

# DÁIL ÉIREANN

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AN COMHCHOISTE UM THITHÍOCHT, PLEANÁIL AGUS RIALTAS ÁITIÚIL

JOINT COMMITTEE ON HOUSING, PLANNING AND LOCAL GOVERNMENT

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*Dé Céadaoin, 20 Feabhra 2019*

*Wednesday, 20 February 2019*

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The Joint Committee met at 9.30 a.m.

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## MEMBERS PRESENT:

Deputy Mick Barry,	Senator Jennifer Murnane O'Connor.
Deputy Pat Casey,	
Deputy Dessie Ellis,*	
Deputy Mattie McGrath,	
Deputy Darragh O'Brien,	
Deputy Fergus O'Dowd,	
Deputy Eoin Ó Broin,	

\* In the absence of Deputy Eoin Ó Broin for part of the meeting.

In attendance: Deputy Jan O'Sullivan.

DEPUTY MARIA BAILEY IN THE CHAIR.

**Business of Committee**

**Chairman:** I have received apologies from Senators Victor Boyhan and Grace O’Sullivan. I propose we go into private session to deal with some housekeeping matters. Is that agreed? Agreed.

*The joint committee went into private session at 9.39 a.m. and resumed in public session at 10.06 a.m.*

**Residential Tenancies (Greater Security of Tenure and Rent Certainty) Bill 2018 and Anti-Evictions Bill 2018: Discussion**

**Chairman:** At the request of the broadcasting and recording services, members and visitors in the Public Gallery are requested to ensure that, for the duration of the meeting, their mobile phones are turned off completely or switched to airplane, safe or flight mode, depending on the device. It is not sufficient to put phones on silent mode as they may maintain a level of interference with the broadcasting system.

No. 6 is detailed scrutiny of the Residential Tenancies (Greater Security of Tenure and Rent Certainty) Bill 2018 and the Anti-Evictions Bill 2018. On behalf of the committee, I welcome Deputies Jan O’Sullivan and Barry to present their Bills.

By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of the evidence they are to give to the joint committee. If, however, they are directed by it 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. Witnesses are directed that only evidence connected with the subject matter of these proceedings is to be given and 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.

I call Deputy Jan O’Sullivan to make her opening statement.

**Deputy Jan O’Sullivan:** I thank the Chair and members of the committee for inviting me to make a presentation on detailed consideration and scrutiny of my Bill, whose purpose is to rebalance the landlord-tenant relationship by providing for greater security of tenure and rent certainty for tenants. I am aware that Deputy Barry, the Minister for Housing, Planning and Local Government, and a number of other Opposition Deputies have introduced Bills relating to this area, largely because so many individuals and families are insecure and in fear of becoming homeless because of insecurity in the private rented sector. My Bill covers a wide range of measures that are urgent and necessary to provide transparency, security from eviction and protection from unfair rents and unfair deposits.

In my written submission to the committee, I provided some background, which is important in the context of arguments which are often made about certain measures being uncon-

stitutional because of the balance in the Constitution between property rights and the public interest. I refer to the 2004 report of the all-party Oireachtas committee on the Constitution, which concluded that the power of the Oireachtas to impose restrictions on property rights in the public interest was constitutionally well-established. I was a member of the committee, which heard much eminent legal advice from constitutional lawyers and examined a number of precedents and cases. The report recommended that the Kenny report could be implemented and, generally, that the Constitution should not be used as a shelter or excuse for inaction on the rights of the public versus the rights of private property. I also refer to a document that the Oireachtas Library and Research Service provided, entitled Private Rental Sector: an International Comparative Study, which examines the impact of the European Convention on Human Rights, its various provisions, and how decisions on these issues need to be in harmony with European Court judgments. Recent decisions of the European Court of Human Rights affirm that interference with property rights is authorised if it is in accordance with the law, is necessary in a democratic society and is proportionate to the aim sought.

The document also goes on to outline the regulations of the private rented sector in various countries across Europe. That is very useful because there is a great deal more security for tenants in most of our European neighbouring states. For example, in Germany the private rental sector comprises 41% of the housing stock and renting is considered a secure and long-term option. Germany has strong contract protection and rent control. There is a database of all the rents in the local area, tracking all rents agreed in the preceding four years. Landlords determine a rent for their property by referencing - the referenced rent concept - dwellings of comparable size, quality and location. Rent may not exceed the reference rent in the locality by more than 10%.

Interestingly, and I am aware the landlords' representatives will be here later, it points out that the law benefits landlords as well as tenants. There is an argument for rights for landlords as well and recognising the costs to them. In Germany there are depreciation allowances, mortgage interest tax relief, deduction of maintenance costs and the possibility to deduct losses from the income tax base. There is, therefore, a balance in other European countries. The proposals in our Bill are far from being abnormal from an international comparative perspective.

I will briefly go through the provisions of the Bill. Some of them overlap with Deputy Barry's Bill and others. In section 1 we seek to commence the provisions of the Residential Tenancies Acts that have not been commenced, particularly with regard to a deposit protection scheme. That would come into operation within six months. That has been provided for already but has not been enacted. Second, our Bill introduces a new definition of "landlord". That would deal with the issue of receivers, something that has been raised by many people here. Threshold and other bodies have said that the extent, if any, to which a receiver is bound by the tenancy agreement is uncertain and that tenants' rights in respect of adequate notice, upkeep of the property, deposit return and so forth may be ignored. We want the definition of a landlord to include a receiver. Third, we provide for a definition of "deposit". We say the deposit must not in any case exceed one month's rent under the tenancy. We have heard reports of people asking for two and three months' rent, basically to deter people who cannot afford to have that amount of money up front.

Sections 5 and 6 deal with rent control. Again, other parties have made the same proposal, that increases which are currently limited to 4% in rent pressure zones should be linked to the annual rate of inflation as measured by the all items consumer price index published by the Central Statistics Office, CSO. We also propose that for a three-year period, the entire country

should be designated as a rent pressure zone. As I am from Limerick city, members will understand why I feel strongly about that issue.

The next set of measures deals with security of tenure. Most of them are not original. There is a consensus, which includes many parties and members, as to the need for most if not all of these proposals. Some of them are included in Deputy Barry's Bill.

In section 7 we propose that the Part 4 tenancy effectively will become a tenancy of indefinite duration. We also propose to delete paragraph 3 in the table to section 34, which permits a landlord to terminate a tenancy on the grounds of an intention to sell the property within three months. We are saying that sale should not be a ground for giving a notice of termination of tenancy to a tenant. The National Economic and Social Council, NESC, recommendation in this regard states:

One view is that this could reduce the price that those selling rental properties could achieve, compared to the price with vacant possession. On the other hand, the more the Irish rental system is driven by long-term yield, rather than changing asset prices, the higher the value purchasers will put on properties with an existing, secure rental stream.

Obviously, there is insecurity for the tenant. We argue this would yield more long-term security for the landlord as well.

We also deal with refurbishment to renovate the property. I note the Minister has a definition in that regard in his Bill. However, our definition says that termination is permissible on this ground only if no reasonable measures can be taken to maintain the dwelling fit for human habitation during the refurbishment or renovation. A person who has a private home generally does not move out of the house if he or she is doing significant renovations, so we do not believe tenants should have to move out either.

Finally in the area of security of tenure, we narrow the definition of the family member moving into the property. Currently, it is very broad and includes a sister, nephew, niece, parent-in-law and so forth. We shorten the list to include just a spouse or civil partner or a child, including a stepchild, foster child or adopted child, of the landlord.

Section 9 provides for a rent register. It would be a dwelling specific rent register, which is argued for by Threshold. However, it would protect the identity of the landlord and of the tenant.

That is an outline of what is in the Bill. The Bill is comprehensive because tenants face a number of difficulties and insecurities. I believe everybody here agrees that we need legislative reform and this is our contribution. I am happy to answer any questions from members of the committee.

**Chairman:** I invite Deputy Barry to make his opening statement.

**Deputy Mick Barry:** Evidence from all the agencies funded by the Government to deal with homelessness shows that the vast majority of homelessness is caused by evictions from the private rented sector. According to Focus Ireland, which is funded by the Government as the main agency dealing with family homelessness, 69% of homeless families reported that their last stable home was in the private rented sector. Traditionally, the number of evictions into homelessness peaks in January. If that has happened again this year, the official homelessness figures for the State will surge to in excess of 10,000 when the information for January is released next week. It is insanity to continue to allow economic evictions to take place in the

midst of the greatest housing and homelessness crisis in the history of the State. This Bill aims to address that issue and try to stanch the flow.

The level of precarity in the private rented sector is illustrated by the fact that the majority of tenants have been renting their current home for less than two years. By contrast, only 5% of mortgaged owner occupiers and only 11% of local authority tenants have been living in their current homes for less than three years. This fast rate of turnover is persisting despite the fact that an increasing number of people are living permanently in the private rented sector. An April 2018 survey of tenants by Threshold found that 70% have been renting for five years or longer. In other words, families are repeatedly being uprooted and forced to move. This insecurity of tenure is especially sharp for housing assistance payment, HAP, rental accommodation scheme, RAS, and rent supplement tenants who find it hardest to source private rented accommodation and are most likely to end up homeless as a result. These tenants now make up between a quarter and a third of tenants in the private rented sector due to the collapse of council housing construction under Fine Gael and the privatisation of social housing.

The Bill targets four of the main reasons for evictions from the private rented sector and into homelessness. Focus Ireland research shows that one third of homeless families became homeless after being evicted from the private rented sector for the reasons covered by the Bill. The reasons are the private rented home being removed from the market due to the landlord selling, the landlord's property being repossessed or sold by a bank, the landlord moving back in, major renovations, or the landlord giving the property to a family member. In other words, this Bill would help to keep one third of families currently being made homeless in their homes. Likewise, if this Bill had been enacted in 2017, when its first iteration was moved, well over half of the families or individuals contacting Threshold, having been threatened with eviction, would have been protected. The Bill would also cover the reasons cited in 40% of all eviction notices disputed with the Residential Tenancies Board, RTB.

Let us look at some of the proposals. In the case of a landlord claiming that he or she wants to sell, this Bill would ban the sale of property as a reason for eviction. The property can be sold with tenants *in situ*, as in other European countries, for example, Germany, the Netherlands, Sweden and Denmark. According to Threshold's 2017 annual report published last year, sale of property was the common reason given in eviction notices, it having been used in 38% of the eviction notices dealt with by the Threshold. Almost 2,000 families or households faced with eviction on grounds of sale of property would have been protected by the first iteration of this Bill if the Government had not voted it down in January 2017. According to Focus Ireland, the biggest push factor into homeless remains families being evicted into homelessness from the private rental sector, where landlords are selling up and, further, that without structural changes to reduce this influx into homelessness it will be hard to make further progress in reducing total homelessness. That speaks for itself.

The Bill gives tenants of buy-to-let properties in receivership the protections of the Residential Tenancies Act, RTA, by including banks and receivers in the definition of "landlord", as called for by Threshold. This would remedy the current situation whereby tenants essentially lose all their rights if their landlord defaults on a loan and the home is repossessed by a bank. The latest Central Bank figures show 12,732 buy-to-let mortgages are in long-term arrears of over two years. The majority are tenanted with the occupants at risk of eviction on grounds of sale and-or because of the lack of Residential Tenancies Act protection for tenants of buy-to-let properties in receivership. This Bill would give tenants in this situation the same security of tenure as other tenants as well as the other RTA protections, for example, in regard to deposits

and repairs.

On the issue of a landlord claiming a relative is moving into a property, this Bill would oblige landlords to pay six months' rent in compensation to the tenant in the case of a break of a lease for this purpose. The purpose of this is to prevent unscrupulous landlords from using the relative argument as an excuse to evict tenants in order to bring in new tenants on a higher rent.

On the question of renovation, the Bill also removes renovation and refurbishment as grounds for eviction. This is in addition to the original anti-eviction Bill of January 2017. This is necessary now in light of the major increase in so-called reno-victions. Some 12% of Threshold eviction queries in 2017 related to refurbishment or renovation and 8% of eviction notices determined by the RTB in 2017 cited substantial refurbishment. An outrageous 74% of such claims were found to be invalid. In most cases, refurbishments can be done without any need for the tenant to move out and certainly without need to terminate a tenancy. Tenants could move out to allow major refurbishment but this should only happen with the consent of the tenant. Otherwise, the landlord should wait until the end of the tenancy to renovate. In the event of health and safety or fire issues, this could be dealt with under the relevant legislation in those areas rather than the Residential Tenancies Act.

On the issue of landlords giving notice just before the expiry of the four to six year Part 4 tenancy, landlords can currently evict tenants for no reason at the end of a four or six year Part 4 tenancy. This Bill makes Part 4 tenancies indefinite so that this recurring eviction period or danger zone for long term tenants would no longer exist.

Other measures in the Bill include purpose-built student accommodation to be brought within the remit of the Residential Tenancies Act. This would ensure that tenancy protections of the Residential Tenancies Act, as amended by this Bill, including rent pressure zones, apply to the nearly 40,000 students living in student specific accommodation, whether private or publicly owned, for example, by the colleges. According to a survey of students carried out by the Union of Students in Ireland, USI, in 2017, this would cover approximately one third of students. I understand a representative of USI is here and will also make a presentation so I will not elaborate as I am sure she will do so.

The Bill would reduce the timeframe for the coming into effect of Part 4 tenancy protections from six months to two. Currently, landlords can evict tenants for no reason during the first six months of a tenancy. Threshold's latest survey of tenants in April 2018 found that nearly half, 46%, of tenants have been living in their current home for one year or less. This is a necessary change. An additional reason for amending the law so that Part 4 tenancies kick in after two months is that we anticipate that if this Bill passes, landlords might try to circumvent the increased protections for tenants it contains by bringing in new tenants every six months. This is a way of future-proofing the Bill.

The Bill extends the notice period to be provided by landlords when terminating a tenancy. I do not propose to read all of the details into the record as the tables are laid out in the Bill.

We believe there is a need for this legislation. We are in the middle of the greatest housing and homelessness crisis in the history of this State. The cause of the increase in homelessness is eviction from the private rental sector. This Bill aims to stem that flow, in particular by tackling two of the main reasons cited on the notices to quit, namely, eviction on ground of sale of property and eviction on ground of renovation, or so-called reno-victions. Let us ban this practice. This is a sensible and practical proposal in the current climate.

**Chairman:** The purpose of this meeting is to scrutinise the two Bills before us and not general policy in the area. I note Deputy Ellis is substituting for Deputy Ó Broin. I call Deputy O'Dowd.

**Deputy Fergus O'Dowd:** I would like to comment on some of the points made. I agree that we are in a significant housing crisis, the worst in the history of this State. I acknowledge and appreciate fully the points that have been made but it is important to point out that a number of actions have been taken to protect tenants. The HAP initiative has been very successful in ensuring tenants are able to pay their rent. It allows people who would not otherwise be able to meet the increased rents that are being demanded to compete in the marketplace as equal players. The powers of the Residential Tenancies Board, RTB, have been strengthened. There are currently over 340,000 tenancies registered with the board. It is proposed to increase the powers of the RTB to regulate the sector and to increase the rights of tenants, which is useful and helpful.

Deputy O'Sullivan mentioned the rent pressure zones. This initiative has been very successful in the areas in which it applies. In Drogheda, it has been so successful the number of people complaining about increased rents has significantly reduced. Local authorities and private construction companies are significantly increasing the number of houses being built. The number of houses built during Deputy O'Sullivan's tenure as housing Minister was very low. I acknowledge I was Minister of State of that Department during that term. We know that the reason for that was the economic conditions. As things have improved, housing construction has increased significantly. It is important I make these points to balance the arguments that have been made.

On the issue of evictions, is there data available on the number of evictions that have taken place and is an eviction a notice to quit? Perhaps the witnesses would elaborate on those points. I hold no property other than the house in which I live and I am not a spokesperson for landlords. In fact, I have in the past stood up to the abuse by landlords of tenants and I have helped many in that regard. One way of dealing with this issue is to put in place a moratorium on evictions for a set timeframe. In terms of all of the issues raised, there are arguments for and against them. I do not believe there is any reason not to have a moratorium on evictions, be it for one or two years. The point is that most people who are renting that I meet are waiting for a social house, council house or affordable home. They do not want to stay in rented accommodation forever. As the number of houses increases and as choices increase, rents will go down. While it will not happen today or tomorrow, people will get the homes they want. We should look at that as a moratorium, albeit I am not sure what legislation would be required. It would avoid many of the other pitfalls that may be there if the Dáil were to pass that legislation.

If someone is to suggest there be no evictions, it is important to impose three conditions. It is important to say that the vast majority of tenants are good tenants and the vast majority of landlords are good landlords. I would not tar them all with the same brush. If a tenant is paying his or her rent and does not owe substantial arrears, is not involved in anti-social behaviour and if the occupied property is in reasonable condition, that tenant should have security of tenure for a period to be defined by the Dáil during which he or she could not be evicted. It might be two or three years or some such period. The landlord who lets the property is having his or her rights respected. The rent is being paid and the property is being looked after. The tenant is a good tenant and is living reasonably and properly.

A point I make strongly is that when I started in public life, which was a few years ago now, the average waiting list for a council house was two to three years. In Drogheda, it is getting

close to ten years. There is huge insecurity in that for families and there are great disadvantages when they have to move properties to another location. These include disadvantages around schools, friendships and family. I agree that we need to improve the rights of tenants significantly. However, one cannot say, and I do not presume it is being argued, that if people do not pay the rent, behave anti-socially and destroy or damage the property they are in, they nevertheless have the right to remain there forever. It is of great importance to have absolute clarity on that. I would never stand over that, no more than I would stand over a bullying landlord who might switch off the electricity, harass a tenant, enter on the property without the tenant's consent or demand entrance without due notice. The middle ground is to protect people and to provide them with increased rights, provided that they meet their obligations also.

I appreciate the Chairman's latitude on this. I ask that we look at a moratorium, which would meet the requirements of security of tenure until such time as the housing supply increases. The other point that has been made strongly is that 86% of all landlords own no more than two properties, while 70% of the landlords in the State own only one. That is the reality of the people we are dealing with. Clearly, families get into difficulties. I know families where the parents became homeless as a result of decisions made during the boom. As such, I would not exclude grandparents from the Labour Party's list, which I think it is intended to do. It would not be right. The positive needs which have been identified may not be fully provided for in the Bill. They include the question of increased long-term leases. That means encouraging landlords to lease for 20 or 30 years by providing tax incentives, refurbishment grants and so on to achieve the best practice we see in other countries. Germany and other countries were referred to in that regard. If that knowledge can be brought to the table, it would assist the debate. There will always be a private sector and we need longer leases to provide greater security for families there. Greater stability for tenants is required. Provided everyone plays his or her full part and meets his or her responsibilities, I do not see why the thrust of what the witnesses want, which is what I want too, cannot be provided for. We want longer and more secure tenancies and no evictions, certainly for a given period. There were no evictions 20 years ago when supply met demand because people who were not happy with a particular landlord would leave a property. When supply increases, people will have a lot more choice. However, they can be protected now with a moratorium.

**Chairman:** Deputy Barry has a question coming up and will have a chance to come back in. I have a number of questions first. I will keep a record of any questions asked while Deputy Barry is away from the meeting to facilitate him coming back in.

Legal advice was discussed. We have advice from the Oireachtas Library and Research Service and can seek advice from the Office of the Parliamentary Legal Adviser, OPLA, if the committee agrees. What legal advice have the witnesses received in putting the Bill together? I have questions regarding what I believe are unconstitutional proposals within the legislation. While some of what is proposed is already incorporated in the Government's Bill, some provisions are unconstitutional. Regarding a refurbishment as grounds to end a tenancy, we received assurances from the Department on clarification of what was and was not a refurbishment of a property. That is coming. Student accommodation will be included in rent pressure zones. Where I have a real issue is around the sale of a property as grounds for terminating a lease. The witnesses want a requirement to sell with the tenants *in situ*. While I know this is a tricky one, I believe it is an unconstitutional proposal. I say that on the back of the fact that 86% of landlords in the market own one to two properties. We have approximately 174,000 landlords, some of whom might be accidental landlords, I do not know. The proposal infringes on someone's rights. As Deputy O'Dowd said, they are paying their taxes, including the local



property tax, and are good landlords with, probably, good tenants. If the person chooses to sell the property for whatever legitimate reason, I do not think we can infringe unconstitutionally on the right to sell with or without a tenant. The person can sell it with a tenant if he or she so decides. That is his or her choice.

I have another issue around the compensation proposed in the Bill. It is proposed to give six months' compensation on the termination of a tenancy, even when the termination is within the prescribed time period and is legally acceptable. What is the rationalisation for that? How was it quantified? How will it be enforced? Would such a provision not push landlords out of the market? There is a very fine balance to achieve to give both landlords and tenants security in this sector. They both need assurances to make it viable for the non-commercial operators out there. I am not talking about the big landlords to whom the witnesses always refer. I am talking about the people who own one or two properties or up to even three or four. Given the need to make it financially viable for them to remain as landlords, do the witnesses not see that this provision will tip matters over the edge? Where did the rationale for six months' compensation come from and what legal advice, if any, was provided in that regard?

The Residential Tenancies Board's representatives will be here later. The board has set out the main reasons landlords served notice in 2017 and its figures are a little different to those provided by those before the committee now. According to the board, 44% of tenants on whom notice was served were in rent arrears. In 20% of cases where notice was served, the landlord intended to sell the property. In 8% of cases, landlords intended to use the property for their own families. A further 8% of cases involved landlords who intended to substantially refurbish the property. I am always conscious of circumstances in which it may be intended to use a sledgehammer to crack a nut. In respect of a problem in 8% of cases, the witnesses seek to go in with a very heavy hand. The rental market has been maturing over the years and we are coming off the back of a recession with social housing building increasing dramatically. We need far more. We need the private sector and private supply is increasing. It will take a couple of years for the market to stabilise. However, we can see the steady improvements taking place and the supports that exist. I always use the analogy of the builder's leveller. Whether I believe they are unconstitutional, we will have to get legal advice on some of these proposals. In any event, with some of these proposals, the bubble in the leveller will be outside the lines and landlords will be pushed out of the market. I do not think that is the intention of the Bill's sponsors but it is what will happen. I would like to hear some responses, especially around the legal advice they may have received.

**Deputy Mick Barry:** I will reply to the Chair's questions first and then briefly reply to some issues raised by Deputy O'Dowd. We have taken legal advice and we are happy to have the Bill tested against the legal opinion of anyone else, in these Houses or elsewhere.

**Chairman:** Can the Deputy share that legal advice?

**Deputy Mick Barry:** Yes, we can do that. We wish to make a political point and then a legal point about this. The political point is that there is a clash of interests, namely, the interests of landlords and the interests of tenants. One can assert the rights of private property and the rights of the market, but where has that led society? It has led us to the greatest housing and homelessness crisis in the history of the State. It has led to the real possibility that the Department will release an official homeless list for the State that is above the 10,000 mark. As an alternative, I would assert the rights of society and say that society has the right to protect itself and those in rented accommodation from that situation by strengthening the rights of tenants. This Bill aims to do so in particular areas which are being cited daily, week in, week out, to use

notices to quit as grounds for evicting people, in many cases into homelessness. These include the sale of property and so-called renovictions.

On the legal issue, I note that the Constitution provides for the rights of private property. It also provides for the State to take action in the interests of what it describes as the “common good”. It enshrines that as a strong and in some cases overriding principle. Our legal argument will be that the common good overrides the rights of private property. Our opinion is that this is not unconstitutional and is a legally sound Bill to put before the Oireachtas. My personal view is that if we were found to be wrong on that, and I do not think we are, an urgent constitutional referendum is needed to facilitate the implementation of the legislation. The rights of society and of the tenant should outweigh the rights of the market and private property in this instance. The case for that is overwhelming in the midst of the housing and homelessness crisis. I am happy to share our advice in that regard.

I will explain what we are trying to do in regard to the issue of six months’ compensation. Many tenants are given notices to quit which state that a relative is going to move in as the reason for eviction. In some cases this is genuine.

**Chairman:** It is 8%.

**Deputy Mick Barry:** In many cases it is not genuine. The provision for six months’ compensation aims to flush out the landlords who put that forward as a false reason. We also think that six months’ compensation is not unreasonable. Finding alternative accommodation is very difficult for a young family with children. It is very expensive. The inconvenience that this family is put to by being forced to move out to make way for a relative is worthy of compensation. We can debate what the level of compensation should be. We feel that six months’ rent is not unreasonable. The principle of compensation for a tenant who has been asked to quit the premises is not unheard of internationally. In the Netherlands, the state provides for compensation for tenants in this situation and in other circumstances. We would argue that case.

Deputy O’Dowd asked about the number of evictions that take place. The data provided by Threshold, the Residential Tenancies Board, RTB, and Focus Ireland provides some sense of it, if not a precise figure. Focus Ireland says that 69% of homeless families report that their last stable home was in the private rental sector. We can imagine that the vast bulk of them did not voluntarily evict themselves into homelessness. There was a degree of-----

**Chairman:** They are not categorised as evictions. We have to be very clear on that. When we introduce a Bill, it has to be based on statistics and evidence. I think Deputy O’Dowd was looking for a figure based on-----

**Deputy Fergus O’Dowd:** I am not suggesting that the sponsors have all the answers. If we can get those facts, we can-----

**Deputy Mick Barry:** I will provide the Deputy with further information. I am not saying that 69% of homeless families have been evicted into homelessness. I am saying that it is not an unreasonable supposition that a very significant number, or the majority-----

**Deputy Fergus O’Dowd:** People are evicted. There is no doubt about that.

**Deputy Mick Barry:** In 2017, 32% of all queries to Threshold were about eviction notices. In other words, more than 5,000 families or households contacted Threshold that year because they faced losing their homes as a result of threatened eviction from the private rental sector.

This was up from 14% of all queries in 2016. It is not realistic to think that 100% of people in this situation came knocking on Threshold's door. That is a subset of the overall total. Similarly, the Residential Tenancy Board's annual report for 2017 shows a massive 35% annual increase in disputes over invalid notices of termination from landlords. Some 41% of termination notices ruled on by the RTB were found to be invalid, in other words, to be attempted illegal evictions. Taken in the round, the Focus Ireland data, the Threshold data and the RTB data certainly show that this is substantial.

**Deputy Fergus O'Dowd:** How do we define eviction? That is my other question. I am not being rude. I am just trying to be helpful. I am looking at the terminology.

**Deputy Mick Barry:** For me, an eviction is a situation where a landlord gives a tenant notice to quit, the tenant is asked to leave the property and it is not voluntary from their point of view. They are going against their wishes.

**Deputy Fergus O'Dowd:** What if the tenant was not paying rent? It is more complex than black and white.

**Deputy Mick Barry:** The issue of non-payment of rent or rent arrears is not dealt with in this Bill. We are dealing with issues such as sale of property and so-called renovictions.

**Deputy Fergus O'Dowd:** On that very point, if I am not paying my rent, I should be doing so. If a tenant is not paying his or her rent and is making no reasonable effort to do so, why should he or she be able to stay in the house?

**Deputy Mick Barry:** I do not think any reasonable person would argue that someone who refuses to pay their rent over a long and sustained period of time should have an automatic right to keep their tenancy.

**Deputy Fergus O'Dowd:** They should not.

**Deputy Mick Barry:** They should not. I would point out that as I understand it, the current legislation is that a tenant whose rent is in one week's arrears can legally receive a notice to quit and be asked to leave within a period of 28 days. That contrasts with the position in Scotland, where someone has to be given three months' notice in a situation of rent arrears. However, that is a matter for another day. The Bill does not deal with that issue.

**Deputy Fergus O'Dowd:** I think I have made my point clear and we agree. I do not think anyone should be evicted from his or her home right now. There should be a moratorium. I am referring to tenants who are paying the rent and are not antisocial. That is another major issue. I have heard of people causing untold havoc in estates, private and public, with terrible antisocial behaviour. Sometimes that is criminal behaviour bound up with drugs. I am not saying there are many of these people but they have an appallingly negative impact wherever they are. That has to be acknowledged. What can be done about that?

**Deputy Mick Barry:** I think I have missed my question in the House now.

**Deputy Fergus O'Dowd:** I will come back to this question if Deputy Barry wants.

**Deputy Mick Barry:** No, I will reply briefly. This Bill does not deal with the issue of eviction on grounds of antisocial behaviour, let alone eviction on grounds of criminal behaviour.

**Deputy Fergus O'Dowd:** I know that.

**Deputy Mick Barry:** This Bill, essentially, deals with an important section of economic evictions. Those are evictions on grounds of sale of property and renovation. I am also referring to the lack of protection for people in buy-to-lets etc. Those are the issues we should focus on when we are discussing the Bill rather than discussing issues outside of what this Bill attempts to cover. I am going to run.

**Deputy Fergus O'Dowd:** Please do not leave yet.

**Chairman:** If somebody is given a notice to quit in a legal framework of time, Deputy Barry would still term that an eviction if the tenant does not want to leave the home.

**Deputy Mick Barry:** Will the Chair please repeat that?

**Chairman:** If somebody is given a notice to quit or terminate his or her tenancy within the legal parameters, whether that is a notice to quit in three or six months, and that person does not want to leave his or her home, Deputy Barry would still term that an eviction.

**Deputy Mick Barry:** I regard that as an eviction and the law should be changed to afford tenants greater protection in that type of situation.

**Chairman:** Even though it is within the legal parameters, Deputy Barry would still state that is an eviction.

**Deputy Mick Barry:** Yes. There are evictions that are legal as well.

**Chairman:** That is fine. I call Deputy Jan O'Sullivan.

**Deputy Jan O'Sullivan:** Regarding legal advice, the legal adviser to our party was supposed to be with me today but, unfortunately, he could not be.

**Chairman:** To be fair to him, he did offer.

**Deputy Jan O'Sullivan:** He has contributed on the background to the Bill. Also on the issue of legal advice, this particular area has not been amended in the Constitution since 2004. The legal adviser to the all-party committee was Mr. Gerald Hogan, an eminent constitutional lawyer. We can rely on that, therefore, as being the basis for the kind of balance I am trying to achieve in this Bill. Regarding the term "evictions", we do not use it in our Bill. We are specifically referring to particular circumstances where people get notices of termination of tenancies. Rather than have a blanket concept of eviction, we are dealing with specific areas in our Bill. I will try to respond to the questions raised.

Turning to the question on numbers, the Chair and Deputy O'Dowd referred to the number of people who have to leave their homes for a variety of reasons. It is hard to quantify. Threshold only knows about the cases that come to its attention. The RTB, by and large, only knows the cases taken to it for decision. Similarly, Focus Ireland also has only limited knowledge. I do not know, therefore, if anybody can supply accurate information on this. If we can help the committee to get that information, however, we certainly will be happy to do so.

**Deputy Fergus O'Dowd:** That is fine.

**Deputy Jan O'Sullivan:** I understand Deputy O'Dowd's suggestion that there should be a moratorium on evictions. At the same time, however, that might be hard to implement. How will the cases be dealt with where somebody is not paying the rent or is causing antisocial be-

haviour?

**Deputy Fergus O'Dowd:** If somebody is not paying his or her rent, and if he or she is antisocial, they should not have that-----

**Deputy Jan O'Sullivan:** There would have to be a way of determining that before it would be possible to do anything.

**Deputy Fergus O'Dowd:** There would have to be clarity. Yes, that is correct. There would have to be a way to benchmark in the RTB or somebody on that body.

**Deputy Jan O'Sullivan:** Instead of generalisation, our approach is to try to pick out the individual reasons people lose their homes. We are trying to present legislative measures that would give those tenants security in their homes and also protect them from undue rent hikes. Regarding the rent pressure zones, they have had some success in the areas where they apply. I agree with Deputy O'Dowd on that.

**Deputy Fergus O'Dowd:** They definitely have.

**Deputy Jan O'Sullivan:** They are not, however, completely successful, even in those areas. That is partly because there is not a rent register and, therefore, a new tenant does not know whether he or she is being charged more than the 4%. I accept the Minister has stated he is going to bring in an amendment on Committee Stage regarding that. That does, however, have to be dwelling specific, and Threshold has made that case as well. In other words, it is not just the rent on a particular road. It is the specific rent for the particular property a prospective tenant may want to rent.

Turning to the other issues, sale is the one with which the Chair is particularly concerned. Other European countries have legislation requiring that tenants have the right to stay in their homes. If we are going to expect people to live in long-term rental situations, which is a norm in many European countries, then there cannot be a situation where tenants do not know when the property is going to be put up for sale and they will be out on their ears. It is important to achieve that balance. I acknowledge we have many accidental landlords in Ireland. They might well just want to get rid of the property completely and the person likely to buy the property might not want to be a landlord. If, however, we are ever going to move our policy to have a situation where we have a secure private rental sector, then we need to grasp that nettle of sale as a ground for termination of a tenancy. That is why we have put it into this Bill. It is a matter of judgment. I would say it is not unconstitutional. Others might argue it is. Longer tenancies were also mentioned. We all agree we want to see Part 4 tenancies extended. Deputy O'Dowd made some general points. I will not answer them because they are not so much to do with the Bill itself.

**Deputy Fergus O'Dowd:** That is not a problem.

**Deputy Jan O'Sullivan:** I may agree with him on some of the points but not on others.

**Deputy Fergus O'Dowd:** How many houses were built during Deputy Jan O'Sullivan's time as Minister of State? That is the question.

**Deputy Jan O'Sullivan:** I will respond to Deputy O'Dowd on that particular question. Houses are being opened now in my constituency that I approved when I was the Minister of State with special responsibility for housing and planning.

**Deputy Fergus O'Dowd:** I am only being honest. When Deputy O'Sullivan was a Minister of State-----

**Deputy Jan O'Sullivan:** That just shows that it takes three to four years for social houses to come on stream.

**Deputy Fergus O'Dowd:** Deputy O'Sullivan cannot come in here with a bucket of tears so.

**Deputy Jan O'Sullivan:** I have been in the situation where I have been the Minister of State who opened a housing development a previous Minister had sanctioned.

**Deputy Fergus O'Dowd:** That is the case, of course.

**Deputy Jan O'Sullivan:** We talk about how many houses are built this year. We need to look at what is going on in the pipeline.

**Deputy Fergus O'Dowd:** What I am trying to get at here is not the Deputy's excellent work as Minister of State. It is the fact that what drove us to this was an economic cycle. Deputy O'Sullivan had nothing to do with it and neither did I.

**Deputy Jan O'Sullivan:** Yes, that is correct. We all know we had the collapse of the economy and houses were not built-----

**Deputy Fergus O'Dowd:** The important point I want to make is that I do not disagree with much of what the Deputy is saying. I do not think she is dumping on the system in the context of encouraging long-term letting of property. That is what we have to do in conjunction with the State building more homes. We must get the balance right. I agree with Deputy O'Sullivan on that. There must also be greater support for tenancies. If, however, there are fewer landlords in the business today than three years ago, and I think about 21,000 fewer homes are available to rent now than a year ago, something is going wrong in the system. We need those homes to stay in the market. That is the problem we are facing.

**Deputy Jan O'Sullivan:** I will finish on this. We have many people now in a private rented sector which is undeveloped. We are all trying to grapple with ways in which we can protect tenants in that situation. Different kinds of tenants are in competition with each other for a shortage of supply. That is the ultimate problem. We are trying to tease out in this committee what we can do to protect tenants in that precarious situation.

**Chairman:** I thank Deputy O'Sullivan. I call Deputy Casey.

**Deputy Pat Casey:** I will be brief. I welcome Deputy O'Sullivan and her Bill, as well as Deputy Barry and his Bill. My party also has a Bill on this issue, as does Sinn Féin, and the Government has its Bill on the way too. There is a fair emphasis to try to resolve this issue regarding landlords and tenants. We had a fairly productive meeting with the Minister in private session of this committee last week. We discussed the proposed amendments that we are all prepared to put into that Bill. There is a need to find a balance between landlords and tenants and a compromise position that facilitates both. We need landlords and tenants. We need to keep them both there. As has been said, the lack of detailed data available to us to make the correct decisions is disappointing. The RTB says it has 307,000 private rental tenancies registered. What percentage are we talking about in respect of evictions? If we had that information in front of us, we could probably make more concrete, accurate decisions.

The last thing we want to do is have an impact on the market that makes the situation worse. The RTB is already telling us that 6,000 private rental tenancies exited the market last year. We cannot sustain that. In the absence of the delivery of housing, we are depending on the rental market. We can ask ourselves as society where we want to go. Do we want to move away from the traditional landlords that Ireland has always had? Everyone has pointed out that 70% of landlords in Ireland own less than one property while 86% have two or three more. We have only 14% commercial landlords as we would consider them. It seems to be a lot easier to bring in legislation around the commercial landlords. For our traditional landlords, there is great emotion attached to it. It is their one-off property that they have bought, whether as an investment or because they were caught at the crash, and they feel entitled to do what they want with it. They feel that if they want to sell it, they should be entitled to do so. That does not apply to the commercial landlords because they are completely different. As the rental sector is becoming more important because people are deciding to rent moving forward, we need to make sure that the decisions we make here do not have an adverse effect on the market or further exacerbate the situation we are in.

I agree with a lot of what Deputy Jan O'Sullivan is proposing in her Bill. I have no issue around the proposals in the area of deposits. I fully agree with her on the rent pressure zones, RPZs. I have said it from day 1. It would have been easier to put the whole country in and have regulation on how areas would get out. In my constituency it is having a huge impact. I have one local electoral area, LEA, that is very rural but that contains a huge urban area in Blessington, right beside Tallaght. It will never qualify as a rent pressure zone. Arklow sits right beside Wicklow, Bray and Greystones, which are in it. I know there are landlords abusing the system and shoving rents up because they are in fear that they will be in an RPZ moving forward. I do not have many direct questions. I just feel we need to be very careful in what we decide. Everybody in this room has the intention of finding the correct balance for the tenant and the landlord. We need to keep the 86% of landlords there while we ramp up the delivery of social housing in the long term.

**Chairman:** Deputy Ellis is substituting for Deputy Ó Broin.

**Deputy Dessie Ellis:** I welcome the Bills. There are some issues on which we would not be in agreement, particularly regarding the Anti-Evictions Bill, but by and large most of the recommendations are very solid. We talk about rent pressure zones and normalise this idea that there can be a 4% rise every two years. That has been the wrong road. People say it is working in some areas. We would have been better off linking it to the consumer price index, CPI, as Deputy Jan O'Sullivan has said. We are effectively saying to landlords that every two years, they can get an increase of 4% and it does not matter about inflation or the cost of living. We have been locked into this by the Government and it is a mistake. We should be pushing the idea of linking it to the CPI. The problem with the rent pressure zones is putting them across the whole country. That is why I do not think they are fit for purpose.

It has been said that we cannot gauge how many people are being evicted for the sale of houses. I hear about it quite a lot in my office. It is quite big and that is what is so worrying. People are being told the landlord is going to sell the place. The big issue is the intention to sell. We then discover on occasions that it is not the case but that the house is being refurbished and re-let. The sanctions from the RTB do not seem to be fit for purpose in terms of dealing with that. It is a major issue. It is a good idea to try to get a definition of a family member because it is quite often used. We need to look at that. The issue of having a proper register is also very important. On the refurbishment of properties, I have heard it used a few times and we do get

it every now and again. I do not think there is always a necessity to move the tenant out. Some of these things can be worked around or at least an alternative could be put forward by the landlords if they are going to do it. We have to look at that.

We are also seeing people on the rental accommodation scheme, RAS, being forced to go to the housing assistance payment, HAP. This is causing a major problem and adding to the homelessness situation. People are finding themselves not able to do this although it is common that they are getting letters and being told they have to. They are coming into my office panicking like mad and some of them are ending up homeless as a result of all this. We are talking about people losing their home. These letters are adding to the problem.

The issue of the students' rights is very important. Most of them seem to be on licences and we need to tie the RTB into that more. It is an extremely important area. Another issue is eviction. I do not think anyone would tell a landlord he or she cannot evict someone over anti-social behaviour or very serious arrears. We all accept that people cannot just plop themselves down and expect to get away with it. However, in the past, the money was paid directly to the tenants. That was a big mistake. It still happens. It should be going to the landlord, the receiver or the bank. We need to be careful how we do this. I have seen people get money and go off and spend it, and they end up in massive arrears. It is a common thing. By and large, there are many good things in both Bills and we will debate their merits. Deputy Barry has raised some issues with which we all have some problem in terms of how we deal with them and we will discuss those matters in due course.

**Senator Jennifer Murnane O'Connor:** This Bill is very important. I do not wish to repeat what has been said, but to return to the rent pressure zones, I note that a period of three years is specified. I believe the term should be five years because at the moment many counties are in rent pressure zones when others are not and areas that are not included such as my area of Carlow and parts of the areas represented by Deputy Casey and others are far behind. It is important that we would consider specifying a five-year period in the Bill. I ask Deputy O'Sullivan to respond on that point.

Section 9 relates to the rent register which will identify landlords and tenants. That is crucial. All parties, including Fianna Fáil and Fine Gael, have Bills and we must all work together. The Bill will be crucial for tenants and landlords. We have good landlords and we have good tenants and we must strike a balance. It is important to get the balance right. At the moment, everybody's Bills are so different. Why can we not sit around the table together and come up with a good composite Bill? This is about ensuring tenants with children are looked after, as well as landlords. I know of a landlord recently who bought a second house in the boom. He was probably an accidental landlord but he now has to sell his home to move into the other house. He has no choice. There are genuine landlords who have good reasons for having to move. If we do not get the balance right in the Bill then it will be unfit for purpose.

Whether we enact this Bill or another one, enforcement is important. We could have as many Bills as we want but the legislation will not work if there is no enforcement. Local authorities will have to play a significant part given their role in HAP and RAS. Local authorities will be key. Various agencies such as the RTB must work with local authorities to create a register, which we do not have currently. That should be the key aim. Overall, the Bill is welcome. We must all make sure we get the Bill, which must be enacted as soon as possible. It is a long time since 2004 when we had something to work on. I am in favour of getting this right. No matter what party we are in, we must work to make sure that we introduce a Bill that will suit tenants and that we also strike a balance for landlords.



**Deputy Jan O’Sullivan:** First, on the data issue, we are all concerned that we do not have accurate data. When we got the submission from Threshold on the Bill proposed by the Minister, Deputy Eoghan Murphy, it made a proposal that is worth considering. It suggested that if a landlord issues a termination notice to a tenant for whatever reason, that he or she should be obliged to tell the RTB and that the RTB would then advise the tenant of the fact of its existence and the various rights of the tenant. That is worth considering because it would allow for earlier intervention.

I suggest that the local authority should also be informed, in accordance with Senator Murnane O’Connor’s point. I think it is the case in Britain that if there is a danger of people becoming homeless one has an obligation to inform the local authority and that it must intervene in some way before a person becomes homeless.

**Senator Jennifer Murnane O’Connor:** That is right.

**Deputy Jan O’Sullivan:** That is probably worth considering, and perhaps it will be considered in the context of the Bill being introduced by the Minister, Deputy Eoghan Murphy. That might be a way of ensuring, first, that there are data and, second, that the data are going to people who can do something about it.

**Deputy Dessie Ellis:** Is Deputy O’Sullivan saying it would be done in every case, whether it involves rent supplement, HAP or even private tenancies?

**Deputy Jan O’Sullivan:** Yes, if there is a danger that somebody would lose their home.

**Deputy Dessie Ellis:** It does not matter if the tenancy relates to private rented accommodation.

**Deputy Jan O’Sullivan:** Yes, for whatever reason. The provision is not in my Bill but it is worth considering.

In response to Deputy Casey’s point about rent pressure zones, I have exactly the same situation where there is an expensive urban area attached to a rural part of a local electoral area and it will never be included. They are chasing the average the whole time. We are all agreed on that.

On Deputy Ellis’s point relating to the same issue and the 4% being too much in some situations, and Senator Murnane O’Connor’s point about three years versus five years, one of the reasons we included that is because there is a previous provision that rent increases would be linked to the consumer price index, CPI. There is a possibility that the consumer price index could go higher than 4% within a time period so it is a question of the point in time when one carries out the review. In some cases it might be disadvantageous to the tenant if the review is not carried out at an earlier stage.

**Senator Jennifer Murnane O’Connor:** I think the main part of the Bill is to get people who are not in a rent pressure zone into a rent pressure zone.

**Deputy Jan O’Sullivan:** Exactly, but there are issues around that. Currently, in the case of Deputy Ellis’s point, the increases would be much lower than 4% if they were linked to the CPI. The question is to figure out what will happen in the future, which none of us can do.

On the issue about money to the tenant, that still happens with rent supplement and possibly RAS but not with HAP. With HAP it goes to the local authority.

**Deputy Dessie Ellis:** Yes, that is right.

**Deputy Jan O’Sullivan:** That is a valid point.

Enforcement was raised by Senator Murnane O’Connor. That is key. We did not put it in the Bill, as it is more within the remit of the Residential Tenancies Board. I accept that it is true of anything; if one does not have good enforcement then the legislation is not as effective as it should be.

**Senator Jennifer Murnane O’Connor:** It is not worth the paper it is written on.

**Deputy Jan O’Sullivan:** Yes, I hope I have responded to the questions. Some of the points were comments rather than questions.

**Chairman:** We are well behind time. I thank the sponsors of the Bill, Deputies Jan O’Sullivan and Barry. Will Deputy O’Sullivan remain with us?

**Deputy Jan O’Sullivan:** Yes, I will have to check the groupings, as I might have another question.

**Chairman:** I propose that we suspend the meeting for a few moments to allow the witnesses to take their seats. Is that agreed? Agreed.

*Sitting suspended at 11.17 a.m. and resumed at 11.22 a.m.*

**Chairman:** We have resumed in public session. At the request of the broadcasting and recording services, members and visitors in the Public Gallery are requested to ensure that, for the duration of the meeting, their mobile phones are switched off completely or turned to airplane, safe or flight mode, depending on their device. It is not sufficient to put their phones on silent mode as it may maintain a level of interference with the broadcasting system.

In our second session today we will resume detailed scrutiny of the Anti-Evictions Bill 2018 and the Residential Tenancies (Greater Security of Tenure and Rent Certainty) Bill 2018. On behalf of the committee, I welcome from the Irish Property Owners Association Ms Margaret McCormick and Mr. Tom O’Brien; from the Union of Students in Ireland I welcome Ms Michelle Byrne and Ms Megan Reilly; and from Threshold I welcome Mr John-Mark McCafferty and Ms Ann-Marie O’Reilly.

By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of the evidence they are to give to the joint committee. If, however, 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, 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.

I now call on Ms Margaret McCormick from the Irish Property Owners Association to make her opening statement.

**Ms Margaret McCormick:** I thank the Chairman and members of the Oireachtas Joint Committee on Housing, Planning and Local Government for the opportunity to speak with them today.

The Irish Property Owners Association, IPOA, was established in 1993 to represent property owners in the private rental sector. The IPOA encourages and educates its members on what constitutes good quality accommodation and on professional standards of management. The association is a not-for-profit organisation and membership is not compulsory. Property owners who join the association are, by definition, responsible and use the association for education and advice to help them comply with the complex legislation governing the sector.

The State has failed in its role to provide sufficient social housing for people who need accommodation. The private rental sector has provided homes for people where the State has failed and is a vital part of the housing market. Two thirds of tenancies in the Irish rental market are provided by property owners with fewer than three properties. A total of 70% of landlords have one property and rely on it for their pensions. The composition of the Irish market should be taken into account when drafting legislation.

Investing is a choice and the changes proposed in the anti-eviction Bill and the greater security and rent certainty Bill will further damage investment in the private rental sector and result in less accommodation being available. Supply is the issue that needs to be addressed, and with this in mind the State needs to incentivise investment in rental property rather than penalise it. A move to selling with the tenant *in situ* will limit the selling market to investors, which together with the rent pressure zone restrictions will substantially devalue a property. Investment value is based on yield, which will be driven by the restricted rent level in place on the property. Investors are less likely to purchase properties with restricted income. It makes more sense to purchase a property that has never been let where market rent can be charged. Presentation of a property also affects the price and an occupied property may not present well. The threat of withdrawing selling as a ground for termination has already resulted in some investors leaving the market.

Indefinite tenancies are not workable. A two-month probationary period is insufficient time to assess a tenancy and six months is more reasonable. The existing six-year tenancy cycle allows for a no-fault method to get a property back and it is essential that this remains in legislation. Six years is a long time and more than fair. The private rental market houses people from all walks of life and often it is impossible to prove anti-social behaviour as a result of intimidation or breach of obligation. A no-fault termination process is, therefore, essential. Property owners with good tenants want to keep them and are happy to renew after six years. Long leases can also be entered into but the continual interference in the market makes this option unattractive.

Substantial refurbishment is essential as a ground for termination. After a number of years of a tenancy, substantial refurbishment is required to modernise and ensure the property is up to date and suitable for the changing accommodation needs of the market. Substantial refurbishment is required to satisfy the needs of the market. State housing policy should not lead to the running down of accommodation. In a substantial refurbishment the removal of floorboards and the dust created from sawing, rewiring and removing walls create an unsafe environment. It is essential as a health and safety issue, and often as an insurance issue, that properties are vacant during the works.

Restricting the deposit to one month's rent is inadequate. There may be substantial damage

to a property in excess of the deposit and the rent may not be paid. The proposal is entirely inconsistent with the Residential Tenancies Act, which requires a minimum of six weeks to terminate for rent arrears and a minimum of four months to get a determination order. There is no recourse for property owners where the occupier has no income. A property owner must be free to decide how much deposit is required.

Rent pressure zones that cover the whole country would be entirely inappropriate. No properties would be built in rental areas with low rent as the return would not justify investment. It would drive landlords out of those areas, resulting in a severe shortage of rental property in rural areas.

Including receivers in the definition of landlords is essential. The receiver collects the rent and should comply with the obligations of landlords in their entirety, including upgrading, repairs and refund of deposit. Including student specific accommodation in the definition of landlords is impossible as the terms and conditions of licences are different. They do not have exclusive possession of the property, they are licensed individually and they are responsible only for their own accommodation cost. They may not have collective responsibility for the common parts of the accommodation.

The Consumer Price Index, CPI, would not function in the context of the rental market. The CPI does not reflect the significant costs associated with the provision of private rental accommodation, including taxation and increased labour costs for plumbers, electricians and painters.

Placing the rent payable for a tenancy on the register is a fundamental breach of the data protection rights of the landlord and the tenant, and is in breach of the existing European legislation. It may be the landlord's sole income, in which case his or her personal information is not protected under GDPR. The information is between the landlord and the tenant and, in the case of new tenancies, the landlord must provide the information to the tenant. The information is featured on registration of the Residential Tenancies Board, RTB, which will be in a position to investigate where it is concerned that there may be a breach of the rent pressure zone regulations. Tenants *in situ* can request the information from the RTB if they believe they have been given incorrect information.

In conclusion, if passed, the Bills will have a significant detrimental impact on the sector and will lead people with capital to invest their money in an alternative asset class.

**Chairman:** I thank Ms McCormick. I invite Ms Byrne to make her opening statement.

**Ms Michelle Byrne:** I thank the committee for the invitation. I appear on behalf of the Union of Students in Ireland, USI, which represents 374,000 students across the island. We would like to indicate clearly the support of the USI for the proposed Bills and thank Deputies Jan O'Sullivan and Deputy Barry for proposing them.

I will begin with a general outlook of the crisis students face. On the night of the census in 2016, 8% of the total number of people who were homeless that night, or 429 people, were students. When the Government's student accommodation strategy was launched in July 2017, there was an excess demand in purpose-built student accommodation, PBSA, of more than 23,000 beds. This is expected to increase to almost 26,000 beds by 2019, which means we will remain 16,000 beds short even if all projected PBSA is successfully built. Casting an eye over inner-city Dublin today, one would be forgiven for thinking that student accommodation seems to be being built everywhere and that there is surely enough to meet the need. There has been

a 2% increase, however, in student numbers every year for the past decade and this is expected to continue for the next decade. The Government has not built enough student accommodation even to cover this increase, not to mention addressing the shortage. The housing system, in effect, is buckling under the pressure and, in practice, is becoming a significant barrier to access to education. The context for students and their families is that, according to the Dublin Institute of Technology “Student Life” survey, the cost of living while studying at third level is estimated at €12,500 per annum, including fees of €3,000, which are the second highest fees in Europe. Grant rates were severely cut in budget 2012 and have not been adequately restored, in particular for postgraduate students.

We are examining three main areas with PBSA, namely, the cost or lack of affordability, rent pressure zones and the lack of tenants’ rights. Much of the new student accommodation being built is PBSA, funded by Irish and global property investors, but the rents being charged are frequently unaffordable for the average student. In our experience, it is predominantly targeted at international students, who are generally fee paying and thus attractive for underfunded universities. Students in PBSA are treated as licensees rather than tenants and, therefore, do not have the same rights, which is detrimental in many ways. The students sign a licensee agreement rather than a contract and there is little legal protection for licensees. They do not have to be registered with the RTB, for example, and no minimum standards, rent-book regulations or minimum notice periods are required. Even in rent pressure zones, PBSA does not fall under the Planning and Development (Housing) and Residential Tenancies Act 2016. As a result, students are in legal limbo. We hope that the Anti-Evictions Bill will address some of these concerns.

Last summer, there were increases of up to 19% in one development in Galway, which affected National University of Ireland, Galway, NUIG, students, and 27% in Dublin, which affected Dublin City University students. Last month, there was an increase of 10% in Cork in University College Cork accommodation and 20% in another complex in Galway, presumably in preparation for legislation on rent pressure zones we were told to expect last year. The story is not improving for students, as Ms Reilly will further outline in a moment, but I will first outline the USI’s research through the student housing survey of 2017. We are carrying out another one for 2018 but the survey of 2017 is the most up-to-date data we have. More than one in five respondents experienced an unexpected increase in rent before or shortly after moving into or outside of the allowed agreed period. One quarter of all respondents had a dispute with their accommodation provider, out of which the majority were in PBSA and privately rented student accommodation. Some 17% of those experiencing conflict sought professional help. Most frequently, those students who were looking for assistance turned to their students’ union or Threshold. The impact of the cost on students is that they drop out of college, stay in the library and couch-surf with friends. They commute for hours to lectures, which directly affects students’ ability to get a decent education. The system is perpetuating and exacerbating educational inequality because students of many families who are considering going to college will end up not pursuing their first preferences in places such as Cork, Dublin or Galway because of the cost of accommodation in urban areas. In effect, this will reduce the social capital of upcoming generations.

On the Anti-Evictions Bill 2018, extending the tenancy rights of students in PBSA is a vital change to housing policy. Students have little to no rights in PBSA and are licensees rather than tenants, which the Bill addresses. PBSA does not have to be registered with the RTB, which has left many students confused about whether they can take a case or whether they have any rights. At a time when students are desperate for a roof over their heads, they are being exploited and

we must do ensure we do whatever we can to amend that.

The Residential Tenancies (Greater Security of Tenure and Rent Certainty) Bill 2018 also addresses significant problems for students, including but not limited to deposits exceeding one month's rent and a residential tenancies register. Due to the nature of students staying in accommodation for approximately nine months and because landlords of PBSA often do publish the amounts that have previously been charged, this would help to provide clarity. Ms Reilly might comment on the practical issues in Galway.

**Ms Megan Reilly:** There is a student population of more than 18,000 at NUIG and our students have been badly affected by issues with rent certainty and security of tenure. The Bills address some of the issues that students have faced but just scratch the surface of what is taking place. Last year in NUIG, a student residence associated with but not owned by the university increased its rents by 19% overnight. In the students' union, we strongly opposed and protested the increase and took a case against the accommodation provider with the RTB. This was how we learned about the 4% rent pressure zones not being extended to PBSA, the difficulties with residents in PBSA being classified as licensees rather than tenants and, as a consequence, the lack of rights that are afforded to students. In our case, even though it was titled a licence agreement, the adjudication treated it as a tenancy. We have learned from Threshold, however, that a similar case in Cork was treated as a licensee agreement, showing a lack of clarity in how these cases are treated, which the Anti-Evictions Bill will contribute to clearing up. Our case failed on a technicality, unfortunately, but we then started to lobby for rent caps to be extended to PBSA. Almost a year has passed but rent caps have still not been extended to PBSA. We are faced with another increase of €1,400, or 20%, in another of our student villages. Again, this increase was announced overnight and was brought to us by a student who is considering taking a year out to afford her final year in college. She has two working parents and just missed out on the threshold to receive the grant, and she works 25 hours a week to keep herself in college.

These unprecedented rent increases come with extortionate deposits, often of two months' rent or more to be paid upfront, which is why we welcome the addition of a limit to a deposit of one month's rent in the Residential Tenancies (Greater Security of Tenure and Rent Certainty) Bill 2018. A residential tenancies register is also a welcome change, as quite frequently we in students' unions are left trying to gather data on what has happened year on year. PBSA do not currently have to disclose previous rents and, therefore, we are reliant on students bringing forward information on increases.

The issues we deal with in Galway are also happening in Dublin and Cork and spilling out of cities throughout the country. Students are frustrated, but it is more than that. It affects their access to education and their successes even within that system.

**Chairman:** I thank Ms Reilly. I invite Mr. McCafferty to make his opening statement.

**Mr. John-Mark McCafferty:** I thank the Chair and members of the committee for the opportunity to present on the Residential Tenancies (Greater Security of Tenure and Rent Certainty) Bill 2018 and the Anti-Evictions Bill 2018. Threshold has advocated for increased security of tenure, affordability, improvement in standards and a sustainable private rented sector since its foundation by Fr. Donal O'Mahony in 1978. We are working towards a vision whereby private rental is an equal tenure status with other tenure options in Ireland. The two Bills tackle many of the varied issues and seek to improve the rental sector for those who have made their homes in it and for those who will make their homes there. Both Bills seek to include lending or financial institutions in the definition of a landlord. The Residential Tenancies (Greater

Security of Tenure and Rent Certainty) Bill 2018 goes further to include receivers in the definition. As the committee will be aware, Threshold has long called for the recognition of banks and receivers as landlords in the case of repossession of homes subject to buy-to-let mortgages. It is essential that both banks and receivers are recognised as landlords to ensure tenants' rights are respected in the case of repossession or the appointment of a receiver. The establishment of such security is essential if private rental is to exist as a legitimate tenure alternative to owner occupation and social housing.

We welcome the proposal to include licences for student accommodation in the definition of tenancies and licensees in student accommodation in the definition of tenants. It is our position that all licences and licensees, and not exclusively those living in student accommodation, should be added to the definitions of tenant and tenancy.

It will be of no great surprise to the committee that Threshold supports the proposed definition of a deposit as outlined in the Residential Tenancies (Greater Security of Tenure and Rent Certainty) Bill 2018. At this time of increasing unaffordability, where tenants are being asked for the equivalent of two months' rent as a deposit in addition to their first month's rent to secure a home, a legal definition is vital to ensure tenants can afford to access the private rented sector. We have called for this definition for some time and for it to work alongside a dwelling specific rent register, which is essential for the protection of tenants and the enforcement of the rent pressure zone, RPZ, rules.

Linking rent increases to the consumer price index, CPI, will link rents to a tangible measure, reflective of supply and demand. We are in favour of the proposed amendment. We propose, however, that the increase should be subject to an overall limit of 20% over the course of five years. In addition, we support the proposal to designate the State as a rent pressure zone. We recommend that the designation be extended beyond the three years as Dublin and Cork will cease to be RPZ areas in December this year followed by the remaining areas in 2020. The enforcement of such measures is key, assisted by the dwelling specific rent register that I mentioned.

We see merit in extending Part 4 rights to tenants once they have been in occupation for two months. In addition to this, we fully support the creation of indefinite tenancies through the removal of section 34(b) which has been a long standing position of Threshold. This is an essential step in making the private rented sector a viable, sustainable tenure choice.

Sale as grounds for termination has no place in a modern rental sector. This has been the number one reason for tenants to contact Threshold in 2016, 2017 and 2018. Continuing to permit sale as a grounds for termination prevents the establishment of a sustainable private rented sector and undercuts the effectiveness of housing assistance payment, HAP, as a social housing support. We support the proposed removal of sale as a grounds of termination as proposed in both Bills.

Threshold supports the extension of notice periods for tenants, particularly those who have been in occupation for less than six months and for long-term residents who may have lived in a home for a substantial period of their life and are possibly at a later stage in life.

If renting is to become a tenure of choice and given that an increasing number of people are renting into older age, one year or more is not an unreasonable notice period. The committee may well be aware of our view on this matter. Threshold has long called for the creation of a publicly available rent register. It is essential that it be dwelling specific, allowing a tenant or

prospective tenant to determine the rent on the property prior to moving in.

**Deputy Mick Barry:** I have questions for the representatives of the Union of Students in Ireland, USI, and questions for the Irish Property Owners' Association, IPOA. I will be a bit parochial with the questions for the USI. The witnesses made a couple of mentions of events in Cork. Will they come back in and restate those? I am not sure if I quite caught one and would like more information on another if that is possible. They mentioned University College Cork and a 10% increase. Will they clarify what they were talking about there? They mentioned the Residential Tenancies Board challenge that was mounted in Galway and said there had been a similar challenge in Cork, where there was a ruling that someone was a licensee. Will the witnesses give the committee more information and detail about that case? I am interested to hear that.

The submission from the Irish Property Owners' Association states:

The threat of withdrawing selling as a ground for termination has already resulted in some investors leaving the market.

I note that the witnesses regard protection for tenants on grounds of sale of property, which is the legal position in Germany, Sweden, Denmark and the Netherlands, as a threat. Will they indicate to the committee the evidence, which they obviously have, about investors leaving the market because of the possibility of sale of property being taken away as grounds for termination? I am a bit surprised by that. I am hopeful for the Anti-Evictions Bill and will push it as hard as I can in the Houses of the Oireachtas. I hope that the emerging housing protest movement pushes hard for this Bill too but I do not think anyone would say that selling as grounds for termination being removed is on the verge of happening here. I am surprised there is talk about investors leaving the market because of the threat of it. Can the witnesses quantify that? Will they give an idea of the numbers about which they are talking?

Having mentioned Germany, Sweden, Denmark and the Netherlands, has the IPOA examined the position in those jurisdictions? It is the law of the land in those countries that one does not have the right to sell a property and evict a tenant on those grounds. The tenant must be kept *in situ*. I do not see that it has caused a significant upheaval in any of those countries. It seems to have become law and works reasonably well. Will the witnesses comment on the position in those countries?

Ms McCormick stated:

[I]f passed, the Bills will have a significant detrimental impact on the sector and will lead people with capital to invest their money in an alternative asset class.

A point that often comes up in the committee is that 70% of landlords own one property and 87% own one or two properties. Can the witnesses see a circumstance where, if they gave the tenant the right to remain in the case of a sale or renovation, they would have people in that category leaving the market, and to what end? I do not see what one might do other than sell the property. If one remains the owner of the property, surely it is better to have a tenant in the property than to leave it to lie idle? It does not seem to me that the idea of a massive flight of investment is really on the cards. Maybe the witnesses have information that would contradict that and I would be interested to hear it. It underlines the importance of the State intervening and providing social housing on a significant scale so that people have a real option.

**Deputy Pat Casey:** It is important that we get the balance right in this sector and that we do not end up with unintended consequences. I have a few specific questions to ask of the



witnesses from the Irish Property Owners Association. I am fully aware there is a significant number of good landlords and tenants out there. We all know there are also bad landlords and tenants. We need to make sure we have a balance.

The association's statement clearly states that it should be one's right to determine the level of deposit a tenant should pay. That could lead to landlords choosing people who qualify for private rental accommodation and excluding people who cannot afford more than one month's rent. Do the witnesses think that is fair in today's society?

Does the association have a definition in mind of what is substantial refurbishment?

I agree with what has been said here about rent pressure zones. As I said in the most recent session, the whole country should have been included in the rent pressure zones. The criteria should have been around how to exit a rent pressure zone rather than how to get into one and maybe we would not have the inconsistencies we are having around the country.

The representatives from the Irish Property Owners Association are showing reservations about the data register. What are their fears about that? We all believe it is important that we get down to that level of detail to control this.

We have spoken before about the fact that 86% of the market is controlled by small landowners and only 14% are commercial landowners. We could all give examples of people who bought an apartment in the boom times, got married and had a family, moved out and are renting their own property while trying to get rent. They are getting to the stage where they need to offload that apartment they bought to be able to move on with their lives. Should we be focusing on getting a greater percentage of commercial landlords into the marketplace? Are they easier to manage and control? Is that the direction the State should be moving?

I welcome Ms Byrne from the Union of Students in Ireland before the committee again; she was with us in November. She is a constituent of mine from Dunlavin. Deputy Darragh O'Brien introduced the Residential Tenancies (Rent Pressures and Student Accommodation) (Amendment) Bill 2018 which specifically deals with the union's concerns. That Bill gave a clear definition of student accommodation and put them into the picture of the rental pressure zones. Do the union's representatives think that Bill would help to control the majority of the issues they have raised here today?

**Chairman:** Ms Byrne was asked a question about a case. I am going to remind her that persons or entities cannot be named or identified in here. They are protected by privilege. I remind her not to name any people, if that is okay. I am going to ask Ms Byrne to first respond to Deputies Barry and Casey.

**Ms Michelle Byrne:** Is it okay to mention the name of a complex?

**Chairman:** Yes, that is okay, just do not mention the names of individuals.

**Ms Michelle Byrne:** No problem. I thank Deputy Barry for his question. The UCC case applies to campus-owned accommodation. The rent did not go up last year but it has jumped by 10% this year. The student's union has made a number of representations in order for that to be lowered because a 10% jump, year on year, is too much. We can potentially see this as a reaction to the rent pressure zone legislation that will hopefully come through in the next year. Landlords are hiking up rents now, anticipating that rent pressure zones might actually cover these purpose built student accommodation blocks. We can also see it as colleges trying to

bring in more income as a result of an under-funded education system which is a conversation for a different committee. It could be the outcome of both of those things.

I will let Ms Reilly address the second part of Deputy Barry's question.

**Ms Megan Reilly:** Deputy Barry mentioned the case I had referred to in Cork and one in Galway. I do not have the details of the cases to hand but there were two separate cases in Cork and one was found to be a licensee and the other was found to be a tenancy. The one we took forward failed on a technicality because the person in question was not a sitting tenant. The purpose of bringing forward that case was to challenge this increase and we were saying that, while it might be titled a licence agreement, it had all the characteristics of a tenancy agreement. That was essentially agreed at the hearing but the case could not succeed on a technicality.

**Deputy Mick Barry:** If, for example, a section of the media wanted to find out more about the case in Cork, who would Ms Byrne suggest they contact?

**Ms Michelle Byrne:** We have the details of those cases in Cork. They are from a couple of years ago. We are now facing the same problems a couple of years later. We can send anyone further details of those cases if they want them.

**Mr. Tom O'Brien:** I will address Deputy Barry's questions in the first instance. His questions and the Bill he is putting forward demonstrate a certain ignorance of the sector and I would welcome the opportunity to put some facts around the matter. His Bill is the latest in a series of misguided, populist measures that are interfering in the residential rental market. The impact of his policies and pronouncements on the sector are probably hurting some of the people he espouses to represent.

The committee has been debating the Bill for two hours this morning and I wonder has supply been mentioned once in that time. Deputy Barry has asked questions of the witnesses and for anecdotal evidence about the sector. If the Deputy was attuned to and following what is going on in the sector, he would be well aware of the supply issues. I have some statistics that are not my own but are publicly available from various Daft reports. I took the time to look at them last night and went back as far as the Daft quarterly bulletin that was issued in December 2012. There were more than 8,500 properties available to rent nationwide at that time. The graph from the same period in 2012, 2013, 2014 and 2015 shows that stock continually declined until December 2017 when it hit a low of 3,250. In December 2018, the figure was 2,800. It is clear there is a supply issue.

Sherry Fitzgerald is one of the leading estate agents in the country and probably the most respected in the research it conducts. It has categorically stated that fewer than 40% of rental properties put on the market are subsequently acquired by investors. If ten buy-to-let properties are brought to the market, approximately four of those properties come back into the rental market. There is a rapid decline and deterioration in stock. That is not because people have, all of a sudden, decided the rental market is unattractive. They have looked at the tax cuts and provisions and legislative changes since 2009 and decided there are easier ways of making money. They can put their money elsewhere without being subject to legal, tenant or funding risk. They can make the same return and more elsewhere.

The supply issue must guide legislation. All of the provisions that have been directed at the rental sector in the past ten years have been anti-landlord and anti-investment. We have population growth of a minimum of 0.5% every year so 200,000 additional people are residing in

the country since 2013. Supply is the issue. If Deputies Barry and Jan O'Sullivan were doing their jobs, and were actually interested in addressing the supply issue, they would have brought legislation through the Dáil which saw tax incentivisation for people to invest in property and sought an easing of the administrative and legislative burden on landlords in an effort to bring more properties to the market. That has been proven to reduce rent. Rent halved during the recession when a surplus of property was available. The only way to resolve the rental issue is to bring more supply to the market. The proposed Bills are incredible at best, misguided from a neutral position and, if it were not so serious an issue, it would be funny. The idea of introducing more legislation that would knock further investors out of the market is mind-boggling. There are constitutional issues around property rights which are pertinent to the proposals, as well as serious GDPR issues regarding the tenancy register which Deputy Casey mentioned. The country's best legal minds will not be able to find a way to protect both the property owner and tenant's details without breaching EU-wide data protection legislation. There are a couple of hurdles to jump on this.

On the specific issue of how we know that investors are selling, we took soundings this week from an investor in Deputy Ellis's constituency. There are 30 properties on the rental market in Dublin 9 this morning. An investor was renting a two-bedroom apartment in the area. He took 72 calls in respect of that property and over 50 of them were from people seeking accommodation as a result of their landlords selling their properties. The Deputy wants more relevant data on whether owners are selling up. They are. It is entirely obvious. If Deputy Barry was involved in the business, which he clearly is not, he would be well aware that this practice is happening.

**Chairman:** Witnesses should not make charges against any member of the committee.

**Mr. Tom O'Brien:** I am not making charges -----

**Deputy Mick Barry:** I am well able to handle it.

**Mr. Tom O'Brien:** -----but some of the questions lead one to that conclusion. Some of the questions are so basic in substance that there is no other way to address them. We do not need to prove statistics. You guys need us more than we need you. We are not trying to sell a concept here. There is a severe shortage of accommodation in the market. All the political measures are anti-supply. There is no taxation basis and no business case for investing in buy to let property at the moment. A person doing so will pay 55% tax, funding costs of 6%, management charges, local property taxes, and taxation that is not treated on a consistent basis with other industries. If we are sitting here a year from now, the 2,800 properties that are available nationally will have fallen to closer to 2,000. I would say to Deputies Jan O'Sullivan and Barry that a welcome development would have been the introduction of a measure to incentivise people to get into the market. I do not hear many people discussing capital allowance schemes in areas of high demand.

**Deputy Darragh O'Brien:** Mr. Tom O'Brien is raising a lot of questions that we need to be able to answer.

**Mr. Tom O'Brien:** These are questions that should have been put in the House and raised publicly. Rather than having sound bites and policy by populism, we should have people who are trying to make a real difference to the sector, trying to bring accommodation to the market at affordable prices. Frankly, we have seen nothing in this Bill that will do anything to improve supply. We will continue to grapple with supply, high rents and a lack of accommodation.

The first thing the representative from the Union of Students in Ireland stated was that there is a shortage of accommodation. Regardless of what side of the fence people are on, we all accept that there is a shortage of accommodation. None of the legislators on this side of the room have brought forward any measures in respect of this matter. It is just looking at protecting the existing level of stock, which has been proven to be inadequate. We would not have a supply issue if it was not.

**Chairman:** The supply issue is outside the remit of this Bill. Many measures are coming forward from this committee to increase and encourage supply to which Mr. Tom O'Brien may not be privy.

**Mr. Tom O'Brien:** They have been going on for some time.

**Chairman:** Witnesses should not make charges against any members and members are not allowed to make any charges against witnesses. I am in the chair and must remain impartial. I do not want anything coming back against anyone in this room.

**Mr. Tom O'Brien:** There are no charges, but how are we to address what is in front of us without making these points?

**Chairman:** I am not in favour of the Bill but, as Chairman, I am trying to be impartial.

**Mr. Tom O'Brien:** We have been asked to address what is in the Bill. How do we do that without pointing out some of the obvious issues inherent in it? If I may finish, reference was made to other countries which were cherry-picked that they would align or be consistent with the paper. The most obvious country which was not mentioned and which is culturally, economically and systemically consistent with Ireland is the UK. That was conveniently left out. Does Deputy Jan O'Sullivan know what the position of the UK is in respect of the proposals? Is she aware of the position regarding eviction when rent is not paid? Does she know what the UK position is in relation to positive protection?

It is an example of what we have seen with all policy in recent years. The countries that suit the argument best are cherry-picked. A bit is taken from the UK system and from those of Germany and so on, and one gets very poor and misguided policy as a result. I might sound frustrated. The reason is because we are frustrated. We have been before the Oireachtas on several occasions and we feel it is only a box-ticking exercise. Our views are not listened to. The outcome is that the State finds itself in its current position whereby there is a lack of supply. The unintended consequence of the Bill will be that existing stock will be further undermined and reduced. We are two or three years down the line and we are no further in terms of addressing the housing shortage.

Deputy Casey raised issues regarding the fairness of deposits and whether a two-month deposit is fair. Is it fair that a landlord would be left with no rent for the past three months, that there be damages to his or her property and not being able to retain the deposit as compensation? The thing has to be fair both ways. We are mute on refurbishment. We think that if a landlord does substantial refurbishment, he or she will be able to get a return on that investment. Why would anybody invest money in refurbishing a property that meets the minimum standards if he or she cannot increase the rent? The unintended consequence that will arise is that in three or four years there will be a very tired supply of stock. There will be people who are looking to relocate to quality stock, those looking to work with companies such as Facebook and Google, who come with a particular expectation of accommodation standards but this country will not

be able to provide it because the legislation does not allow landlords to refurbish.

I do not need to offer my views on rent pressure zones. I do not know how a tenancy register will in any way comply with GDPR legislation. That is not something that the Oireachtas can deal with locally. It is an EU law.

**Deputy Darragh O'Brien:** I wish to comment on that.

**Chairman:** I will ask Deputy Darragh O'Brien to speak but I must call Mr. McCafferty first.

**Mr. John-Mark McCafferty:** On smaller landlords, a balance must be struck and it is a delicate one. The vast majority of people whom Threshold assists, work with and advise are being housed by small landlords. We do not take the things that we are saying lightly as we are mindful of that balance.

There is a place for the larger institutional investors. They have grown. I have worked in this area for some years and had hoped that the larger institutional investors would be one of the larger sources of supply for private rental tenants. However, they are essentially interested in the higher-end or higher-income renter. As such, as well as attempting to retain what we have, we require affordable rental. We need supply which is provided by a number of players, including approved housing bodies, and which provides rental at an affordable level but which is also financially sustainable for the providers themselves. There could be a range of providers that may be able to offer this. It is something that has been debated at Government level for some time. It would be great to see some of these come on stream and build up in volume.

I will respond to some of the comments. We talk about a dwellings-specific rent register. There is already a property sale index which is specific to the dwellings that are sold so there is already a precedent. We referred to sales as grounds for eviction. England is not my favourite country right now, particularly in light of Brexit, but it is a place where sale is not permitted as a grounds to evict. It is a common law jurisdiction, like the Republic of Ireland, but even in a place with such ambivalent policies towards renters that is a rule.

**Mr. Tom O'Brien:** The reason that vacant possession or removal of tenants is not required for sale in the UK is that there are provisions allowing a landlord to remove tenants within a prescribed period of time. It is a little bit disingenuous to make that point because it is much easier to get vacant possession in the UK which allows a person to sell on that basis.

**Deputy Dessie Ellis:** I thank everyone for their contributions. I have felt frustrated. The witnesses looked on everyone here as an enemy and spoke as if many of these Bills were designed to attack the Irish property owners and people renting. I do not see it that way. I do not necessarily agree with everything that is in these Bills. I would have problems with some areas. The way I see it we are trying to get a proper functioning system, whether social housing, private housing, people renting or otherwise. We are trying to get it into perspective. Supply has been constantly raised in the House and at committee meetings. We have constantly argued that the method and policies being pursued are not giving us enough supply. That is the key in many ways to keeping the rental market at a certain level.

Mr. O'Brien gave me an example from Dublin 9. The average rent there for a house is €1,800 or close to €2,000 per month. No one, including Mr. O'Brien could tell me that is justifiable. I hear it constantly and I know many landlords. I am not for one minute anti-landlord because I know many decent landlords. No one can turn around and say we do not have a problem with people being put out of their homes for the sake of a sale. That is constantly raised

in my constituency office. Many landlords are saying they are going to sell. Some of them are genuine and some are not. We all know that. We have to get a balance in dealing with this.

Refurbishment was mentioned. There has to be a case for very substantial refurbishments and if it is possible for the landlord to put the tenant somewhere else that is fine but that is not always the case. If there is a genuine argument that has to be considered.

The deposit is very difficult for many people in the private sector. Some people have got a deposit from their welfare officers and that worked in some cases. I know landlords who have not received rent payments for two to six months or even longer and that is not acceptable either. That has to be addressed.

The area needs to be strengthened for students. They should have the facility to go to the Residential Tenancies Board, RTB. I do not accept Mr. O'Brien's argument that they are in a different situation and cannot be tied into rent pressure zones. I disagree with the concept of rent pressure zones. I would prefer that we were tied to the consumer price index, CPI, across the board. There are rent pressure zones in some areas but not around the country. In Dublin the limit is 4% but every two years the landlord can add 4%. I do not buy that argument. It is wrong. Sometimes being tied to the CPI can work against a person, if inflation goes up but by and large it is a fairer system.

We are not making any dent in the housing list for all the measures that have been put in place. There is still massive homelessness. We do not seem to realise that the population is growing. The demand is growing and the amount of stock in the private sector is reducing. We must build more and create more supply. We should not underestimate that.

Obviously there cannot be anti-social behaviour or people in arrears. The council has a policy of moving against people being anti-social. The same should apply in the private sector. There has to be a mechanism to deal with serious anti-social behaviour or massive arrears. I do not think anyone disputes that.

**Deputy Darragh O'Brien:** I was putting priority questions to the Minister for Housing, Planning and Local Government in the Dáil. I have read the witnesses' opening statements and have been watching the proceedings. I apologise for not being here.

Fianna Fáil facilitated this Bill coming to the committee by abstaining in the vote in order to allow people put their views forward whether they agreed with Deputy Wallace's Bill or not. There is a large portion of his Bill that I do not agree with and that I do not think is workable. I sense the frustration across the sector, public and private, but this conversation should never be a question of tenant versus landlord or landlord versus tenant. Good legislation does not have to be anti-landlord or pro-tenant. It is a question of balance. That is what we need. We need to take out some of the blunt instruments which make for good headlines from time to time but we should not dismiss every element. We should look within the Bill at some parts of it that would absolutely have merit, as in seeking to include a lending or financial institution in the definition of a landlord. There should be no issue with that. It is something my party proposed. I would like to see it included in the Residential Tenancies (Amendment) Bill 2018.

I thank the USI for coming here again today. I would be more than hopeful that the Residential Tenancies (Amendment) Bill 2018 that the Government is bringing forward would include purpose-built student accommodation. We had a private session on the Bill a couple of weeks ago, and my party introduced legislation last year that defines purpose-built student accom-

modation, which is defined in the Planning and Development Act 2018. It can be done, we can bring in a licence to reside. We have lost a year on this and this committee is unanimous in ensuring that students are given the protection they deserve and that they get the protection of the rent pressure zones. A licence to reside also falls under that Act. My understanding is that will be brought forward in this Bill. The committee met in private session to discuss it. I have made it clear to the Minister, Deputy Eoghan Murphy, that it should be addressed. In fairness to Sinn Féin, my colleague Deputy Ó Broin agrees that if the Government does not bring it forward, we will table amendments to the Bill and have them passed. The Labour Party and others have also agreed to this in order to ensure students will get the protection they need. I acknowledge that more needs to be done, but it has been quite tortuous to get to this stage. However, we will get there eventually. The job of the committee is to deal with things in a structured way to ensure the measures introduced will work. I could produce Bills every day of the week that would make big pronouncements on certain things, but if they are not implementable, legal and constitutional, we would just be leading people down the garden path and giving them false hope. As I said, financial lending institutions should be encompassed within the definition of “landlord”.

Supply is a major issue across public and private housing provision. Leaving aside private landlords, the State has been very slow to provide public and cost rental housing. More than 6,000 landlords were lost from the market last year. There are many good landlords. It is a significant issue. It is evident in my area of Dublin Fingal which has one of the youngest demographics in the country and where every apartment viewing is attended by between 30 and 40 couples. As Mr. McCafferty and Ms McCormick will know, the majority of those entering homelessness come from the private rental sector. As that sector is part of the solution, the idea of making it more difficult for people to enter the market through the blanket prohibition on evictions proposed in Deputy Barry’s Bill simply would not work. It would have the unintended consequence of driving more landlords out of the market which would mean less availability, unless the State could pick up the slack and provide housing, as it should. I have always been a supporter of public housing provision.

One does not have to be especially perceptive to sense the frustration of Ms McCormick and Mr. O’Brien, in particular. In fairness, I also recognise the restraint shown by Deputy Barry during his exchanges with them. All present hold pieces of the puzzle and it is possible for advocacy groups, Threshold, students, property owners and the State to solve the problem together.

We need to strengthen tenants’ rights. My party proposes to table more than 25 amendments to the Residential Tenancies (Amendment) (No. 2) Bill to do so. We need to strengthen these rights in a real and tangible way. However, we also need to ensure we are not driving people out of the market, unless the State can step in and provide housing. The committee held a private meeting two weeks ago, at which it went through a significant number of amendments to the Bill with the Minister. We did it in private session on a cross-party basis involving all of the members present to try to gain agreement and expedite the process. The Government wants to have the Bill passed by 19 April. I am somewhat concerned that it has been two weeks since that meeting and the Bill has not been progressed. It is a matter for the Chairman to ascertain when the Bill will be progressed because it will be of assistance.

Certain measures brought forward in the budget were criticised by some parties. I suggested the incentivisation of long-term leases in an attempt to strengthen the rights of existing tenants, but other parties criticised it as a boon to landlords. That was not the motivation behind it. I was trying to ensure longer leases would be offered because it is a significant problem in

Ireland.

Pre-legislative scrutiny by the committee is very important. We wished to ensure the Bills in question were subject to scrutiny because there was merit to aspects of the legislation brought forward by Deputy Jan O'Sullivan and, in fairness, Deputy Barry. There are other elements of the Bills with which Fianna Fáil does not agree. That is why it is important that it be done in public session in order that the views of all present can be taken on board as we progress the various items of legislation, particularly the Government's Residential Tenancies (Amendment) (No. 2) Bill that it is hoped will reach Committee Stage in the next two weeks.

**Chairman:** Deputy Casey will take the Chair after my contribution as I will have to leave to attend another meeting on housing. While Deputy Darragh O'Brien abstained in the vote on Second Stage of the Anti-Evictions Bill 2018, I voted against it, as Deputy Barry is aware, because I believed it was unfair and unconstitutional for various reasons. Two weeks ago the committee met in private session with the Minister and representatives of the Residential Tenancies Board to tease out these issues, as mentioned by Deputy Darragh O'Brien. We resolved differences on many issues, including student accommodation and received significant clarity and moved forward on the issue of refurbishment. All parliamentary counsel will be occupied for the next month with the Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Bill 2019, but I presume that the Residential Tenancies (Amendment) (No. 2) Bill will be brought before the committee as soon as possible.

I acknowledge the frustration of Mr. O'Brien and agree with the majority of his comments. Cost rental will be a game changer as the State will become a major landlord in the market. It is about having the right supply in the market. According to the *Daft.ie* quarterly bulletin figures referred to by Mr. O'Brien, 8,500 properties were available to rent in 2012, compared with 2,800 last December. If the 6,000 landlords who left the market in 2017 had not done so, their properties would bring availability back up to 2012 levels. That indicates the fragility of the sector.

I was present for the discussion of the legislation to implement rent pressure zones more than two years ago and heard the arguments from all sides. However, very few alternative solutions or options were put forward. I am opposed to rents being linked with the consumer price index, CPI. Is Deputy Ellis proposing that it be done on an annual basis? Landlords take a risk. The CPI does not take into account the additional costs incurred by landlords which have been mentioned. We must be real about it. I am not referring to the big commercial landlords but to those who own one or two properties, who make up the majority of landlords. We must tread carefully in dealing with this issue. When rent pressure zones were introduced, we said it was about treading carefully and protecting the rights of landlords and tenants equally such that one was not given precedence over the other. We must be very careful in how we proceed with legislation when it comes to people's rights.

We are here to scrutinise the Bills before us. Deputy Barry stated he would provide us with the legal advice he had received. Unfortunately, the provider of legal advice for Deputy Jan O'Sullivan was unable to attend the meeting, but the Deputy will provide the committee with that advice. I look forward to seeing it because although a Government Bill goes through various legal processes and is subject to scrutiny before it is brought before the Dáil, that is not the case for Private Members' Bills.

I am opposed to the proposal made in Deputy Barry's Bill that six months' compensation be paid to a tenant whose landlord terminates the tenancy in order to sell the property. I also



disagree with his definition of “eviction”. To me, a valid notice to quit involves the proper notice period to find another property being given and the notice to quit being within the legal parameters. The Deputy wishes to provide for compensation to be paid in such circumstances. He may correct me if I am wrong, but I think such a provision would be unjust. I ask him for his feedback in that regard.

We are making great strides in the provision of student accommodation. Supply is a significant issue. I am glad that Ms Byrne alluded to the amount of student accommodation that had been delivered and where we were going. Obviously, we need to go much further, but significant work in including student accommodation in rent pressure zones has been done and I think she will be happy with what is coming forward.

A landlord has the right to sell a property once it is done within the legal parameters of the notice to quit and relevant termination periods. If a landlord wishes to sell the property with the tenant *in situ*, he or she has the right to do so. However, to stipulate that it be sold with the tenant *in situ* would be going too far. I wholly oppose such a measure as it would favour one side over the other. As Deputy Darragh O’Brien pointed out, this is not about pitching landlords against tenants; rather, it is about having a functioning rental sector, which is only now beginning to mature. We have a lot of catching up to do.

On supply, we do not need to go over what happened in the past, but we know that what is coming down the line in expected population growth and with Brexit. We know that we are running to stand still, but we are making great strides. I do not want any legislation to be brought forward that would push landlords out of the market and exacerbate the issues before us. It is about equal rights on both sides. I ask Mr. O’Brien to outline his responses on the proposed legislation.

**Deputy Mick Barry:** Before Mr. O’Brien takes that question, there was pointed criticism levelled at me. I do not want to take a considerable amount of time but two or three minutes before the meeting concludes to reply to the points made.

**Chairman:** That is not a problem. I have the Deputy’s name down to come in in the next round, with Deputy Jan O’Sullivan.

**Mr. Tom O’Brien:** On the point made about compensation, we have heard a great deal about the importance of balance, but there is no balance provided for in the Bill and we have highlighted why. Tenants can sit in properties and not pay rent. They can challenge an appeal through the RTB without having to put up funds or put the rent payments in an escrow account in the event that they lose their case. Landlords are expected to wait 12 to 18 months to have their cases heard. There is no balance in that regard. RPZs have been introduced retrospectively, while landlords who were fair with tenants and have not increased the rent have no redress to bring it up anywhere near the market rent. There has been no balance in the discussion so far.

On the issue of compensation, we all have experience. We have had tenants who signed a one year contract and left after six months. I presume - I am not being facetious - that under the proposal, if a tenant were to leave before the lease was up at the end of the sixth month, he or she would owe the landlord the last six months of rent payments in order that it would apply both ways in the interests of balance.

Equally, in relation to RPZs, although I understand they are not a feature, when there is another downturn similar to that in the period 2010 to 2014, inclusive, when rents slid by 50%, I

presume that the proposed measures would apply to tenants also in that the decrease would be limited to 4% every two years. If we are to have balance, there should be balance on all sides. That is really all I have to say.

**Chairman:** I thank Mr. O'Brien. Did Ms Byrne want to come back in?

**Ms Michelle Byrne:** I want to address a couple of the comments made, particularly by Deputies Casey and Darragh O'Brien, on RPZs. It is brilliant to see cross-party support on the measures proposed. We started this process last year. There is a lot of fear among those whom I represent about how long the process is taking. There are particular instances in Cork and Galway where there will be drastic increases next year of 10% and 20% next year. We recognise the work of the committee and that of the different parties that are bringing forward legislation, but we want it noted that we are concerned about how long the process is taking.

We mentioned the supply issue. It was great to see some of that supply being provided in the past year. The problem is that the new builds are coming onto the market at unaffordable prices of €1,000 a month. When one talks about supply, what is being provided for students? It is completely unaffordable. We should be looking at other models such as cost rental which was mentioned, or perhaps capital grants for colleges to build student accommodation on campus. That is where we stand on that issue. It is too late for the 4% rent pressure zones, to which Deputy Ellis alluded, when places are coming onto the market at €1,000 a month. While it is too late, we will take it now because it is all we have and if we are to see increases of 20% year on year, an increase of 4% would definitely be welcome.

**Ms Ann-Marie O'Reilly:** We wanted to come in to say something about the compensation provision proposed in the Anti-Evictions Bill 2018. It is proposed that if a landlord was to issue a notice of termination on the grounds that a family member wanted to move in, the equivalent of six months' rent be paid by way of compensation to the tenant. This happens in other European countries. It is usually expected that the landlord and the tenant would agree between themselves and there are restrictions in that regard. As proposed in the Anti-Evictions Bill, one could see a tenant who has only lived in a place for one month receiving notice and then compensation, which seems excessive. It also seems to be a harsh levy to place on a landlord who may be in genuine need of the property. If it is the case that the measure is being proposed to prevent landlords from abusing such grounds for termination, there may be better mechanisms to use. As part of the Department's review in 2017 of Rebuilding Ireland, it was proposed that a landlord be required to notify the RTB when issuing a notice of termination. As a measure to prevent the issuing of such a notice on false grounds, it could be expanded to include a verification process through the RTB. Another option may be providing for a signed declaration from the family member, as well as from the landlord, to accompany the notice of termination. In addition, in the context of the forthcoming Bill proposed by the Government, this could be included in Schedule 2 to the Residential Tenancies Act 2004 to enable the RTB to investigate if it believed a notice of termination had been issued falsely on the grounds that a family member wanted to move in. While we see abuse of that ground, we are not so sure payment of compensation would be a sufficient way to tackle it. As most landlords only own one property, it would be quite an expense for them to pay compensation.

**Ms Margaret McCormick:** What I find worrying is that we constantly talk about the average rent. We do not know what the average rent is. The *Daft.ie* index deals with rents in the last three months and refers to incoming tenants and new tenancies. The RTB's index also reflects the position in the last three months. One does not know what the average rent is from it as most people are living in their properties for much longer. The average tenancy is three years.

The registration process will capture that information, but we are basing all of the legislation on the average rent. That issue needs to be addressed.

We need a deposit that is sufficient to warrant the risk being taken. For most landlords, a property is extremely expensive to purchase. Landlords with fewer than three properties make up two thirds of the market. If damage is done, there has to be a mechanism or some recourse to get some of the cost back. In a situation where we have received a one-month deposit, if the tenant does not pay the last month's rent, that money is gone. If tenants do not pay their rent, we have to start serving notices and follow the legislation as it is written. Therefore, we have to issue warning letters and a notice of termination. If they do not leave, we must go to the RTB. We are, therefore, looking at a huge risk. Anybody who takes in a tenant at any time is facing a huge risk. The vast majority of tenants and the vast majority of landlords are good, but it is up to a landlord to decide how much is required by way of a deposit and with how much he or she is comfortable. It is that simple. If damage is done and the rent is not paid, there is nothing available, no recourse and no protection if somebody has no income. In that instance the State does not protect the landlord. The tenant is protected by it as the landlord cannot evict the tenant until the processes are complete. In a case where the rent is not being paid, this is fundamentally unfair and a huge risk for the landlord.

The CPI does not reflect the cost of providing accommodation. The rent pressure zones were provided for with good intentions, but they have had dark consequences for many. If the rent is substantially below the market rent, one cannot increase it. Having decreased substantially for a long time, from 2012 to 2015, inclusive, when they started to come back up, there was a two-year cap provided for by the Minister. As soon as it was lifted, we were in a situation where many landlords whose rents were substantially below the market rates were not in a position to keep subventing the rent payments on their properties and as a result had to sell. The last call I took yesterday was from somebody with a three-bedroom house in Drogheda. The rent paid by the previous tenant was €600. That tenant has left and the landlord can no longer afford to subvent the rent payments. Under the HAP scheme, it is wanted for €1,200 which is below the market rent. The landlord cannot do it because it would be breaking the rent pressure zone law. The property is being put up for sale. There is nothing in the legislation that addresses the properties that are being rented at substantially below market rents and there are unintended consequences, on of which is that are we are losing properties.

**Deputy Jan O'Sullivan:** First, I apologise, as I had to deal with two oral questions in the Dáil. After I had made my original presentation, I had to leave. However, I have read the presentations made.

I refer to Mr. O'Brien's comments. The Chairman has dealt with this. These are Bills presented by me and Deputy Barry. They are not the committee's Bills. The committee has different views on our Bills and is simply holding hearings on our Bills. Any criticisms on the Bills should be directed towards myself and Deputy Barry rather than to everybody on the committee.

I want to raise a number of matters and to deal first with the student issue, which is not in my Bill. The Sinn Féin and the Fianna Fáil Bills were both published at the same time as my Bill and dealt with the student issue. My Bill is not comprehensive but I fully supported their Bills. As the Chairman has said, the Minister also told us the that issue of student accommodation is going to be dealt with by way of amendment to his Bill. To be completely frank about it, his Bill is much more likely to go through and to go through more quickly than any Bill of ours from the Opposition because it tends to take an awfully long time to get an Opposition Bill

through the Houses of the Oireachtas. We will work with the Minister on that issue.

I thank the Threshold representatives for the ongoing information on the issues that come to their attention. They also gave us some data on the Minister's Bill, which is very helpful. In that context, in our earlier presentation, Deputy Casey raised the issue of data and the accuracy of the data we have. Perhaps Threshold may be in a position to help us because different organisations have different data on the reasons for people becoming homeless. The committee wants to gather as much accurate information of this sort as possible.

I specifically wanted to ask Threshold on the obligation to inform the Residential Tenancies Board, RTB, when a termination notice is being issued, something I understand it included in the documentation on the Minister's Bill. The RTB would then inform the tenant, so that the tenant would know that there were certain things he or she could do, including going to the local authority, which itself would also be informed. As far as I know, and perhaps Threshold may be able to clarify this, in the UK, and I am aware that Mr O'Brien referred to the UK, there is an obligation to notify the local authority well in advance when there is a risk of homelessness, so that the authority can respond appropriately rather than waiting until the tenant becomes homeless. If Threshold could give some clarity on that, that would be welcome.

On the issues that are of concern to landlords in particular, I do not know if the representatives heard my opening statement, which I submitted in writing to the committee as well. In that I spoke about the examples we got from the Library and Research Service relating to Europe, which are in its international comparative study on the private rented sector and which included the UK, incidentally, and I quoted the example of Germany where 41% of the housing stock is privately rented and that this is considered to be a secure, long-term option. In this regard, many of the measures in my Bill are around giving tenants security so that they can have a secure long-term option in the private rented sector, and I very much defend that in my Bill. I also said, however, that it is pointed out that the law benefits landlords as well as tenants. There are depreciation allowances, mortgage interest tax relief, deduction of maintenance costs and the possibility to deduct losses from the income tax base. These are all taxation measures and are not measures that would be in any Bill that would be presented to the housing committee.

We are accused of being anti-landlord, but while we recognise that there are issues for landlords as well, they are not in this Bill because this Bill is about protecting the rights of tenants and giving them security of tenure. In this very changing market that is in many ways catching up, where we had a collapse of the economy and houses not being built, I fully support the idea that the main thing we need is the publicly led construction of social and affordable houses. That is our policy. In the meantime, however, we have to protect tenants in the very fragile situation that they are in where they do not have any long-term security. It has to be looked at from their perspective, as well as from the landlord's perspective.

In that regard, on the point made by Ms McCormick about the deposit and the risk to the landlord who has paid big money for the property he or she is renting out, there is a risk to the tenant as well. If the tenant does not get his or her deposit back, he or she does not have a deposit for the next tenancy. There is a balance of risk there too. I certainly know of cases where the tenant did not get the deposit back from the letting agency where it said that it could not get the deposit back from landlord because the property had been sold. I know of cases where tenants had done nothing wrong to the property and did not get their deposit back. There is a balance there as well.

On the Constitution, in my presentation I put it in the context of the constitutional balance

between property rights and the public good. In that regard, there is very little security for people in the private rented sector who, through no fault of their own, have to rely on that sector because there is not enough supply in the public sector at the moment. We could all go back to the reasons for that.

Those are the main points that I wanted to make. On the question of legal advice, the Chairman has dealt with that. My legal adviser was supposed to be here today but, unfortunately, could not be. We are trying to deal with the real situation that tenants find themselves in, and the measures in my Bill are fairly specific.

One other matter which I wish to refer to is the rent register. The Minister has said that he will bring forward proposals for a rent register. I agree with Threshold that it needs to be dwelling specific. We have it in our Bill that it will not disclose the identity of the landlord or the tenant of the dwelling. We are saying a prospective new tenant should know how much rent was charged previously on the property but that it would not contain the identity of the landlord or the tenant.

*Deputy Pat Casey took the Chair.*

**Deputy Mick Barry:** I want to address my remarks to the representatives of the Irish Property Owners Association, in particular, to Mr. O'Brien who levelled a degree of criticism towards my contribution earlier on. One of the charges that was made was of a certain ignorance of the sector. I do not believe that to be the case. I offered Mr O'Brien the opportunity to enlighten me and the committee on the claim he made in his presentation to the committee that the threat of withdrawing selling as a ground for termination has already resulted in some investors leaving the market. We have a Bill here which is at the early part of stage 3 of progressing through the Houses of the Oireachtas. I expressed some surprise that the content of those Bills would be forcing a flight of capital at this point, and I asked Mr. O'Brien to provide evidence. He provided evidence of investors leaving the market. I did not hear any evidence of people leaving the market because of the possibility of sale as a ground for eviction being removed. Perhaps he might enlighten me on that point in his reply.

One matter that I am very aware of is the people who crowd out my constituency clinic every single Monday morning, and have done so in recent weeks, months and well beyond that, and who bring stories to me about how they have received a notice to quit because their landlord is selling the property. These are often family people with young children who feel, with some reason, that they are on the verge of being evicted into homelessness. I will give an example of the people from one block of apartments where 15 or 17 families approached me - some of them crowded out my clinic - to ask where they were to go and what they were to do. Their landlord, a vulture fund, was evicting them on the grounds of the renovation of the property. The renovation of the property was to get around the issue of the rent pressure zone, RPZ, to hike up the rents and go for a more affluent tenant. They fought a battle on that and pushed back, which is very much to their credit. People approach me who are extremely upset and are crying and everyone present has had that experience. Mr. O'Brien said that I should do my job. As far as I am concerned, I am doing my job here today. It is my job to represent the woman who comes to my office with the eviction notice and the family facing homelessness because of the threat of a "renoviction" to make more profit for a vulture fund. Mr. O'Brien's job may be to represent other people, which is fair enough. This is my job and I am doing it.

If the number of people joining the homelessness lists for this January are anything like those in January of 2018, 2017 or 2016, then the numbers of people officially homeless will go

over the 10,000 mark for the first time in the history of the State. Threshold and other organisations doing similar work tell us that the number one cause of homelessness in the State today is eviction from the private rental sector. That is an unchallengeable and incontestable fact. It is insanity to continue to allow these evictions to take place in the midst of the largest housing and homelessness crisis in the history of the State. This Bill aims to staunch the flow with strong practical - and from the point of view of ordinary people - reasonable measures, such as banning the sale of property as grounds for eviction. We have established during these hearings that this is the case in law already in Germany, Sweden, the Netherlands and Denmark. It seems to me that the highest rental investment profits in Europe are being made in Ireland. Whatever way one looks at the figures, Ireland is up at the top of the table in that regard.

It is a bit much for me where there is a lot of sympathy being offered to representatives of the Irish Property Owners Association, IPOA, here today. It does not sit well with me to listen to the poor mouth for an hour and a half while fabulous superprofits are being made by many landlords, including corporate landlords, in this country.

What is being said is that if one brings the standards and rights for tenants up to the level of other European countries and follow what is best practice for tenants rights and entitlements, that landlords are going to turn tail and flee the market. There is a significant element of bluff in that to maintain and defend those rental profits. If there is any degree of truth in that, what it actually points to is not giving more tax breaks and concessions to landlords but to the need for the State to provide a genuine alternative by way of significant and massive investment in social housing to provide a roof over our heads with decent rights and conditions for our people.

**Vice Chairman:** I wish to make the committee aware we still have another session to go through. We have to be out of here by 1.30 p.m. In the final wrap-up, I will ask members to restrict themselves to about two minutes, please, and I will start with Mr. O'Brien.

**Mr. Tom O'Brien:** I will address various comments now. Deputy Barry asked for evidence. I gave Deputy Barry clear evidence that there is a mass exodus of landlords leaving the sector on the back of ongoing tax and legislation changes that have been implemented and are currently going through the Houses. On evidence of these particular measures in the Bill, we can only rely on the feedback we get through our helpline in the IPOA. Since this Bill was been announced publicly at the end of November 2018, we have been inundated with members ringing our office, wondering is this coming into law, when is a coming, and expressing-----

**Deputy Jan O'Sullivan:** What is Mr. O'Brien specifically referring to?

**Mr. Tom O'Brien:** I am referring particularly to the feature around selling not being grounds for gaining vacant possession, and that particular item-----

**Ms Margaret McCormick:** In both Bills.

**Mr. Tom O'Brien:** -----in both Bills has been the subject of continual concern, discussion and telephone calls to our offices in the IPOA. There is absolute evidence of that and as we possibly to that than is the Deputy, we can speak on behalf of property owners in that regard.

The Deputy has mentioned his concern and discomfort at people crowding out his clinic as result of having been served with notices to quit. I do not understand how the Deputy believes it is private landlords' responsibility to sort out the homelessness crisis. The homelessness crisis is a State responsibility. It is not for the private sector to resolve that. Without the private sector, the homelessness crisis would be a lot worse. The private sector should receive some

gratitude and acknowledgement for the important role that it plays. I stand by my comments on the Bill. The Bill does nothing to sort out the problem we are experiencing at the moment. If there was a serious intent to resolve the problem of housing, all parties would be coming forward with incentivisation measures. If one looks at the section 23 provisions, one would get laughed out of court if one mentioned reintroducing it. Without section 23, however, we would be devoid of thousands of apartments in Dublin, Galway, Limerick, Athlone and Cork and the housing crisis would be a hell of a lot worse than what it is now. The reintroduction of incentivisation and tax breaks is needed, as unpopular as they might be to members in reaching out to their electorate and support base, as soon as possible.

The last point I will make is about the following figures, which I have given and explained to the committee previously. Superprofits have been mentioned in the rental sector before and while I thought I had explained it the last time we met, to do so again, if one takes an apartment that is rented for €1,000 a month, this represents a gross rental of €12,000 a year. The tax take on that is €6,500 before one goes anywhere. The local property tax, LPT, due is €300, the service charge is €1,500 and general repairs come, on average, to about €1,000 a month. That leaves €3,000 to service one's mortgage. The figures do not stack up.

**Deputy Jan O'Sullivan:** Is Mr O'Brien saying €1,000 a month for repairs?

**Mr. Tom O'Brien:** No, I apologise, that would be on an annual basis. A total of €6,500 is paid in tax, €1,500 on a service charge, €300 for LPT and €1,000 per year on the general repairs such as the washing machine going or for plumbers, electricians or whatever the case may be.

**Deputy Jan O'Sullivan:** That is fine.

**Mr. Tom O'Brien:** That leaves approximately €3,000 a year to service the mortgage. The mortgage at that level will be running at €12,000, €13,000 or €14,000. To state there are superprofits in rental is absurd and possibly is the reason we have this sort of anti-investor legislation coming through. It is probably the reason we have the supply issue. There is no return unless one has no mortgage in the buy-to-let sector. Hence, we need tax breaks to resolve that €6,500 hit that is there, on a property-by-property basis; reintroduction of 100% mortgage relief; and a special rate of income tax for rental of 20%. All that is needed and one will find then that apartments and houses will come back to the market and people will stop selling. Unless people face up to the reality that property owners need to be incentivised, as they do not do this and take on financial, tenant, and legal risk lightly, there will be no increase in supply and we will be sitting here this time next year with the same issues except that - members are correct - the homeless figures will have gone up and the number of properties available for rental will have gone down. We will be sitting here wondering why that is the case, when we have been here time after time. We met Deputy Jan O'Sullivan in her time as housing Minister, and we now have been before this committee on three occasions. We have met the Minister for Finance and his representatives, as well as the Minister for the environment and his representatives, but nobody wants to listen because there are no votes in landlords as there are not enough of them. It is not populist to come out and say that one wants to incentivise property owners. It is okay to incentivise Google, Facebook and every other business person in the country can get incentivisation, be it grants or whatever. Landlords cannot, however, because it is not populist or a popular thing to do. There are no votes in it and we all understand the reality of the situation.

**Deputy Jan O'Sullivan:** There is a list of supports. This is ridiculous.

**Vice Chairman:** I am concerned that we need to move on so I will move to Threshold and

either Mr. McCafferty or Ms O'Reilly can make their final statement on its behalf.

**Ms Ann-Marie O'Reilly:** I will respond to some of the questions about statistics for homelessness. I will speak first on our own figures. In 2017 we saw that 38% of notices of termination brought to us were for the purposes of sale, 17% were for the landlord moving in, 12% were on the grounds of renovation and 8% were on arrears. I will make a brief comment on arrears. We were able to resolve the vast majority of arrears cases that were brought to us successfully for a tenant and landlord. That indicates that there is a way of resolving this and making sure that neither tenant nor landlord lose out on their home or rental income, respectively. On determining the reason for homelessness, the Dublin Region Homeless Executive, DRHE, has published some statistics on that in the last few years, indicating that about 50% of those presenting as homeless were coming from the private rented sector. A further breakdown of the figures is not available but the information is there. As the DRHE managed the pathway accommodation and support system, PASS, on behalf of all the local authorities, it is possible that it could extract the information. That would come down to the local authorities entering the information on the PASS in a regimented manner but it certainly is possible to determine that. In respect of the Bill proposed by the Government, we have suggested that all notices of termination be issued to the RTB, as well as the tenant. This is one of the recommendations in the Rebuilding Ireland review. The RTB itself could then monitor the reasons tenants are receiving these notices of termination. As it stands, we do not have solid, reliable data. Threshold can only comment on the tenants who come to us. The IPOA can only comment on the landlords who come to it and so on. Certainly either through the DRHE or the RTB, it is possible to start collating that information and making real decisions based on it.

In respect of profits and what is left to service the mortgage, as it stands, between 30% and 40% of rented properties are under a buy-to-let mortgage. While I have the greatest sympathy for those landlords who are struggling to pay a mortgage, it is only about that percentage who are paying a mortgage. Interest rates are at their lowest. It is certainly not enough just to say they must pay their mortgage. Ireland has one of the highest rental yields in Europe at present, second only to Cyprus.

**Ms Megan Reilly:** I echo the sentiments Ms Byrne expressed about how extending the rent pressure zones to purpose-built student accommodation, PBSA, is coming slightly too late. It is a source of great frustration to a lot of students that there could be a house two minutes down the road from their own accommodation where the rent can only go up by 4%, yet rent for the purpose-built accommodation they live in can jump by 25% overnight. With student villages releasing information now, there is no telling how many increases we will see before this legislation can be enacted.

I want to come in on a few points Deputy Jan O'Sullivan made which we did not address in our opening statement. In respect of deposits, the one-month issue would be very welcome because in a lot of student accommodations, moieties have to be paid upfront. That can be a massive chunk of money. We also experience many issues with students not being able to get deposits back or being discriminated against for particular things. For example, professional cleaning fees may be outlined but with no real evidence or justification given. I also wish to express support for the dwelling-specific rent register. As we mentioned, a lot of the information gathering to see the increases year on year has been left to student unions. Our own data gathering shows that even four or five years ago, increases were about 3% per year but now all of a sudden we are seeing these massive jumps of 20%. There is a lot of concern about a market that goes so unregulated. It brings it up to the market standard and where does the market go



from there?

**Vice Chairman:** I thank the witnesses for attending today. It was definitely lively if nothing else. I propose that we suspend the meeting for a few moments to allow our next set of witnesses to take their seats.

*Sitting suspended at 1.05 p.m. and resumed at 1.07 p.m.*

**Vice Chairman:** We are now in public session. On the request of broadcasting and recording services, members and visitors in the Public Gallery are requested to ensure that their mobile phones are turned off completely or switched to flight mode for the duration of the meeting. It is not sufficient to put phones on silent mode as this will maintain a level of interference with the broadcasting system.

Today's business is detailed scrutiny of the Anti-Evictions Bill 2018 and the Residential Tenancies (Greater Security of Tenure and Rent Certainty) Bill 2018. For our third session, I welcome from the Residential Tenancies Board Ms Rosalind Carroll, Ms Caren Gallagher and Ms Catriona Walsh.

I draw the attention of witnesses to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence 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 a 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 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 House or an official either by name or in such a way as to make him or her identifiable.

I invite Ms Walsh to make the opening statement.

**Ms Catriona Walsh:** I thank the committee for inviting the RTB to discuss the Residential Tenancies (Greater Security of Tenure and Rent Certainty) Bill 2018 and the Anti-Evictions Bill 2018. I am accompanied by the director of the RTB, Ms Rosalind Carroll, and Ms Caren Gallagher, head of communications and research. The Residential Tenancies Board is the primary body dedicated to regulating the rental sector in Ireland and one of the only bodies that works impartially with landlords and tenants. Our core functions include replacing the courts for the majority of landlord and tenant disputes through our dispute resolution service. We have a national system of tenancy registration, and increasingly, the provision of information, research and education.

The overall vision of the Residential Tenancies Board is for a well-functioning rental sector that is fair, accessible and beneficial to all. However, we know that in the current market demand continues to grow at a time of restricted supply and access to accommodation is difficult for many tenants. We also recognise that there are many people in very challenging and uncertain situations as a result of the ongoing supply and affordability issues. Given the number of households that rent in Ireland, and will continue to do so into the future, we will need to continue to adapt the regulatory framework in a way that supports and serves both landlords and tenants in this evolving market.

Both Bills being discussed here today are about trying to improve the current situation in the rental sector. The spirit of both recognises the need to strengthen security of tenure protections to meet the needs of a rental population that will rent homes for much longer periods than previous generations. In terms of both timing and effectiveness, before considering further changes it is important to note the level of regulatory change that has already occurred and the current profile of the sector.

There have been a series of legislative changes introduced over the past number of years including the Residential Tenancies (Amendment) Act in 2015, another in 2016 and another Bill is currently before the Houses. The original regulatory framework established in 2004 has grown and become more complex with each change to the point where most landlords and tenants do not understand their rights and responsibilities. We believe that is the biggest threat to successful implementation of any further regulatory change.

The proposed new powers for the RTB under the Residential Tenancies (Amendment) Bill (No. 2) Bill 2018 will enable us to build on the protections in current legislation and allow us move to more proactive regulation of the sector. However, we cannot rely on regulation alone to solve all the issues. We must also protect existing supply and encourage future investment.

In this context, it is important to consider the current profile of the sector. There are approximately 340,000 tenancies registered with the RTB, of which 307,000 are private rented tenancies. The majority of landlords - just over 70% - own one property, with a further 16% owning two properties. In our organisation we are starting to see evidence that the stock of rental properties is falling despite demand being at an all-time high. Since 2017, the number of private rental tenancies has fallen from 313,000 to just over 307,000 at the end of 2018. That is a significant reduction given the extreme demand pressures in the current market at this time.

We cannot afford to risk further loss of stock in the sector as it is the most vulnerable tenants who are affected most by a lack of supply. Given the degree of regulatory change introduced over the course of the past three to four years and what is proposed, there is a careful balance to allow the legislation to bed in and allow the RTB to exercise new regulatory powers, manage the transition properly and ensure that we do not worsen the situation, even with the best of intentions.

The Bills being introduced contain a wide range of measures covering: student accommodation; rent transparency and rent reviews; changes to security of tenure relating to section 34 and Part 4 of the Residential Tenancies Act; rent pressure zones; and deposits. It is our understanding that a number of areas are under consideration as amendments within the context of the Residential Tenancies (Amendment) (No. 2) Bill 2018.

With regard to student accommodation, the RTB came before the committee last November to discuss this issue. We support reform and clarity in this area given the increasing numbers of student specific accommodation that will be provided over the next number of years. The RTB strongly believes that the vast majority of student accommodation does currently fall within our remit, whatever it is called, and we understand that the Minister is working to include further clarity on student accommodation in the proposed legislation.

In considering rent transparency, the proposed move to annual registration will ensure that landlords provide the RTB with up-to-date details on an annual basis, including correct rent amounts. This will ensure better and smarter regulation and will support rent transparency measures. It is our understanding that the Minister is working to establish if it is legally pos-

sible to provide for measures to ensure rent transparency in the sector.

In considering some of the other measures, it is useful to look at the applications for dispute resolution services coming to the RTB which tend to give an important insight into the sector. In terms of the most common types of dispute we see on applications, 27% relate to rent arrears and overholding, 26% relate to invalid notice of termination, and 21% relate to deposit retention. That trend has remained steady in recent years.

In 2017, we tried to drill down into the particular applications coming before us to see if we could give further clarification or information on the types of disputes. We have found that there are a wide range of reasons notices of termination are being served. The most common reason is rent arrears. That is the biggest issue facing the sector. Forty-four per cent of the notices served in 2017 were for rent arrears; 20% were served for the sale of the property; 8% were served because the landlord wished to move a member of their family or extended family into the dwelling; and 8% were served to allow for substantial renovations.

There have been a number of legislative changes to enhance security of tenure in recent years and the RTB supports further strengthening in this area. However, there are legal considerations and at this point, given the data that exists relating to supply in the sector and notices of termination, we need a careful balance and a strong evidence base to support further regulatory change.

In respect of rent pressure zones and the criteria that apply, the RTB has fed into the considerations by the Department. It is important to balance any potential impact on supply, particularly where rents are lower than the cost of provision. The RTB rent index, produced in conjunction with the ESRI, provides data on rental indices across the country down to local electoral area. The quarterly report shows the degree of variation across the country in both growth rates and standardised average rents, which is significant, with some areas having an average rent of €470.

Outside of rent pressure zones, there are rent certainty measures in place whereby landlords can only review the rent once in a 24-month period and cannot set a rent in excess of market rent. There are existing protections for tenants and the RTB believes that with the additional new powers and a more proactive regulatory framework where we can go into a property and assess it, landlords and tenants can be supported on a pathway to compliance. It is important to allow for the new powers to be established and tested.

When considering the range of other measures proposed, the case outcomes and RTB experience are useful to consider, such as the practice and outcomes in respect of deposits. In 2017, 92% of deposits were partially or fully refunded to tenants who took a case to the RTB. We do not see evidence in our data of a trend whereby landlords are seeking deposits of more than one month's rent.

The RTB will soon have more effective powers that will change the nature of how we regulate the sector. Critically, the new civil sanctions regime allows for a proportionate response from a caution all the way up to a sanction of €15,000 for potential breaches of the law. These powers will make the regulatory framework more impactful and effective. However, regulation alone will not resolve the current issues in the sector.

When considering further regulatory measures in the market, equally, there is a need ensure there is quicker and more effective access to justice when something goes wrong in a tenancy.

We also need to ensure that we are doing more to promote supply and encourage further investment.

The proposed new powers for the RTB under the Residential Tenancies (Amendment) (No. 2) Bill 2018 are a significant change for the RTB as an organisation and for the rental sector. We hope that many of the measures will address the issues in the sector and that the legislation will enable more effective, proportionate and smarter regulation. We are focused on the successful and smooth implementation of the proposed legislation for both landlords and tenants in what is an extremely complex and bureaucratic regulatory framework. This will take time. The RTB is committed to supporting all those involved in the sector, whether they are landlords or tenants, on pathways to compliance.

Given the wide range of issues in the Bills, we have focused on some elements of both but welcome the opportunity to discuss further with the committee any issues arising. I hope we can assist in that regard.

**Vice Chairman:** I thank Ms Walsh. I forgot to apologise for holding up the witnesses outside for so long this morning. I call Deputy Barry who will be followed by Deputy Jan O’Sullivan.

**Deputy Mick Barry:** We are very tight for time so I will waive my rights and I will defer to Deputy Jan O’Sullivan.

**Deputy Jan O’Sullivan:** I recognise the tight time as well so I will just focus on a couple of specific issues. The RTB gave us some statistics there around deposit retention, for example, rent arrears and the percentage of cases that deal with particular issues. If I heard the witnesses correctly on deposit retention, the RTB said that 92% of cases returned some element of the deposit. Do the witnesses have statistics on the success or otherwise of the various cases? In other words, if there are cases of rent arrears or cases of eviction on grounds of sale or termination on grounds of sale to use the correct terminology, the statistics on same would be useful because earlier on we talked about not having accurate data on a lot of the issues.

I refer to the complexity of the regulations. When I was speaking on the Minister’s Bill, I said that it might be better to just totally rewrite the whole Bill because it is quite complex for Members trying to deal with the amendments to amendments of Bills and so on. That is just a comment.

Maybe the RTB cannot comment on this but one of the matters that came up at the last session was a suggestion that it was very onerous to be a landlord in terms of the various costs involved. I do not know whether the RTB can answer that but it would be useful to know what the witnesses think because they started off by saying the RTB was impartial between the landlord and the tenant. Do the witnesses have any evidence or information on those claims that if any further impositions are put on landlords they will simply not be able to cope with the financial pressures? It would be interesting to get a perspective on that.

**Deputy Dessie Ellis:** I thank the witnesses for their presentation. I know that most of the RTB’s dealings are between tenants and landlords and there is a proposal here around the receivers and the banks. How would the RTB see that sort of an engagement? I am curious how that would work and I can understand the reason for it being here because we are obviously encountering this more and more. Can the RTB fill us in on that? It is interesting that an awful lot of the cases that we get, as the witnesses probably heard, are people who come to us about

sale of property and about the landlords. How does the RTB find it to deal with landlords? Does the RTB discover that some of them are possibly selling to reconnect with another tenant etc.? Does the RTB find that this is out there? We certainly find it out there in our clinics and some landlords are just saying they are selling. We need to get to the bottom of the issue of the definition of a family member, which is very well needed, because this is being used so much. How much of an advantage would having a proper register give the RTB?

On landlords who are not registered, does the RTB deal with that situation much? As far as I can see, it is not very common but we have had issues with people who have not been registered as landlords.

**Ms Rosalind Carroll:** I will start with Deputy Jan O’Sullivan’s questions. Our statistic on the deposit retention scheme is 92% as the Deputy said. As an organisation, previously we only had the statistics on what was coming into us but not what was found beneath that. We often see applications coming in and people will tick every box because they are afraid of not ticking a box. Therefore, applications are not really a good demonstration of what the actual dispute underneath it all might be. As much as we can, where we get to a hearing, we have started to find out what the issue was and what the result of that was. We have specifically looked at notices of termination and we have been looking at that data since 2017 for the first time. From that, we found that where notices of termination are served for rent arrears, 78% of them are found to be valid. Where notices are served for sale, only 50% of them are found to be valid. Where they are served for a landlord requiring them for their use or for their family members, 48% of them are found to be valid. We can share this information with members afterwards. For substantial refurbishments, 74% are found to be invalid. I know that both of the members have made proposals on the refurbishment issue, but I would say that where cases are coming before us, the law that is there does work. This question of getting people to come forward with cases has shown that many of the cases are found to be invalid when they come through and they do not meet the threshold of substantial refurbishment in the type of cases that are coming before us. As I said, we are happy to share those statistics. We are collating our 2018 statistics and they will be available within the next few weeks and we can get those to the committee as well.

On the complexity of the Bill, we feel that is one of the biggest issues with regulating the sector because people simply do not know what they should be doing. Every time we bring in a new law, what normally happens is that we get more non-compliance. I would say there are different categories of landlords and tenants out there. There are people who knowingly do not comply and then there are people who are just not getting it right and we are trying to support the people who are trying to get it right. In terms of the sanctions, hopefully the new legislation will give us the power, a bit like they have in the Revenue framework. In that framework, Revenue works with the people who are trying to comply but if people do not engage they are treated in a much harsher fashion. It gives us a whole new framework in which we can deliver. Having said that, the Bill that is coming before us is still adding complexity; we would also like to see a new Bill but there is a balance between how we just get something in place now to deal with some of the non-compliance around rent pressure zones and so on. If we start rewriting it I suspect it would be another two or three years before we get anything moving on it. The balance between all of this is that at this point, we would like to just get some of this legislation in place and for us to get some of the new powers.

In many circumstances in the current market it is onerous to be a tenant and it is onerous to be a landlord. What I would be very keen on from our perspective, is for everyone to have an awareness that we need a diversity of our landlords. The smaller landlords in Ireland have

played an important part in price control because small landlords have personal relationships with their tenants and they often do not charge the maximum rent. As they get to know their tenants over time, they might take account that there might be a communion on or whatever event happens to be taking place and they have a personal relationship so for me, we need to make sure that whatever frameworks we put in place allow for that diversity over time. At the moment we have that diversity but it is starting to change in some areas.

**Ms Caitriona Walsh:** On the statistics, we were just saying that the figures are dropping in terms of the amount of properties in the rental market over the last two or three years. With any body, there comes a saturation point in terms of regulation. The sector can only be regulated so much before it reaches saturation point and people say they are not bothered with this anymore and it is too much for them. We need to support both the landlords and the tenants and in terms of the landlords, there is an awful lot they need to comply with. There is a lot the tenants need to comply with as well and they are on the hard end of the stick in the relationship between landlords and tenants. We need to try to support both parties in the sector. They are both a crucial part of it and the more successful their relationship, the more successful the sector.

**Ms Rosalind Carroll:** To summarise, we have lost 12,000 units in stock overall since 2016, which in the current framework is a difficult space. We had 319,000 units in 2016 on the private rental side and we are now down to 307,000, which is a concern for us. While we would support further security of tenure measures, we would like to see them coupled with some reforms on the supply side to ensure that we do not lose that diversity that I just spoke about. Security of tenure is not an issue for institutional investors. They will have no problem with sale, and they will sell with tenants *in situ*. There is the risk that this would impact on the more vulnerable. In terms of security of tenure, one of the concerns I have is that landlords may then start to pick what they think would be short-term tenants, for example, students or people without family - people landlords think are more transient in the market. I would be concerned landlords might discriminate against certain elements of the market to give themselves room to be able to sell openly on the market. At the moment, there is a significant valuation issue. We have had cases come before us involving the Tyrrelstown amendment that came in during the time of the last legislation. In respect of that, evidence was provided of a 28% fall in the value of a home when sold with a tenant *in situ*. We have also liaised with some of the financial institutions to get an idea of where we are with valuations within that framework. It ranges from between 20% and 30% in terms of the impact of selling with a tenant *in situ*. We would like to normalise that so that we can get to a point where we can have that security of tenure with a sale with a tenant *in situ*.

I know everybody is pressurised for time. I will deal with Deputy Ellis's questions about receivers and banks. Yes, there are more and more receivers in the market. We probably have more clarity than we would have had a few years ago in terms of this. Officials from the RTB have been on interdepartmental working groups to work on this issue. A receiver has an obligation to ensure the maintenance of the dwelling is kept up during the receivership period. It is not explicitly stated in the legislation. What is explicit in the legislation is that the tenant has a right of offset if the maintenance is not carried out.

**Ms Caitriona Walsh:** In respect of his or her rent.

**Ms Rosalind Carroll:** Therefore, it is implicit that the receiver must go ahead and do the maintenance. What cannot be provided for legally, even if there is a change in legislation, is the issue of deposit, which comes up a lot, because the deposit was paid to the landlord. It is never paid to the receiver and, therefore, the tenant will never be able to get back his or her deposit.

The only person from which the tenant can get his or her deposit back is the landlord. We cannot retrospectively change that within the legislative framework.

**Deputy Jan O'Sullivan:** We could if there was a deposit retention scheme. The deposit could be held.

**Ms Rosalind Carroll:** Absolutely. We are not in favour of a deposit protection scheme but as an organisation that has been given a significant amount of change to implement, I have had to advise the Minister that we simply could not implement all of the regulatory change and the deposit protection scheme at the same time. The deposit protection scheme would mean we would administer €300 million worth of deposits. Because there are so many other pressures within the market, we need to prioritise the ones we are going to address. Because cases involving deposits coming before us are being dealt with well, people who are afraid should come to us. If somebody takes a case, it proves worthwhile. There are people in rent pressure zones who are afraid to take a dispute to us because they fear there will be action by a landlord.

**Ms Caitríona Walsh:** The other issue relating to deposit protection is that we certainly do not want to do something that would delay the return of deposits to tenants so when it is done, it needs to be done as efficiently and as quickly as possible. Otherwise, it would not be great for tenants.

**Deputy Dessie Ellis:** There is a major problem in respect of the deposit being paid to a receiver as opposed to directly to the landlord. Is Ms Carroll saying that if that goes to the bank or some other second party, the tenant cannot pursue it?

**Ms Rosalind Carroll:** There is no legal way of pursuing it.

**Ms Caitríona Walsh:** There is no legal way of pursuing it against a receiver. A tenant can take a case against the landlord regarding the return of the deposit.

**Ms Rosalind Carroll:** In those cases, we will look for the landlord and we have powers to search for landlords and have been successful in some cases. Obviously, landlords may be in financial difficulties themselves and be unable to pay over the money but because the receiver has never received that money, he or she has no accountability for it. I do not believe we would be able to overcome that even within a legal framework of legislation, but that is a matter for the Attorney General as opposed to us. That is just our interpretation of the issue.

A question was asked about the definition of family member. We agree that the definition of family member could be tightened up within the Act. Nephews and nieces are included at the moment. We could certainly look at that. A question was asked about whether people were truly selling their properties. In many cases people are selling their properties but since the introduction of rent pressure zones, we have seen more cases where people have not gone through with the sale. That is related to the figures about which I spoke, where 48% were found to be valid while 52% were found to be invalid. In those cases, tenants have a right to come forward to us. There is penalisation within the Act and tenants can apply to us for damages. That is not necessarily going to get them back their homes, which is really at the heart of what we are talking about here. We are working with the Department and the Minister's officials to see whether there is more we can do around this issue in terms of potential sanctions.

In respect of the rent transparency piece and the public register, again, we are very supportive of that. Hopefully, the Attorney General will give it the go ahead. We would certainly hope to facilitate that and the annual registration which, again, we brought through to the committee,

gives the data and allows us to publish it.

A question was asked about registration of landlords and how we see that in terms of enforcement. Last year, and the previous year, we sent out approximately 15,000 letters to landlords where we thought there might have been some level of non-compliance. In general, once that letter goes out, we get compliance straightaway. At the moment, we are quite limited as an organisation. All of our data sharing is with State bodies so that means it is more to do with people in receipt of rent supplement, HAP or RAS. Visibility in terms of the private market outside of that is very difficult. We do not have investigative powers. One of the things the new Bill will give us is investigative powers, which means our ability as an organisation to actually pursue non-compliance will be greatly enhanced. That is one of the measures that will help.

**Deputy Dessie Ellis:** We do not have an idea of how many landlords are not registered.

**Ms Rosalind Carroll:** The only data we can compare with is the census data but that now includes the rent-a-room scheme and HAP. Having discussed this with the CSO, we know that because it is a self-reporting piece, many people would have reported themselves as social housing rather than private rental so the data we used to rely on are not as reliable as they have been but the new powers will help us overcome that. It is difficult for us at the moment.

**Vice Chairman:** I thank everybody for their contributions today, including Deputies Jan O’Sullivan and Mick Barry, who attended the meeting in respect of their own Bill. I thank the witnesses from the RTB for coming before us for a second time in a fortnight. If the Minister has his way, they might be in again in a fortnight or three weeks’ time. This is an area of significant concern to everybody around the table. The committee has given the Government a commitment that we will work with it with regards to its Bill. While we would all like our own Bill to go through, the political reality is that the only Bill that will actually get across the line is probably the Minister’s Bill. It is in all our interests to work with the Minister and we did so in private session last week. I thank the witnesses for appearing before us today and I apologise for the delay. We could probably spend another hour with them but we just do not have that time today. I thank the representatives from the RTB for attending today and engaging with the committee.

The joint committee adjourned at 1.40 p.m. until 11 a.m. on Tuesday, 26 February 2019.