

Threshold's Opening Statement to the Oireachtas Committee on Housing and Homelessness

Tuesday 24th May 2016

Chairman, members of the Committee on Housing and Homelessness, I want to thank you for the opportunity to present to you today. My name is Bob Jordan and I am the Chief Executive of Threshold. Threshold's Chairperson, Dr. Aideen Hayden, who cannot be here today, has asked me to convey her best wishes to the Committee in your deliberations. Dr. Hayden is a strong advocate for the reforms in the private rented sector that I will discuss with you.

Background

Threshold is a national housing charity that provides frontline advice and support services to people with housing problems across Ireland. Last year, we dealt with 32,000 housing queries from vulnerable households and prevented 8,550 people from becoming homeless.

A growing affordability crisis for low income households living in the private rented sector (PRS) has become the main cause of family homelessness. Despite recent regulatory changes, the PRS remains unaffordable and insecure.

The State must recognise the mainstream role played by the PRS, where one in every five families now makes their home. Between a quarter and one third of the residents in our three main cities live in the PRS. It is increasingly the tenure of choice, as well as being the only option for those excluded from social housing and owner occupation.

It is widely recognised by policy makers that, for the foreseeable future, up to one third of the population will need State housing supports. Given the current relative size of the social rented sector the majority will, at least in the short term, be supported in the PRS. Even with the welcome increased investment in social housing, the PRS will continue to be a significant part of the Irish housing system. This is the norm for a developed, mature European economy.

Recommendations

I will now speak about Threshold's recommendations to address the immediate issues facing the PRS and to ensure that there is a supply of secure and affordable rented accommodation in the medium to longer-term:

1. National Strategy for the Private Rented Sector

It is over 15 years since the last strategic review of the PRS conducted by the Commission on the Private Rented Residential Sector, which reported in 2000. The PRS has doubled in size over that period. Construction 2020 and the Social Housing Strategy 2020, which have been in place for some time, make reference to the need for a strong, well-regulated PRS.

It is critical that the PRS now has a national strategy of its own, that is adequately resourced and has clear targets to address issues like long-term rent certainty, increasing affordable supply, improving the quality of rented housing, promoting institutional investment and dealing with the difficulties in the buy-to-let sector.

2. Supporting Low Income Households and Preventing Homelessness

The most effective way to prevent homelessness is by protecting families in their current rented home. Threshold recommends a range of measures:

- ✓ Extend Tenancy Protection Service to support rent supplement tenants nationwide.
- ✓ Increase rent supplement limits to reflect market rents. New limits should be more targeted, related to local submarkets, tailored to individual circumstances, and less visible to the market.
- ✓ Reform the administration of the rent supplement scheme to acknowledge the realities of the private rented sector and to increase confidence in the scheme.
- ✓ Review the use of the tax code to encourage landlords to accept and retain tenants on state payments.
- ✓ Establish and fund a strategic framework for housing advice and advocacy services nationally.

3. More Security and Protection from Eviction

The current level of security for tenants is not sufficient and should be increased. Tenants should be protected from economic evictions arising from exorbitant rent increases and from those arising from repossessions, receivership or sale to an investment fund.

- ✓ Increase security of tenure from the current 4 year period to indefinite duration.
- ✓ Amend the Residential Tenancies Act 2004 to provide for rent certainty as to the rate of increase in rents, by linking rent increases to the cost of living (CPI).
- ✓ Establish legal safeguards to allow tenants to remain during and after the sale of a property.
- ✓ Amend the legal definition of 'landlord' to include receivers and lenders in possession, and introduce a code of conduct on buy-to-let mortgage arrears.
- ✓ Establish a protocol between the Residential Tenancies Board (RTB) and local authorities to provide assistance with move-on accommodation in 'overholding' disputes where a family cannot source alternative accommodation in the private rented sector.

4. Promote Affordable Supply to Ease Market Pressures

Threshold favours affordable, mixed tenure developments. The State should increase affordable supply by purchasing existing properties and by using State land. It should also promote institutional investment in the PRS.

- ✓ Fund, design and build mixed tenure developments.
- ✓ Promote long-term institutional investment in the PRS.
- ✓ Roll out affordable rental scheme nationally.

Conclusion

Threshold has made a written submission to the Committee that provides more detail on the above recommendations. I would be pleased to elaborate upon them or answer any questions that you may have. Thank you again for this opportunity to make a contribution to your examination of the housing and homelessness crisis in Ireland.



Submission to the Oireachtas Committee on Housing and Homelessness

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Threshold Submission to the Oireachtas Committee on Housing and Homelessness

Executive Summary

Threshold makes these proposals to address the immediate housing and homelessness crisis and to promote the longer-term development of the private rented sector (PRS).

Threshold is a national housing charity that provides frontline advice and support services to people with housing problems across Ireland. Last year, it dealt with 32,000 housing queries from vulnerable households and prevented 8,550 people from becoming homeless.

The State must recognise the mainstream role played by the PRS, where one in five families now make their home. It is increasingly the tenure of choice, as well as being the only option for those excluded from social housing and owner occupation.

A growing affordability crisis for low income households living in the PRS has become the main cause of family homelessness. Despite recent regulatory changes, the PRS remains unaffordable and insecure. Threshold makes the following recommendations:

I. National Strategy for the Private Rented Sector

It is over 15 years since the last strategic review of the PRS. The PRS has doubled in size over that period. Construction 2020 and the Social Housing Strategy 2020, which have been in place for some time, make reference to the need for a strong, well-regulated PRS.

1. It is critical that the private rented sector now has a national strategy of its own.

II. Supporting Low Income Households and Preventing Homelessness

The most effective way to prevent homelessness is by protecting families in their current rented home.

2. Extend Tenancy Protection Service nationwide.
3. Increase rent supplement limits to reflect market rents. New limits to be more targeted, related to local submarkets, tailored to individual circumstances, and less visible to landlords.
4. Reform the administration of the rent supplement scheme.
5. Review the use of the tax code to encourage landlords to accept and retain tenants on state payments.
6. Set up a strategic framework for housing advice and advocacy services nationally.

III. More Security and Protection from Eviction

The current level of security for tenants is not sufficient and should be increased. Tenants should be protected from economic evictions arising from exorbitant rent increases and from those arising from repossessions, receivership or sale to an investment fund.

7. Increase security of tenure from the current 4 year period to indefinite duration.
8. Introduce rent certainty to link rent increases to the cost of living.
9. Establish legal safeguards to allow tenants to remain during and after sale of property.
10. Amend the legal definition of 'landlord' to include receivers and lenders in possession, and introduce a code of conduct on buy-to-let mortgage arrears.
11. Protocol between RTB and local authorities to provide assistance with move-on accommodation in overholding disputes where family cannot source alternative.

IV. Promote Affordable Supply to Ease Market Pressures

Threshold favours affordable, mixed tenure developments. The State should increase affordable supply by purchasing existing properties and by using State land. It should also promote institutional investment in the PRS.

12. Fund, design and build mixed tenure developments.
13. Promote long-term institutional investment in the PRS.
14. Roll out affordable rental scheme nationally.

1. Introduction

Threshold is a national housing charity, with regional advice centres in Dublin, Cork and Galway, that provides frontline advice and support services to people with housing problems across the 26 counties of Ireland. Last year Threshold's housing advisors dealt with over 32,000 queries, principally from tenants living in the private rented sector (PRS) but also from social housing tenants and from households in owner occupation. Threshold is also engaged in research and policy work, drawing on the experiences of our clients to contribute to meaningful change at national level.

This submission to the Oireachtas Committee on Housing and Homelessness sets out our proposals to address the immediate housing and homelessness crisis and to promote the longer-term development of the PRS. We would welcome the opportunity to present and discuss these proposals with the members of the committee.

2. Context

The PRS is the second largest housing tenure after home ownership, providing homes for one in five households in Ireland (approximately 700,000 tenants). It is increasingly the tenure of choice, as well as being the only housing option for those who are excluded from social housing and owner occupation. In recent years, a growing affordability crisis for low income households living in the PRS has become the main cause of family homelessness.

Government must recognise the growing mainstream role played by the PRS in Ireland's housing system. One in five Irish families now live in private rented housing. The National Economic and Social Council (NESC) has estimated that one-third of households are likely, for the foreseeable future, to have difficulties in affording accommodation at market rates and will need housing supports. Given the smaller relative size currently of the social rented sector the majority of long-term renters will, at least in the short term, be living in the PRS. This means that there can be no return to the past where the PRS was regarded as a short-term housing option for students, couples saving to buy a home, and poorer people.

Despite recent regulatory changes introduced in the Residential Tenancies (Amendment) Act 2015, the PRS remains unaffordable and insecure. We need a strategy that recognises and supports the PRS as a long-term housing option, by taking into account the need of tenants for security and certainty and the needs of landlords to be treated fairly as a business. In the meantime, we need to do everything possible to protect and keep people in their rented homes and to prevent homelessness.

Threshold proposes the following solutions to the current crisis in the PRS, which has been caused by a shortage of supply, skyrocketing rents and a regulatory framework that does

not support long-term renting. These solutions involve supporting low income households and preventing homelessness, more security and protection from eviction, promoting the supply of affordable rented housing, and the need for national strategy for the PRS.

3. A National Strategy for the PRS

Recommendation:

Recommendation 1: Develop and publish a national strategy that is adequately resourced and has clear targets to address issues like long-term rent certainty, increasing affordable supply, improving the quality of rented housing, promoting institutional investment and dealing with the difficulties in the buy-to-let sector.

It is over 15 years since the last strategic review of the PRS took place (Commission on the Private Rented Residential Sector, 2000). For the past number of years Threshold has been calling for the development of a national strategy for the PRS in Ireland, with affordability and security of tenure the key elements that must be achieved by such a strategy. This is critical because of the numbers of families living in the PRS and the State's own reliance on the sector to meet social need.

One in five households now live in the PRS and this rises to one in three in urban areas. Many families have long-term homes in the rented sector, while the majority of social units under the Social Housing Strategy 2020 will be sourced in the PRS. However, an acute shortage of supply, rising rents and insecure tenancies mean that the PRS is as much a cause as a solution to the current family homelessness crisis.

A national strategy should be published that is adequately resourced and has clear targets to address issues like long-term rent certainty, increasing affordable supply, improving the quality of rented housing, promoting institutional investment and dealing with the difficulties in the buy-to-let sector. The advantage of developing such a strategy is that the views of all stakeholders can be taken into account to provide a fair balance between the interests of landlords and tenants. A clear framework will have a positive effect on the wider housing market and the economy in general. Threshold also believes that, without an integrated strategy, piecemeal measures introduced to address particular concerns may over time become inconsistent and lack coherence.

Construction 2020 and the Social Housing Strategy 2020 have been in place for some time. Both strategies make reference to the need for a strong, well-regulated PRS with good quality and affordable supply. It is therefore critical that the PRS would have a strategy of its own to drive forward these important goals.

4. Supporting Low Income Households and Preventing Homelessness

Recommendations:

Recommendation 2: Extend the Tenancy Protection Service (TPS) nationwide.

Recommendation 3: Increase rent supplement (RS) limits to reflect current market rents so as to reach a sufficient level to meet the accommodation needs of eligible persons, as set down by legislation. The setting of new RS limits should be more targeted, related to submarkets within each Local Authority area and more related to individual circumstances. This will mean that the level of support available to tenants will be less visible to the market.

Recommendation 4: Reform the administration of the RS scheme to reflect the realities of the rental market.

Recommendation 5: Review the use of the tax code to encourage landlords to accept tenants in receipt of social housing supports in the private rented sector.

Recommendation 6: Set-up a strategic framework for the planning, organisation, monitoring and long-term funding of housing information, advice and advocacy services in Ireland within the new Department of Housing.

4.1 Tenancy Protection

The most effective way to prevent homelessness is by ensuring that families can remain in their current rented home. For rent supplement (RS) tenants facing unaffordable rent increases, this means providing them with additional financial support. Threshold's highly successful Tenancy Protection Service (TPS) in Dublin and Cork, which is operated on behalf of the local authorities and in partnership with the Department of Social Protection (DSP), provides a targeted response that prevents families from becoming homeless.

The Dublin TPS commenced in June 2014 and the Cork TPS in January 2015. As part of the service, an Interim Tenancy Sustainment Protocol (ITSP) put in place by the DSP allows Threshold to make an application on behalf of clients for a payment in excess of existing RS limits. This payment initially last for 26 weeks (6 months) but may be renewed if the household circumstances have not changed. By the end of 2015, the service had helped 4,845 households at risk of homelessness and prevented 8,550 people (including 4,483 children) from becoming homeless.

Threshold's TPS approach is now recognised as the key intervention in preventing homelessness. As a result, the Dublin service was extended to the commuter counties of Kildare, Wicklow and Meath on 25th April and a new Galway service will commence in May

2016. As the housing and homelessness crisis is a nationwide crisis, Threshold believes that the TPS should be extended nationwide in line with the Draft Programme for Government.

4.2 Increase Rent Supplement Limits

RS limits have remained at the same levels since 2013. This has led to a wholly avoidable family homelessness crisis. At the height of this crisis in 2015, rent limits were reviewed and it was decided that there would be no change due to concerns about the potential impact on overall rental inflation. Since then, the crisis has worsened considerably. Threshold believes that RS levels must be reviewed as a matter of urgency.

The current proposed maximum limit increase of 15% contained in the Draft Programme for Government is a welcome acknowledgment of the difficulties faced by RS tenants. However the reality is that the gap between market rents and RS limits is far wider than 15% in most high demand areas. According to the Residential Tenancies Act 2004, a landlord is entitled to the open market rent. This means that if the State relies on the market to house low income families, then it is necessary to pay market rates.

It is Threshold's experience that tenants at the lower end of the market, many of whom are supported by the RS scheme, often face much higher rent increases than the average. Based on 2015 figures, the majority (62%) of RS clients of the Dublin TPS faced rent increases of between 11-30%, over a quarter (29%) of clients had their rent increased by more than 30%, and 9% of clients received a rent increase of over 40%. The poorest people are facing the highest rent hikes, because cheaper accommodation is in more demand.

The Department of Environment, Community and Local Government (DECLG) has increased Housing Assistance Payment (HAP) limits where HAP has been rolled out by up to 20% above the relevant RS limits in high rental demand areas (South Dublin, Cork City, Cork County, Galway City, Galway County, Kildare and Meath) while the Homeless HAP limit for the Greater Dublin Area is set at 50% above current RS limits. These higher limits have been introduced to address the difficulties faced by tenants in securing tenancies.

RS limits are currently established for broad geographical areas. This approach doesn't take account of how the PRS operates within local markets. New RS limits should be more targeted, related to submarkets within each Local Authority area, and more tailored to individual circumstances. The level of support available to tenants should be less visible to the market and landlords should not be fully aware of the exact level of support available to tenants.

The DSP has expressed concerns that rent limit increases will impact on overall rents in the market. Increasing RS limits is necessary to prevent homelessness and rent levels are impacted by other factors that must be taken into account:

- ✓ RS levels are following rather than leading market rents in the vast majority of areas;
- ✓ The current two-year rent freeze means that rents cannot automatically be increased by landlords as a response to increased RS limits;
- ✓ Reductions in RS limits did not lead to any dampening of rent levels in the past, rather rent levels increased due to other factors,
- ✓ It is Threshold's experience that a significant number of tenants make additional 'top up' payments above RS limits; this has for many years masked the actual level of rent paid by RS tenants and the inadequacy of RS limits;
- ✓ HAP levels of 20-50% above RS levels are regarded as necessary by DECLG and local authorities to meet current needs;
- ✓ RS limits can be set at a more localised level by using available market information (e.g. Residential Tenancies Board rent index, daft.ie)
- ✓ RS limits are not the appropriate mechanism to regulate rent levels. In exercising the power to make regulations which prescribe RS limits, the Minister for Social Protection is required to consider only two matters, namely the family circumstances of RS claimants and the location of the property (2005 Act, s.198(3E), as inserted by s.14(2)(c) of the Social Welfare (Miscellaneous Provisions) Act 2008).
- ✓ Ensuring rents are at affordable level can best be achieved through long-term rent regulation. Threshold recommends that rent increases would in future be linked to the cost of living (CPI), similar to rent certainty measures that exist in most developed European economies.

It is critical that the DSP undertakes an immediate review of RS limits based on current market levels. In some high demand areas of Dublin, this will mean increasing the amount available by more than 50%.

4.3 Reforming the Rent Supplement Scheme

In a series of comprehensive submissions¹ Threshold has put forward a range of administrative reform measures that in most cases would cost little to introduce, but would increase the confidence of landlords in the RS scheme and lead to better outcomes for tenants seeking to secure or remain in RS accommodation. These are summarised as follows:

- ✓ Provide for the automatic payment of RS directly to landlords;
- ✓ Ensure that RS is paid in advance, rather than in arrears;
- ✓ Introduce a pre-approval mechanism for RS claimants who have been assessed by
- ✓ the relevant Local Authority as having a housing need;

¹ <http://www.threshold.ie/publications/prebudget-submission-to-the-department-of-social-p/>

- ✓ Review the documentation requirements for RS and provide for direct submission of confidential documents by landlords to Community Welfare Service staff;
- ✓ Restore the face-to-face applications facility in local social welfare offices and ensure that adequate levels of support be given to claimants in completing their application, in order to expedite approval of rent payments to landlords;
- ✓ Ensure that eligible RS recipients are afforded an exceptional needs payment where they require a sum of money for a security deposit, and are unable to make such a payment out of their own means. The rules around how such decisions are made should be clear and consistent;
- ✓ Ensure that RS claimants are given at least 28 days' notice of the suspension or termination of RS payments;
- ✓ Place greater reliance on the local review process in respect of RS decisions, afford priority to appeals relating to RS claims, and ensure that RS continues to be paid while an appeal is pending;
- ✓ Introduce clear guidance for DSP representatives to deal with circumstances where receivers are appointed to properties with RS tenants.

4.4 Better Use of the Tax Code

From 1st January 2016, landlords who rent to social housing tenants are entitled to enhanced tax reliefs. This measure was introduced to encourage property owners to let to social tenants who find it extremely difficult to identify landlords who will accept rent supplement or HAP. However, the way the scheme operates means that it is less attractive in practice.

Property owners who rent to tenants in receipt of rent supplement or the housing assistance payment (HAP) may claim 100% relief on their mortgage interest, as an expense against rental income. This tax incentive is also available to landlords who participate in the rental accommodation scheme (RAS). The 100% rate compares with the 75% relief available to landlords who do not rent to social housing tenants.

In order to qualify, the accommodation must be available to social tenants for a minimum of three years and the tenancy must be registered with the Residential Tenancies Board (RTB). The scheme is less attractive in practice because the increased relief will be provided to the landlord retrospectively at the end of the three-year period, rather than on an annualised basis.

The terms of this tax relief scheme should be reviewed and other measures considered that would make it more attractive for landlords to accept tenants in receipt of social housing supports in the private rented sector.

4.5 Recognising the Role of Housing Advice and Advocacy

Housing advice and advocacy are identified in both the Government's Homelessness Policy Statement (2013) and The Implementation Plan on the State's Response to Homelessness (2014) policies as having a key role in preventing homelessness among vulnerable and at-risk households. Threshold is delivering a dedicated expert advice and advocacy service that meets the Government's goals in relation to the protection of tenancies and the prevention of homelessness. However, there is currently no strategic framework for the planning, organisation, monitoring and funding of housing information, advice and advocacy services in Ireland. Tens of millions of euro is provided on an annual basis for emergency homeless services, whereas the amount allocated to homelessness prevention is significantly less and much harder to access. Threshold believes that the dedicated funding mechanism for homelessness prevention is urgently needed to avert human suffering and to make cost savings for the State.

5. More Security and Protection from Eviction

Recommendations:

Recommendation 7: Ensure that tenants are afforded greater security in their homes, by implementing measures for secure occupancy.

Recommendation 8: Amend the Residential Tenancies Act 2004 to provide for rent certainty as to the rate of increase in rents.

Recommendation 9: Introduce legal safeguards to give residential tenants, similar rights to the tenants of commercial properties, to allow them to continue in their tenancy during and after the sale of a rented property.

Recommendation 10: Amend the Residential Tenancies Act 2004 to extend the definition of 'landlord' to include both receivers and lenders in relation to repossession of a property. Introduce a code of conduct for buy-to-let mortgage arrears.

Recommendation 11: Establish a protocol between the Residential Tenancies Board (RTB) and relevant Local Authorities, so that a Local Authority is alerted when an overholding case which identifies a *bona fide* inability to secure alternative accommodation as the source of the dispute. Give Local Authorities a clear obligation to find alternative accommodation for the tenant within a specified timeframe through a fast track accommodation finding service.

5.1 More Security of Tenure

The current level of security for tenants in the PRS is not sufficient and should be increased. A tenant is currently protected in their property for up to four years. After an initial six-month period, landlords can only terminate the tenancy under certain circumstances over

the following 3.5 years. This protection does not go far enough to meet the needs of longer-term renters and families with school-going children who need to remain in the communities in which they have put down roots.

Threshold believes that tenants should have indefinite security. This is supported by NESCC, who have stated that in most cases tenancies should be of indefinite duration.² This objective of ensuring greater security of tenure for tenants may be achieved by removing the four-year limit on Part 4 tenancies, so as to create indefinite periods of tenure security. These measures would give security and stability to those who want to make a home in the PRS.

5.2 Rent Certainty

Economic evictions arising from unaffordable rent increases are the main cause of family homelessness in the PRS. The recent rent freeze introduced as part of the Residential Tenancies (Amendment) Act 2015 is providing a welcome breathing space for tenants. However, this is only a temporary measure with a sunset clause after 4 years. A more long-term approach to regulating rents is needed.

Threshold has proposed the introduction of rent certainty, whereby future rent increases in areas of high rental inflation are linked to changes in the cost of living³. This model of regulating rent is the norm in many developed European economies. Rent certainty measures are an essential component of a well-regulated housing market, and benefit both landlords and tenants by ensuring that rent increases (and indeed decreases) are foreseeable, predictable, and reasonable. Rent certainty should be introduced as soon as is possible.

5.3 Continuation of Tenancy upon Sale of Rented Property

The number of rented households facing a loss of their home due to the proposed sale of the property by the landlord, lending agency or investment fund is becoming a growing concern. Threshold recently provided on-site advice and support to tenants who faced a mass eviction in Tyrrelstown, northwest Dublin.

This is set to become an even more serious issue in the next few years as a significant amount of distressed mortgaged properties have been purchased by non-bank entities such as large investment funds, who have a business model of selling on these assets within three to five years. Examples include:

- Goldman Sachs and private equity group CarVal, which together bought a €2bn portfolio of Irish buy-to-let residential and small commercial mortgages in 2014;

² [NESCC, Ireland's Rental Sector: Pathways to Secure Occupancy and Affordable Supply](#), 2015, p 62-69.

³ <http://www.threshold.ie/news/2015/06/15/thresholds-proposals-for-rent-certainty/>

- Lone Star, whose purchases in Ireland have included loan portfolios with a face value of €7bn sold by the Irish Bank Resolution Corporation in 2014;
- Apollo Global Management and Deutsche Bank, who purchased a €500m real estate loan book from Ulster Bank last year;
- Cerberus, which has been buying property loan portfolios from the State and banks over the past four years.

The extent of this issue is further emphasised by the Central Bank of Ireland figures which indicate that there are 47,402 mortgage accounts held by non-bank entities and a total of 19,701 mortgages in arrears held by non-bank entities.

The sale of a rented property should not automatically lead to the termination of tenancy, especially if the property is to be sold to another investor. While it has been the custom and practice of financial institutions and investment funds to seek vacant possession, there is no legal impediment in allowing a tenant to remain. Legal safeguards should be put in place to give residential tenants similar rights to the tenants of commercial properties who remain unaffected by the sale of a property.

5.4 Repossessions and Receiverships

A change in the law is required to protect tenants in cases where their landlord's property is being repossessed or where a receiver is appointed to a mortgaged property. The legal definition of 'landlord' needs to be changed to explicitly include both lending institutions and receivers so that the rights established under landlord and tenant law cannot be undermined or ignored as is currently the case.

Due to a legal loophole in the Residential Tenancies Act 2004, lenders or receivers may seek to summarily evict a tenant without giving them the notice required under law. In some extreme cases tenants have come home to find their locks changed, effectively making them homeless. Receivers may also refuse to carry out repairs and ask the tenant to pursue their former landlord for the return of their rental deposit. A tenant should not lose these basic rights just because their landlord is in financial difficulty.

In the case of repossession, tenants cannot refer a dispute to the Residential Tenancies Board for resolution, as a lender will not generally be regarded as a party to the tenancy (Residential Tenancies Act 2004, s.76). Their landlord will not be held liable for terminating the tenancy without the requisite written notice, as it will be the lender rather than the landlord that is effecting the termination. This means that tenants in mortgaged properties can be evicted without any means of redress.

Threshold believes that a simple amendment to the definition of 'landlord' in the Residential Tenancies Act 2004, so as to explicitly include both receivers and lenders, would introduce a welcome degree of certainty for landlords, tenants, financial institutions and receivers. It

would impose a requirement on a lender that has commenced repossession proceedings to terminate a tenancy in the manner provided for by the Residential Tenancies Act 2004. It would also impose a responsibility for repairs and the return of the tenant's deposit upon the expiry of the tenancy.

In addition to this legislative change, Threshold is seeking the introduction of a code of conduct on buy-to-let mortgage arrears. A Central Bank of Ireland code of conduct on residential mortgage arrears (CCMA) has been in place for all mortgage lenders since 2009. 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.

5.5. Protection for Tenants under Notice

Under the Residential Tenancies Act 2004, a landlord seeking to end a tenancy must provide notice of termination in writing to the tenant. The minimum notice period is 28 days and the maximum notice period was extended from 112 to 224 days (for tenancies of eight years or more) in the Residential Tenancies (Amendment) Act 2015. In a normally functioning housing system a tenant should be easily able to secure new accommodation within the notice periods set out in law.

The reality is that many households who receive a valid notice of termination from their landlord face becoming homeless due to the inability to secure alternative accommodation. In Threshold's experience this is fast becoming one of the key drivers of homelessness. 50% of the tenant households (554 households) supported by the Cork TPS in 2015, who were deemed to be at immediate risk of homelessness, were in the process of having their tenancy terminated. This problem is also reflected in the number of disputes being heard by the RTB related to tenants occupying a tenancy beyond the expiry of the notice period ('overholding'), which amounted to 508 in 2015.

A protocol should be developed between the RTB and the relevant local authorities, so that a local authority is alerted when an overholding case which identifies a *bone fide* inability to secure alternative accommodation as the source of the dispute. Local authorities should assume an obligation to source suitable alternative accommodation in either the PRS or in a relevant social housing unit within a specified timeframe through a fast track accommodation finding service. Such a service could be run in conjunction with the community/voluntary sector, possibly as an extension of Threshold's TPS service.

6. Promote Affordable Supply to Ease Market Pressures

Recommendations:

Recommendation 12: The State should fund, design and build mix tenure developments to increase the supply of social and affordable housing and affordable rented accommodation.

Recommendation 13: Implement measures to encourage the development of large scale permanent mixed-income rented accommodation by institutional investors.

Recommendation 14: Roll out an affordable rental scheme model nationwide whereby rental properties can be offered to low income workers at below the market rate.

6.1 State Intervention to Increase Affordable Supply

Just 3,600 homes were available to rent in Ireland on February 1st this year, by far the lowest total since before the economic downturn.⁴ Despite consensus from most stakeholders that supply in the PRS needs to be increased, few real proposals have emerged as to how this new supply is to be provided.

Threshold favours an approach where social housing, affordable rented accommodation and affordable private housing are built in unison in a single development. Threshold also proposes that measures need to be introduced to ensure that such affordable rented remains as rented accommodation for the long-term. Such an approach corresponds with the Social Housing Strategy 2020, which envisions “developments where social renting, private renting and affordable and cost renting options are provided side by side.”

In terms of output, the Housing Agency has estimated that over 21,000 houses⁵ need to be built every year to meet existing demand. Some commentators say that up to 40,000 houses per year are needed to deal with the backlog of demand. As the majority of new social housing units are planned to be sourced from the PRS under Social Housing Strategy 2020 and the underlying conditions that have reduced the level of private home ownership are set to continue, approximately 5,000 - 8,000 new rental units are needed to be added to the housing system every year.

The private sector has so far proven unable to provide the new supply needed, therefore there is a need for the State to step in and become a ‘housing developer’ in its own right. It would be preferable for the State to finance mixed social and affordable developments, using borrowed monies available at historically low interest rates. The State can also

⁴ Daft.ie-The Rental Report Q4 2015, February 2016

⁵ The Housing Agency National, Statement of Housing Supply and Demand 2014 and Outlook for 2015-17, July 2015.

develop appropriate Special Purpose Vehicles (SPV) to fund such developments off-balance sheet through established and agreed bonds issuance mechanisms backed up by existing state-owned housing assets.

The State should look to increase affordable supply in two ways, by purchasing existing properties and by using State land. The State can purchase existing accommodation being offered at below construction cost, including appropriate developments which remain under NAMA control estimated to have a value of €5 billion at current rates (2016). In many cases these developments would be bought up by non-bank entities to be sold on at a large mark up in a number of years' time, leaving many existing tenants at risk of eviction or massive rent hikes and in need of State support.

The second way the State can increase supply is to use existing State land. By financing, designing and building such developments itself, the State may drive down building costs by removing or greatly reducing profit margins, site costs, part V costs and VAT. The State will contract suitable builders to construct the housing units, but the development will remain in State ownership. Depending on the financing model, such developments could be leased long-term to Approved Housing Bodies or other suitable bodies and any private units could be sold on to the general public at an affordable rate.

6.2 Promoting institutional investment

Ensuring an appropriate supply of affordable, long-term and high quality rented accommodation is one of the key challenges currently facing policy-makers. Many agencies, such as NESCF, business and employers' groups, property professionals and investment agencies have identified the absence of this type of accommodation in the PRS as a threat to Ireland's future economic health.

In 2004 Threshold commissioned a report entitled 'Opportunity Knocks? Institutional Investment in the Private Rented Sector in Ireland.' This was the first report of its kind undertaken in Ireland and explored the barriers to institutional investment in the PRS. Since this report was published, the policy and regulatory environment has changed and there are now renewed opportunities to promote institutional investment.

The advantages of attracting institutional investors are clear. Institutional investors, such as pension funds and insurance companies, are interested in very long-term investments. They prefer longer-term tenants, as reletting and refurbishing properties is costly. Institutional investors can also bring more professional management practices and contribute to the supply of accommodation in high-demand areas.

According to Stefan Gerlach, former Deputy Governor of the Central Bank of Ireland:

"This suggests that attracting more institutional investors would promote a well-functioning rental market that is so important for financial stability. Furthermore, these investors are

likely to be less leveraged and have more diversified portfolios than individuals owning one or two rental properties, and are thus better able to withstand an economic downturn.”⁶

To date only a small number of investment companies have started to enter the market. These companies have tended to concentrate on the commercial market rather than the residential rental market, and at the higher end of the market.⁷ A differentiation must be made between long-term institutional investors and investment funds (‘vulture funds’) who are interested only in short-term gains, as the latter are generally not beneficial to the stability of the rental market.

Proposed regulatory reforms outlined in this submission in relation to security of tenure and rent certainty could provide more stable and predictable rental returns that would be attractive for long-term institutional investors. Thresholds research on this topic indicates that institutional investors prefer well-regulated markets with steady rates of return. Targeted and contingent subsidies will also help encourage investment in this type of rental accommodation. Moreover, guarantees for maintaining occupancy rates and rental income in the social or affordable sections of this accommodation would also be welcomed by providers and investors.

6.3 Affordable Rental Pilot

In the policy document ‘Stabilizing Rents, Boosting Supply’ issued in November 2015 the Government committed to developing an affordable rental pilot project in 2016, where the overall objective of an affordable rental programme would be “to provide long-term affordable residential accommodation for low to moderate income key-worker households in urban areas of high demand.” This pilot is currently being progressed in the Dublin area. There is a need for this programme to be rolled out nationwide to ensure that low-income workers are no longer at risk of homelessness.

7. Conclusion

Threshold welcomes the opportunity to make this submission to the Oireachtas Committee on Housing and Homelessness.

Given the difficulties being experienced in the private rented sector and its prominent role in housing families, Threshold would like to see attention focused on the supply, regulation and protection of tenancies in the private rented sector. A national strategy for the private

⁶ Stefan Gerlach, speech given at the Twenty-First Dubrovnik Economic Conference, June 2015.

⁷ It is estimated that REITS to own 1,500 rental properties, nearly all in Dublin, with projections suggesting that in five years this could grow to 15,000 properties or 2% of the market- DKM Economic Consultants on behalf of PRTB, [Future of the Private Rented Sector](#), 2014.

rented sector is needed to complement and reinforce Construction 2020 and the Social Housing Strategy 2020.

The time lag between construction output and the impact of new supply on the housing market means that measures like rent certainty, improved security of tenure, tenancy protection, and the national rollout of HAP are vital to give people greater security in existing accommodation and to avert homelessness.

8. Recommendations

A National Strategy for the Private Rented Sector

Recommendation 1: Develop and publish a national strategy that is adequately resourced and has clear targets to address issues like long-term rent certainty, increasing affordable supply, improving the quality of rented housing, promoting institutional investment and dealing with the difficulties in the buy-to-let sector.

Supporting Low Income Households and Preventing Homelessness

Recommendation 2: Extend the Tenancy Protection Service (TPS) nationwide.

Recommendation 3: Increase rent supplement (RS) limits to reflect current market rents so as to reach a sufficient level to meet the accommodation needs of eligible persons, as set down by legislation. The setting of new RS limits should be more targeted, related to submarkets within each Local Authority area and more related to individual circumstances. This will mean that the level of support available to tenants will be less visible to the market.

Recommendation 4: Reform the administration of the RS scheme to reflect the realities of the rental market.

Recommendation 5: Review the use of the tax code to encourage landlords to accept tenants in receipt of social housing supports in the private rented sector.

Recommendation 6: Set-up a strategic framework for the planning, organisation, monitoring and long-term funding of housing information, advice and advocacy services in Ireland within the new Department of Housing.

More Security and Protection from Evictions

Recommendation 7: Ensure that tenants are afforded greater security in their homes, by implementing measures for secure occupancy.

Recommendation 8: Amend the Residential Tenancies Act 2004 to provide for rent certainty as to the rate of increase in rents.

Recommendation 9: Introduce legal safeguards to give residential tenants, similar rights to the tenants of commercial properties, to allow them to continue in their tenancy during and after the sale of a rented property.

Recommendation 10: Amend the Residential Tenancies Act 2004 to extend the definition of 'landlord' to include both receivers and lenders in relation to repossession of a property. Introduce a code of conduct for buy-to-let mortgage arrears.

Recommendation 11: Establish a protocol between the Residential Tenancies Board (RTB) and relevant Local Authorities, so that a Local Authority is alerted when an overholding case which identifies a *bona fide* inability to secure alternative accommodation as the source of the dispute. Give Local Authorities a clear obligation to find alternative accommodation for the tenant within a specified timeframe through a fast track accommodation finding service.

Promoting Affordable Supply to Ease Market Pressures

Recommendation 12: The State should fund, design and build mix tenure developments to increase the supply of social and affordable housing and affordable rented accommodation.

Recommendation 13: Implement measures to encourage the development of large scale permanent mixed-income rented accommodation by institutional investors.

Recommendation 14: Roll out an affordable rental scheme model nationwide whereby rental properties can be offered to low income workers at below the market rate.