

**Threshold's Submission  
to the  
Review of the  
Private Residential Rental Sector  
August 2023**

## Composition of the Sector

### 1. Traditionally the private rental sector catered for mobile workers, students, and young adults. Should the rental sector cater to lifelong renting? If so, should such a reorientation be a reason for a different approach to the regulation of the sector?

The private rental sector must be able to provide lifelong rental while catering for mobile workers, students and young adults. It may not be the desired tenure of most people, but it is often the only option available to some as they age. For this reason, a different approach to the regulation of the sector is necessary.

If, however, the private rental sector is unable to provide lifelong rentals, it will be necessary for the State to ensure that alternative housing options are made available to those who are not homeowners or social housing tenants.

This Census data and the Housing Needs Demand Assessments (HNDAs) produced by the Local Authorities should allow the Department to predict the number of households who will likely rent for life and, accordingly, make estimates of this figure well into the future. This data will be essential in determining the type and degree of reorientation in regulation.

It must be recognised that there will be significant challenges in reorientating the private rental sector so that it can provide for lifelong renting. Only a portion of renters will rent for life and the profile, as well as motivations of landlords are varied. The data from Census 2022 shows the increase in the number of people renting into older age, with almost 17,000 households aged 65 years plus renting from a private landlord and, with close to 100,000 households over the age of 45 years renting from a private landlord<sup>1</sup>. Those over the age of 45 are less likely to buy their own home and so will rely on private rental, or social and cost rental where it is available.

The significant shift in policy toward a reliance on the private rental sector, since the Global Financial Crash, has left many living in what is still an unstable, unsuitable private rental sector. In 2011, housing policy was set about achieving equity across tenures<sup>2</sup>, HAP was introduced as a form of social housing in 2014<sup>3</sup>, and plans were made to promote Build-to-Rent in order to make the private rental sector a viable alternative to home ownership in 2016<sup>4</sup>. Sadly, these policies did not transform renting into a reliable long-term tenure. They did, however, force many more people towards relying on the private rental sector to meet their housing needs. While the focus of current housing policy is

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<sup>1</sup> Central Statistics Office, (2023), 'Census of Population 2022 Profile 2 – Housing in Ireland', <https://www.cso.ie/en/statistics/population/censusofpopulation2022/censusofpopulation2022profile2-housinginireland/> (Accessed on 31/07/23)

<sup>2</sup> Government of Ireland (2011), *Housing Policy Statement 2011*

<sup>3</sup> Department of the Environment, Community and Local Government (2014), *Social Housing Strategy 2020*, <https://www.gov.ie/pdf/?file=https://assets.gov.ie/118072/424b2b97-52e3-43fa-85f4-d59dc897dc8d.pdf#page=null> (Accessed on 31/07/23)

<sup>4</sup> Department of Housing, Planning, Community and Local Government, (2016), *Strategy for the Rental Sector 2016*, <https://www.gov.ie/pdf/?file=https://assets.gov.ie/80483/c118f361-776e-41e8-b436-3ccc0f66383e.pdf#page=null> (Accessed on 31/07/23)

on home ownership revolves around a desire to reduce the reliance on the private rental sector, there are many who will be left renting for life due to previous policies.

A different approach is needed to ensure lifelong renting is feasible and sustainable. As noted by Fahey<sup>5</sup>, long-term renting, in its current form, is likely to be bad for the current working generation and tomorrow's pensioners. If people are to rent for life under current conditions, then many will likely be worse off than their parents; as far as housing is concerned. Those who are forced to establish a home in the private rental sector have, at present, neither long-term security nor affordability.

## **2. What types of changes should be introduced to facilitate tenants who wish to enter long-term tenancy options, and what should be done to encourage the supply of rental accommodation to meet such demand?**

As the sector will be required to continue catering for more traditional or “transitional” renters, it cannot be oriented entirely toward lifelong rentals. That is unless there is a move to a system whereby renters can only be evicted for a breach of tenancy. Within such a system the renter determines the length of the tenancy according to their need, which is not uncommon in other jurisdictions. This requires restrictions on the grounds for termination. Threshold has also proposed changes to the tax of rental income to incentivise landlords to provide long-term lease agreements. Both options would result in a move to tenure neutrality.

**Restrict no-fault evictions:** In Ireland, a landlord may end a tenancy if they or and or one of their family intend to occupy the dwelling for their own residential use. In Portugal, this can only occur if the landlord has no other residence in the same municipality. In Ireland, the landlord can also ask the tenant to leave if extensive renovation works will take place, with the property being offered back to the tenant on completion of the work. However, in Germany a tenant can only be evicted on this ground if the building is to be demolished. Additionally, landlords in Ireland may terminate tenancies if they plan to sell the home. Sale is not a ground for ending a tenancy in Germany where properties are normally sold with the tenant remaining in situ.<sup>6</sup>

**Tax of rental income and long-term lease agreements:** Threshold has proposed the promotion of long-term lease agreements through a reduced rate of tax on rental income derived from rental homes subject to such agreements. Threshold recommends modelling such changes on the Portuguese model, where the longer the lease term the greater the reduction in the tax rate and with an accompanying deduction to the rental income that is classed as taxable income<sup>7</sup>.

Under such long-term lease agreements, the landlord would only be permitted to end the tenancy if the tenant breaches the terms of the agreement. It would be appropriate under such arrangements

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<sup>5</sup> Fahey, T. (2018), ‘Worse Off Than Our Parents? The Rising Generation of Private Renters’ in B. Reynolds and S. Healy (eds), *From Here to Where? Negotiating a Better and Fairer Future*, Dublin: Social Justice Ireland.

<sup>6</sup> OECD, *Ph6.1 Rental Regulation*, <https://www.oecd.org/els/family/PH6-1-Rental-regulation.pdf> (Accessed on 31/07/23)

<sup>7</sup> Cuatrecasas, (2022), *Portugal | Rent update and extraordinary rent support*, <https://www.cuatrecasas.com/resources/lf-rent-update-and-extraordinary-rent-support-6356bafda3016022440008.pdf?v1.44.2.1.20230223> (Accessed on 01/08/23)

for the tenant to take on greater responsibility for the home's upkeep and so reducing the responsibilities of the landlord, another incentive.

Consideration would need to be given to the rent setting under such arrangements to ensure affordability for the length of the lease and to reflect the advantage to the landlord via the reduced tax. Such arrangements are likely to attract only a portion of landlords. There is no way of guaranteeing that the tenants and landlords seeking such arrangements are matched up and so this may not provide a solution to all who need it. It would be advisable to consult landlords on the design and delivery of such a scheme.

Institutional investors tend to offer greater security of tenure than small-scale landlords as they are far less likely to evict unless there is a breach of the tenancy agreement. Such investors could play a role in meeting the needs of renters who will rent for life. At present, however, such investors are only operating in the major cities (Dublin and Cork predominantly) and tend to offer rents at the mid-/high-end of the markets. In addition, Build-to-Rent apartments, which is what is on offer by such providers, are not designed for long-term living.

### **3. What are the implications of introducing policy initiatives, such as cost rental, for the sector's composition?**

Cost-rental, if done at scale, can bring about affordability by having a moderating impact on market rents. It has the potential to not only remove the need for controls like Rent Pressure Zones but also more broadly reduce rents in the private rental sector. In addition, policy initiatives such as cost-rental could reduce the size of the private rental sector relative to other tenures and will form part of a move to a unitary housing system. It is the view of Threshold that the most viable and long-lasting mechanism to improve the affordability of private rental accommodation is for Ireland to move from a dualist housing system to a unitary housing one. This involves an increased role and investment by the State in building housing. If done, this will increase the stock of housing owned by Local Authorities and Approved Housing Bodies ('AHBs'). Based on a comparative analysis of other EU Member States, 25% of total housing stock will need to be provided in this way.

The unitary rental market is an integrated rental market, with direct competition between the for-profit and not-for and limited-profit sectors. The overall purpose of the not-for-profit sector in such a system is to house broad swathes of the population. This in turn puts downward pressure on rents in the private rental sector.

For Cost-Rental to be a viable and valuable element of our housing landscape, the rents must be affordable throughout a tenant's lifecycle. Cross-subsidisation can ensure affordability across a range of incomes. This requires those who can pay more to pay more, while those who on lower incomes pay less. Cross-subsidisation can operate within one scheme or across a range of schemes, which is not currently practiced in Ireland.

### **4. What are the pension policy implications of the aging of households renting in the private market?**

ESRI research indicates that 20% of those aged 45 to 64 do not own their own home, and this is unlikely to change. In addition, they estimate that approximately 30% of those aged 35-44 will not

purchase their own home and only one in two of those aged 25-34 are likely to buy their own home. All of this indicates increased poverty rates for non-owner occupiers in retirement.<sup>8</sup>

For these reasons, consideration must be given to the inadequacy of the pension for those who rent to meet their housing costs; the manner in which supports will be delivered to ageing renters; whether it is suitable or desirable for people to rent into older age and whether the private rental sector can better fit with the current pension system. These concerns were explored in the research, 'Double Deficit'<sup>9</sup>, which was published by ALONE and Threshold in 2023.

It is recommended to benchmark the State pension to ensure that older people on lower incomes do not face increased risk in the private rental sector; not only in the context of rent affordability but also in the context of wider household expenditure on critical items such as heating, electricity, and health care. It is also necessary to review the HAP and rent supplement base rates, as well as the discretionary rates, on an annual basis to ensure payments match cost increases in the private rental sector. While HAP and rent supplement are invaluable payments to meet rental costs, many renters must pay "top-ups" to meet market rent. The payment of a top-up can be a considerable drain on any income but will be significant for those relying on a pension.

As Ireland's asset-based welfare system operates on the assumption that people will own their own home by retirement age, it cannot adequately serve those who will rent into older age. As it stands approximately half of those aged 65+ living in the private rental sector are paying more than 35% of their disposable income on rent<sup>10</sup>, an eye watering amount by any calculation. The most recent Census data shows that almost 17,000 people over the age of 65 are renting from a private landlord.

## The Cost of Renting

### 5. What changes, if any, should be made to the policy of price controls in the residential rental market?

Rent Pressure Zones ('RPZs') due to end in 2024 and, cannot be concluded without a comprehensive stepdown plan, to avoid a cliff edge. Landlord representative organisations have made it clear that there is a desire among some landlords to increase rents, despite the continuous and ongoing rent increases recorded each quarter. As noted above, the most viable and long-lasting mechanism to improve affordability of private rental accommodation is for Ireland to move from a dualist housing system to a unitary housing system.

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<sup>8</sup> Nolan, A., O'Toole, C., Roantree B. & Slaymaker R., (2022), *Future Trends in Housing Tenure and the Adequacy of Retirement Income*, ESRI Research Series Number 143, Dublin: Economic and Social Research Institute <https://www.esri.ie/system/files/publications/RS143.pdf> (Accessed on 01/08/23)

<sup>9</sup> Threshold & ALONE, (2023), *Double Deficit*, <https://threshold.ie/wp-content/uploads/2023/05/Double-Deficit.pdf> (Accessed on 31/07/23)

<sup>10</sup> Central Statistics Office, (2021), 'The Rental Sector in Ireland 2021: Tenants', <https://www.cso.ie/en/releasesandpublications/fp/fp-trsi/therentalsectorinireland2021/tenants/> (Accessed on 31/07/23)

Price controls for the private rental sector are particularly important for lower income households. The ESRI<sup>11</sup>, for example have concluded that there is merit to rent stability measures, though RPZ's are arguable a blunt instrument to use. Rent stability is important for the sector long term. Rent regulations, such as the RPZs, should only ever be temporary measures, a holding measure until a sufficient level of affordable housing is provided. However, the RPZs are set to be in place for at least eight years. It may be necessary to devise a new system of rent regulation, aimed at ensuring rent stability and affordability, given that further changes to the RPZs are unlikely to ameliorate the situation.

There are a number of other options that could support the regulation rents such as the creation of a dwelling specific property specific rent register and a database of local reference rents.

**Dwelling Specific Rent Register:** A rent register is vital to assist tenants in looking for a home they can afford. While the RTB have been provided with greater powers to enforce rules pertaining to the setting and increases of rent, renters do not have the information necessary to ensure that the rules are being adhered to. Ultimately, this means that there is a significant likelihood that tenants end up paying more than the permitted rent.

Without accurate information, tenants are unable to determine the lawfully permitted rent and therefore are unable to enter a contract with the landlord in an informed manner. Tenants who do not have this knowledge are unable to assert their rights to challenge illegal increases. Without a properly functioning rent register, rents are becoming a *de facto* decontrolled between tenancies, meaning rent certainty measures, in practice, can only fully protect sitting tenants.

The prices of all residential units sold are currently available on the Property Price Register. This is to inform the market and to ensure that the market functions effectively. A similar register would ensure the same visibility and transparency for the private rental sector. The Property Price Register provides a good model for the proposed rent register.

**Local Reference Rent Database:** The provision of localised reference rents, based on the quality and amenities of the accommodation, would assist landlords in setting rents, and ensure that tenants are being charged a fair rent for the property. Such a system operates in Germany, where initial rents can be market-determined under a rent ceiling that acts as a local rent reference. This is known as *Miet Spiegel* ('rent mirror'), a database with local reference rents in the private rental market. Most major towns and cities across Germany have a database of reference rents in place. Local reference rents are based on comparable quality characteristics for buildings and dwellings and their locations. The rent mirror allows landlords to charge higher rents if they are demonstrably below the local rent levels for comparable dwelling units.

If adopted in Ireland, such a system would provide protection for those living outside the RPZ areas and potentially create a path out of the RPZ regulations over time. Despite ongoing rent increases outside the RPZs only one area has designated an RPZ since September 2020. This is due to the

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<sup>11</sup> Coffey, C., Hogan, P.J., Mc Quinn, K., O'Toole, C. & Slaymaker, R. (2022), *Rental Inflation and Stabilisation Policies: International Evidence and the Irish Experience*, ESRI Research Series No.136, Dublin: Economic and Social Research Institute, <https://www.esri.ie/system/files/publications/RS136.pdf> (Accessed on 01/08/23)

manner in which the RPZs are designated, and it is unlikely that many more areas will be designated as RPZs. The only protection afforded to renters in these areas is that the landlord must demonstrate they are charging market rent; which is most commonly achieved by reviewing rental advertisements on online advertising platforms. If a number of landlords in an area decide to increase their rents, this immediately increase the market rent for that entire area despite having little connection to the quality of the housing on offer.

## The Subsidisation of Households Renting Market Units

### 6. How best should the State deploy subsidies to assist those dependent on the private rental sector?

There is a need to move away from a system of subsidies for those living in the private rental sector through the increased delivery of social, affordable, and cost-rental housing. In the interim it is necessary to increase the HAP base rates and improve the efficiency of the administration of HAP.

**Increase HAP rates:** Threshold supports the ESRI's recommendation to link the HAP rates to the rents on new tenancies in the relevant Local Authority<sup>12</sup>. This is proposed to ensure affordability and that a share of rental properties is available within the limits, for those reliant on HAP. As highlighted in the ESRI's report, a starkly minor proportion of homes advertised for rent fall within the HAP limits. The national average rent has increased 58% since the HAP rates were set in 2016<sup>13</sup>. This equates to an increase of €551 a month, yet no such equivalent increases have been made in HAP or essential social welfare rates to support renters who are struggling. Additionally, wages have not increased anything close to at a similar rate. Additionally, wages have not increased at anything close to a similar rate.

**Change to the administration of HAP:** Threshold has identified that administrative delays can put a tenant at risk of losing their tenancy, force the tenant into debt and/or discourage landlords from entering into HAP agreements. The following measures are needed to improve the efficiency of the HAP administrative process.

- Pay rent from the date the tenancy has commenced as opposed to the date the application has been processed and approved.
- Pay rent a month in advance as akin to the practice in the private rental sector. It is unreasonable to expect HAP tenants to rely on the good will of their landlord to accept rent in arrears. Doing so leaves a tenant in breach of the tenancy agreement and vulnerable to eviction from the outset of the tenancy.

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<sup>12</sup> Doolan, M., Roantree B. & Slaymaker R., (2022), *Low Income Renters and Housing Supports*, ESRI Research Series 141, Dublin: Economic and Social Research Institute, [https://www.esri.ie/system/files/publications/RS141\\_1.pdf](https://www.esri.ie/system/files/publications/RS141_1.pdf) (Accessed on 01/08/23)

<sup>13</sup> Residential Tenancies Board, (2016 and 2022), *Rent Index Q2 2016 & RTB Rent Index Q4 2022*, [https://www.rtb.ie/images/uploads/general/RTB\\_Quarter\\_2\\_2016\\_%28FINAL%29.pdf](https://www.rtb.ie/images/uploads/general/RTB_Quarter_2_2016_%28FINAL%29.pdf) & [https://www.rtb.ie/images/uploads/general/RTB\\_Rent\\_Index\\_Q4\\_2022\\_.pdf](https://www.rtb.ie/images/uploads/general/RTB_Rent_Index_Q4_2022_.pdf) authors own calculations (Accessed 29/06/2023)

- A time limit must be placed on the processing of applications. Both tenant and landlord need to know that the application will be processed without undue delay. Any causes for delays must be thoroughly investigated and addressed.

Threshold recognises the value of HAP in supporting 20% of the households living in the private rental sector. HAP as it stands, is providing important, short-term housing support and preventing further people from experiencing homelessness. Threshold welcomed the increase to the discretionary HAP rates and the increase of the single person's rate to equate with that of couples. Nevertheless, an increase of the HAP base rates is still necessary to ensure HAP tenants have sufficient means to live a life with dignity.

### **7. Should subsidies be used to encourage households towards specific tenure types?**

It is Threshold's position that subsidies are not required to encourage households toward specific tenure types.

Across the board there is a general preference toward home ownership. Threshold sees this each year in its survey of clients<sup>14</sup>. Given this strong preference there is no need to use subsidies to encourage people towards it. Nor is it necessary to encourage people toward renting, as renting is unfortunately often the only option available to many people. If renting was secure and affordable it would become a tenure of choice, this was clearly reflected in the 2023 survey<sup>15</sup>, and the natural conclusion reached is that there would be no need to encourage people toward it.

If there were much higher levels of social and cost-rental housing with little take-up, then it might be necessary to consider subsidies to encourage people toward specific tenure types. This scenario is unlikely.

### **8. Are there risks associated with delivering social housing using subsidised market rental units; if so, do the risks outweigh the benefits?**

There are a number of risks associated with using subsidised market rental units. HAP is a clear example of this. The risks do not necessarily outweigh the benefits in the short-term, however the increasing cost of HAP (over €500 million in 2022)<sup>16</sup> is a substantial risk in the long-term. It leaves the State exposed to the forces of the market and this is a vulnerable position to be in.

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<sup>14</sup> Annual Surveys available here [https://threshold.ie/publications/?publication-topic=reports&gl=1\\*18of1ti\\* up\\*MQ..\\* ga\\*NTI2MzY0Njk5LjE2OTA1NjEwMzY.\\* ga\\_W53ZJZ6NX5\\*MTY5MDU2MTAzNi4xLjEuMTY5MDU2MTAzOS4wLjAuMA..](https://threshold.ie/publications/?publication-topic=reports&gl=1*18of1ti* up*MQ..* ga*NTI2MzY0Njk5LjE2OTA1NjEwMzY.* ga_W53ZJZ6NX5*MTY5MDU2MTAzNi4xLjEuMTY5MDU2MTAzOS4wLjAuMA..)

<sup>15</sup> Threshold (2023), We are Generation Rent, [https://threshold.ie/wp-content/uploads/2023/06/Threshold-We-Are-Gen-Rent-2023.pdf?gl=1\\*1526vik\\* up\\*MQ..\\* ga\\*MjExNTU1NDUwLjE2OTA5OTI3OTk.\\* ga\\_W53ZJZ6NX5\\*MTY5MDk5Mjc5OC4xLjEuMTY5MDk5MjgwMi4wLjAuMA..](https://threshold.ie/wp-content/uploads/2023/06/Threshold-We-Are-Gen-Rent-2023.pdf?gl=1*1526vik* up*MQ..* ga*MjExNTU1NDUwLjE2OTA5OTI3OTk.* ga_W53ZJZ6NX5*MTY5MDk5Mjc5OC4xLjEuMTY5MDk5MjgwMi4wLjAuMA..) (accessed 02/08/23)

<sup>16</sup> Department of Housing, Local Government and Heritage, (2023), 'Total HAP Expenditure 2014-2022', <https://www.gov.ie/en/collection/6060e-overall-social-housing-provision/#housing-assistance-payment> (Accessed on 28/07/23)



Delivering social housing units using subsidised market rental units creates significant risks for the tenants; particularly given the lack of parity between HAP tenants and traditional social housing tenants.

**Over reliance on the private rental sector:** The utilisation of HAP has resulted in an increased reliance on the private rental sector to meet the long-term housing need of a much larger cohort of people. This has resulted in much greater competition among tenants for scant rental units. As a result, numerous negative consequences accrue; increased rents, increased homelessness, an acceptance of substandard housing, hidden homelessness and young adults moving out of home later on than they should or would like in their life.

**Lack of security:** A landlord can terminate a tenancy under any of the grounds under Section 34 of the *Residential Tenancies Act 2004* (as amended). The RTB published figures showing that they received notification of almost 14,000 Notices of Termination between Q3 2022 and Q1 2023. The private rental sector is unable to offer security to those on HAP, contrasting sharply to the security experienced by those living in traditional social housing units. These evictions can result in, arguable a new acute form of homelessness, with recent reports indicating that almost one third of those presenting entering homeless accommodation had received a notice of termination<sup>17</sup>.

**Discrimination:** There is a marked reluctance among some landlords to accept HAP. Despite its prohibition under the Equal Status Acts, the research findings show discrimination continues to take place on the housing assistance ground, with those seeking to access accommodation, and those in existing tenancies, continuing to face discrimination by landlords and estate agents because they are recipients of social housing assistance (HAP, RS or RAS).<sup>18 19</sup>

**Inadequacy of HAP:** As noted earlier the HAP payment is insufficient to meet the cost of renting in Ireland. This is documented in the Simon Communities report series “Locked Out of the Market.” The latest report<sup>20</sup> emphasised that for the second time in the Locked-Out series, there were no properties available within a standard HAP rate. In total, 29 properties in March were affordable through discretionary HAP limits. For comparison, 1,055 properties were available within HAP rates two years ago in March 2021. This results in the payment of top-ups by HAP tenants, which again marks them

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<sup>17</sup> Department of Housing, Local Government and Heritage, (2022), *June 2023 Monthly Homeless Report and Homeless Quarterly Progress Report Quarter 2 2023* published, <https://www.gov.ie/en/press-release/8d691-june-2023-monthly-homeless-report-and-homeless-quarterly-progress-report-quarter-2-2023-published/> (Accessed on 31/07/23)

<sup>18</sup> Hearne, R & Walsh, J. (2021); *Housing Assistance and Discrimination Scoping Study on the ‘Housing Assistance Ground’ under the Equal Status Acts 2000-2018*, Dublin: Irish Human Rights and Equality Commission <https://www.ihrec.ie/app/uploads/2022/08/Housing-Assistance-and-Discrimination-Report.pdf> (Accessed on 31/07/23)

<sup>19</sup> Threshold, (2021), *HAP and Rent Supplement Discrimination*, [https://threshold.ie/wp-content/uploads/2022/06/hap\\_and\\_rent\\_supplement\\_discrimination\\_july\\_2021.pdf?\\_gl=1\\*nx3ojp\\*\\_up\\*MQ..\\*\\_ga\\*MTg4NjgzNzYzNy4xNjkwODg0NDk3\\*\\_ga\\_W53ZJZ6NX5\\*MTY5MDg4NDQ5Ny4xLjEuMTY5MDg4NDU0OS4wLjAuMA..](https://threshold.ie/wp-content/uploads/2022/06/hap_and_rent_supplement_discrimination_july_2021.pdf?_gl=1*nx3ojp*_up*MQ..*_ga*MTg4NjgzNzYzNy4xNjkwODg0NDk3*_ga_W53ZJZ6NX5*MTY5MDg4NDQ5Ny4xLjEuMTY5MDg4NDU0OS4wLjAuMA..) (Accessed on 31/07/23)

<sup>20</sup> Simon Communities of Ireland, (2023), *Locked Out of the Market Study in March 2023 The Gap between HAP Limits and Market Rents*, <https://www.simon.ie/wp-content/uploads/2023/03/Locked-Out-of-the-Market-March-2023.pdf> (Accessed on 30/06/23)

out from their counterparts in traditional social housing tenancies. HAP tenants, through the payment of top-ups are they themselves subsidising the State's provision of HAP.

**Treatment of arrears:** If HAP tenants fall behind on their rent contribution payments to the Local Authority, payments to the landlord are suspended within a short period of time unless their arrears are paid and the tenant is then accountable for the full amount of rent going forward, as well as any rent arrears which have built up. The tenant is put at immediate risk of homelessness and the landlord likely dissuaded from re-engaging with the scheme. Again, this contrasts significantly with the treatment of arrears accrued by traditional social housing tenants who are provide with much more realistic repayment plans.

We understand that there are imminent reforms such as the "Landlord Guarantee," but it is unknown if this will incentive large numbers of landlords to remain in the market or to rent their properties to those in receipt of HAP.

It is necessary to reiterate and acknowledge the important role of HAP in providing support to households in housing need, and to recognise that a move away from HAP must be gradual and planned alongside an increase in social and cost-rental housing.

#### **9. Should the Cost Rental Scheme be scaled up across the country?**

It is imperative that cost-rental be scaled up across the country. Threshold's vision is for the stock to increase to a level where it, alongside social housing can compete with the private sector. This will place downward pressure on private sector rents and ideally improve minimum standards as landlords will have to improve their offerings to attract tenants. Delivering cost-rental at large scale will ensure a rolling programme of new housing developments as any profits, when they accrue, can be-invested in new housing, refurbishment, or land purchase.

Operating in such a manner ensures that non-profit housing associations will be in a position to deliver new house building programmes immune to economic cycles. The inclusion of the cost of maintenance in the rents will lead to well maintained and long-lasting homes; not only assets to the AHBs but of exceptional benefit and value to the State.

While cost-rental in Ireland is in its infancy a more comprehensive programme of not for profits housing will alter the direction of the housing crisis.

#### **10. If so, what changes/incentives could be made to support the expansion of this tenure of rental?**

Threshold recommends the following changes to support AHBs to deliver increased numbers of cost-rental units.

- Reduce land cost in city centre areas by zoning land in these areas for public housing mixed tenure schemes.
- Set VAT rate at 0% on Cost Rental homes to reduce overall capital cost and reduce the amount the AHB must borrow.
- Waive development contributions on cost rental schemes as currently applies with most Local Authorities' social schemes.

- Create a sustainable funding model that allows the sector to deliver Cost Rental under their construction programmes, which should be cheaper to deliver than turnkey.
- Provide a level of subsidy income to the AHB to top up the cost rent received from the tenant in order to bridge the viability gap.
- The Housing Finance Agency as a state lender, is best placed to carry interest rate risk rather than the AHB. The Housing Finance Agency, or other lender, to provide interest rates fixed at the point of contract exchange, in contrast to the drawdown point. This could facilitate the AHB to fully assess viability and commit contractually to cost rental homes.
- The state to provide a guarantee to lenders to allow for a lower interest rate applying for Cost Rental. This will allow cost-rental to foster during this economic environment.
- Develop a funding model for larger mixed tenure sites that include social and cost rental. This would facilitate one scheme in supporting the others to ensure that AHBs provide a range of homes addressing a wider range of demand.

## The Quality of Homes

### 11. Should the standards regulations which currently apply be changed and, if so, why, and how?

Threshold recommends two changes to the *Housing (Standards for Rented Houses) Regulations*; one to tackle the problem of mould and the other to ensure fire safety measures are being met.

**Mould:** Regulation 4 of the *Housing (Standards for Rented Houses) Regulations 2019* does not sufficiently highlight mould when addressing the setting of ‘a proper state of structural repair’. While Section 2 does note that the exterior and interior of the property should not be defective due to dampness or otherwise, Threshold recommends the inclusion of an additional section, a section that highlights specifically that mould is part of what is classed as a proper state of structural repair and something that must be treated immediately.

Black mould (*Stachybotrys chartarum*) is a perennial problem in many Irish properties that is beyond standard upkeep and decorating. Furthermore, it is a grave concern that should not be pushed off or ignored. It is important to have a standalone obligation in the regulations, as, Threshold’s clients’ experiences, quick fixes by landlords do not resolve the problem. The dampness, which is the underlying cause of the mould, will circumnavigate any quick-fix, patch treatment. Invariable the mould will return.

Damp and mouldy environments generally cause a host of medical problems, particularly in people who are sensitive to the allergens that moulds produce. At its most extreme, mould can affect the immune system and trigger more serious problems such as asthma attacks, advance respiratory complaints and even death. Babies and young children are at particular risk of health effects from mould. Those with respiratory conditions, such as asthma and certain allergies, tend to be worse affected, as are those with weakened immune systems. A weaker immune system leaves people more vulnerable to fungal infections from spores breathed into the lungs.

**Fire Safety:** Regulation 10, “Fire Safety”, of the *Housing (Standards for Rented Houses) Regulations 2019* notes that in Section (7) “Current standards” means standards produced by the National

Standards Authority of Ireland for Fire Detection and Fire Alarm Systems in Buildings and for Emergency Lighting”. This document is not easily accessible for the general public, and it is strongly recommended that these standards be made more accessible to members of the public.

**12. Are landlords and tenants sufficiently aware of the standards and enforcement processes and, if not, how can awareness be raised?**

Based on the nature of the queries received by Threshold advisors, Threshold is of the opinion that neither landlords or tenants are sufficiently aware of the standards and enforcement processes.

For example, landlords are required to provide their tenants with information on the property, building services, appliances, and their maintenance requirements. However, in the experiences of Threshold advisors, this information is often not provided and when it is it can be overly-technical and

A public awareness campaign around this issue centering on landlord and tenant rights and responsibilities and where they need to go to get help when needed is vital, especially given the link between housing and health, amid a broader understanding of how to effectively run a home. There are a number of stakeholders who could participate in, and promote, such a campaign. Threshold feels that the RTB have a strong role to play in all of this by communicating directly with tenants and landlords.

Good examples of tenant information and guidance documents have been developed by AHBs. Similar guides could be developed for private renters. A good base already in existence on how to run a tenancy is the ‘Good Landlord Tenant Guide: A guide to the Residential Tenancies Act Landlord Tenant Guide’<sup>21</sup>.

**13. Is the inspection regime which local authorities operate to oversee standards and fire safety appropriate?**

The current inspection regime is not appropriate or fit for purpose. Threshold proposes an NCT style system of certification to ensure minimum standards are met.

Such a scheme would place the burden of establishing compliance with the minimum standards regulations on the landlord; whereby landlords have an inspection of their property carried out by a registered professional, within the meaning of the *Building Control Act 2007*. The inspection would be carried out according to the *Housing (Standards for Rented Houses) Regulations 2019*. The professional carrying out the inspection would complete a certificate, and a template for this could be provided by the RTB.

The resulting certificate would be valid for four years and the cost to the landlord within this process would be tax deductible. The landlord would submit the certificate as part of the annual registration process with the RTB. Tenants will be able to search the database to view certificates which have been

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<sup>21</sup> Residential Tenancies Board, *The Good Landlord Tenant Guide*, [https://www.rtb.ie/images/uploads/Comms%20and%20Research/RTB\\_A\\_Guide\\_to\\_Being\\_A\\_Good\\_Tenant\\_-\\_Landlord\\_V7\\_2021\\_Final.pdf](https://www.rtb.ie/images/uploads/Comms%20and%20Research/RTB_A_Guide_to_Being_A_Good_Tenant_-_Landlord_V7_2021_Final.pdf) (Accessed on 01/08/23)

submitted in respect of a particular property. This will allow tenants to see whether the particular property that they are interested in meets the required standards.

Failure to provide a certificate as part of the registration process would be a breach of registration requirements. This breach would be subject to investigation by an RTB Authorised Officer and possible sanction by the RTB Decision Maker at first instance. It will be necessary to add to the *Residential Tenancies Act 2004* (as amended) that knowingly or recklessly providing a false certificate is a criminal offence.

Threshold recommends that the obligation of a landlord to meet minimum standards, as per Section 12 of the Act, be included in the schedule of matters which can be investigated by the RTB. This is necessary for cases where the landlord has not registered the property in the first instance and that property does not meet the standards. It is also required in cases whereby the property has been allowed to fall below the standards between inspections.

The Authorised officer should be permitted to initiate an investigation where there is failure to supply a certificate, the provision of a false certificate, a property not meeting standards or the report of a property not meeting standards. On completion of the investigation and submission of a complaint to the RTB Decision Maker, the Decision Maker would have to consider all the factors, as per Section 148 AD of the Residential Tenancies (Amendment) Act 2019, pertaining to the case when deciding the appropriate sanction. Such an approach will allow for a gradation of sanctions incremental to reflect the nature of the alleviating actions taken by the landlord to rectify the matter and to bring the property up to standard, as or not as the case may be.

#### **14. Are the mechanisms which govern disputes among tenants and landlords concerning standards working well; if not, how, and why should they be changed?**

The current mechanisms which govern disputes among tenants and landlords concerning standards are not working well. The primary reason being that governing responsibilities are split between the RTB and the Local Authorities with differing powers and degrees of effectiveness. Threshold's solution to this issue is the implementation of the NCT for Housing (detailed above) requiring the landlord to demonstrate compliance with the standards in the first instance, with any further issues dealt with by the RTB.

The Local Authorities are responsible for inspecting the homes, issuing Improvement Notices as well as Prohibition Notices. However, there is little power in the Improvement Notices, and the Local Authorities use Prohibition Notices infrequently as tenants often have few alternative housing options available to them. While there are efforts underway to improve the inspection rate of private rental homes, attention must also be paid to improving the number of homes that are brought into compliance on foot of an inspection. The current system is unable to do this.

RTB Adjudicators can hear disputes between landlords and tenants regarding standards, issue Determination Orders instructing landlords to carry out repairs and order the payment of compensation. If necessary, the RTB can instigate enforcement procedures if their orders are not adhered to. The RTB is not however, responsible for inspections and so can only act when a tenant lodges a dispute. Given the current rental shortage, tenants are unlikely to raise complaints or lodge

disputes pertaining to poor standards as they fear they may lose the tenancy. In addition, when a tenant does lodge a dispute regarding poor standards the RTB adjudicator may seek or rely on an Improvement Notice from the Local Authority when deciding whether there has been a breach of obligations regarding standards.

### **15. Would increases to standards drive landlords to exit the market?**

This is a difficult question to answer as landlords are a diverse group and there is limited available data on the intentions of landlords. The most reliable publicly available data is the RTB Small Landlord Report<sup>22</sup>, in which landlords, who stated they were ‘likely/very likely’ to sell in the next 12 months/2 years/5 years, were asked their motivations for this. Only 13% cited the regulatory environment as a reason to sell. This would indicate that an increase to standards would likely not drive many landlords to exit the market. At present however, beyond the two minor changes to the Housing (Standards for Rented Houses) Regulations 2019 recommended above, Threshold has not identified a need to increase the standards. Threshold has identified the need to ensure that the existing standards are met.

The Government has committed to a minimum BER for private rental homes. Financial support, and promotion of same, will be key in reducing an exit of landlords on this basis. It is likely that some smaller landlords do not have access to the necessary finance to bring their properties up to standard. The promotion and perhaps a variation of the existing Repair and Lease Scheme would allow the Local Authorities to take on such properties and carry out the necessary repair to keep the tenants in their homes.

### **16. Should standards be differentiated, depending on the scale of the landlord, the age of the dwelling and so forth?**

The standards are the minimum of what one can expect in terms of health and safety and should not be differentiated depending on the scale of the landlord, the age of the dwelling and so forth.

Below are some examples of the Housing (Standards for Rented Houses) Regulations 2019 which sets out the bare minimum that a tenant, or anyone can expect in their home.

- Regulation 4 of calls for the interior and exterior of the property “to be maintained in a proper state of structural repair”.
- Regulation 5 calls for sanitary facilities to be in a good working order, safe and properly insulated.
- Regulation 6 calls for measures to ensure heating facilities do not overheat, to remove fumes and for the provision of a carbon monoxide alarm system, where necessary.
- Regulation 8 calls for adequate ventilation that is in good repair and working order.

Other examples include adequate refuse facilities, gas, oil, and electricity installations.

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<sup>22</sup> Amárach Research, (2021) *RTB Small Landlords Report* (2021), [https://www.rtb.ie/images/uploads/Comms%20and%20Research/RTB\\_Small\\_Landlord\\_Report\\_July\\_2021.pdf](https://www.rtb.ie/images/uploads/Comms%20and%20Research/RTB_Small_Landlord_Report_July_2021.pdf) (Accessed on 05/07/23)

It is already the case that housing authorities, housing bodies, or properties subject to a minimum lease period of 10 years are not required to be in compliance with aspects of Regulation 7.

In addition, there are some exempted buildings and structures, which do not require a BER certificate when being offered for sale or rent.

### **17. How should the private rental sector be supported to achieve minimal BER ratings?**

Targeted schemes for energy upgrades and retrofits designed specifically for the private rental sector are necessary to achieve a minimum BER rating in the private rental sector. Threshold recognises that there are grants available to landlords via the SEAI and the creation of tax allowances for energy upgrades in certain circumstances, as part of the Finance Act, 2022.

Unfortunately, in the past landlords have not availed of the schemes available. For example, the Home Renovation scheme was available to landlords but only 2.6% of properties which were upgraded were rental properties<sup>23</sup>. In addition, landlords must be engaged with and made aware of the available schemes, such as the new tax allowances, which is a generous, but time bound. Threshold has not seen any promotion of these new allowances, nor a briefing note or guidance document for landlords.

The split incentive which exists is particularly difficult to overcome. As identified by the SEAI, it is further amplified by the current housing crisis in Ireland<sup>24</sup>. In a balanced market, a more energy efficient home would attract a better price and interest from renters, thus incentivising the landlords to upgrade. Currently however, tenants have little to no choice about the housing they accept, and so there is no incentive for landlords to upgrade.

Threshold set out detailed recommendations in respect of this issue in “Warm Housing for All”<sup>25</sup>, in partnership with the Society of Saint Vincent de Paul.

### **18. Which other changes should be made to improve the governance of the private rental sector?**

**Cross referencing of databases to follow up on unregistered tenancies:** Threshold recommends increased collaboration and the cross referencing of databases by statutory bodies to identify unregistered tenancies and to bring the landlords into compliance.

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<sup>23</sup> Information provided on request by the Office of the Revenue Commissioners

<sup>24</sup> SEAI, (2023) *Promoting retrofitting among homeowners in Ireland through a behavioural lens*, <https://www.seai.ie/publications/Promoting-retrofitting-among-homeowners-in-Ireland-through-a-behavioural-lens.pdf> (Accessed on 02/08/23)

<sup>25</sup> Threshold, (2021), *Warm Housing for All*, [https://threshold.ie/wp-content/uploads/2022/06/warmhousingforall.pdf?\\_gl=1\\*q5hhpl\\*\\_up\\*MQ..\\*\\_ga\\*MTEExOTM3NDMyOC4xNjkwODE5Mzg4\\*\\_ga\\_W53ZJZ6NX5\\*MTY5MDgxOTM4Ny4xLjEuMTY5MDgxOTM5NC4wLjAuMA..](https://threshold.ie/wp-content/uploads/2022/06/warmhousingforall.pdf?_gl=1*q5hhpl*_up*MQ..*_ga*MTEExOTM3NDMyOC4xNjkwODE5Mzg4*_ga_W53ZJZ6NX5*MTY5MDgxOTM4Ny4xLjEuMTY5MDgxOTM5NC4wLjAuMA..) (Accessed on 01/08/23)

There is a clear need for this as the 2022 Census recorded 330,632 tenancies rented from a private landlord<sup>26</sup> while the RTB lists 276,223 registered tenancies in 2021<sup>27</sup>. The one-year gap between these numbers cannot account for the disparity, particularly considering that the number of registered RTB tenancies has been in decline each year since 2016.

In Housing for All, the Government committed to facilitating increased enforcement of registration of tenancy requirements through measures such as the expansion of data-sharing arrangements between the Revenue Commissioners and the Residential Tenancies Board ('RTB'). This was scheduled for Q1 of 2023 and it is not yet clear whether this has been progressed or with what level of success.

**Deposit Protection Scheme:** Threshold continues its call for of a Deposit Protection Scheme to protect renters' money and ensure the prompt and fair return of deposits at the end of a tenancy, a reduction in the number of deposit retention disputes brought to the RTB and increased financial security and peace of mind for renters. The Government has, in Housing for All, committed to examining the creation of a system of deposit retention based on best international practice.

Threshold proposes the establishment of a "custodial" model. There are several experienced providers delivering such schemes in Northern Ireland, England, Wales, and Scotland. Some are delivered on a not-for-profit basis and Threshold believes similar can be achieved in Ireland. Under Threshold's proposed custodial model:

- A landlord will be required to lodge a deposit with a registered tenancy deposit scheme and provide proof of same as part of the RTB registration process.
- Interest earned on the deposits held will finance the scheme.
- Failure to lodge the deposit to the scheme by the landlord, within the allocated time, will constitute a breach of the RTB criteria and be subject to the RTB's Investigations and Sanctions process.
- At the end of the tenancy, the tenant or landlord may apply to the scheme for the release of the deposit.
- If both parties agree regarding the return of the deposit, in part or full, then it is released as per their agreement.
- If the parties disagree, mediation is held on the matter.
- If the parties are still in disagreement after mediation, the case will be referred to the RTB for adjudication and can subsequently progress to a Tribunal hearing, if necessary

Further information on the development of such a scheme in Ireland has been provided alongside this submission.

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<sup>26</sup> Central Statistics Office, (2023), 'Census of Population 2022 Summary Results - <https://www.cso.ie/en/releasesandpublications/ep/p-cpsr/censusofpopulation2022-summaryresults/dwellingcharacteristics/> (Accessed on 06/07/23)

<sup>27</sup> Residential Tenancies Board, *RTB Private Registration Statistics – Number of Private Rented Tenancies Registered with the RTB at End of Year, 2005- 2021*, <https://www.rtb.ie/data-hub/rtb-private-tenancy-registration-statistics> (Accessed on 06/07/23)



**Licensees / Digs:** Threshold recommends providing licensees and those not protected by the Residential Tenancies Acts with a set of circumscribed tenancy rights similar to what has been provided to students residing in Purpose Built Student Accommodation. Work is necessary to determine the nature of such arrangements, as well as the number of people living in in license arrangements as new legal provisions may be required for new emerging letting arrangements.

While licensees have traditionally been students and young people renting a room in someone else's home, Threshold is seeing more people living in other arrangements that are not governed by the Residential Tenancies Acts and are often loosely referred to as license arrangements. These licensees have little-to-no recourse to justice if issues arise.

Some live in an owner-occupied home, where the owner can avail of tax relief via the "rent-a-room" scheme. While the number of homeowners availing of the scheme gives some indication to the number of licensees it will be an underestimation as these are not the only form of licensees in existence. Those whose home is tied to their work, are living in a granny flat or garden cabin/lodge, engaged in guardianship arrangements, are living in caravans, or are residing in non-traditional buildings are also licensees or in arrangements not governed by the Residential Tenancies Acts.

The lack of protection leaves people in these situations exposed and vulnerable to being taken advantage of. Similar measures, as were taken in 2019 to ensure students in purpose-built student accommodation have recourse to the RTB for matters such as retained deposits, poor standards, illegal or unlawful evictions, and invalid rent increases, are required.

**RTB awards:** Threshold recommends increasing the maximum award in damages which can be ordered by the RTB to reflect the increase in inflation since the limit as set in 2004. The Harmonised Index of Consumer Prices records a 32.6% change between July 2004, when the figure of €20,000 was set and August 2023.

**Passing of Fees to Tenants:** Information gathered from both leases and websites suggests that some large accommodation providers are charging students fees for utilities on top of their rent<sup>28</sup>. This is a central issue for tenants of Purpose-Built Student Accommodation and is potentially an issue for renters in general. This situation has arisen due to a lack of definition of rent in the Residential Tenancies Acts. An unequivocal definition, in keeping with *EU Council Directive 93/13/EEC* set out below, would prevent the application of dubious utility and management charge practices.

Section 16(a)(ii) of the *Residential Tenancies Act 2004* set out that a tenant must pay to the landlord, where the lease or tenancy agreement so provides, any charges or taxes that are payable by the tenant, in accordance with the lease or tenancy agreement, unless the provision in the lease is unlawful.

This language leaves open the potential for any charges, taxes, management fees and administrative fees to be passed on to tenants - acting as a *de facto* rent increase.

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<sup>28</sup> Kapila, L., (2023), 'Growing number of big student housing complexes adding extra fees on top of the rent', *Dublin Inquirer*, 5<sup>th</sup> July, <https://dublininquirer.com/2023/07/05/growing-number-of-big-student-housing-complexes-adding-extra-fees-on-top-of-the-rent/> (Accessed on 02/08/23)

In addition to this, it is set out in Section 18(10) of the *Multi Unit Development Act 2011* that “the owner of each unit in a multi-unit development (including a person who is the developer or building contractor of the development) shall be under an obligation to pay **all [emphasis added]** service charges levied under this section”.

It is further noted that Section 18(12) states that “nothing in this section shall operate to prevent a unit owner from seeking and recovering reimbursement of service charges levied under this section from a tenant of that owner where so provided by agreement”.

Threshold objects to the aforementioned point in the MUD Act and the wording “provided by agreement.” The basis of this argument is the expectation that that potential landlords expect their tenants to pay the management fees, which contravenes several pieces of legislation, both at the national and at the supernational level.

This contradicts basic contract law principles, such as the well-established common law principle of Incorporation and the point of principle that notice of an unusual, or onerous term, is required for the incorporation of that term into a contract. In cases where attempts to incorporate highly unusual and onerous terms are made, for example in cases where the landlord insists upon a tenant paying the property owners’ management fees, those terms must be very clearly brought to the tenant’s attention. Where a term of a particularly rare or unusual nature is at issue, there is a greater onus on the party introducing the term to bring it to the other party’s attention.

This has been called the “red hand” rule. In the case where a particular term seeks to severely disadvantage an individual, reasonable steps should be taken to clearly highlight this.

Regarding instances where tenants may have been unfairly charged for management fees, this scenario would contravene *Council Directive 93/13/EEC* on Unfair Terms in Consumer Contracts. Article 10(2) of the Directive states that its provisions shall be applicable to all contracts concluded after December 31, 1994. This includes tenancy agreements contracted between landlord and tenant.

Article 3(1) states that “a contractual term which has not been individually negotiated shall be regarded as unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the parties’ rights and obligations arising under the contract, to the detriment of the consumer.”

Article 3(2) establishes without a doubt that a term “shall always be regarded as not individually negotiated where it has been drafted in advance and the consumer has therefore not been able to influence the substance of the term, particularly in the context of a pre-formulated standard contract.”

The Directive has also been fully transposed and incorporated into Irish law by *S.I. No. 27/1995 - European Communities (Unfair Terms in Consumer Contracts) Regulations, 1995*.

Threshold’s ask is for the provision of a definition of rent payable to a landlord and, in conjunction with that, to correct the record regarding Section 18(12) of the Multi Unit Development Act.

Another important ask is for the record to be corrected in terms of Section 16(a)(ii) of the Act of 2004 to ensure that a tenant cannot be passed on what is essentially a landlord’s responsibility towards their local property tax, unless it fits the criteria as outlined in Section 11(5) of the *Finance (Local*

*Property Tax) Act, 2012* which notes that: “The circumstance of a person’s holding a relevant residential property under a periodic tenancy, under a Part 4 tenancy or a further Part 4 tenancy under the Residential Tenancies Act 2004 or under any other tenancy not of a term certain, which circumstance, if it were to endure, could result in the person’s being in possession of that property for 20 or more years, does not operate to render him or her a liable person, for the purposes of this Act, in relation to that property”.

## **Supply and Investment, Institutional Investment, Subsidising Investors and Student Housing**

### **19. Should the State play an active role in managing the size of the private rental sector and, if so, how?**

Threshold recommends the State play an active role in managing the size of the private rental sector. This is essential to ensure the transition to a unitary housing system. If the private rental sector is to reduce in size, the State must lead and guide this through active policy intervention.

A paper from the Joseph Rowntree Foundation<sup>29</sup> highlights that the State must intervene in the housing market to:

- Achieve a higher rate of homeownership, especially among young people and people on lower incomes, including a greater diversity of shared, community, and cooperative ownership options.
- Deliver a larger number of social rental options and intermediate price points, including options to build equity and assets over time.
- Deliver a smaller, higher-quality and better managed private rental sector, which provides flexibility to people that choose it and with appropriate financial support for people that need it.

The same report highlights a series of policy pillars needed to redistribute residential property or reduce the size of the private rental sector by considering the idea of more balanced tenure mixes.

The recommendations set out to achieve this include intervention by the State to reduce the property prices to earnings ratio to improve overall affordability. This would involve giving the ability of sitting tenants to purchase their property, supports for which are currently being progressed in Ireland.

In addition, the ‘socialisation’ of the existing stock should be rapidly increased as there is a necessity for non-market housing. Specifically, councils and housing associations should be supported to purchase stock from the secondary market and bring it up to standard. This would also create the opportunity to retrofit current rental stock. The Tenant-in-Situ, the Cost-Rental Tenant-in-Situ and Repair and Lease Schemes are welcome initiatives in this regard. Scaling up and expansion of these

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<sup>29</sup> Baxter-Clow, D., Elliott, J. and Earwaker, R. (2022), *Making a house a home: Why policy must focus on the ownership and distribution of housing*, Joseph Rowntree Foundation, <https://www.jrf.org.uk/report/making-house-home-why-policy-must-focus-ownership-and-distribution-housing> (accessed 01/08/23)

schemes will be crucial, particularly given the high number of notice of terminations for sale which are being issued to tenants.

The private rental sector will continue to play a role in providing flexibility to the minority of households. This includes students, recent arrivals to the country, temporary workers, and people who are undergoing some kind of transition such as family breakdown. This is not to disregard that those who have been unable to access home ownership, social or cost-rental housing, as set out previously, who will require long-term stability in the private rental sector until social housing, cost-rental and home ownership are available to all who need it.

Thresholds position is that the State's role in managing the size of the private rental sector involves the escalation of the socialisation of the sector via the tenant in situ schemes, increasing public housing and delving on owner occupation in the long-term. The starting point of this is to recognise housing as a right and an essential part of societal infrastructure.

## **20. Which measures should be taken to incentivise small-scale landlords to remain in the sector, and why?**

As has been outlined in the RTB Small Landlord Report<sup>30</sup>, it appears that small scale landlords are already planning to leave the market as they no longer wish to be landlords. For those who did not cite this reason, there are potential measures to both incentive landlords to remain in the sector but also guarantee security of tenure for the tenants.

Threshold has proposed a deduction to the tax on rental income in exchange for long-term leases. This has been set out in more detail in response to the question "What types of changes should be introduced to facilitate tenants who wish to enter long-term tenancy options, and what should be done to encourage the supply of rental accommodation to meet such demand?".

It is important to avoid a blanket reduction to ensure the measure is targeted and to avoid dead weight.

## **21. Should general subsidies or tax measures to incentivise greater rental sector supply be considered?**

Threshold is of the opinion that general subsidies should not be utilised to incentivise greater rental sector supply. Such interventions would run counter to any long-term plans to reduce the size of the sector and would not be the best use of State's resources. HAP for example, while keeping more than 60,000 tenants in their properties, comes at considerable cost to the state with no assets accrued in the process.

Threshold is of the opinion that there be a greater focus on incentivising the provision of public housing, cost-rental and home ownership.

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<sup>30</sup> Amárach Research, (2021) *RTB Small Landlords Report* (2021), [https://www.rtb.ie/images/uploads/Comms%20and%20Research/RTB\\_Small\\_Landlord\\_Report\\_July\\_2021.pdf](https://www.rtb.ie/images/uploads/Comms%20and%20Research/RTB_Small_Landlord_Report_July_2021.pdf) (Accessed on 05/07/23)

As stated previously, it is Threshold’s position that if general subsidies or tax measures are introduced to incentivise greater rental sector supply, then they should be provided in exchange for longer term leases and increased security of tenure.

**22. Should measures be targeted at specific types of accommodation, specifications, locations, or landlords, such as small scale or larger landlords?**

Thresholds response to this question is contained in the responses to a number of previous questions.

**23. Are there particular types and locations of new supply which are particularly important?**

As has been highlighted earlier regarding the question “*Should the Cost Rental Scheme be scaled up across the country?*,” Threshold believes that cost-rental is a particularly important form of supply. This includes large as well as smaller urban areas.

The Housing Need and Demand Assessments will be essential for determining the number and location of units and developing long-term strategic plans to deliver housing across this tenure.

Further research, utilising the HNDA, is required to develop a profile of the housing stock, map housing pressures, existing and future demand, as well as the need for accessible housing units.

**24. Is there a role to be played in the conditional availability of incentives, such as grant subsidies or tax measures, for the completion of housing units to incentivise supply?**

Such incentives would need to be carefully designed and implemented to ensure the best use of State resources, return on investment and to avoid an incentive for developers to stall projects so as to avail of potential subsidies or tax breaks. Careful consideration would need to be given to the risks involved versus the long-term gain before implementing such incentives.

**25. Should measures be taken to specifically incentivise further supply of high-quality units by institutional investors with a long-term commitment to urban rental markets, and if so, what form should such measures take?**

Threshold is not in favour of incentives to encourage the further supply of high-quality units for a number of reasons.

In the first instance, Ireland already offers best yield in Europe for buy-to-let landlords<sup>31</sup>, this should be incentive enough.

Secondly, Build-to-Rent properties generally have a high price point and so are not affordable to a broad range of people. Additional affordable supply is what is needed, not high-end expensive units. In addition, these developments tend to be only delivered in urban areas and so do not serve the needs of renters outside of these. In addition, a concentration of build-to-rent properties in small areas can have an inflationary impact on local rents, pricing out those already living there.

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<sup>31</sup> Fitzpatrick, C., (2020), ‘Dublin – one of the best kept property secrets in Europe’, 20<sup>th</sup> May 2020, Spire Capital, <https://spirecapital.ie/dublin-one-of-the-best-kept-property-secrets-in-europe/> (Accessed on 11/07/23)

Thirdly, it is unlikely that the properties provided would deliver long-term sustainable homes. The planning standards for Build-to-Rent are different from apartments built for owner occupation or sale on the market<sup>32</sup>, resulting properties that are not liveable in the long-term. Academics such as Lorcan Sirr, have commented on this noting that ‘you do not live in 50sq m, you exist’. There is an assumption underpinning the guidelines that one-bed units are occupied by single people, and designed for such occupancy, whereas half are occupied by couples. Sirr added that these standards have perpetuated the assumption the negative perception that you live in apartments until you move to the suburbs.<sup>33</sup>

Finally, these developments tend to be mono tenure, while mixed tenure is preferred for ensuring sustainable and vibrant communities. Build-to-Rent providers look to deliver to a certain cohort who can afford these properties and are not concerned with meeting the housing needs of wider society, or their role in this.

In Threshold’s opinion, the most viable and long-lasting mechanism to improving affordability of private rental accommodation is for Ireland to move from a dualist housing system to a unitary housing system. A move to a unitary housing system requires an increasing role of and investment by the State in building housing. The means increasing the stock of housing owned by Local Authorities and AHBs. Based on a comparative analysis of other EU Member States, will need to equal 25% of total housing stock. A continued reliance or incentivisation of Build-to-Rent, or the private sector in general, to provide housing, would not be conducive to the above.

**26. What measures should be taken to have a more structured and well-funded approach to the provision of rental accommodation for students?**

Threshold’s position is that purpose-built student accommodation is necessary and must be affordable and accessible. It would be preferable that purpose-built student accommodation is university owned, rather than part of the developer-led model which are for-profit enterprises. Threshold recommends exploring a system of cost-rental accommodation for students.

**27. Are there measures could be deployed to attract domestic capital toward sustainable, long-term investments in the residential rental market?**

In response to this question Threshold points to a key recommendation from a recent report commissioned by Renew Europe and delivered by Housing Europe entitled ‘Delivering on Housing in

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<sup>32</sup> Department of Housing, Local Government and Heritage, (2015) *Design Standards for New Apartments - Guidelines for Planning Authorities, December 2015*, <https://www.gov.ie/en/publication/9484b-design-standards-for-new-apartments-guidelines-for-planning-authorities-dec-2015/> (Accessed on 11/07/23)

<sup>33</sup> Melia, Paul & Murphy, Sarah Jane (2015), ‘Alan Kelly defends new apartment standards - despite minimum space increasing by just 2sq m from Fianna Fail guidelines’, Irish Independent, 2<sup>nd</sup> December 2015 <https://www.independent.ie/business/personal-finance/property-mortgages/alan-kelly-defends-new-apartment-standards-despite-minimum-space-increasing-by-just-2sq-m-from-fianna-fail-guidelines-34306782.html> , (Accessed on 11/07/23)

Ireland: A European Policy Perspective<sup>34</sup>. The authors have put forward a recommendation to establish a new public bank to manage the excess savings of households.

It is highlighted in the report that in 2022, Irish households had savings of €64bn. This is money which can provide considerable investment potential. In France excess household savings are channelled into a ‘*Livret A*’ or ‘*Livret de développement durable et solidaire*’ (LDDS), a state-backed savings account<sup>35</sup>. It is a tax-free way of saving money, which is available through any bank and offers savers a more attractive interest rate than their usual current account. The current interest rate is 3%, which is significantly above the interest rate offered on current account savings.

At the start of 2023, *Livret A* and LDDS savings in France amounted to €521bn. These savings are managed by a special state investment vehicle (i.e., a public bank) called the ‘*Caisse des dépôts et consignations*’ (CDC) or the Deposits and Consignments Fund. As set out within the French Monetary and Financial Code, the CDC carries out missions of public interest in support of the public policies which are implemented by the State and local government bodies. The CDC contributes to the French State's investment in social real estate, financing 75% of all housing in France, as well as financing of energy retrofitting for public buildings.

In 2021, the CDC and its affiliates provided €19bn in funding for new social and affordable housing in France. This helped to provide 80,000 new housing units, in addition to 14,000 other homes for targeted sections of the population (e.g., young workers, students, and those in need of emergency accommodation)<sup>36</sup>.

Under its current financing programme, the objective of the CDC is to support the development of 530,000 new social and affordable housing units in the period 2020-2024. This is in addition to funding 200,000 deep energy renovations of existing social housing units.

A description of what such a scheme could look like in Ireland is set out in the aforementioned report ‘*Delivering on Housing in Ireland: A European Policy Perspective*’.

## **28. Are policy mechanisms available which can protect the long-term interests of tenants and investors alike, such as subsidies or tax measures which apply solely to long-term leases?**

Threshold reiterates its recommendations in respect of a reduced tax on rental income from homes subject to long-term lease agreements, as set out in response to the question “*What types of changes*

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<sup>34</sup> Housing Europe (2023), *Delivering on Housing in Ireland: a European Policy Perspective*

<https://www.housingeurope.eu/resource-1817/delivering-on-housing-in-ireland> (Accessed on 01/08/23)

<sup>35</sup> Ministère de L’Economie des Finances et de la Souveraineté Industrielle et Neumérique (2023), *Livret A: comment ca arche?* [Livret A: how does it work?], <https://www.economie.gouv.fr/particuliers/livret-a> (Accessed on 02/08/23)

<sup>36</sup> Caisse des Dépôts, (2022), *Rapport d’engagement sociétal 2021* [Social engagement report 2021], Paris: Caisse des Dépôts Groupe. <https://www.caissedesdepots.fr/sites/default/files/2022-09/Rapport%20d%27engagement%20soci%C3%A9tal%20CDC%202021%20-%20corrig%C3%A9%203.pdf> (Accessed on 02/08/23)

*should be introduced to facilitate tenants who wish to enter long-term tenancy options, and what should be done to encourage the supply of rental accommodation to meet such demand?”.*

## International Examples

### **29. What rental policies and policy measures used in other countries ought to be considered for Ireland?**

Threshold has pointed to a number of policies and practices in other countries, throughout this document. These include the taxation of rental income in Portugal, the restriction on evictions in Germany, the provision of Deposit Protection Schemes across the UK, the investment of public savings in housing in France among others.

While we may look at European countries where renting for life is not uncommon these tend to be countries with more established rental systems, with an expectation that people will rent long-term. Despite having more established private rental sectors, many of these countries are too experiencing difficulties in housing supply and affordability. There are new challenges in the private rental sector and housing supply more worldwide as global finance seeks returns on investment through new means.

An excellent comparison document that highlights the similarities and differences between other countries rental policies is the Rental Regulation section of the OECD Affordable Housing Database<sup>37</sup>.



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The Scheme to Support National Organisations is funded by the Government of Ireland through the Department of Rural and Community Development.

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<sup>37</sup> OECD, *Ph6.1 Rental Regulation*, <https://www.oecd.org/els/family/PH6-1-Rental-regulation.pdf> (Accessed on 01/08/23)



