

## **Threshold – Submission for Budget 2008**

Threshold makes this submission to Government in preparation of the Estimates and Budget Statement for 2008.

Threshold is a national not-for-profit organisation which seeks to solve people's housing problems, in particular those who are most vulnerable. Many low income households live in the private rented sector, where 35% of renters have incomes below the poverty line. Last year, Threshold dealt with 18,500 housing queries, from the most basic housing advice queries to complex matters such as illegal evictions.

Our advice and placement services help vulnerable people and seek to prevent homelessness. Threshold has developed innovative policies to tackle homelessness and help people in vulnerable housing situations. We have developed an advocacy service to represent tenants at hearings of the Private Residential Tenancies Board. We have changed our advice service to be more flexible and to reach out to new communities living in Ireland.

We seek to resolve the difficulties of our clients before they escalate to a level requiring referral of a case to the PRTB. Where this is necessary, we represent tenants at PRTB hearings, often against barristers and solicitors. Our clients are often vulnerable with low literacy skills or have poor English. Many are in receipt of Rent Supplement or on local authority housing lists.

Threshold has advanced the work of the Access Housing Unit which helps people who are homeless or at risk of homelessness to move into sustainable tenancies. We have also sought to develop the Rental Accommodation Scheme through individual RAS contracts or through larger projects.

This Budget submission highlights the areas which require a Government response in the Budget and the Estimates. We have framed a number of Recommendations addressed to individual Government Departments.

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### Summary of Threshold Recommendations

	<b>Recommendations</b>	<b>Addressed to:</b>
<b>Reforming Rent Supplement</b>	Rent Supplement should be paid in advance and not in arrears	Department of Social and Family Affairs
	Keeping Rent Supplement rates in line with market rent	Department of Social and Family Affairs
	Helping the working poor	Department of Social and Family Affairs
<b>Addressing rising rents</b>	Doubling rent relief for tenants	Department of Finance
	Increase in stamp duty exemption for leases on rented accommodation	Department of Finance
	Local area rents register to be published online	Department of Environment, Heritage and Local Government
<b>Reform of the private rented sector</b>	Legal Aid and Advocacy Support for tenants	Department of Justice, Equality and Law Reform
	Establishment of a rental deposits board under the PRTB	Department of Environment, Heritage and Local Government
	Licensing of landlords	Department of Environment, Heritage and Local Government
	Approval of new minimum standards regulations and guidelines for local authorities to inspect dwellings	Department of Environment, Heritage and Local Government
<b>Meeting housing need</b>	9,125 new housing units for 2008	Department of Environment, Heritage and Local Government
	Provision of social housing for single people	Department of Environment, Heritage and Local Government
	Renewed impetus for the Rental Accommodation Scheme	Department of Environment, Heritage and Local Government
<b>Fiscal reform affecting the private rented sector</b>	Tightening up of property investment reliefs so that dwellings must be occupied to benefit from the relief	Department of Finance
	Tax reform, establishing special purpose vehicles to encourage institutional investment in the private rented sector	Department of Finance
	Revised tax relief scheme for the refurbishment of private rented accommodation	Department of Finance
	Provide a tax incentive equivalent to section-50 to foster affordable rental accommodation	Department of Finance with other Departments

### **Improving the position of Rent Supplement tenants**

There are 60,000 households who receive Rent Supplement to meet their housing costs. They, however, are in a very disadvantaged position when looking for accommodation. Time and again, landlords advertise their properties for “professionals only” or blatantly state that Rent Supplement will not be accepted.

Threshold calls for a level playing field for Rent Supplement tenants. The way Rent Supplement is now paid consigns this category of tenant to the worst accommodation. We wish to see a reformed system of Rent Supplement where the first thing a landlord considers about a prospective tenant is not whether or not they are in receipt of Rent Supplement.

Threshold has three submissions which will greatly assist tenants who are in receipt of Rent Supplement. They are:

- Reform the way Rent Supplement is paid so that it is paid in advance and not in arrears;
- Increase the caps on Rent Supplement paid to realistic levels so that tenants have a greater chance of finding accommodation;
- Assist the working poor by expanding eligibility for Rent Supplement.

Threshold’s Access Housing Unit is currently carrying out a survey of landlords on their attitude to Rent Supplement. Preliminary findings of that survey indicate that the biggest reason landlords will not accept Rent Supplement is because it is paid in arrears. The two other most significant reasons are the level of Rent Supplement paid and the delay in processing applications. In response, Threshold has established placement services in its Advice Centres to assist Rent Supplement tenants find accommodation. No matter how good a Rent Supplement tenant’s references or renting history are, the very fact of being on Rent Supplement is a very significant barrier.

### **Recommendation #1 – Rent Supplement should be paid in advance and not paid in arrears**

Threshold calls for the manner in which Rent Supplement is paid to be reformed. Rent Supplement should be paid in advance and not in arrears. This will place Rent Supplement tenants on a level footing with other tenants. A landlord, when considering a request from a Rent Supplement tenant to start a tenancy with them, will not have to wait until the rent is paid in arrears to receive rent.

### **Recommendation #2 – Keeping the Rent Supplement caps in line with market rent**

Threshold calls for Rent Supplement caps to be kept in line with market rents. The widening gap between the Rent Supplement caps and market rent places significant pressure on Rent Supplement tenants.

Tenants are often expected to ‘top-up’ their rent with an additional payment to the landlord. This is in breach of the conditions attached to the payment of Rent Supplement. Tenants, however, have no option but to pay top-ups. If a Rent Supplement tenant refused to pay a top-up, they would be placing their tenancy in danger or would not be able to acquire a tenancy in the first place.

Landlords who seek for a tenant to top up their rent are defrauding the system by falsifying the amount of rent due in writing on the rent supplement application form and contributing to inaccurate statistics collected by the department.

Threshold hopes that Budget 2008 and the subsequent Social Welfare legislation will take account of market rents, thereby allowing Rent Supplement tenant obtain and sustain tenancies in the private rented sector.

**Recommendation #3 - Helping the working poor**

Threshold calls for the extension of Rent Supplement to the working poor, those who work more than 30 hours a week but who have low incomes. Homelessness threatens not just those dependent on social welfare, but also those on low incomes but in full time employment.

The changes in the Social Welfare and Pensions Act, 2007 provides that certain categories of recipient of Rent Supplement are able to work full-time and keep their Rent Supplement. While this change is welcome, it causes unfairness to those categories not entitled to claim Rent Supplement. These groups are disadvantaged simply because of sequencing and not for any other reason. These categories struggle to meet the costs of rent and cannot receive assistance to meet this substantial cost.

Threshold recommends that eligibility for Rent Supplement be extended to people working over 30 hours a week, subject to a means-test.

**Tackling rising rents**

People renting in the private rented sector now face higher rents. The latest Daft report on rents shows that there was an average increase of 9% in rents across Ireland from June 2006 to July 2007.

The table below illustrates that rents are becoming less affordable.

Table 1

Market rent	Rent per month for a 1-bed (€)	Rent % Minimum wage*	Rent % Average industrial wage*
Dublin 1 & 2	1122	81%	45%
Dublin 15	1158	84%	47%
Dublin Fingal	954	69%	38%
Cork City	785	57%	32%

\*The minimum wage is €8.35 per hour and according to the CSI, the average weekly industrial wage is €614.44.

Tenants are finding it increasingly difficult to afford rents. The affordability squeeze is at its tightest in urban areas, in particular close to urban centres. Tenants are forced to look at house-shares as their long-term housing option. This affordability gap is encouraging people to live in overcrowded accommodation.

Affordable housing has been a Government priority where it comes to first-time buyers. The circumstances of renters have received less attention. Threshold calls for this imbalance to be redressed.

Threshold has proposed the following recommendations to assist tenants meet the cost of their rent:

- Doubling of the rent relief available to tenants, to be equivalent of a tax credit of €720 per year;
- Tackle the quirk where tenants are held liable for stamp duty and greatly increase the exemption limit;
- Publication by the Private Residential Tenancies Board of local area rents to curb speculative upward pressure on rents.

#### **Recommendation #4 - Doubling rent relief**

Threshold calls for a doubling of the rent relief available to private renters. This is needed to address ongoing rising rents and the affordability squeeze that private renters face.

Rent relief in previous budgets has only been increased incrementally. The ongoing increases in rent now require a more significant policy response from Government.

This is also a matter of equality between people who are tenants and people who have mortgages. In Budget 2007, Government doubled mortgage interest relief available to first-time buyers, at a projected cost of €50 million. Budget 2007 was much less significant for tenants. There was a small increase in the upper limits, equating to a tax credit of €360 for single people. Budget 2007 projected that the total increase for renters would cost €2.5 million in 2007.

Both first-time house buyers and tenants face the same affordability squeeze. Heretofore, Government has responded to them differently. First-time buyers have been assisted with generous increases in mortgage interest relief while tenants have benefited far less from an extension of rent relief.

Table 1 above is based on the latest Daft report on Rents, the authoritative survey of rents. The report suggests that the cost of renting one-bedroom accommodation amounts to 30-40% of person's income, where that person is on the average industrial income.

The Government should respond to this affordability gap by expanding the rent relief available to tenants renting privately. Tenants have largely been forgotten in previous Budgets and Threshold wishes to see this rectified. Threshold calls on the Minister for Finance to double the level of rent relief in this Budget.

#### **Recommendation #5 – Increasing the exemption on stamp duty on leases for private rented accommodation**

Stamp duty is payable by tenants on a lease where the total rent is higher than €19,050 in a year. The stamp duty is charged at 1% and payable by the tenant to the Revenue Commissioners.

Threshold wishes to see a substantial increase in the level of the exemption. The current exemption limit of €19,050 is too low and does not reflect the general level of rents in the private rented sector.

According to the daft.ie report, the average rent for two-bedroom accommodation in the Dublin 2 area is now €1728 per month, adding up to a yearly rent of €20,736. A tenant would have to pay stamp duty on a year-lease for this accommodation.

Furthermore, the rent on a house in Dublin 6 is €2,013 per month. Three tenants who seek to share a house in Ranelagh on a year's lease will be subject to stamp duty on the lease. This illustrates that it is those people seeking to house-share to afford rents which are penalized by the outdated level of exemption.

Threshold believes that a combination of rising rents and an out-of-date stamp duty exemption limit means that many more tenants are facing the prospect of stamp duty. This is a quirk and tenants should not be held liable for stamp duty.

Stamp duty for first-time buyers has been substantially revised in recent times. Threshold calls for similar reform for tenants. We wish to see the exemption limit raised substantially to €35,000.

#### **Recommendation #6 – The Private Residential Tenancies Board to given the power to publish local area rents**

Threshold proposes that the PRTB be given a new power to publish statistics giving local area rents. These rents would be calculating by aggregating the amount of rent provided at registration at the start of tenancies or updated during tenancies. Individual rents would not be identifiable. This allows for comparison for the calculation of market rent. This is required by tenants if they wish to challenge a purported rent increase their landlord wishes to impose on them.

This reform would allow tenants to estimate more accurately the market rent of accommodation in their area of preference. It is currently difficult for tenants to gain an accurate measure of what is market rent.

Advertised rents of new tenancies cause an upward pressure on rents generally. New tenants pay a premium in rent as landlords seek to frontload the costs and risk of a new tenancy. Given that the only information to determine market rent is that relating to new tenancies, the calculation of market rent is skewed upwards.

Local area rents would include both rent levels for new tenancies and for longstanding ones. Threshold believes that such data would lead to a fairer and more accurate assessment of market rent.

Similar bodies to the PRTB, such as its equivalent in New Zealand, make this information available on their web-sites to the benefit of landlords and tenants. More information on what is on offer in New Zealand is available at <http://www.minhousing.govt.nz/market-rent>

### **Reforming the private sector**

The Residential Tenancies Act, 2004 and the subsequent establishment of the Private Residential Tenancies Board have transformed the regulation of the private rented sector. Threshold believes that this reform has been the most successful where the obligations of landlords and tenants have been made explicit. Reform has been less successful where there is ambiguity in the law.

Tenants, however, often have to assert their legal rights in courts or at the PRTB without assistance or representation. Threshold calls for state support for advocacy and reform of the civil legal aid scheme.

Threshold calls for the establishment of a rental deposits board under the auspices of the Private Residential Tenancies Board. Threshold also calls for the licensing of landlords, including a certification procedure whereby rented accommodation is certified as fit-for-purpose.

Threshold also calls for the publication of the updated Regulations governing the standards of private rented accommodation. This is long overdue and long promised. Publication of the new Regulations should be complemented by guidelines issued for local authorities regarding their obligations to inspect dwellings.

Budget 2008 is an opportunity to further improve the regulation of the private rented sector and ensure that renting is a well-regulated and attractive housing option. Such protection is essential to the long-term viability of the sector and the welfare of tenants.

### **Recommendation #7 – Reforming legal aid and advocacy support for tenants**

Landlord-tenant law comprises of complex legal instruments, for example the Residential Tenancies Act 2004, the Landlord and Tenant (Amendment) Act 1980 and the Housing (Private Rented Dwellings) Act 1982. While each Act is of itself complex, the manner in which these Acts interact with each other further adds to this complexity.

Despite this complexity, disputes involving an interest in land are generally excluded from the civil legal aid scheme. This is an exclusion which is very detrimental to tenants, in particular the poorest ones and those least able to assert their legal rights.

While tenants can seek to avail of the exemption available in the Civil Legal Aid Act, the general exclusion provided in the Act causes tenants to face an additional hurdle in obtaining representation. Threshold has dealt with tenants who satisfied the means test and were denied access to legal aid on the basis of the exclusion. We have also assisted tenants in having the Legal Aid Board's refusal reviewed, but this delay was detrimental to the client's position.

Threshold calls for legal aid to be available to tenants as a matter of course in landlord-tenant disputes.

Threshold also calls on the Department of Justice, Equality and Law Reform and the Legal Aid Board to provided funding for advocacy support at Tribunals. This applies

particularly at Tenancy Tribunal hearings held under the auspices of the Private Residential Tenancies Board.

Research from Threshold shows that 69% of landlords are represented at Tribunal hearings. Issues arising in Tribunals are often complex. The hearings are subject to the laws of evidence, for example the rule against hearsay. Findings of Tribunals are significant. As a result of a Tribunal finding, a tenant can lose their home or be subject to a substantial financial penalty.

Threshold has assumed the role of representing tenants at PRTB hearings. We have had considerable success in assisting tenants in asserting their legal rights, in particular for those who would not be able to represent themselves. There is, however, no statutory funding to support this. Threshold calls for funding from the Department of Justice, Equality and Law Reform to support advocacy at PRTB Tenancy Tribunals.

### **Recommendation #8 – Establishment of a rental deposits board**

As part of its reform package of the private rented sector, Threshold calls for the establishment of a rental deposits board under the auspices of the Private Residential Tenancies Board.

Under this system, tenants would lodge their deposit, not in the hands of the landlord, but with the rental deposits board. A landlord will claim these monies where a tenant is in default of their obligations. At the end of the tenancy, tenants will be able to use their rental deposit as a deposit for their next rented accommodation, provided they have complied with their obligations.

A rental deposits board has obvious attractions to tenants. It also has sound public policy benefits. It, for example, would allow the PRTB develop a separate, paper-based dispute resolution mechanism for deposit cases. This would lift much of the administrative burden now placed on the PRTB by these cases.

This proposal is also self-financing. A rental deposits board could be financed by the interest accrued on the deposit monies lodged with it.

### **Recommendation #9 – Licensing of landlords**

Someone's home is a very important part of a person's life, yet the providers of rented accommodation are not licenced in any way. Accommodation available to be rented is never certified as fit-for-purpose.

Threshold submits that this fundamental lack of regulation is anomalous and should be rectified. The rental business is a significant business and it is extraordinary that there is no licensing system to accredit service providers. Prospective tenants would have a significant advantage if they knew that the person or company offering accommodation was licenced and that the accommodation had been certified as fit-for-purpose.

It is extraordinary that the PRTB can issue findings that a landlord is repeatedly in breach of their obligations in law and cannot take steps to curtail their business. A

licensing system would allow the PRTB to curtail the activity of persistently non-complaint landlords.

This is to the obvious advantage of tenants, who will be able to access information on their prospective landlords. It is also to the benefit of diligent landlords who will have a competitive advantage over non-compliant landlords.

The Department of Justice, Equality and Law Reform has published draft legislation to regulate the business of property agents. It is appropriate for a similar licensing system be extended to the providers of residential rented accommodation.

### **Recommendation #10 – Updating minimum standards regulations**

The current Regulations date from 1993 and it is now time that those Regulations were updated. Updated Regulations have long been promised by the Department of Environment, Heritage and Local Government and form one of the commitments of *Towards 2016*.

The Department should also endeavour to quickly publish the Guidelines for local authorities to implement the new standards. This must ensure that local authorities take a proactive approach to their responsibilities to inspect rented accommodation. It is extremely regrettable that some local authorities, such as Limerick City Council, fail so abjectly in this regard.

Threshold welcomes the recent decision of the Department of Environment, Heritage and Local Government to make the payment of PRTB registration fees to a local authority conditional on that local authority carrying out inspections of rented accommodation.

### **Meeting long-term housing need**

Budget 2008 is an opportunity for Government to ensure that it meets its targets of building new social housing units. Despite the commitments made in the last National Development Plan, there are still some 43,684 households in need of social housing. This equates to some 32,000 children live in households without a long-term home.

### **Recommendation #11 - Roll-out of social housing**

Budget 2008 should provide funding for 9,125 units for this year, as outlined by the National Economic and Social Council and affirmed by *Towards 2016*. This expansion in housing construction is a vital step to meeting the significant latent demand for social housing.

This should be a pressing commitment for Government and progress is needed in 2008 if the longer-term targets are to be met. It is of great concern that the last National Development Plan fell substantially short of its targets. That NDP provided 25% less social houses than projected.

Threshold wishes to see year-on-year corrective measures so that targets are amended to take account of progress made so far. Thus, a shortfall of one year would be incorporated into the targets of the following year. This will lend credibility to Government housing targets.

The social housing building programme is an important countercyclical measure. It will gain increasing importance as the total number of new housing starts tapers off. We now have an opportunity to use this spare capacity in the construction sector to greatly increase the numbers of social housing units built.

The Government should take into account the judgement of Mr. Justice Clarke in *Cork County Council v. Shackelton* [2007] IEHC 241 where the High Court sought to uphold the integrity of Part V the Planning and Development Act, 2000. Threshold calls for the establishment of Part V teams in each local authority and that they take full account of the High Court jurisprudence.

### **Recommendation #12 – Provision of social housing to single people**

Threshold is concerned that the needs of single-person households will be overlooked in the roll-out of social housing and future planning and development in Ireland.

Some 40% of recipients of Rent Supplement are single persons. They tend to live in the worst rented accommodation, for example in bed-sits. This accommodation is cramped and people live in their kitchens and cook in their bedrooms. The units are old and the least heat and energy efficient. Threshold wishes to see the provision of an alternative to the bed-sit, an alternative that it is of good quality.

The needs of this category of household should be specifically addressed by local authorities. Furthermore, they should be considered by planning departments in drawing up guidelines for new development. Threshold is concerned that planning departments will curtail the provision of one-bedroom or studio units in new developments. If this happens, there will not be a viable alternative to the bed-sit.

### **Recommendation #13 – Renewed impetus for the Rental Accommodation Scheme**

Threshold is very supportive of the Rental Accommodation Scheme but we are concerned at some delay in rolling the scheme out.

The Rental Accommodation Scheme is welcome because it offers good quality accommodation to people in need of housing. It offers a framework for pre-tenancy training and tenancy sustainment. It offers tenants the significant benefits of a differential rent and for people who are assessed as RAS-eligible as they can work full-time.

The absence of a legislative framework is detrimental to the roll-out of RAS. Legislation is needed to provide an underpinning to the programme and to ease out inconsistencies. One such inconsistency is the fact that RAS-tenants have different sets of legal rights, depending on the type of RAS they are housed in. A RAS-tenant with a private landlord has the full legal rights afforded by the Residential Tenancies Act while RAS-tenants of a voluntary housing association have limited legal rights. This inconsistency can be rectified by expanding the scope of the Residential Tenancies Act to cover all tenants of voluntary housing associations.

One further impediment to the roll-out of RAS is the slow manner in which local authorities are seeking to bring landlords and tenants under the scheme. Threshold has

dealt with cases where both the landlord and tenant want to come into RAS, only to have this stalled for no good reason by the local authority. Threshold calls on local authorities to be proactive in seeking to bring tenancies under RAS, provided that the accommodation meets the required standards.

Threshold asks that every tenant in receipt of Rent Supplement for at least 18 months be circulated with a leaflet on what RAS offers them. Similarly, their landlords should be circulated with information on the benefits of the scheme.

Efforts to expand RAS through rolling out to individual tenancies have been slow. One way to make more rapid progress is through PPP arrangements or through larger contracts. Threshold has developed a number of pilot projects which have provided sustainable tenancies to people who were homeless or who have experienced homelessness. We see this as a model for RAS nationwide.

### **Fiscal reform affecting the private rented sector**

Threshold makes a number of submissions regarding the need for fiscal reform of measures affecting the private rented sector. We are concerned at the ongoing problem of vacant properties, related, we believe, to how the tax incentives operate. We are also concerned at the lack of progress made to foster institutional investment in the private rented sector. Furthermore, Threshold wishes to see a determined effort to improve the interior and exterior of rented accommodation.

### **Recommendation #14 – Revised conditions for property investment benefiting from tax incentives**

Threshold believes that the way tax incentives for property investment encourage owners to leave those properties unoccupied. This submission calls for all tax incentive schemes to be amended to ensure that the owner can only benefit from the scheme where the property is habitually occupied.

This measure would ensure that owners are more active in ensuring that dwellings are occupied. It would address the problem of empty households identified by the last Census and commented upon by the ESRI.

Tax incentives which encourage the development of residential accommodation should also ensure that they are readily available for people to live in. A measure which leaves properties empty for all or most of the year cannot be considered a success.

### **Recommendation #15 – Measures to encourage institutional investment in the private rented sector, for example Real Estate Investment Trusts**

The private rented sector in Ireland is generally a cottage industry, where many landlords own relatively few properties. Threshold believes that it is in the long term interest of the private rented sector if institutional investment is encouraged in this sector. This has the advantages of increasingly professionalism in the industry and to ensure that investors have a long-term commitment to providing rented accommodation.

Threshold believes that institutional investment is an important part of providing a sustainable future for the private rented sector. We would welcome the detailed

consideration of the Department of Finance to developing REITs or other investment vehicles.

**Recommendation #16 – Tax incentive scheme for the refurbishment of the exterior and the interior of rented accommodation**

The current tax incentive scheme for the refurbishment of rented accommodation is to be wound down in 2008. It is fair to say that the scheme has not been a success. Threshold believes that the poor take-up of the scheme was due to the lack of a ‘push’ factor on landlords to refurbish accommodation.

Threshold believes that the Department of Finance should re-examine a refurbishment tax relief scheme, aligned with two measures to push landlords to refurbish accommodation. One measure is the updated Regulations on the standards of private rented accommodation discussed above. The second is amendments to the Residential Tenancies Act which impose an obligation on the landlord to maintain the exterior of rented accommodation to the same standard as pertained at the start of the tenancy. A relief scheme combined with two push factors will achieve improvements in the quality of accommodation available to rent.

**Recommendation #17 – Provide an equivalent to section-50 tax relief to foster the development of affordable rental accommodation**

The development of section-50 student accommodation across has been a success. It has greatly increased the availability of accommodation for students and is a model for how tax relief can achieve societal outcomes.

Threshold wishes to see a similar relief to encourage the development of quality accommodation to be made available to tenants at affordable rents. This could be rolled out in conjunction with voluntary housing organisations. This could also be allied to more employment-based accommodation schemes for key workers.

**Ends**

**October 2007**