

DÁIL ÉIREANN

AN COMHCHOISTE UM THITHÍOCHT, PLEANÁIL AGUS RIALTAS ÁITIÚIL JOINT COMMITTEE ON HOUSING, PLANNING AND LOCAL GOVERNMENT

Dé Máirt, 12 Meitheamh 2018

Tuesday, 12 June 2018

Tháinig an Comhchoiste le chéile ag 12.30 p.m.

The Joint Committee met at 12.30 p.m.

Comhailtaí a bhí i láthair/Members present:

Teachtaí Dála/Deputies	Seanadóirí/Senators
Pat Casey,	Jennifer Murnane O'Connor,
Ruth Coppinger,	Grace O'Sullivan.
Darragh O'Brien,	
Eoin Ó Broin.	

I láthair/In attendance: Deputies Mick Barry, Richard Boyd Barrett, Danny Healy-Rae and Jan O'Sullivan and Senator Colette Kelleher.

Teachta/Deputy Maria Bailey sa Chathaoir/in the Chair.

General Scheme of the Residential Tenancies (Amendment) Bill 2018: Residential Tenancies Board

Chairman: I apologise for the delay in starting the meeting. We needed to have Members of both Houses in attendance. At the request of the broadcasting and recording services, members, witnesses and visitors in the Gallery are requested to ensure that for the duration of the meeting their mobile phones are turned off completely or switched to aeroplane, safe or flight mode, depending on the device. It is not sufficient to put one's phone on silent mode because this will maintain a level of interference with the broadcasting system. Apologies have been received from Deputy O'Dowd, who is attending the British-Irish Parliamentary Assembly conference, and from Senator Boyhan.

The first item on the agenda is pre-legislative scrutiny of the residential tenancies (amendment) Bill 2018. On behalf of the committee, I welcome Ms Caitríona Walsh, Ms Rosalind Carroll, Ms Kathryn Ward and Ms Caren Gallagher of the Residential Tenancies Board, RTB. The purpose of this meeting is to engage with representatives of the RTB on the general scheme of the residential tenancies (amendment) Bill 2018. As previously agreed by members, we will not hear an opening statement from the witnesses as a submission from the RTB has been read by members in advance of this meeting. Instead, we will go straight to questions from members.

Before we begin, I wish to draw the attention of witnesses to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, they are protected by absolute privilege in respect of the evidence they are to give to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given. They are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official, either by name or in such a way as to make him or her identifiable.

Deputy Darragh O'Brien: I welcome the officials from the RTB and thank them for their submission, which I have read. It is clear from the submission that the RTB supports the vast majority of what is proposed in the residential tenancies (amendment) Bill 2018. I think we all support the proposal to give the RTB additional powers.

I agree with the proposal to simplify the regulations and the process, as alluded to in the submission. I am sure the process is quite onerous for the RTB. It is certainly onerous for tenants and landlords. I would like to hear the witnesses' views on a couple of things. As I have said, they support the vast majority of the legislation. What elements of it do they have concerns about? I recognise the fact that their job will be to work with the legislation if and when it is passed.

As I have said to the Minister and officials from the Department, I support most of the additional powers that are proposed in this legislation. It is all very well to provide for additional powers, but we need to consider how we can implement them and work with them in practice. Maybe the witnesses can advise the committee regarding its current resources. How many staff members does the RTB have? How many case officers does it have? What is the approximate

case file workload at present? I am not asking for an exact figure. It is important that we get a sense of what the average workload of each of the RTB's case officers is. What is the turn-around time within which specific disputes are concluded? I know from my job as a Deputy for Dublin Fingal that some disputes are not concluded and go on for quite some time. Are the performance indicators that have been set by the RTB being met?

As we try to improve the rights of tenants, in particular, and private landlords, we need to make sure the RTB is properly resourced. What does it need? In an ideal world, what extra resources would it have to implement these powers?

Is it okay to ask the witnesses for their view on the possibility of the RTB taking responsibility for issues relating to owner-occupied management companies? As they will be aware, this committee, under the leadership of the Chair, has been doing substantial work on this matter. We believe this element of the residential sector needs to be strengthened because approximately 500,000 people are living in owner-occupied managed estates.

My focus is on the aspects of the proposed legislation that the representatives of the RTB do not like. What additional powers, if any, do they want? How are they going to implement this legislation? What staffing and other resources will be needed?

I thank the Chair for her indulgence. I have a final question. If this legislation is passed, how quickly do the witnesses envisage that they will be able to get up and running with the additional powers and regulations that are provided for in it? I will leave it at that for the moment.

Deputy Eoin Ó Broin: Some of my questions have been covered by Deputy O'Brien, so I will not repeat them. I want to make it very clear that we have indicated to the Minister that we are very supportive of the principle of the residential tenancies (amendment) Bill 2018. I think most members of this committee have said we would like to assist the Minister in having it proceed as speedily as possible. Given the current state of things, it is unusual that we are in such agreement, but it is to be welcomed.

Like Deputy O'Brien, I would like to know whether there are any additions to this Bill that the RTB would like us to consider in the tight timeframe that is in front of us between now and the recess. We discussed the timeline with departmental officials when they appeared before this committee at an earlier stage. I suggested to them that even if we pass this legislation by the summer, the need to issue the regulations, allocate additional resources and deal with the RTB's IT issues means that in real terms, it is likely to be January or February of 2019 before the RTB is able to act on this legislation. I ask the witnesses to confirm if that is the case. Can they talk us through the rationale for that? Can they share with the committee some of the issues with which they are contending in respect of IT interfaces?

I ask the witnesses to give us a little detail on the level of resourcing the RTB will need if these new powers are to be effective. Can they tell us, without putting themselves in a difficult position, whether they have had any conversations with the Minister or with officials in the Department about resource allocation? Obviously, that would be a matter for the budget. If the Opposition needs to lobby for additional resources between now and the budget, we will be happy to do so. It would be better if we were in a position to do it on the basis of what is actually required.

Like a number of Deputies, I am looking at potential amendments to this Bill to include things that are not covered in the heads of the Bill at present. We have had a significant discus-

sion on the need to have student licences covered by the rent pressure zones. The Dáil passed a Bill without opposition from the Government that proposes to include student licences of some form under the rent pressure zones and under the RTB more generally. The Bill in question received unanimous support on the Opposition benches. Do the witnesses have a view on it? I understand that some student cases might be in front of the RTB at present. Are the witnesses in a position to comment on any of that? We also had a very significant debate in 2016, when the rent pressure zones were being introduced, on changes to the Residential Tenancies Act to limit the number of families receiving vacant possession notices to quit from buy-to-let landlords to try to stem the flow of families into homelessness. The Focus Ireland amendment, as it was called, was a specific restriction in order that landlords who had bought properties during the boom with buy-to-let tax break mortgages would not be able to issue a vacant possession notice to quit when selling that property. They could sell it but with the tenant *in situ*. Do the delegates have a view on that or other measures that could be taken, through amendments to the Residential Tenancies Act or this legislation, that could assist us in dealing with the homelessness crisis?

Are the delegates in a position to say anything about the index they have just given to us? I invite them to say a little about it, following which I might have another short supplementary question for them.

Deputy Pat Casey: I agree with Deputy Ó Broin in his comments on student accommodation. As I understand it, there is unanimous agreement in the Dáil that it should be included in rent pressure zones. Will the delegates give us their views on that matter and how it could be managed? I also seek their views on the proposed deposit protection scheme. What is the position on implementation of such a scheme? All members of the committee are concerned about the delay in setting up such a scheme, to which Threshold referred again recently.

The Bill provides the Residential Tenancies Board with independent powers of investigation. The board will no longer have to receive a complaint before initiating an investigation. How do the delegates see that working in practice? Will it involve random sampling or will an investigation be triggered by information derived from particular sources? Will the board, for example, investigate 20% of tenancies over a specific period? Will the delegates expand a little on that provision?

There is strong support in the House for the Bill which will strengthen enforcement in rent pressure zones, but I am concerned about areas outside them, some of which are in my constituency in Wicklow, where we are seeing enormous increases in rent because landlords are afraid that they will be included in rent pressure zones in the future. To be fair to most landlords, the rents they are charging are way below market values, particularly in places such as Arklow. The big towns of Wicklow, Greystones and Bray are in a rent pressure zone but Arklow is not. Information coming to us is that because landlords in Arklow are afraid that it will be included in the next round, they are increasing rents significantly. The delegates have referred to the fact that landlords with properties in rent pressure zones who were charging rents way below market rates do not now have the ability to move to market rates. I ask them for their views on that issue.

Ms Caitríona Walsh: I thank the committee for facilitating us by rescheduling the meeting and giving us the opportunity to discuss the legislation. I ask Ms Carroll to respond to the questions posed.

Ms Rosalind Carroll: Deputy Ó Broin spoke about supporting most of the provisions in-

cluded in the legislation and asked if there was any element about which we were a little nervous. We have set out the issues of concern in our submission. The main piece is that while we believe the legislation tries to get us to a path towards rent transparency, there is probably a little more we would do in that respect. One of the things missing from the Bill is annual registration. In the context of Deputy Casey's question about investigations, the easiest way we can investigate is by having data in the first instance. We need a smart IT system to do a lot of the work for us. If we had data coming in on annual basis, we could use software to determine what rent increases were above 4%, what properties were exempt and so on, but in the absence of such a system, we will have to undertake a lot of manual work. While I understand the Bill is a pathway towards rent transparency, there are some weaknesses within it.

On the issue of simplicity, under head No. 5, one of the suggestions is landlords should be obliged to tell us about any change to a tenancy as it occurs. Failure to do so would be a criminal offence, but in terms of enforcement, that would not be very practical. How would we know whether a landlord had told us or not? How would we go about investigating it? Furthermore, in terms of proportionality, criminal sanctions for a landlord who forgets to tell us about a rent review might be too much. While landlords have obligations and need to be aware of them, the law has become so complicated that we need to be careful about keeping a streamlined approach. These are the two areas in which we have some concerns. While we support and agree with the vast majority of the Bill's provisions, we believe these two areas need to be considered further as the legislation is drafted, particularly in terms of implementation. We must ask how we can implement these provisions while keeping things simple. These are the two points I will repeat as we go through this legislation.

In terms of resources, we have sanction for 61 staff. We have 53.8 whole-time equivalent staff, which means that we have eight vacancies. As quickly as the Department gives us sanction, within the current economic space it is actually quite difficult for us to retain staff. It is primarily related to broader issues, including the fact that we are public servants and staff do not have access to wider competitions and so forth. Candidates will work in the Civil Service before they will come to work for an organisation such as the Residential Tenancies Board. Furthermore, ours is a small organisation, with only one person working in human resources. We have just gone to tender for a recruitment agency in order that we will be able to respond as vacancies arise or we receive sanction. We are holding people for too long. It is quite a big, open procurement process and the tender is valued at well over €25,000. It will, therefore, take us some time to go through it.

Members have probably heard a lot of talk about a two-year change management plan. Deputy Ó Broin asked if it had been discussed with the Department and the Minister. We have discussed it with them and the change management group has met on a number of occasions. Our main focus is on ensuring we will not do anything on the back of an envelope. We need to make sure we will get this right. The Residential Tenancies Board has started from a place where it had a really bad reputation because it was badly resourced in the first instance. We have done a lot of work to try to improve processing times. We do not want the standard of provision of our core services to drop as we take on new functions. We are, therefore, trying hard to get the balance right. In that context, we have commissioned an external workforce plan which will take account of this new piece. In that way, a body external to us will determine what we will require to do our job properly. The contract was initiated yesterday and the plan will be completed in a two-month period. The aim is to draw up the plan properly in order that it will cover not only this piece but also what the Residential Tenancies Board will require in the next few years. I cannot say what resources will be required because the issue needs to be

examined properly against the backdrop of the 340,000 tenants in the system. The introduction of the GDPR, for example, has had a massive impact on our organisation because while we hold over 1 million records, we only have 60 members of staff. It is a real challenge for us. We are looking at all of these issues, including the compliance requirements for all organisations, as well as the new functions we have taken on.

It is difficult to provide a figure for the average number of cases per staff member. I have just said we have 53.8 staff members, but a large amount of our work is done through outsourcing. Our staff numbers were reduced dramatically, from 70 to 35, in 2013. As a result, we outsourced a large amount of the work. All of the front-line work is done in a customer care centre, including the handling of all calls, as well as some of the case assessment, document management and general correspondence work. Approximately 50 people are working on the contract within the call centre. We have another 74 panel members who are independent decision-makers. In order to maintain their independence, they are not employed directly by the Residential Tenancies Board, but they have a service level agreement with us. Overall, approximately 200 people are working for the organisation. To break that down per case would be difficult because-----

Deputy Darragh O'Brien: I understand that. What is the average workload for the average case worker? It is not an easy question. I am trying to get a handle on how prepared the Residential Tenancies Board is to take on the additional responsibilities. Ms Carroll has mentioned it is difficult to quantify and an external workforce plan has been commissioned. Will that point to the additional powers the board has and what extra resources are required? I assume the board has had that discussion with Government. If not, we have a big problem. When the Residential Tenancies Board has additional powers, people will expect implementation. That is why I am asking these questions.

Ms Rosalind Carroll: Our case workers have a target of 15 cases per week. Some of that case work is divided out. It refers to case work once an assessment has been done. That is our in-house work. I do not see those case workers taking on this work. Another section will have to be set up to do that. They will be investigation officers. It is a different skills base.

We have had the conversation with the Minister and his officials in the Department. We told them we need to do it properly and therefore we are doing an external workforce plan to make sure of the resources we require. I cannot tell the Deputy what it will be because I do not know what it will be.

Deputy Darragh O'Brien: Will that external plan tell the board that?

Ms Rosalind Carroll: Yes.

Deputy Darragh O'Brien: When is it due back?

Ms Rosalind Carroll: In two months' time. Within eight weeks we will have a comprehensive plan which will show exactly how many people we need to take on this function and everything that is listed in the heads of the Bill.

Deputy Darragh O'Brien: If that happens within eight weeks and the board has its discussions with the Department, is it something that could come to the committee at the appropriate time? If it transpires that the board needs 20 or 30 extra staff or a particular amount of additional funding to be able to outsource certain elements, when the decision is made will it go back to the Minister? What is the process then? If we are being asked to pass the legislation, which we

support, we do not want to pass it, give the Residential Tenancies Board extra powers and say the job is done. If it will not make any difference to the tenant or the landlord, what is the point?

Ms Rosalind Carroll: We are happy to share it. There are no issues with us sharing the results of it. Normally with these things, the process is that we have a high level discussion with the Department and share it with it first. We have to give the Department a workforce plan every year anyway. That is part of our overall governance structure. We will give it to the Department and from there we will have a high level discussion about budgets and how the Department can support us in terms of what we believe we need in terms of moving forward.

Chairman: The problem has not been sanctioning staff but getting staff.

Ms Rosalind Carroll: Exactly. The Department has been supportive in giving us sanction but we have had difficulties in recruiting the staff. I am trying to look at us as an organisation to give us the structure to be able to keep up with the pace of change. We had legislation in 2015 and 2016. The pace of change has been rather significant for the RTB. I am now stepping back and asking, apart from just those case officers and investigation officers, what do we need as an organisation to support that level of change.

Ms Caitríona Walsh: The other issue is that we really want to protect our core function as well and the work we have done in terms of our dispute processing times and the information we are able to provide to landlords and tenants. We want to make sure we maintain our service, as well as taking on the additional staff. That is why our workforce plan is so important because it will tell us about our existing service, which is increasing year on year anyway, irrespective of whether there are additional responsibilities placed on us or not. Does Ms Carroll agree that is fair?

Ms Rosalind Carroll: Absolutely. One of the other questions Deputy Darragh O'Brien asked was about the processing times. On average, for a determination order, it takes 14 weeks from the day the application is made to somebody getting the order. How does that compare with the previous year? We were at 12 weeks before this, which was our best ever number. The drop is down to the fact we are taking on more functions without the staff complement coming back in to replace us. That goes to what Ms Walsh was saying. We need to protect it and ensure it does not drop any further. We need to ensure that cases that come to us are dealt with swiftly. That is one of our priorities. Our strategic plan is within that. It is important to point out that while it is at 14 weeks, 48% of the cases we take on are dealt with within one to two months so while the average is sitting at 14 weeks, we deal with a lot of cases through early intervention and they are dealt with early on in the process. I hope that gives the committee a sense of where we are at with the figures.

In terms of the question about owner-occupied properties, management companies and so on, the Deputy's question was whether we think it is an RTB function. My initial gut reaction is-----

Deputy Darragh O'Brien: It may not have been a fair question. It is a policy issue.

Ms Rosalind Carroll: I have not thought about it in any great detail. I expect it is a Property Services Regulatory Authority, PSRA, function.

Deputy Darragh O'Brien: Yes, it would be.

Ms Rosalind Carroll: We have talked about how quickly we will be up and running. Dep-

uty Ó Broin asked questions about this as well. There is quite a lot in the heads of the Bill and there are certain elements that could come in quickly and which we would like to come in quickly. One is the register of the exemptions from rent pressure zones, RPZs. I will go through the rent index details with the Deputy but for us, looking at those numbers is a bit like a grey fog in some ways. Until I know what impact those exemptions are having on the overall rent index, it is very difficult for us to say what is happening within the market. That is something we could implement very quickly. It would not need a significant change to our IT system and it means we would have the data there and would be easily able to segregate the data to see what is actually happening in the market. It would also give us a sense of how well it is being used as a provision within the existing legislation. It is something that could be done on the enactment of the legislation.

On the security of tenure changes, we would like a couple of weeks more to look at the education and awareness piece. We have a history of commencing legislation very quickly yet nobody can catch up with the changes. It is more to ensure that landlords know about them and that we give people a little bit of time so they know what is coming at them and for us to amend all of the literature and so on. We think that could come in fairly quickly. The big thing that needs more work for us is the sanctions piece. That is the one we need the lead-in time on. Hopefully, when I have the workforce plan completed we can give the committee a fairly good indication on it. I am hoping that covers that question.

Deputy Darragh O'Brien: It does.

Ms Rosalind Carroll: To answer Deputy Ó Broin's question, in terms of the timeline I have pretty much covered it already. I will go back to the idea of simplicity. We need to think about how difficult we make it in legislation to implement or for people to understand. In terms of the notices of termination that come before us, in 2015 69% of those were found to be invalid. They were found to be invalid for technical reasons. We have managed to reduce that down to just around 40% through our education programme. Now we are seeing there is more regulation on the rent review side. About 77% of the rent reviews coming before us are found to be invalid. I meet landlords and tenants on a daily basis who do not understand what they are meant to be doing. Tenants do not understand what they can come to us for and the landlords do not understand what they should be doing. If we tried to keep things more simple it would be much easier for people to do that and also easier for us to implement in terms of supporting the sector. I talk a lot about enabling regulation. The regulation should not be about red tape, it should be about our objective. The objective is to create a well-functioning rental sector that supports tenants and landlords when things are going wrong. They are the things I would like to see as it goes through.

I have talked about the resource allocation and our discussions with the Minister.

Student licences was the next issue that was brought up. We believe that a lot of the student accommodation that is purpose built but within the private sector comes within our remit. I want to be explicit about that because some of the press think it is not. It is really important that tenants understand that they should take cases to us. There are a lot of cases where people might claim that something is a licence. It does not matter what it is called; it is about what its substance is. If a tenant has peaceful and exclusive occupation of that dwelling, and is not being moved from room to room on a weekly or regular basis, these are two core principles that one would look at in terms of looking at student accommodation. That is the first thing.

That does not mean that providing clarity in the legislation would not provide everybody

with a bit more assurance on that. I just wanted to say that because in the interim, before whatever legislative change might be necessary, it is important that if people are concerned and feel that a landlord may not be complying with the legislation, they should, in the first instance, talk to us to see if we can look at the case to see if it is a licence or a tenancy. If it is a tenancy, it comes within our remit.

Ms Caitríona Walsh: Sorry to interrupt Ms Carroll but when a dispute comes into us, that is one of the first things we would consider, that is, whether we have jurisdiction to deal with it or not. That is an ideal opportunity for someone who may believe that he or she is under a licence to test the waters and to see whether for all intents and purposes it is a licence or it is a tenancy being called a licence. That opportunity is there if someone wishes to test that and we certainly look at all of those cases in terms of our disputes.

Ms Rosalind Carroll: Absolutely.

In dealing with what change might be warranted and so on, we would welcome any clarity that would be provided in the legislation around this. We would urge, however, one point of caution, which is to ensure that there is some kind of definition of student accommodation and what a student is underneath that in order that if we are going to give these landlords, which is right, an exemption from Part 4 rights, that is, the security of tenure one gets after six months for five and a half years, then we need to make sure that it is not abused. To do that, we need to make sure that consideration is given fully to defining what a student accommodation is. Otherwise we could have cases of people trying to say something is student accommodation in order to ensure somebody does not get security of tenure. It is essential that thought and time are put into that element of it. Those are the sorts of discussions we would have had with the Department to date on that particular issue.

On buy-to-let mortgages, we would have some questions on the legal basis of us trying to identify what is a buy-to-let mortgage. I might bring in Ms Ward on this because we have a history, even in terms of the receivership side, of having difficulties around the conveyancing laws and of us being able to understand what is within our remit and what is not. Perhaps Ms Ward might respond.

Ms Kathryn Ward: Part of the difficulty with a buy-to-let is that our legislation, as it stands, tells us that we cannot look at title. Therefore, when somebody wants to take a case to us, we cannot ask somebody to have a look at the title deeds so we do not know. Somebody may say that it is a buy-to-let but we would not necessarily know if it was a principal private residence that somebody had let. As we know, that, in itself, can pose problems. Pre-2009, if someone wanted to let his or her principal private residence, he or she had to have written permission from the bank in order to do so. That can cause difficulties for tenants as well. It is an issue of clarity around that. We would have to be careful how we word that. We do not necessarily want to be looking at title.

Ms Rosalind Carroll: The next question was around the rent index and the provision of a quick summary of the results. The rent index has not come out but I wanted to provide members with the details. At a high level, what do the results look like? Once again, rents continue to grow. At a national level, rents grew at 7.1%. That would compare to 6.4% in the last quarter. We went from a rent of €1,054, as the average national rent, to €1,060. That is 7% above the peak, which is 7% higher than they have ever been. Within the Dublin market, rent went up 7.8% on an annual basis from 5.1%. This has taken rents in the Dublin area from €1,417 to €1,527. That is 16% higher than they have ever been.

What do the figures tell us? Affordability is still a significant issue within the market. A growing economy, wage inflation and so on are all issues that are still contributing to the market. I would like, however, to highlight that the quarterly figures are showing some moderation within the levels. When we look nationally at what the rent inflation looks like on a quarterly basis, we went from 1.1% inflation in the last quarter to 0.4% inflation for this quarter. Within the Dublin market, we went from 1.1% to 1%. The growth rate on a quarterly basis, for two quarters now, has shown reductions.

The annual rate I just talked about is comparing what we looked like this year to last year. The quarterly rate is what we need to look at in terms of where we might be going. What I really need is a third quarter to enable us to say whether that moderation will continue to see its impact on the overall annual rate. Obviously, we would like to see moderation in a third quarter. That would be the best result we would have seen in years within the rental sector.

As said earlier, until we get those exemptions registered with us, there is a little bit of the dark arts with what is going on.

The other thing I would like to point out to the committee is the volatility that is still within that market. Due to the restricted supply, what happens is that the rental sector might get a new development within a particular area and because there is such limited supply, the impact of this on the overall averages is massive. If one looks at the Galway figures over the last number of quarters, they are going up 10% or down 10%. Certain markets are very seasonal. This goes to the underlying issue with the overall market.

This is just to give members a very quick summary. I have concentrated more on Dublin, because it gives them an indication of the rent pressure zones and their impact, and on the national figure. I am not sure how much more detail the committee may want. The committee has these figures and I will be happy to speak on anything else the committee may wish to raise.

On Deputy Casey's question, I have answered the issue of student accommodation, so I will discuss the deposit protection scheme. The deposit protection scheme is already provided for within legislation. The RTB is on record as saying we have concerns about it. We have concerns about it going back to that kind of bureaucracy and about how easy it might be to implement. One of the things within that legislation is that there has to be a cooling-off period before one gives back a deposit. This would result in us giving back deposits at a slower level than the market currently does. This could actually have a worse impact on tenants. The legislation provides that if both parties do not agree to give back the deposit, then the whole issue has to go through our dispute resolution process in a different formal manner. There are changes that could be made to that legislation to make it more effective. We have provided a submission to the Department on that basis. These proposals are probably necessary in order to make the scheme more effective.

The scale of what one is talking about here is huge for the RTB. When I discussed this previously with the Minister, we talked about a two year change management plan. That would come in at the end of it because it would give us the time to plan for resourcing. That resourcing would be beyond just us resourcing and would probably have an outsourcing element to it as well with IT infrastructure, everything else that is needed, communication with landlords and so on. One of the other changes we suggested is that it does not have retrospective impact. If the legislation came in, everybody would come in on the same day and for us to manage that would be hugely difficult. If it was brought in and applied to new tenancies in the first instance, we would be still be dealing with over €100 million a year in transactions. It is a huge scheme.

If one compares that to our budget, this year, for instance, we are taking in €14 million. That gives members a sense of the scale of the difference in terms of what one would be transacting. There is a lot to this.

Deputy Pat Casey: Ms Carroll said the board would be making a submission to the Minister in relation to this issue. Could we have a copy of that submission?

Ms Rosalind Carroll: Yes, I do not see any problem with that. The submission was made to the officials which I am sure was passed on to the Minister. We would be happy to send it on. It is quite a technical document, but it goes through the legislative changes we think are required.

Deputy Pat Casey: It would give the committee a practical understanding of the difficulties the RTB is finding in addressing this whole issue.

Ms Rosalind Carroll: We have no problem doing that. I thought it would be worthwhile to give the committee an idea of the statistics on deposits that come to us at present. It is our third most common dispute type. Some 21% of the cases that come before us are in respect of deposits. I should emphasise that people should come to us in the interim. Of the cases that came before us last year, 92% of the cases found in favour of the tenant, in terms of either a full refund or a partial refund. This tells us that if tenants come to us - and they really should - most of them are winning their cases by a high majority. That is up from 86% in the previous year. Most tenants who take cases are winning them. We are asking tenants to use what is there and come before us. Our mediation service is free. There is never a cost to a tenant coming to us if they wish to-----

Ms Caitríona Walsh: One must also remember in respect of the disputes that come in to us that the percentage in deposit protection is only 1% to 2% of the overall market. Consequently, we are a percentage of a small percentage of the overall market. Although it may not be the case, in the larger scheme of things it would appear that the market itself is dealing with this issue in terms of deposits. That is a small percentage. But that could be for lots of different reasons on which we do not have transparency.

Deputy Darragh O'Brien: I wish to ask a couple of quick questions on that.

Chairman: We will let the witnesses finish first, please.

Deputy Darragh O'Brien: I will come back to it; it is not a problem.

Ms Rosalind Carroll: I might move back to the powers to investigate and how they would work. I mentioned the idea of smart regulation earlier because the organisation will grow but the question is by how much. We are making significant investment in IT this year within the RTB. Our IT infrastructure is an area for which we rightly have been criticised. That is being designed on the basis of data analytics and being able to use data in a much more effective way. We expect to be able to use our registration data in a much more effective way, that is, not just looking at the 20% but in terms of putting programmes in and using smart intelligence where the computer is telling one that one needs to look at a particular issue, for instance. At the same time we will be able to have some people who will be able to monitor advertisements on platforms etc. to see where rents may be advertised above the rate at which we think they should be, based on other data we have within the information held by us. We would be able to look at the exemptions data specifically to be able to have a quick look and to ask whether that sounds like it is in compliance with the legislation.

What we think is good about the sanctions model - and there is a lot of talk about criminality here - is that the sanctions model is a civil law-based approach. That is really beneficial to the RTB because our non-registration of tenancies has always been a criminal matter up to now. That means that if we go out to prosecute someone, we are not allowed to ask them anything that might incriminate them. Our powers to get information are greatly limited by it being a criminal process. There is somewhat of an irony there.

Within the sanctions regime there are two things that are really important. We have the power to ask people specifically to give us details of their bank statements and to bring them in and question them about things which we could not do in a criminal case. To revert to a lack of understanding, there are some landlords, a small minority, who are blatantly contravening the legislation. There is another group who are getting it half right but do not always do so. We can get to those people, they can admit their contravention and we can work with them on that basis. There is an element of proportionality that we can bring into this and we need to have that proportionality.

When one looks at who comprises our landlord sector, 86% own between one and two properties. I was asked a question at a different event yesterday about all of the institutional investment companies coming in and I went back to check the extent to which that stock type is growing. We believe that this stock type is still only making up less than 3% of the overall size of the sector. While it is growing, it is not significant in terms of the overall size of the sector. We have to remember that we are operating with amateur landlords and I would like to bring them with us. We want everyone to comply. That is a little information as to how I think we may work on the investigations side.

In terms of areas outside of the RPZs there is an element with every regulation that is brought in to the effect that one unintended consequence of regulating a market is that people will chase the market. We had this problem in areas like Limerick, initially, when it came in, because they were very near the national standard rent. We can point to the use of the information within this, where the local electoral areas, LEAs, are listed. We can go to people and show that they are not that near, if one looks at such and such or that this is where the trends are going. On a more local level we can help the committee do this if that is of any assistance.

Deputy Ruth Coppinger: I thank the witnesses for their attendance. My questions concern how the witnesses perceive the implementation of this legislation by the RTB, should it be progressed.

The first thing to say is that I have a couple of issues with the letter the Minister sent out to the committee. I do not agree that there should be a 4% increase in the rent at all. It is far above inflation, which is the reality and this was said at the time. We should not just blithely accept that the rate should stay at what the other rate was, which was agreed a year and a half ago. There is no justification for a 4% rent increase and people are not necessarily getting wage increases of that order. There is no excuse for heating the rented sector any more.

The issue I have is that the RTB's very good figures show that in Dublin, rent is about 50% higher than the national average, which I believe should be noted. The increase that has taken place is almost double the 4% limit. Why that is the case? Presumably, a lot of those are new tenancies etc. but there is no question but that a lot of them are not. Many landlords are driving a coach and horses through this legislation as it stands. At the time of the legislation's passage, we tabled a series of amendments, one of which was similar in some ways to what is proposed, albeit not as strong, whereby a landlord would be obliged to produce a certificate of what the

rent should be from the RTB. Nobody who is queueing up with 50 other people to try to get a place to rent, particularly in Dublin and these rent pressure zones, is in any way strong enough to challenge a landlord about the rent that is being charged. That is just the reality of it. How is this going to change now? It would be easier if the onus was on the landlord to produce a statement of what the rent should be. The RTB say here that it will publish a list of rents for an area. Will a prospective tenant, queueing up for a property in Rathmines or wherever, know what the rent rate is for Nos. 1 to 3 Oakview Lane or wherever it is? It is only when we get down to the person renting having that power that we can keep the rents below a certain level.

The other issue concerns the scenario when a complaint is received. I note the RTB itself also can initiate a complaint, which is obviously good. How serious must that complaint be? Can the witnesses clarify that? Would this involve a breach in rent or a breach in the other aspects of tenancy like the conditions etc.? As it seems quite onerous, how would the investigation be conducted? Will somebody from the RTB call up to the house and talk to the tenant or the landlord? How serious does this have to be? The reason I ask is that staffing would have to be dramatically increased.

I also wanted to ask if any case had been taken already under the Dublin RPZ legislation. I know lots of people take cases to the RTB but how many cases has the RTB had for breaches of the rules so far? While statutory powers have now been given to the RTB, it has existing powers if a landlord goes above the prescribed rent in an area. Have many people have taken cases?

Deputy Eoin Ó Broin: I have just a couple of supplementary questions. Ms Carroll said in her initial response that she would favour the idea of the annual registration and would have concerns about a criminal offence if a landlord did not notify of a change, be it a rent, tenancy change, etc. Does she think that having an annual registration with a possible civil offence, if that is not complied with, would be the ideal model for all the reasons she has just outlined? I would be interested in her view on that.

The approach outlined on the resource plan makes eminent sense. It gives us a much more realistic sense of the kind of timelines here. To pin Ms Carroll down on this, can she confirm that? It is important for us when we pass legislation and when we tell people about it that we can be honest and say that this is not something that is going to be available necessarily in September or October and that we are looking at the first quarter of next year. Is there a time scale around that?

Notwithstanding the fact that there will not be a set number of additional staff until the resource plan is produced, is the RTB getting any indication from the Government and the Department that they will support that? If there is an independent review, clearly the purpose of that is to give the best estimate of what is required. If that is what that independent advice says, then clearly there is an onus on us all to support it.

On the rent pressure zones, Ms Carroll mentioned places like Limerick and Waterford. We have asked on a number of occasions whether it is possible in those types of cases for the data to be looked at on an electoral division, ED, rather than on a local electoral area, LEA, basis, and not necessarily right across the country because I appreciate there might be a low level of rental properties at an ED level. However, particularly in Waterford and Limerick cities, there has to be enough data at an electoral division level that one could look at some kind of rent pressure zones being in operation at that level. I absolutely agree with Deputy Coppinger that the 4% over three years is 12.5%, but even if the people in Limerick and Waterford could get that basic level of protection, that would be something worth pursuing.

I also thought that what Ms Carroll said on purpose-built student accommodation was very interesting. I will try to pin her down on it. Is it Ms Carroll's view that purpose-built student accommodation, whether on or off campus, by universities or private sector interests, where a student has a nine-month licence and has sole occupancy of that unit over those nine months, falls under the Residential Tenancies Act? Will she be clear about it in that case because that is important for us?

On defining buy-to-lets, and Ms Ward's comments were very interesting, the Focus Ireland amendment specifically proposed a definition and it was precisely for the reasons she said. Its reasons were that properties were purchased as buy-to-lets and not as principal private dwellings that were subsequently let out. Does she believe that it is in or around that that we might find a solution to it or has she some other ideas?

On the index, I listened very carefully to what Ms Carroll said on the quarterly changes. For example, the point at which rents started to increase dramatically was in the third quarter of 2013. The annual increases start to hit 6%, then up to 8%, then up 11% and so on. In the case of Dublin, if one looks at the quarterly increases in each of the four years from 2014 to 2017, inclusive, there have always been at least two quarters where the quarterly increase is very low. There is -0.1% in 2014, and 1.8% in 2015 and 2016. I am not convinced that the quarterly reading is telling us anything other than there is a dip in the first quarter, a jump in the second quarter, a dip again in the third quarter and a jump in the fourth quarter. One could argue that in 2017 it moderates a bit but surely the really worrying thing is that the annual quarterly increase does not show any real sign of moderation in the sense that the last quarter was 5.1% for Dublin but it is now 7.8%. I fully accept what was said that we do not have visibility regarding the properties with exemptions. However, there would have to be an awful lot of exemptions for what should be in and around 4% to hit a 7.8% annual increase. Am I wrong about that?

What is also concerning me is that it is not just about exemptions. I believe that many tenants have now forgotten that even before the rent pressure zones, there was a limited level of protection regarding the rate of increase on the current market levels. I refer to my own constituency because I know it very well. On the basis of the quarterly figures, the average rent in Clondalkin is €1,500 per month. One will not get anywhere in Clondalkin today for €1,500 per month. Rents range from €1,800 to €2,000 to €2,200. In all those cases, whether they are first-time tenancies or new tenancies, there is a breach of the pre-2016 rules as well as a breach of the 2016 rules in terms of rent requests way above the RTB's index of averages. Is there a bit of work we could all do in trying to highlight the fact that even within a rent pressure zone, or even outside one, there is a level of increase that is unacceptable under the pre-2016 legislation? There is no new supply in Clondalkin; it is all existing properties. I do not believe a substantial number of renovations are going on. What I am seeing are a lot of people breaking both sets of rules, the RPZ and the pre-RPZ rules. My fear is that when one gets that visibility on the level of exemptions, it is still not going to account for the gap between what should be the 4% and, as Deputy Coppinger rightly pointed out in Dublin, what is really a doubling of that. If the witness have any thoughts on all that, I would really appreciate hearing them.

Deputy Darragh O'Brien: I will be very quick. On purpose-built student accommodation, the witness mentioned defining it. Deputy Ó Broin has alluded to the fact there is absolute agreement among the Opposition that we want to see this in the Bill. We said to the Minister that if it is not in it, we will bring an amendment forward. There is a definition under section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016. That defines what purpose-built student accommodation is. I would see us potentially using that

definition for purpose-built student accommodation.

I want to make one point on the deposit protection scheme, and I will not labour it. I am of the belief that further protections on deposits are needed. The Oireachtas has passed that legislation. While I understand the concerns of the witnesses with aspects of it, the Oireachtas has passed the legislation, so we have to see how we can work with that.

There are different models in Britain on that, where one has *mydeposit.co.uk*, for example. It is not necessarily saying that the RTB has to manage €100 million. I get the witnesses' point. I know what Ms Walsh is saying in the context of things being smaller but it is an issue out there. It is a concern, in particular when certain people ask for two or three months' deposit, which is a substantial amount of money. I would like to see us moving towards that and I will be pressing the Minister on that issue.

I thank the witnesses for their contributions today which show that the work the RTB is going to do on the external workforce plan will be really important. We may have passed this legislation before the RTB has its plan, so what we, as a committee, will need is a commitment from the Department and the Minister that he will resource the RTB appropriately. If the RTB has not done that work, or if it does not have it back before we pass the Bill - the Minister wants it passed before the recess and I believe we are all in agreement to do our best to do that - I just want to make sure we do not have the cart before the horse and that the RTB is not left with the regulations and does not have the resources.

Senator Jennifer Murnane O'Connor: I am in agreement with the previous speakers. My issue with the Minister over the past few months is that there are only 21 local authorities in the rent pressure zone areas. That is a significant issue in that the amount in neighbouring counties will be lower. In my own county of Carlow, rents have increased from €700 to €1,000 or €1,100. What is actually happening is that landlords are able to increase rents. We have good landlords but on the other side, we have landlords who do not do work for their tenants and this is a major issue.

I welcome the extension of the notice to tenants in the Bill. That is crucial. On several occasions a landlord would just put it in writing but it is not a legal letter. That lack of information is part of the awareness issue raised by the witnesses. It has to be a legal letter to a tenant. Tenants do not know that, so when they receive a letter from a landlord, they think it is part of their notice to quit. There are 325,000 tenancies registered with the RTB, which is a significant number. However, tenants who come to me do not have the information to which they are entitled. That is the biggest issue for them. As other speakers have stated, staffing is a significant issue, although that is no fault of the witnesses.

A very important issue that I have dealt with in many recent cases is the role of the RTB in terms of local authorities. Local authorities operate the housing assistance payment, HAP, scheme and the rental accommodation scheme, RAS. However, in my area many tenants who are on the housing list and receiving a HAP payment are in non-regular accommodation in which the heating may not be working or there may be health and safety issues with the windows. What is the role of the RTB in terms of councils and, in particular, in regard to the RAS, because those on the RAS are local authority tenants? Do local authorities work with the RTB? Is there an agreement with the RTB or with the landlord or tenant? That must be clarified. Many tenants are unaware of the situation in that regard and most are confused in terms of dealing with the local authorities. Does the RTB have a protocol or plan in that regard?

I live in an area with two excellent third level colleges. Lack of supply is the biggest issue facing everybody here today. However, student accommodation is occupied by students for the nine months of the academic year but some landlords then take on tenants for the remaining three months of the year, after which those tenants must leave. That is another problem, in particular in smaller towns such as my own where there are two colleges. What can we do for such tenants? Can anything be done for students? Are they only entitled to a nine month tenancy? Can a person taken on a tenancy for three months? Can a landlord state he or she will only take a tenant for three months and the tenant must vacate by the end of August because the student tenants return in September? Those are issues which we need to address in the long term.

Ms Rosalind Carroll: Apologies for the delay. I want to ensure I start with the right information. Deputy Coppinger's first question was in regard to the 4% increase and whether that cap is too high. On the Deputy's other comments and the fact that inflation is running at a far higher level than that, from the perspective of the RTB, getting it down to 4% would be an achievement because we are quite far from that level, as the Deputy stated. I listened to a talk today from an academic who has recently studied the German market, which has a similar rental regulation regime to that in Ireland. There are still very high increases in Germany in spite of it having a regulatory framework that largely mirrors ours. The academic's take on the situation is very similar to my own, namely, that regulation must be accompanied by enforcement. The Bill before the committee provides for such enforcement. In Germany, as in Ireland, one piece was put in place but the enforcement to underpin it was not brought in.

I agree that there are issues in terms of us not understanding the exemptions. My point in referring to the exemptions is that I would like to be able to show the index without it and thus get a better picture of the inflation. I do not suggest that there is no inflation. There are contraventions but I cannot ascertain the volume thereof until I get data on the exemptions. There is much non-compliance in the German market in terms of people ignoring the regulations. We need to bring in enforcement. A positive aspect of the enforcement is that we will publish any sanctions, which will empower tenants to make a complaint to us, although not necessarily through our dispute mechanism. Tenants will also be protected by being able to make an anonymous complaint.

Deputy Coppinger asked how those investigations can be undertaken. Many tenants within the current structure access our dispute resolution service, which is entirely focused on two parties bringing evidence before us. That is a difficult step for tenants to taken in a restricted supply market in which landlords clearly have the upper hand. As such, tenants are not coming forward to the extent that would be expected in view of the evidence of contraventions in the market. It is very important for tenants to be able to come to us anonymously and that must be safeguarded as the legislation is progressed.

Deputy Ruth Coppinger: Have people come forward since the legislation was originally enacted?

Ms Rosalind Carroll: I currently have no power to do anything with complaints. The only way a person can take a case to us is through our dispute services. People have come forward to us. It is interesting to note that the percentage of tenants coming forward has increased in terms of our overall disputes numbers. Some 59% of disputes referred to us last year were taken by tenants rather than landlords, and that rose to 63% this year. More tenants are coming forward to us.

As regards rents and market rents, we are coming from a very low base. In 2016, 255 cases

on the issue of rent reviews and whether they were legal were taken with the RTB. That may primarily concern rent pressure zones but it could be in regard to the rent certainty legislation brought in by the 2015 legislation. For example, a landlord may have conducted a rent review before being entitled to do so or may not have given the required notice. In such complaints, there are usually several breaches rather than only one. For example, a complaint would probably not be in regard to an increase of over 4% but, rather, an increase of over 4% and an invalid notice and a failure to serve 90 days' notice. It is not just one breach that is being found.

Deputy Ruth Coppinger: These are chancers on every level.

Ms Rosalind Carroll: Yes. The number of cases taken increased by 88% last year to 481. However, that is coming from a low base and I do not wish to overstate it because some people will not bring a case.

Deputy Ruth Coppinger: They should do so.

Ms Rosalind Carroll: They absolutely should do so and they are protected by the current legislation in so doing. There is protection in the Act against a person maliciously evicting a tenant for taking a dispute. More cases are being brought under section 56 of the Act and more damages are being awarded to tenants. However, the reality is that tenants still feel their home may be at risk. It is to be hoped that the new legislation will stop that but for the moment it can be difficult for some people to make that complaint and I do not wish to understate the scale of that difficulty.

On certificates of rent, I have read some of the committee debates on this issue and am unsure exactly how it is proposed to work. In order that members understand our current registration data work, a landlord is currently required to register every new tenancy or every further Part 4 with us. That is why I believe there may be a slight weakness in what is proposed. If a tenant has been in a tenancy for over six years, it must be re-registered or else it is a new tenancy. It is only at that point that I get data. If I were to tomorrow publish all the rental information I have on existing tenancies, it would probably be misleading because it would not be dated. Even if I put a date on it, that might be 2014 or 2015 and the rent may have been reviewed twice since then. There is a difficulty in that regard. I do not currently have the data to identify the current certified rent for a property. We need to bring in annual registration such that I can identify the rents that have been registered every year since that point and identify the date of the last rent review. We do not currently have those data and I could not, therefore, give the committee any intelligence on what is going on in the existing rental market.

Deputy Ruth Coppinger: That being the case, how can this legislation be implemented?

Ms Rosalind Carroll: It is a journey towards transparency but that transparency will need to be strengthened. The Minister has told us and also openly stated that he is committed to introducing annual registration and he is continuing to work on that. It is an important piece of the puzzle. I do not wish to get technical with the committee but the Bill contains an amendment to section 139 of the current legislation, which would place an onus on landlords to come forward and tell us about every rent review, as I stated. That will be difficult to enforce because of the difficulty in determining who to go after. How will I know if a landlord has done a rent review? That could involve me writing to every landlord every year to ask them to confirm it, which would cost €174,000. Given the scale and diversity of our sector, trying to regulate that will not be as effective as it could be. I would caution about that. I believe a more programmed smarter form of regulation will allow for more effective regulation.

The strength of what is before us is the fact that we publish every sanction that comes out. While resources represent an element of this, I hope after a year of the Residential Tenancies Board carrying out investigations and publishing all these sanctions, it will start to change behaviour within the market. Seeing that the sanctions are working - on the tenant and landlord sides - will start an empowerment and will also ensure more caution on the part of those not in compliance with the legislation currently.

The Deputy asked how serious a complaint needed to be in order for us to take it. On the basis of the heads of the Bill, my understanding is that anything can be said to us and we can investigate it. The only exception is malicious complaints and I do not expect to get too many of those. The idea is that somebody can make a complaint either anonymously or by giving his or her name. At the moment, while I cannot do anything with them, I get former tenants writing to me because they have seen their past property advertised at a rate beforehand. I expect to be able to use that much more effectively in future. All I need is something to prompt an investigation. Then I can ask the landlord directly and look for the supporting evidence of the rent they are receiving by way of bank statements and so on. It should be quite an effective means and will not be a system based on tenants coming forward with evidence. Somebody will be able to come forward and say, "I think there's a problem here in relation this and this is why." We can have a quick look at it and start an investigation if we feel there is non-compliance.

The Deputy also asked what can be contravened. The heads before the committee propose two contraventions in the schedule. One of them relates to rent pressure zones. That could be the exemptions or the 4% increase. The second piece, which is important for us, relates to non-registration of tenancies. As I mentioned earlier, if a tenancy has not been registered we have to pursue the criminal route, which is very difficult for us and it means our investigations are quite limited. Hopefully we will be able to use the civil-sanctions model provided that the legislation is passed. Those are the two contraventions specified in the heads at the moment.

I think that dealt with most of Deputy Coppinger's questions.

Both Deputies Coppinger and Ó Broin commented on the quarterly changes. I agree that the market is not stable. Things increase and reduce followed by further increases and reductions. If I could see a third quarter of moderation, that would be the first time we would have seen three quarters of moderation. The next quarter's figures will give us a sense of whether the trend is continuing. That is important for us to look at. We are seeing dips - things go up and things go down. It is the dark arts at the moment. It is important for us even to get a scale. If I could get those exemptions out of there, I would be able to point to clear non-compliance. I would expect to see a good annual rate on a consistent basis at about 5% under the rent pressure zone legislation. I say 5% because not everybody will complete a review every two years. There will be a *pro rata* catch-up for some people. That means it may always be a little bit ahead of the 4%. However, we should see it at around that level. We would obviously like to see it stabilise and have a dampening effect. We need to remember that the overall impact of this was not just on the individual rents; it was to have a dampening effect on the overall market so that by some rents being reduced, even the new rents overall would get reduced. We need to see it start working more effectively. I agree with the Deputy on that.

At the moment purpose-built student accommodation publicly funded by the Higher Education Authority is specifically excluded from our legislation. Anything that a public body has, whether it is the HSE or us, does not come within the remit of the RTB. When I talk about what might be within our remit at the moment, I am talking about privately built student accommodation.

Deputy Eoin Ó Broin: Are universities covered by that exemption?

Ms Rosalind Carroll: Exactly, educational facilities.

Just to come to the deposit protection scheme-----

Deputy Eoin Ó Broin: Ms Carroll's point is that the private purpose-built student accommodation is covered under the RTA and RPZs. She is calling on students with licences in those premises to take a case if they feel their rights have been infringed.

Ms Rosalind Carroll: Obviously, we do not have the details of every case, which is why it is case specific. Even from my knowledge of student accommodation, in many cases students are given a property and have exclusive use of it. We would welcome some cases coming before us and at least we could make a determination on that. At the moment we are in a vacuum. The last time I checked - I am open to correction - we did not have cases before us on it. We could not comment specifically on an individual case if we did. I think that deals with Deputy Ó Broin's questions.

On deposit protection and the idea of mydeposits and other UK-based models being used, within the current legislative framework we could not use those because it has to be the RTB that does that. Therefore there is not a basis for providing that flexibility within the current legislation. In addition we have no ability to have treasury management within the current legislation. That means that all the money that comes in has to sit in a bank account and only be used for that purpose. It cannot be used to help fund the scheme. That is why I say there are small things that could be done to help use it. That could even be used for the benefit of housing in a broader sense, for example, managed by the Housing Finance Agency and so on. We could do certain things to improve the legislation.

Deputy Ó Broin and others asked when we could implement this. There is no way we could implement the sanctions before the first quarter. That is to ensure we have the right framework around it and also have the right resourcing and trained staff who are skilled in what they are doing. It is important for both tenants and landlords, and we want to ensure it is done correctly. I do not think it could be done before quarter 1. That does not mean the legislation could not proceed to be passed. I need certainty in what I will be providing. Until legislation is in place, it is very difficult for me to know what will be in the final legislation. In the interim we are doing things such as commissioning the workforce plan on the basis that hopefully the legislation will be there. We are not doing nothing in between. We will continue to work on these things until they come.

Ms Caitriona Walsh: May I interrupt? Deputy Ó Broin asked about support from the Department and the Minister. The Department has approved of the workforce plan and the fact that we are getting it. It has indicated at this early stage that it would offer support for whatever comes from that workforce plan. We only recently had confirmation of that support.

Ms Rosalind Carroll: I ask Ms Ward to deal with the Focus Ireland piece in terms of amending legislation.

Ms Kathryn Ward: I do not have the interpretation of that in front of me.

With regard to student accommodation, when I came to the RTB first in 2004-05, we always took it that private student accommodation was within our remit. We had many registrations for student accommodation. Students brought cases to us. Over the years as a different model

of student accommodation was being built and provided, things started to change. Perhaps landlords entered into different agreements with the individuals but the view could be that it is an apartment. It may be that it is a three or four-bedroom apartment, but it is one tenancy with three or four people in it. If people take cases to us through our disputes resolution procedure, we would look for that agreement, not the title deeds, and look at the substance of that agreement and how it works in practice. While somebody may say that he or she is going to move an individual on the first of every month, the question is whether he or she does that in practice. If not, then it is a bad term within that tenancy agreement. This is why we would encourage cases to come before us.

Wearing the registration enforcement hat, again we are looking at providers of student accommodation and seeking to find out why they are not registering. When they say they do not have to register because it is a licence agreement, we do the same with these as we would do with every other landlord who says it is not a tenancy but rather it is a licence. We ask them for a copy of the licence. In that way we can then look through that and if we are of a belief that it is not a licence, we engage with them on the grounds that it should be registered.

I would not come from a background of thinking that they are just licences, but with all of the confusion around it and the new models of student accommodation that are being provided, it is a question of having the correct definition in legislation. We would have to look at the definition that Deputy O'Brien was talking about and see whether it suits the purpose.

As regards student accommodation, Senator Murnane O'Connor spoke about somebody only getting a nine-month lease, but it depends on what people sign up to. If they sign up to a nine-month lease, it is a nine-month lease. The one thing to remember with student accommodation is that it generally suits students to get the nine-month lease because then they are off for the summer. What happens then is that the individual comes back the next year and the only provision that does not apply to students is security of tenure. This means that after a student has done three or four years in college and has got a job with Ericsson or whoever, he or she cannot stay on in that accommodation because we would end up again with very little student accommodation being available. The only difference between student accommodation and regular tenancies is that a person does not have that Part IV right to stay on.

Ms Caitriona Walsh: Senator Murnane O'Connor is correct where she talks about information and awareness. This is key. We cannot expect landlords or tenants to come to our service if they do not know about us or what we do. We are trying to think both within and outside of the box in respect how we can get our message across to both landlords and tenants in terms of their rights and responsibilities, the information that we can provide and the assistance that we can give. We have a pilot programme running at the moment, I believe it is with Citizens Information-----

Ms Rosalind Carroll: We have entered into a partnership with the Citizens Information Board. We are doing individual clinics throughout the country. It is not just Dublin-based. It means that we are engaged at the same time in training the Citizens Information staff on the intricacies of the legislation. That is a good partnership.

We also have a new communications and research unit, which we set up last year, in recognition of exactly what the Senator was talking about. It is a new area for us.

Tenants tend to be a different demographic and can be harder to reach. We are trying to recognise this and we have entered into social media. We have a Twitter account that we

launched only in the past month. While one might smile at this, it is often the only way to make contact, particularly with younger people.

On a more positive note, in terms of engaging with landlords, we are introducing a voluntary landlord accreditation scheme next month. This is about trying to work with landlords as they come into the sector and familiarising them with the legislative framework from the beginning. It is about dispute prevention rather than just coming at it again with the stick. These are a couple of things we are doing.

The housing assistance payment, HAP, and the rental accommodation scheme, RAS, come specifically within our remit. Regardless of any relationship with a local authority, these are private tenancies. A tenant or landlord can come to us directly. We would not have a relationship with the local authority in that regard. It would be with either the tenant or the landlord.

Senator Jennifer Murnane O'Connor: There is a bit of confusion on that because many RAS tenants whom I would deal with would go back to the local authority. RAS tenants are taken off the local authority housing list. There is a lot of confusion. With HAP, they come to the local authority also. It is important that we highlight what the witnesses have said and work with them on that because many people are not aware of this. It is something we can highlight through Citizens Information, which does great work. I am always highlighting the point the witnesses have made, but many people are not aware of their entitlements or the information. That it is something of which we need to be very aware.

Ms Rosalind Carroll: That is something we can take on board and maybe specifically target in our awareness campaigns. The census results probably reflect that where the numbers in the rental sector were not what we expected them to be because people identified as social housing.

There are a few questions I may have missed. On the electoral divisions, ED, question, that was looked at as part of the overall review of the rent pressure zones. We did find difficulties with it from a methodological perspective, and there are probably some ways around it, such as joining EDs. We could look at that a little further.

Chairman: We are under a little bit of time pressure. We were supposed to have our next session at 2 p.m. I suggest to members that we take a ten-minute break and start our next session at 2.15 p.m.

I thank the representatives from the Residential Tenancies Board, Ms Walsh, Ms Carroll, Ms Ward and Ms Gallagher, for attending. If there is anything they think is relevant, they might follow up on it and send it to the committee afterwards, please. We will meet more stakeholders on this topic on Thursday.

I propose that we suspend for ten minutes and I remind members that our second session will be in committee room 4.

Sitting suspended at 2.07 p.m. and resumed at 2.24 p.m.

Right to Housing: Discussion

Chairman: At the request of the broadcasting and recording services, members and those

in the Visitors Gallery are requested to ensure their mobile telephones are turned off completely or switched to aeroplane, safe or flight mode, depending on the device, for the duration of the meeting. It is not sufficient to place telephones on silent mode, as they will still interfere with the broadcasting system.

No. 2 on the agenda is the right to housing in an international context. I welcome Ms Leilani Farha, UN special rapporteur on the right to housing, and Ms Julieta Perucca. I welcome Mr. David Joyce, Mr. Conor Casey and Ms Sinead Kerin from Mercy Law Resource Centre

By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of the evidence they give to the committee. However, if they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or an entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official, either by name or in such a way as to make him or her identifiable.

I invite Ms Farha to make her opening statement.

Ms Leilani Farha: I thank the Chairman. It is a distinct pleasure to be here. I am the UN special rapporteur on the right to housing. I was appointed in 2014 by the UN Human Rights Council to serve as a global monitor on housing conditions and state obligations in this regard. I am visiting Ireland on an academic visit, not an official mission, so I am not here to assess the implementation of the right to housing in Ireland's domestic context. Instead, I hope I might be able to offer a useful point of view based on my work and experience in light of Ireland's not insignificant housing issues. In my short time here, I have learned homelessness is on the increase - up an alarming 27%, at least, in the last year - there is paucity of social housing, and large financial actors that are profit driven are playing a dominant role in the housing market. At the same time, the Parliament recently voted down the inclusion of the right to housing as an enumerated right in the Constitution. The right to housing is not included in Rebuilding Ireland. Ireland has a reservation on housing rights provisions in the European Social Charter and it has yet to ratify the optional protocol to the International Covenant on Economic, Social and Cultural Rights.

When I am confronted with housing situations like these, I am concerned that a state's international human rights obligations may not be met or engaged and that commitments made with respect to housing under the sustainable development goals will not be achieved. As members may know, target 11.1 of goal 11 of the sustainable development goals commits states to ensuring access for all to adequate, safe and affordable housing and basic services by 2030, which also means ending homelessness within this timeframe.

The best way forward for Ireland to address the housing crisis and meet its international human rights commitments and obligations is to adopt a human rights-based housing strategy or a national action plan that recognises and implements housing as a human right. Why are human rights so essential to housing strategies? Homelessness and grossly inadequate or unaffordable housing are an assault on dignity and life and go to the heart of what triggers, or what should

trigger, human rights concern. Human rights violations of this nature demand human rights responses. Human rights demand that governments interact with people who are homeless and inadequately housed as rights holders empowered to engage and be involved in decisions affecting their lives. A rights-based approach clarifies who is accountable to whom: all levels of government are accountable to people, particularly marginalised and vulnerable groups. Human rights incorporate universal norms that bring coherence and co-ordination to multiple areas of law and policy through a common purpose and a shared set of values.

My most recent report focuses on the core principles that should inform a human rights-based housing strategy. Let me describe a few of them. First, housing strategies must be based in law and affirm the right to housing as a legal right. This does not necessarily mean constitutional provisions, although it could. Equally, it could be a legislated right to housing, such as measures enshrined in some other jurisdictions. Strategies must prioritise those most in need and must make an absolute priority of eliminating homelessness and addressing the needs of those in the most desperate circumstances. Strategies must adopt a comprehensive and whole-of-government approach. They must co-ordinate and guide the work of multiple Departments or Ministries, as well as multiple layers of government. Strategies must ensure accountable budgeting and tax justice as a means for states to discourage speculation and encourage affordable housing. Strategies must put in place independent institutional mechanisms to monitor progress and hold Governments accountable to goals and timelines. They must also ensure access to justice, including access to hearings and remedies for violations. Finally, strategies must clarify the obligations of private actors. The obligation to realise the right to housing lies with states and cannot be delegated to private actors. Housing strategies will not be effective if they fail to engage the dominant role played by financial markets and investors. Strategies must include robust measures to reorient private investment and development to ensure inclusive cities and affordable housing.

I encourage the committee to take bold and swift measures to urgently address homelessness as an egregious human rights violation. It is no different from any other violation of the right to life and the security of the person. In my short time here I saw and spoke with too many people living in deep hardship. I know Ireland can do better than this, and it must. I would be happy to answer any questions committee members may have.

Ms Sinead Kerin: I thank the committee for inviting us to speak today. I will explain a little about the Mercy Law Resource Centre, MLRC. It is an independent law centre that provides free legal aid and advice to people who are homeless or at risk of becoming homeless. We also seek to advocate changes in policies and laws that unduly and adversely affect people living on the margins of society.

We provide five key services: free legal advice clinics; legal representation in the areas of housing and social welfare law; legal support and training to organisations working in the field of homelessness; policy work; and a befriending service.

I wish to discuss the Second Right to Housing Report: The Right to Housing in Comparative Perspective. I have given a copy of the report to the committee for distribution. The report is a comparative perspective on the right to housing through consideration of the legal systems of Finland, Scotland, France and South Africa. A wide variety of structural and institutional means are applied by which the right can be guaranteed. There is no one-size-fits-all model. The right to housing does not necessarily equate to a significantly increased constitutional role of the Judiciary. While not a panacea, a legally enforceable right to housing provides a valuable floor of protection. The jurisdictions highlighted in this report show that the effectiveness of

the right to housing relies heavily on the existence of fundamental and enduring political will and the allocation of resources.

A right to housing in the Constitution would not mean the right to a key to a home for all. A constitutional right to housing would, however, put in place a basic floor of protection. It would require the State in its decisions and policies to protect the right to housing in balance with other rights and to progressively realise the right to housing.

The report considers the position in Finland. Finland's homeless figures have been decreasing for the past eight years. It is a national priority there. They also have a housing first strategy coupled with a constitutional right to housing. Finland has adopted a form of constitutionalism whereby the democratically elected Legislature and an independent Judiciary are entrusted with a shared duty to protect constitutional rights. There is a combination of *ex ante* review by a constitutional law committee of the parliament, as well as a limited form of post-judicial review. The work of the committee is to scrutinise proposed legislation to ensure it results in the better implementation of socio-economic constitutional rights.

The report considers the position in Scotland. Scotland has the broadest legal protection for those who are homeless and at risk of homelessness. The protection is regarded as one of the strongest in the world. Scotland's statutory right to housing makes local authorities responsible for the long-term rehousing of homeless people and has an interim duty to provide temporary accommodation in emergency situations. Scotland also has a broad definition of those who are homeless. It also has an order that limits the use of bed and breakfast accommodation as emergency accommodation to seven days for families. The limit was reduced this year from 14 days to seven days. There is currently no limit on the use of bed and breakfast accommodation in Ireland. We regularly meet families who have been in bed and breakfast accommodation for two and a half years before they are appropriately socially housed. Scotland has statutory provisions to prevent homelessness. There is a duty on all registered social landlords, private landlords and creditors to notify the relevant local authority when proceedings are raised for the possession of a dwelling house. This may allow the local authority to respond on an individual basis to prevent homelessness occurring. The report from the Dublin Regional Homeless Executive published last week indicates that 48% of families who present as homeless in Ireland are coming from a notice to terminate. In other words, that is the cause of 48% of families becoming homeless. Under Scotland's model, all landlords have to notify the local authority, which may take action to prevent homelessness. That is a strong safeguard.

France has a statutory right to housing known as the *droit au logement*, DALO, legislation of 2007. This involved a complete overhaul of the French system. The right to decent independent housing is guaranteed by the French state to all people who reside in France. It is exercised through mediation and, if necessary, through an adversarial process. This is patterned after the Scottish model and includes both an entitlement to emergency shelter and a legal cause of action for individuals who have been denied the right to secure long-term housing, thereby helping to ensure security of tenure and accessibility. Protection is given to those who have a priority of need. If the priority of need is met, the qualifying person may file a petition with a local housing mediation committee for urgent rehousing. This committee comprises state representatives, local county and municipal representatives, representatives of social housing organisations, as well as individuals from tenant rights organisations. The committee refer matters to a local authority prefect, who must then find suitable social housing for the applicant within a time period – usually three months. The decision can be judicially reviewed and enforced.

South Africa has a constitutional right to housing. It demonstrates that the right to hous-

ing is subject to trial in a court of law. It offers a legal floor of protection. However, it does not relatively alter the balance of power between decisions concerning the allocation of public moneys and resources. I recognise this is a concern in Ireland.

The right to housing is recognised in Europe in the constitutions of Belgium, Finland, Greece, the Netherlands, Portugal, Spain and Sweden. It is recognised in the legislation of Austria, France, Germany, Luxembourg and the United Kingdom. Across the world the right to housing is included in 81 constitutions. The right to adequate housing is provided for in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the European Social Charter.

As an economic and social right in accordance with international human rights, the State's obligation would be to progressively realise the right to the maximum extent of its available resources. The most important definition of the right to housing is the obligation of the State to progressively realise the right to housing to the maximum extent of its available resources and to do this by all appropriate means, including the adoption of legislative measures.

How would the right to housing alleviate the crisis in homelessness? All legislation and policy would have to be proofed to ensure reasonable protection of the right to housing in the same way as other rights are protected. If the State decided to cut funding for hostels for people who are homeless, such a move could be challenged as a breach. The failure of rent supplement and housing assistance payments to meet market rent could be challenged as a breach of the right to housing. The fact that there is no legal aid for those facing evictions in Ireland could be challenged as a breach of the right to housing. More important, a right to housing would require the State, in its decisions and policies, to protect the right to housing in balance with other rights. This would mean that the courts would look at State decisions or policy as to whether they were proportionate by reference to the right. It would mean the Government, in its stated policies and actions, would be obliged to respect the right. As shown clearly in our last three High Court cases, there is no right to housing in Irish law nor is there a right to shelter. One has no clear legal right to rely on. The fundamental failure by the State to provide adequate emergency accommodation to a family with young children cannot be challenged directly in the courts.

I thank the committee for the invitation to attend today and for the attention that members have given us here. My colleagues and I would welcome questions.

Chairman: I thank the witnesses for their presentations.

Deputy Eoin Ó Broin: I thank Ms Farha and Ms Kerin for their presentations. Ms Farha has been exceptionally busy during the two short days that she has spent in this country and we have followed her interventions. It is a pity that she is not here on an official visit to assess our implementation, or non-implementation, of the right to housing because the picture might be a little more bleak than her opening remarks suggest.

I compliment the Mercy Law Resource Centre on the work that it does and I say so not to be polite. The centre makes a huge difference to the lives of a very significant number of people. For the benefit of people who do not know the organisation, it must be one of the smallest housing non-governmental organisations, NGOs, in the country, and the only one that has a legal basis, yet it punches way above its weight.

In 2014, the Citizens' Assembly voted by an overwhelming majority of 88% to have the right to housing enshrined in the Constitution. Therefore, I believe that all of our conversa-

tions on housing must start from that point. The Government set up the Citizens' Assembly with the aim of asking citizens for their views. The vote on housing was the single largest vote in terms of the deliberations on socio-economic rights. Many of us were members of the Dáil Select Committee on Housing and Homelessness, which met before the current Government came into office. While we could not get agreement between the parties over calling for a constitutional right to housing, although many of us argued for it, the committee made a clear recommendation that the current Oireachtas Joint Committee on Housing, Planning and Local Government should explore the issue. In fact, the Government included the proposal in its Programme for Government. Our problem is that the responsibility has been taken away from us. Last year, the Dáil voted against the wishes of a minority of us and transferred the responsibility from the housing committee, where it belongs, to the Oireachtas Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach. To me, the idea that such a committee could have the lead responsibility in deliberations on socio-economic issues clearly shows that the parties that voted for that resolution thought that the matter should, first and foremost, be based on cost implications. I do not want to turn this matter into a political football. All I will say is that I urge all of the parties to reconsider those arguments and to see whether we could bring the matter back to this committee, even to work in parallel with the finance committee, so that we can consider the housing policy implications of this important issue.

I have a few questions for Ms Farha. Many of us here are not as conversant with international human rights law as Ms Farha. Can she tell us what international human rights obligations Ireland has and how they should impact on our debate on this particular issue?

Sometimes we spend too much time talking about the negative aspects. Can Ms Farha, from her international experience, give us as much information as possible in the short time available about what works in other jurisdictions? Such information will give a sense of the positive examples of best practice that we might seek to apply here.

Many of us attended the launch of the MLRC's report that took place a month ago. It is a very good report that sets out different options. Can the witnesses, as front-line human rights defenders of housing rights, tell us their preferred option? What is the best way that this State could protect and vindicate the right to housing? Crucially, how do we fix the gap between having a constitutional right, which in and of itself is important, realised in Government policy and having legal vindication? I do not want to put the witnesses on the spot but please give me a straight answer to the following. Do they believe the Government's housing policy is human rights compliant, in terms of their understanding of the right to housing?

Deputy Darragh O'Brien: I thank Ms Farha for her presentation. Indeed, this morning I had the pleasure of attending a conference organised by Lorcan Sirr and supported by the RTB. I heard a number of thought provoking contributions, including one from Ms Farha.

I thank the Mercy Law Resource Centre for the report that it has published. I have read the report and it outlines the options that are available to us.

Deputy Ó Broin made a fair point. Recently I was appointed the housing spokesperson for my own party so I have looked at this matter with fresh eyes. Homelessness and housing is the biggest single challenge for this country and it is the biggest single blight on the State. Thankfully, everyone wants to resolve the matter. The idea that the finance committee would have total control over the matter and view it purely on the basis of the potential cost implications is not something that should continue. I personally believe that aspect should be reconsidered. I am particularly interested in the Scottish model. However, I do not rule out the constitutional

option by way of a change to Bunreacht na hÉireann or a legislative change. I am also interested in hearing Ms Farha's preferred option. Clearly, she prefers a constitutional change. Any such change must be backed by legislation and I am interested in seeing how that would be implemented.

Ms Farha is a special rapporteur appointed by the UN Human Rights Council. From her experience, can she list the best applications from both ends of the socio-economic scale? Ireland is viewed as a wealthy country, although many people do not feel that it is.

I have a few questions for the Mercy Law Resource Centre. There has been a call for a whole-of-government approach and for housing-proofed legislation, particularly in terms of homelessness and suitable supports. What option does the delegation from the centre prefer? Do they prefer a constitutional or legislative change? As the centre is vested here in Ireland, what elements of best international practice would they choose for speedy implementing in Ireland? That is all for now but I shall ask supplementary questions later.

Chairman: As we are under pressure for time, I suggest that we take three questioners now. Is that agreed? Agreed. I call Senator Grace O'Sullivan.

Senator Grace O'Sullivan: I thank the witnesses for their presentations. This morning, I attended a presentation on the pre-budget submission by the Society of St. Vincent de Paul. The submission states that in Ireland as many as 780,000 people live below the poverty line, 85,799 households are in need of social housing and almost 10,000 people are homeless. I have been an elected representative for two years and I have witnessed the widening gap between some of the rich getting richer and the poor getting poorer. When it comes to housing and homelessness we are in an emergency situation or a real crisis yet the Government has not recognised this. Occasionally, we have heard the Government use the word "crisis" but we have never heard it say the word "emergency". Even though there is emergency accommodation all over the country there has been no action whatsoever. In this country there is no right to housing for those who really need it. People have had to remain in emergency accommodation for more than years, which is an abuse of human rights. Such a situation shows disrespect for the dignity of those who must live in these horrific circumstances. I wanted to state on record that the Society of St. Vincent de Paul has made a pre-budget submission and I hope that the Government will listen to the society.

I have a few questions for the MLRC delegation. Ms Kerin has talked about South Africa and uttered the sentence: "A legally enforceable right to housing provides a valuable floor of protection." To me, her use of the term "floor of protection" was unfortunate because we seek a legal roof of protection. Sadly, we are on the floor. In fact, we are on the ground and below the surface.

Earlier Deputy Ó Broin asked the witnesses to outline what works best, in terms of policy. I would like to know what three things do not work. I believe that the housing assistance payment, HAP, scheme does not work. Do the witnesses believe HAP works? What three actions should the Government take? In terms of best example of a human rights approach to housing, in Ms Farha's experience, what do we need to do as soon as possible?

Ms Leilani Farha: I thank members for their questions. I will respond first to Deputy O'Brien's question around a constitutional versus legislative approach and a constitutional and legislative approach. When I hear that a State is in the midst of making constitutional amendments, or is at least open to constitutional amendments, and it does not currently have the right

to housing in its Constitution, my first response is that it should go for it. More than 80 countries around the world have constitutional protections around the right to housing. Members are correct that many of those nations do not implement that right but they have it. I have worked for many years with people on low incomes and living in housing disadvantage and homelessness and I know how meaningful it is for people to have that constitutional right. It changes their relationship with the world in which they live. They feel validated and recognised as human beings and part of the human family. Human rights is about bringing us all together as a human family and recognising that we are all but humans. My advice, therefore, is to go for it constitutionally. Government worries are generally unfounded. Mercy Law has provided, and could provide even more, evidence that having a constitutionally enshrined right to housing is not the beast and the burden that some believe it to be. If I was in the Legislature I would be proud to support the idea of contributing to people's human rights.

On legislation, in my own country, Canada, I have been advocating for the right to adequate housing for many years. Canada is currently engaged in a process of adopting a national housing strategy based on human rights. Under the current Government, constitutional provision on the right to housing is off the books. It will not happen and so we have shifted our attention to a legislative approach. There is some merit in this approach. I do not know enough about Ireland and how this would work here but I am sure Mercy Law could, if it has not already done so, turn people's mind to instruct how this could be powerful, albeit not constitutional.

In terms of best practice, I would not go much further afield than the examples chosen in the report. Finland always comes out on top, particularly in the European context, because it is the only country that has reduced homelessness in the last two years. I work very closely with the Government of Finland because it supports my mandate, not in terms of resources, but politically. There is no doubt Finland is genuinely committed to addressing homelessness and inadequate housing. It has a broad understanding of what constitutes homelessness in that it considers anyone living in an institution to be homeless. Finland understands this in a deep way. Its first kick at the can to try to eliminate homelessness was, to its mind, unsuccessful in that while it did reduce homelessness it did not meet its target in this regard. It then decided to take another kick at the can. In doing so, it looked at the structural causes of homelessness and then set about developing policies and programmes that go deeply into those structural causes. In the last year, it has been quite successful, which shows its commitment. A constitutionally entrenched right to housing is part of its culture. One builds human rights culture through law and practice symbiotically. In terms of the other end of the spectrum I, too, would point to South Africa. The commonality with the case studies presented in the report before us today and my examples is a legally entrenched right to housing. This is where one will find the most success at both ends of the spectrum. South Africa has not ended homelessness and it is in a lot of trouble but it has made huge strides such that shack dwellers count on the constitutional right.

On Ireland's international human rights obligations, we talk about the progressive realisation of the right to adequate housing, which is the standard. Article 2 of the international covenant on economic, social and cultural rights states that the right is to be progressively realised but not all aspects of the right are progressive. Under international human rights law it is understood that States do have immediate obligations. For example, there is an immediate obligation to address discrimination in housing. There is also an immediate obligation to address homelessness. The progressive realisation element does not kick in with homelessness at the first instance. In other words, states must act immediately, urgently and aggressively to address homelessness because there is a thin line between living homeless and dying. Human rights are supposed to protect us from this and so there is that immediate and urgent obligation.

With respect to what is stated under international human rights law in terms of what is adequate housing, there is a definition in an instrument called the General Comment No. 4, which lays out seven characteristics, two of which I will focus on now. The first is affordability. Affordability must be measured on the household income of the person or family. It is not based on what the market can bear or is charging. Rather, it is based on one's ability to pay, which makes sense. What is affordable to a household is what they can afford and not what the market can bear. The idea that affordability would be 80% of market value, which is used in many developed countries, would be inconsistent with international human rights norms. The second key characteristic of adequate housing is security of tenure, which I believe is important in the context of Ireland. As I said I have not been here long enough to really understand the situation here. I am aware that some of the new legislative provisions introduced have made things a little better but I understand from anecdotal information I received and from some of the reports I looked at, that there is still a security of tenure problem. We know why security of tenure is important. The worry and anxiety created by a lack of security of tenure can be crippling and debilitating. Also, the worry of losing one's home can cause all sorts of health and employment related problems. Yesterday evening I heard a young gentleman talking about how he and his wife had just had a baby, lost their home, were living in adequate housing that is overcrowded and facing homelessness. Is this what we want for our young families? Obviously not. None of us would wish that on anyone. I also met a woman in her late 50s who owing to insecure tenure had been bounced around and ended up homeless at age 57. She has some health issues that she cannot deal with when she is homeless and was recently given bedsit type accommodation. This is not acceptable for people in later stages of life. This woman also does not have much by way of family. When one is homeless one cannot deal with any crisis that emerges. Security of tenure is a cornerstone to the right to housing, for obvious reasons.

Ms Sinead Kerin: To us, the system is broken. A successful day for me is a day on which I get emergency accommodation for a family that has been previously refused it. Every second week, families that are homeless and that have been denied access to emergency accommodation for myriad reasons present to me. Last year, we went to a full decision at the High Court on three occasions. We were in the High Court nine times last year trying to compel local authorities to provide emergency accommodation to families. One of those families was staying in a tent outside the council building. I went down to see it. The three families in question were denied access to emergency accommodation and that was upheld by the courts because there is no right to emergency accommodation in Ireland, full stop. As a result, the courts cannot compel local authorities to provide emergency accommodation. This, to us, is grievous. If that is a civilised society, we need a rethink. That is our bottom line. Families are presenting that have lived in bedrooms with perhaps five children for two and half years, so there is a long-term detrimental effect on children and parents. They will be suing the State in ten or 15 years' time, and I hope they will do so.

In the meantime, we can look quickly at either Scotland or, ideally, Finland. Ireland loves the Constitution. Constitutional protection would prioritise the issue, show the Government leading and show that it is a national priority. However, this must be backed up with investment. Without allocation of resources, constitutional protection would only provide a basic floor of protection, by which I mean access to emergency accommodation only. We do not want to waste Government money and our own time going to the High Court looking for emergency accommodation. If there were a right to housing, there would be an obligation on local authorities to provide emergency accommodation. The word "shall" must be used. At present, provision is optional, is made when "reasonable" and is subject to the opinion of the council. In Scotland, the use of bed and breakfast accommodation is limited and has been reduced this year

alone from 14 days to seven days. We have no limit, so there is no end to how long our families stay in bed and breakfast accommodation. They are staying there for two and a half years. How long will they have to stay in hubs? There is no definition or limit, and that is our concern. Finland and Scotland have both implemented a limit, and this can be judicially reviewed. As a result, if the State went over the limit - let us say, three months in Scotland - we could judicially review it and enforce that right to appropriate housing, not bed and breakfast accommodation.

(Interruptions).

Chairman: I am sorry. Someone's phone or iPad is interfering with the system. Could they move it away from the microphone? Ms Kerin will not be heard clearly. It is fine in here, but she will not be heard on the broadcast.

Ms Sinead Kerin: I was referring to Finland and Scotland. Ireland loves the Constitution. If such a provision were made in the Constitution, it would be a constitutional national priority. In the meantime, we must do something immediately to stop the long-term use of bed and breakfast accommodation in Ireland and the refusal of emergency accommodation for families.

In addition, the definition of "homelessness" in Ireland is really narrow. It does not include people who are sofa-surfing, families moving between friends' homes, thousands of women and children staying in domestic violence refuges or people living on the streets. We do not know, therefore, what the real problem is because we are not counting it. Unless we take responsibility and get to grips with the situation, we will not be able to come up with the solutions. Many other countries around the world are improving in this regard. Finland's national priority is to reduce homelessness, and it has done so. It has now reduced it to 7,000, and only 214 families are homeless in Finland today. That is an amazing reduction.

Mr. Joyce will take a number of questions.

Mr. David Joyce: There were a number of questions, one from Senator Grace O'Sullivan about the current system. It was a general question thrown at us as to whether the current system in Ireland is compliant in terms of human rights. It certainly is not, particularly in view of the clients we deal with and the nature of the issue of local authorities unfortunately refusing people even emergency accommodation and putting them at risk of rough sleeping, bringing children into cars and sleeping in their cars, which we have come across among our client base. Clearly, we are not compliant. Taking the entire system across the board, it is not compliant with international standards or the right to shelter and housing across the world.

What has happened to our system? What has happened to a country that had a good record of provision of social housing in times when the State did not have a lot of finances? We have created a system whereby we have become deeply reliant on the private sector without real regulation or real control of what is happening in it. As a State, we seem to be haunted by the ghost of *Blake v. Attorney General*, a case in the 1980s in which rent controls were found unconstitutional and any interference with private property in any way would seem to have been found unconstitutional. The two previous items of housing legislation that went through these Houses in recent years, the 2009 and 2014 Acts, have created a situation whereby local authorities, which have traditionally had a responsibility in respect of housing and in many cases performed it quite well, have been effectively disempowered, have in some cases welcomed that disempowerment and are now losing a kind of institutional ability to be housing authorities.

HAP was specifically mentioned. HAP is an absolute disaster on a number of levels. We

have created a system of social housing assistance in Ireland whereby we are actually creating discrimination within the system. There is discrimination between a HAP applicant, a HAP tenant, a local authority tenant proper, shall we say, and other tenants and housing support receivers. This discrimination in itself is creating a problem. People on the payment lose their HAP supports if they go €1,000 above their income limit. Local authority tenants can go well above their income limits and their rents are assessed proportionally compared to their incomes, making it ultimately uneconomic, perhaps, for them to stay in their houses, move into the private sector or whatever. We are creating a system of injustices in various forms of social housing support and for tenants across that sector, and it is an issue that will be litigated on because it has been litigated on in other countries. I was speaking briefly earlier to my colleague from Canada. There is a well known case in Canada, the Sparks case, which looked at the inequalities across various housing supports. This will ultimately, unfortunately, end up in court. HAP is a disaster for two reasons. It took away from the local authority - the housing authority under our legislation - a responsibility to secure tenancies. It has placed an obligation on disadvantaged families in many respects and put them at the mercy of the private market without regulation and without protection.

One does not have to look too far back for a comparison. I refer to section 24 of the 2009 Act and what is known as RAS. There may on paper seem to be very little difference between RAS and HAP, but with RAS the responsibility remains with the local authority to secure and find tenancies and to ensure that applicants who are assessed and are qualified are placed in those tenancies. Perhaps this could be revisited. The other problem with HAP is, as I said, that it has taken away from local authorities their responsibility and taken away the institutional experience of managing and providing housing, which, when lost, takes a long time to rebuild, and then we create a situation whereby we are dealing with homelessness and people without shelter for the next number of years.

Another real answer - and it may seem as though we failed on this in the past - is house-building and direct provision by housing authorities. Under our legislation, local authorities are housing authorities. They have a responsibility for direct provision of housing and they need to get back to directly providing. I know from my work as a lawyer and from my colleagues that there is a level of discrimination and prejudice towards people who are social housing tenants in this country. Through my own background and my experience working with Travellers over the years, I have felt the discrimination and prejudice towards the Traveller community. We now have the same level of discrimination and prejudice towards social housing applicants on the basis that somehow they are pariahs and parasites on the State, that they are looking for something for nothing. Social housing is not free. It is not free to the tenant who lives in it, who may be working, securing employment and paying rent. Such tenants pay differential rents based on their income, and that message has been lost to the general public. The public believes that when we call on the State to build, we are somehow saying we should give out free houses and no one should have any responsibility to pay for them. Of course, the State has some responsibility to ensure people have homes in which they can at least feel secure. That is not free. It is not free to the tenant who is quite welcoming of it. It provides security for the State not to have children living in and being born in hotels and homeless accommodation. Housing assistance payment, HAP, is an absolute disaster and needs to be revisited. It requires a simple tweak of putting the responsibility on to local authorities to ensure support continues for tenants.

Deputy Pat Casey: I thank the witnesses for their presentations. Homelessness and the lack of affordable housing are the biggest social challenges facing our country today. I would

be interested in a global definition of homelessness. Our homeless figures are hovering around 10,000 people, including 1,700 families and 3,500 children. However, every month there is an argument with the Minister as he takes people off the homelessness list. He took 200 this month and 600 last month. We do not have any clear definition of “homelessness”, however.

We all had an aspiration to owning our own home at some stage. However, because of the affordability issue, there is a whole generation who can never aspire to owning their own homes. Every politician genuinely wants to fix the problem. We get down to the constitutional right versus the legal right to housing. Examples have been given of Finland, Scotland, France and other countries where there is either a constitutional or a legal right to housing. However, there still remains a housing crisis in some of these countries. Is it down to the will of the people to fix the problem? If we do not have that will, drive and passion to fix the housing crisis, then we need the legislative and constitutional framework to fix it.

Ms Leilani Farha mentioned delegation to private actors. We have clearly seen that we have a significant over-reliance on the private sector to solve the problem. It was a historical mistake made several years ago for which I am not blaming anybody. However, there is a clear indication that we need to go back to direct build. I fully agree with Ms Leilani Farha that affordability has to be based on the income of the family, not on other factors.

Ms Sinead Kerin mentioned security of tenure as one of the biggest causes of homelessness. While we would have no problem with a constitutional or legal right to housing, introducing it would not automatically mean the problem would be fixed. What key three or four key actions would the witnesses take to address the housing crisis?

Deputy Jan O’Sullivan: I thank the witnesses for both presentations. While I was not able to be at Ms Leilani Farha’s earlier presentations, I was conscious from the media how she highlighted this issue. Bringing it up to that level of public discourse has been important and crucial. I was able to attend two presentations on this issue by the Mercy Law Resource Centre before, as well as the one today. It has been bringing the matter to public attention. Reference was made to having a bold and swift action and introducing such a right might break the cycle. There have been many efforts but very little success in terms of addressing the issues. Despite the fact we have a relatively functional economy, we have many of the same problems in housing.

I support the right to housing. The Scottish model is statutory. I would have thought in Ireland it would have to be constitutional because of the provision concerning property rights in the Constitution. At one stage, the Government promised 11 constitutional referendums over the next few years. Hopefully, removing the provision concerning women in the home will be the next one. There will be an opportunity to bring the right to housing into the Constitution. That is what will change practice.

In the Scottish model, the local authorities have the statutory obligation. How would that work in Ireland? Largely speaking, local authorities here do not raise most of their own moneys. Accordingly, there is that interaction between what they get from the Government and what they raise themselves. The question then arises as to how this would be implemented and monitored.

Ms Kerin spoke about progressively realising the right to housing. That may need to be spelled out more fully because there probably is some scepticism in Ireland as to whether anything would happen, were such a provision put into the Constitution. How does one make it

happen? Will she elaborate on how this works in other countries?

We need to keep this on the public agenda. While there are financial elements to this, if housing is to be a human right, then it needs to come back to committees which deal with social rights, rather than those which deal with balancing the books.

Deputy Richard Boyd Barrett: I thank Ms Leilani Farha and Ms Julieta Perucca for their presentations. I thank Mr. David Joyce, Ms Sinead Kerin and others from the Mercy Law Resource Centre for their great work, as well as for often looking at and assisting with the cases that flow through my door of people facing the consequences of the current housing crisis. I thank Ms Leilani Farha for her intervention over the past several days. I attended her speech at the Simon Community event yesterday and everything she said was extremely welcome. I hope the Government is listening.

Obviously, some committee members are fully behind this proposal. Both Deputy Ó Broin and I have put forward Bills on changing the Constitution to put the right to housing above property rights. Deputy Pringle sought to bring in the covenant on economic and social rights. In all cases, the Government voted them down, as did Fianna Fáil. The concern for property rights is the issue. To my mind, that sets out the landscape with which we are dealing. We will keep on going and, hopefully, these interventions today will help push us in the right direction.

Ms Leilani Farha made a point yesterday which would be useful to draw out here. If human rights were being breached in respect of, for example, torture, then there would be an immediate intervention to stop it. It is a useful way of putting it. I believe having families, and children in particular, in a precarious housing situation for years, or in homeless emergency accommodation, or, worse, on the street, is a form of torture. It would be useful if Ms Farha commented on that. It is extremely damaging to a person's mental and physical health and general well-being and amounts to a form of institutional or State torture when people are being treated in that way. Is that a fair way to put it?

Ms Farha also commented yesterday on the role property speculation is playing in our domestic housing and homelessness crisis and globally. I welcome her comments, not least because I have tabled a motion on this issue which will be debated in the Dáil tomorrow. It would be useful if she were to elaborate on that point because while we often discuss consequences such as the lack of public housing, we do not focus sufficiently on the fact that some people benefit from the torture experienced by those who are affected by homelessness and the housing crisis. There is an inverse relationship between the suffering of the many and the profiteering of the few through property speculation, land hoarding and so on. Does Ms Farha endorse that view?

My motion refers to dealing with the issue of vacant properties. Will the witnesses comment on good examples of countries that have been able to return to use large numbers of empty and vacant properties?

On affordable housing, I believe one of the reasons the Irish Government stubbornly refuses to define the term is that if it were to do so in the way I suspect the witnesses would like it to be defined, that is, related to income and ability to pay, it would have an immediate impact on the private interests of developers. If the State were to set a figure for what is affordable at significantly below the price at which housing can be bought on the open market, property developers or speculators would object. I ask the witnesses to comment on that.

I refer to the inequalities in housing support and the housing assistance payment, HAP, raised by Mr. Joyce. This is a terribly important issue. Mr. Joyce described it in a way that had not fully struck me previously, even though I deal with the consequences every day. Are these inequalities justiciable on the basis that the small difference between the HAP and rental accommodation schemes and the significant difference between those two schemes and local authority housing make all the difference in the world to people who are in housing trouble and cannot afford housing on the open market? When the legislation giving effect to the housing assistance payment scheme was being introduced, I and a number of other Deputies pointed out that the Government's proposal to place responsibility for securing accommodation on the housing applicant would be a disaster, and so it has proved. Would housing applicants have a case before the courts? That possibility has never struck me before. Could someone argue a case on the basis that he or she is receiving a different housing support of lesser quality from the State than a person on the HAP scheme and a support of even lesser quality than somebody who has been allocated a council house? At the moment, the system is arbitrary and *ad hoc*. There is no consistency as to who will get a RAS or HAP tenancy and who will be allocated a council house. There is no rhyme or reason to the system. Does Mr. Joyce believe legal cases could be taken on the basis of the argument that people are being discriminated against by being offered a lesser form of housing support?

Chairman: Deputy Mick Barry was due to contribute next but he has stepped out of the room. We have about 20 minutes left and two more members will ask questions.

Mr. David Joyce: I will deal with two of the questions before my colleague, Ms Kerin, responds to some of the other points. I will deal with the last question first. I believe there is clear discrimination given the definitions used in the housing legislation. Across the various housing supports currently offered by housing providers, namely, local authorities, those in receipt of supports are treated in different ways. Housing authorities come under the definition of a service provider for European equality legislation and even under the Constitution. There is an expectation of equality before the law. Distinctions are clearly being made between various recipients of housing supports who qualify. The clearest discrimination exists between HAP recipients and local authority tenants.

I noted that legal action had been taken on equality grounds and non-discrimination grounds in other jurisdictions. I mentioned a case from Canada and I see similarities in that case and what is occurring in our system. Certain demographics will rely on one type of housing support. If memory serves, in the Canadian case it was primarily single parents and women who were reliant on one particular type of private support as opposed to other supports offered by housing authorities. In that case, it was successfully argued that there was an indirect discrimination against the recipient and the demographic in question. I see the same discrimination here and it is an issue we have examined within our capacities. It needs to be equality proofed under our domestic equality legislation and on the basis of constitutional rights and the right to equality before the law. There are issues in this regard and we will examine them. Lawyers in the equality area and generally should also examine them.

One of the first questions was on whether we need a change in the Constitution and if rights should be written into legislation. This comes down to a fundamental approach as to who we believe should provide housing and social housing. If we believe the State has this responsibility through local authorities, as housing providers, we do not necessarily need a constitutional change. However, we have made an ideological decision in recent years that the private sector will also be contracted into social housing provision. Having done this through the housing

assistance payment and various amendments, we need a change in the Constitution to balance the rights of property owners with housing as a constitutional right. If we go down the road of excessive reliance on the private sector and private landlords, we will need a constitutional right to housing and a balance of the property rights of individuals with social housing recipients.

If the State returns to a more direct role in housing provision, the most appropriate approach would be to strengthen legislation and create a clear right in law. It is an ideological decision as to how we will provide social housing and housing to people who are qualified. A basic right that sets a bare minimum or floor, as someone described earlier, could be written into the Constitution. However, from a lawyer's perspective and from our perspective, the issue is who will be contracted to provide accommodation. If the State takes a more direct hand in this area through local authorities and housing bodies, it will not be necessary to make a change to the Constitution and strong legislation would be sufficient. If, however, we continue on the road we are on and maintain the provisions of the 2014 and 2009 Acts, under which social housing provision has been effectively subcontracted to the private sector, we will need to provide balancing rights in the Constitution. We are haunted by the ghost of *Blake v. Attorney General* and interference with housing and private property. We need a balance in favour of social housing and a person's right to shelter and a roof.

Ms Sinead Kerin: On constitutional protection for the right to housing, I will note briefly the relevant provision of the South African Constitution, which is as follows:

Everyone has the right to access to adequate housing. The State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.

The issue is one of moving forward and legislation can be introduced subsequently. It is not an issue of providing a key to a home but of moving forward and progressively realising the objective, much like the model adopted in Finland where there is a constant state of improvement.

Therefore, an obligation would be put on the council to provide emergency accommodation and limits would be placed on the length of stays in emergency accommodation. That is progressively realising that right. In none of the jurisdictions we examined was there a situation of judiciary versus the allocation of resources. That difficulty does not arise. It is not shown in any of the jurisdictions. I do not know if our psyche causes us to be paranoid about private rights. This involves the progressive realisation of a right. It is a basic flow of protection. It means trying to improve the situation going forward. There is no right to a house *per se*. The difficulty that arises between the judiciary and the allocation of resources is not played out in other countries. I do not know where that difficulty would arise here because it is a progressive right. It is not an absolute right. That is our take on it. None of the jurisdictions we looked at has that difficulty. In South Africa, there is deference to the state as the legislature to allocate the resources as it sees it fit. However, the job of the judiciary is to ensure it is proportionate, reasonable and balanced against other rights. It is not a black or white situation. It is about a balancing of the rights. I hope that brings some clarity.

Ms Leilani Farha: I will pick up where Ms Kerin left off. If one looks at the jurisprudence from around the world where the right to adequate housing has been litigated through constitutional provisions, the standard that has emerged is a reasonableness one. Judges are inherently conservative in every country. The reasonableness standard is just that. It is reasonable. Governments are expected to act in a way, under constitutional law and the right to adequate housing, that is reasonable as determined by a judge. The quaking in one's boots about what it

means to have a constitutional right to housing can be laid to rest if one just reads some of the jurisprudence.

I want to take another kick of the can regarding the constitutional provision. I have been sitting here reflecting on the constitutional versus legislative position. I do not know the whole legal landscape here but from my vantage point I have considered the situation in light of what has happened in Ireland and in light of the power property owners have here and worldwide. Private equity firms and pension funds have been invited into the country. Globally, residential real estate is valued at \$163 trillion. It is a business that is doing well. Property owners are well-protected through tax provisions and a variety of other structures and infrastructure in this country and globally. Ireland has private property protected in its Constitution. That is fine. One should ask how that looks in light of a lack of protection around the right to housing and in light of the power, strength and protections already afforded, without a constitutional protection, to property owners. It is an optics thing almost in light of what is happening in Ireland at this point in time.

I was asked what can be done right away. I will give due credit to Ms Perucca, who suggested this. We had the advantage of meeting with NAMA yesterday. It was a very interesting meeting. The Government took some very quick, solid steps to set up NAMA. It devoted resources to NAMA and ensured it did its job. There was an energy around that to ensure the Government could recoup losses for the banks. Surely the same energy and determination could be applied to address inadequate housing and homelessness in the country. Everyone here has said it is an absolute crisis. It is hitting the headlines, not only here but globally. It is certainly on my radar and it brought me to this country. I expect the Government could find the energy, enthusiasm, commitment and will it thinks is required to answer the crisis. I think it can be found within Government to do something equal or more than what it has done through NAMA.

I will move along because a whole bunch of questions were put on the table. On the issue of homelessness and torture, I was not trying to draw a parallel between what it is like to live in homelessness and what it is like to be tortured. I could not really weigh in on that. Torture is recognised as a violation of human rights. I am sure it is recognised in Ireland as a violation of human rights. The right to housing is recognised as a human right by Ireland. It has signed and ratified the International Covenant on Economic, Social and Cultural Rights. It enunciates in Article 11 that everyone shall have the right to an adequate standard of living, including adequate housing. Ireland believes that housing is a human right. It has gone off to the UN and reported on the ways in which it is meeting those obligations. Ireland did that in 2015 and the committee had recommendations for it. Ireland has recognised it as a human right. When a State recognises something as a human right, one expects human rights responses to violations of those rights. Ireland has recognised torture as a violation of human rights. One would not just throw a few policies and programmes at it to address it. One would not just say we will have an anti-torture policy. One would say it is a human rights violation, so we will accord to it the highest human rights protections. Ireland has recognised housing as a human right so it must accord to it equally the highest human rights and constitutional protections.

On the issue of vacant properties, it is being dealt with around the world. It is a problem around the world. Mostly it is at city level or sub-national Government where one sees traction. For example, high taxes are often put on secondary homes. Paris started off with a 20% tax on vacant homes and found it was insufficient. There is a huge number - over 20,000 - vacant homes in the city of Paris. They found the tax was not high enough so they increased the sec-

ondary home tax to 60%. That is a pretty high tax. It is probably the most-----

Deputy Richard Boyd Barrett: I love it.

Ms Leilani Farha: I love it.

Deputy Richard Boyd Barrett: That is what one wants to see.

Ms Leilani Farha: One should watch the mayor of Paris over the next number of years because she is doing all sorts of interesting things. We tend to see it at city level. The city of Vancouver took a more modest approach of a 1% vacant home tax. It is certainly an issue that cities are grappling with and trying to address. I am really interested in the issue of the power or lack of power of cities and local councils. I wrote my first report on the human rights obligations with respect to housing in cities. Anyone exercising Government authority has international human rights obligations. I do not know if it is ripe for discussion in Ireland but I think it is a pretty interesting discussion to have. What role could cities have if they had more power, resources and skills?

There were two questions about definitions. I hope that a lack of a firm definition of homelessness would not keep any Government from acting on homelessness. Certain people are homeless, absolutely. It is a gross violation of human rights. There is an obligation and duty to act immediately. I have come up with a definition of homelessness that I think is human rights compliant. It can be found in one of my reports. Here it is obvious the definition is too narrow. I find it shocking. It is narrow perhaps because the Government wants to be very exact in its measurement. The problem with that, as Ms Kerin rightly pointed out, is the numbers that are created and what is counted dictates policy. We end up with this very narrow policy that is not human rights compliant. Obviously people living on the streets are homeless. They are not counted in Ireland's homeless numbers which seems odd.

Chairman: They are counted but come under a different heading.

Ms Leilani Farha: What about women fleeing violence and living in shelters?

Chairman: They are not included in those numbers.

Ms Leilani Farha: That is also odd. There are some obvious things Ireland could do to get a better grip on who is homeless in the country. Even if we know in Ireland's narrow definition that 10,000 people are homeless, it is far too many for Ireland. We all agree on that. There needs to be immediate action.

There was a question about the definition of affordability. I addressed it under international human rights law. It is a very simple definition. It has to be affordable commensurate with household income. It is a very simple definition; it has to be affordable commensurate with the household income. International human rights law is not too prescriptive. As a result of the fact that it has to be applicable across the world, it tends to use broader definitions.

Chairman: I am conscious that the witness has to be in a taxi in ten minutes.

Ms Leilani Farha: I have covered as much as I could. I took a certain delight in the fact that the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach will discuss the issue of constitutionality and the right to housing. That is really interesting, and it is telling. There could be a joint committee to discuss the issue, but the Department of Finance has to be involved because of the maximum of available resources standard. That Department

needs to know what its human rights obligations are. A nice lesson on international human rights law standards on maximum of available resources would be good for that Department. The folks at the Department of Housing, Planning and Local Government could attend as well.

Deputy Eoin Ó Broin: We asked for that but it was refused.

Deputy Mick Barry: I have been asked by 16 families who live in Cork, the second city of this Republic, to ask Ms Farha a question. I am aware that Ms Farha is dealing with broad brush stroke issues here and does not want to get too involved in the specifics, but I want to ask her if she would like to comment on this matter by perhaps dealing with the broader issues that surround it. The 16 families are living in an apartment complex. They are low-income families and many have children. Some of them have been living there for many years. The apartment complex - the Leaside Apartments - was purchased by a vulture fund.

Chairman: At the start of the meeting I read out a statement to the effect that witnesses are protected by absolute privilege, and people should not be named outside of the Houses. I just wanted to remind Deputy Barry of that.

Deputy Mick Barry: There is an Irish company involved. It is linked to Bain Capital, with which, I am sure, Ms Farha is familiar, which was founded by a man whose surname is Romney. I will not mention his first name. Within weeks, perhaps even days, of the purchase, these families were issued with notices to quit - eviction notices - which are currently under appeal. Two scenarios arise here where people could be driven out onto the streets. The complex could be turned into a de facto construction site with major refurbishment works undertaken to upgrade the building. It would be very difficult to live in the complex with a Kango hammer drilling next door while a person is trying to sleep. Also, if people do stay put and extend the appeals process, everybody knows that the rents in this place are going to be increased - possibly doubled - and people will be forced out via that method.

Chairman: The Deputy should remember that the witness is under time pressure.

Deputy Mick Barry: These 16 families are facing homelessness on the basis of a money grab. There is an attempt to virtually double rent in this complex. Does Ms Farha wish to make any comments around the broader issues surrounding that? Is she aware of any countries where it would actually be illegal?

Chairman: I let three non-members of the committee contribute before I had a chance to ask a question. I thank the witnesses for attending this morning. I do not disagree with much of what was said, or the sentiment. I am not sure how much Ms Farha knows of where Ireland has come from or what policies were in place here previously, but the initial action plan on dealing with homelessness was dealing with it in isolation, and that cannot be done. We changed that into the Rebuilding Ireland plan. Ms Farha spoke about a strategy that must prioritise those in most need. Our strategy does that; the most vulnerable people in society always have to be looked after first. That plan was not just a Government plan. Some members here might have made submissions to that plan in some shape or form, as well as various organisations, economists, chartered surveyors, architects, the Peter McVerry Trust and the Simon Community. All of these parties were involved in putting the plan together, which sought to deal with the totality of the housing problem and not just to treat it as an isolated issue. That is the strategy we are working off.

Someone mentioned that the first can had been kicked and that the second can should now

be kicked. The second can is Rebuilding Ireland, and it takes a wide approach in terms of the issue. I am not saying it is a perfect plan, but rather that it is the Government policy and that many people contributed to it. We were dealing with a construction sector wherein activity had dropped by 90%. We had mass emigration. I do not really want to look back on that time because we have come so far since then, but I just want to provide some context. We are trying to rebuild a country and the construction industry after unemployment had reached 16%. Dealing with that issue had to be the priority at the time.

A whole-of-government, cross-departmental approach must be taken. Housing First is an example of such an approach. An inter-agency group was established in September 2017 to co-ordinate the responses of people with complex medical and health needs, as well as for those from other countries who may not have housing rights in Ireland but are trapped in emergency accommodation. A cross-departmental approach is taken when it comes to housing. Such an approach must be taken. The Departments of Health, Children and Youth Affairs, Public Expenditure and Reform and Housing, Planning and Local Government are all involved. A cross-departmental approach is being taken, and people can argue about that, agree or disagree or say that there are imperfections or that it is perfect. I am not going to get into that, but it is actually happening.

I fully recognise what Mr. Joyce has said about leaning on the private sector, but in order to increase supply and to get the construction sector and financial institutions up and running, we are, unfortunately, reliant on a private rental market. Our local authorities lost many members of staff and expertise during the downturn. They also did not have the finances from 2008 onward to address the problems. That has all taken time, but we are two years into a five year plan. Our aim is that, by 2021, more people are in social housing supports than are in the private rental market schemes, such as HAP or RAS. In my eyes, one homeless child or one homeless family is far too many. I will not get into numbers; I hate putting numbers on the number of people who are going through difficult situations because each one is different and each needs a different response. There is probably no one-size-fits-all solution. I am of the view that we should treat people with respect when it comes to that.

Ms Farha does not have the time to answer many questions today. I would have loved to have gone further in this discussion. What has been done to get us to this point has not been mentioned. It has not been perfect, but we have achieved a great deal in very difficult circumstances and with a budget of approximately €6 billion. Local authorities are now coming forward with ambitious plans on over 700 sites around the country where we can provide affordability, cost rental and social housing. It cannot happen overnight. Those proposals are now coming in. I was at a launch of 12 houses last week in Dún Laoghaire where people were getting their keys. We are starting to see results. It is taking time, and it will take more time, which we can only expect.

I wanted to put into context the difficulties we have had and the point we are arriving at now. One solution does not solve a housing crisis. I say to Deputy Ó Broin regularly that we may differ on how we propose achieving that solution, but everybody here wants that solution, for every family to be housed and for every individual to have a roof over his or her head.

I disagree with the proposal to insert housing as a right into the Constitution. I do not have time to go into that because I let non-members of the committee speak before me, but I am sure we will have the chance to discuss the matter at another meeting. We have to balance what is being done and what needs to be done. We need to do a great deal more. However, what we have done to get to this point has not been reflected in the meeting. I am trying to provide a little

of balance to that. The priority is to put a roof over people's heads. Whatever their circumstances, it is not for us to discriminate against anybody. Deputy Mick Barry asked Ms Farha a direct question. I do not know if she has time to answer it.

Ms Leilani Farha: I definitely want to answer it. I will answer in point form. I thank the Deputy for raising this issue and I ask him to convey my thanks to the 16 families for sharing their difficult situation with me. There is no doubt it is a global phenomenon. Private equity firms are doing this in many countries. I have witnessed it in Sweden, New York, Barcelona and London. I know of nowhere it is considered illegal. Some places deal with it differently from others because some have good protections around when rents can and cannot be escalated and to what extent. It is a matter with which I am seized. I wrote a report a year ago on the financialisation of housing. I identified this as a troubling practice, which is certainly not compliant with governments' human rights obligations. I stress that because it is up to the Government to ensure this does not happen, and to regulate the private sector accordingly and in compliance with its international human rights obligations. The case of these 16 families, which the Deputy described, suggests that it is not being regulated sufficiently, at least not for the 16 families he mentioned. I would very much appreciate more information about that situation because it is a matter with which I am seized.

On the comments made towards the end - I am sorry; I cannot read the members' names - I am not here to assess Ireland and my comments were not meant to reflect that Ireland is not taking steps. However, when I glance at Rebuilding Ireland, I note that the right to adequate housing is not mentioned, nor does it inform concept, standard or norm. Ireland may not be as successful as it would like to be without that framework. That framework necessitates and requires the right to adequate housing being entrenched either in the Constitution or in some legislative format. I will rest my comments there. I thank all the members for inviting me here. I catapulted in and I appreciate that very much. I hope I got things right and that I contributed to the committee's conversations.

Ms Sinead Kerin: I thank the Chair for inviting us. We just want to leave the committee with two points. Currently, there is no right to shelter in Ireland. We have families living in bedrooms for two and a half years. I hope the committee will show leadership, move forward and improve the lives of several thousands of children. I thank members for their attention and for inviting us.

Chairman: I thank all our witnesses for attending and for engaging with the committee.

The next meeting of the joint committee will be on Thursday with ICTU on Irish Water's proposed move to a single utility and discuss where we are going to go on the pre-legislative scrutiny on the Residential Tenancies (Amendment) Bill 2018, following on from today.

The joint committee adjourned at 3.55 p.m. until 9.30 a.m. on Thursday, 14 June 2018.