in a position to end their tenancy.

### **3. Department should publish the data it uses to set the maximum levels of rent supplement**

Threshold has long highlighted the difficulties encountered by recipients of rent supplement in obtaining accommodation within the rent supplement caps laid down by the Department. Our offices in Dublin, Cork and Galway provide practical assistance to tenants in finding affordable accommodation, in particular for single people.

Threshold carries out regular bed-sit surveys to find out how much accommodation available for let, in particular to single-person households. In these surveys, we seek to establish how many properties are advertised for rents at or under the rent cap for the area. For those who come within the rent cap, we phone the landlord or agent to establish whether they are willing to accept a tenant on rent supplement. Such surveys give an accurate picture of how much accommodation is available to recipients of rent supplement.

In 2008, Threshold surveyed over 2,200 properties. We learnt that 85% of single-person accommodation was above the rent supplement cap for single people in Dublin. Even less accommodation was available in Cork and Galway where 92% and 90% of flats and bed-sits were above the rent cap. This resulted in many single person rent supplement recipients in particular having to pay a top-up to their landlord most often out of a social welfare payment they can ill-afford.

There is little other information available regarding the rent prices of single-person households. Letting websites, for example, do not publish rent surveys for flats and bed-sits and only publish data for one-bedroom and larger units.

The data obtained via registrations with the Private Residential Tenancies Board is incomplete as many tenancies in bedsit accommodation or other poor quality accommodation remains unregistered. The PRTB data, therefore, is unreliable and does not give an accurate picture of the lower end of the rented sector.

Threshold calls on the Department to publish the data it has relied on in setting the levels of rent caps, in particular if the Department opts for a second across-the-board cut in payment.

#### **4. Reform of rent supplement**

Threshold calls on the Department to use this opportunity to reform rent supplement, in particular so that it is paid in advance and not in arrears. This reform will open up the whole rented sector to recipients of rent supplement.

The fact that rent supplement is paid in arrears restricts recipients to those landlords who are willing to accept the payment of rent in arrears. The Department is aware that the norm in the rented sector is for rent to be paid in advance and many landlords are unwilling to accept payment in arrears.

In its letter to tenants of 26 May 2009, the Department advised tenants of the general drop in rents and alerted them to the option of moving to cheaper accommodation if the landlord refused to reduce the rent. The reality, however, is that rent supplement recipients do not have access to the entire rented sector since many landlords will not countenance the payment of rent in arrears.

The Department could open up the whole rented sector to rent supplement recipients if it paid rent in advance. This would entice many landlords to accept rent supplement recipients for the first time.

Threshold also calls on the Department to end the practice of requiring tenants to pay any contribution directly to the landlord. We propose that the tenant contribution be a matter between the tenant and the Department. No individual landlord should be aware of the tenant's means or status as a rent supplement recipient.

We are concerned at the delay in processing rent supplement applications, especially as this has led to many tenants suffering illegal eviction. Many landlords simply will not wait for the Department to process a rent supplement application. We call on the Department to pre-approve applicants so that they can quickly obtain payment on accommodation at or under the rent caps. It is vital that applicants deal with a system which is seamless and that they are not disadvantaged by time delays caused by the complex eligibility requirements of the scheme, for example, some local authorities are indicating that it may take up to six months to carry out a housing needs assessment.

We are also deeply concerned about the delay in moving RAS-eligible tenants from rent supplement into the RAS programme. We are asking the Department to immediately place all RAS-eligible tenants on a differential rent policy without loss of entitlement to work. Threshold also calls for a reduction in the qualifying period for RAS from 18 months to 12 months.

## **5. Savings accruing from a Deposit Protection Scheme**

Threshold has called for rental deposits to be paid by the tenant to an independent third party in lieu of the landlord. Such a development would bring significant savings to the Department as well.

The Department has indicated that it pays out some €7 million each year as deposits for rent supplement tenants. This is money the Department never receives back. In many cases, these monies are lost as landlords withhold the deposit without justification.

A Deposit Protection Scheme would ensure that fewer deposits are lost without justification. It would also make it easier for the Department to recover these monies should the tenant moved out of rent supplement accommodation.

### **Conclusion**

While Threshold recognises the need for savings in the forthcoming Budget, the Department should not place this responsibility on rent supplement recipients. The Department has the expertise and strength to make savings in the rent supplement scheme by negotiating rent reductions directly with landlords. We also believe that there should be transparency in how the Department decides on levels of rent supplement. The rent supplement scheme should be reformed to open up the entire private rented sector to rent supplement recipients, enabling them to avail of better opportunities to secure affordable, quality accommodation presented by the current economic climate.

**Threshold**  
**September 2009**