

**Joint Oireachtas Committee on Housing, Planning and Local Government
discussion on the Residential Tenancies (Student Rents, Rights and
Protections) Bill 2018**

**Opening Statement from Rosalind Carroll, Director, Residential Tenancies
Board**

Thursday 22nd November 2018

Introduction and Context

I would like to thank the Chair and the members of the Committee for inviting the Residential Tenancies Board here today to discuss the Residential Tenancies (Student Rents, Rights and Protections) Bill.

I am joined by my colleague Janette Fogarty, Head of Enforcement and Legal Affairs.

This Bill seeks to introduce provisions under the Residential Tenancies Acts for students living in specific accommodation under licence agreements.

There have been instances of significant rent increases in some purpose-built student accommodation highlighted in recent times which is understandably a cause for concern and worry for students and their parents and can have serious impacts on students' studies. However, there have been calls for greater protections for students in relation to issues of deposits and maintenance going back many years.

It is useful before commenting on this specific Bill to clarify the position regarding student accommodation and protections under the current legislation.

The Residential Tenancies Act applies where a tenancy is in place. This includes:

- Students renting from a private landlord, for example in a house share with other students or friends;
- Private, purpose-built student accommodation where a tenancy exists.

We believe that this incorporates the majority of private purpose-built student accommodation.

Where student accommodation is provided and managed by an educational institution which is a public authority, this does not come under the remit of the RTB, nor does it apply where people are renting through the Rent a Room scheme.

The issue that arises with much privately owned student specific accommodation is that there is often confusion both from a landlord and occupant perspective as to whether the occupants are there as licensees or tenants. Many accommodation agreements are called licence agreements, but in practice are tenancies. The Residential Tenancies Act regulates tenancies and does not apply to licences. A licence can be defined as permission to enter and

/ occupy a dwelling. Typical examples include a person staying in a hotel or a person sharing a house with the owner. They are not required to be registered nor can a dispute involving one be determined by the RTB. There are very limited circumstances where a licence can legitimately exist in a residential setting.

It is important to note that simply naming a tenancy agreement a licence does not automatically mean it will be accepted as being a licence. Where it is established that a tenancy is created, then the tenancy falls within the jurisdiction of the RTB and we believe that many named license agreements are, in fact, tenancies.

Therefore, it is really important that students understand this and are encouraged to bring a case to the RTB for a determination on the matter if they are uncertain about whether they have the protections of the legislation. The facts of cases in student accommodation have already been determined and the RTB found that the agreements in place were tenancy agreements rather than licences.

While the current legislation covers tenancies in student accommodation, the RTB is restricted in enforcing this, as it does not have the powers of investigation in terms of our registration functions. One of the most important elements of the Department's forthcoming Residential Tenancies Amendment Bill is the substantial investigative powers that the RTB will be given. This will allow the

RTB to proactively investigate compliance with existing legislation and apply sanctions, where appropriate, on non-registration amongst other issues. Before new legislation is introduced, there is an opportunity to test these new powers which will make for better application of the existing provisions of the law.

Considerations

The RTB does support reform in this area and given the increasing numbers of student specific accommodation that will be provided over the next number of years, there will be increasing numbers of students potentially affected by the legislation. The RTB strongly believe that the vast majority of student accommodation does currently fall within our remit. However, there are areas of uncertainty relating to student accommodation at present and a lack of transparency as to whether the legislation applies or not; strengthening the legislation in this context would be beneficial. In this regard, the RTB has been working closely with the Department of Housing. However, as the Committee members are aware, the current legislation is complex and careful consideration is required in advance of introducing specific amendments, to prevent any unintended consequences and to get the required policy outcome.

In respect of the proposed Bill under consideration here today we have identified some areas that may need further consideration.

There is a need to consider a definition of 'student specific accommodation'. Is it only accommodation designed for this purpose? Does it include accommodation bought and then used for this purpose? Does it include a private rented house that is solely let to students? It is also important to have a definition of a student to clearly set out who qualifies as a student for the purposes of defining student accommodation. The RTB strongly proposes that all student accommodation should be regarded as tenancies. Introducing licences that have more limited, but similar rights to that of a tenant is likely to cause significant issues and may cause confusion.

We believe the issue of security of tenure also needs to be considered further. Under Part 4 of the Residential Tenancies Act, tenants get security of tenure rights after six months which entitles them to a further five and a half years occupation subject to specific grounds that allow a landlord to end a tenancy. There was specific legislation in place for certain forms of student accommodation which made these tenancies subject to registration requirements and dispute services, but not subject to Part 4 security of tenure provisions. Given the shorter term nature of student accommodation, the RTB would be of the view that similar provisions should be made in relation to any new student specific measures. There is also a need to consider other related issues such as multiple occupancy tenancies which we are of the view also needs

substantial technical amendments within the current Act in order for these measures to be fully effective.

The RTB recognises the need for further clarity for students. As a first step we welcome the forthcoming legislation which will give the RTB more powers to proactively investigate non-registration, where there are claims of licences being in place. We also welcome the introduction of appropriate further legislative change which brings clarity and further protections to students, but it is important from a successful implementation perspective to fully consider all of the issues. In the interim it is important that there is an understanding that many of these student specific accommodations do come within our remit and we will work on continuing to increase awareness among students and landlords on their rights and responsibilities.

We welcome the opportunity to discuss this further with the Committee.