

**Focus Ireland Submission
Oireachtas Committee on Housing and Homelessness
May 2016**

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1 Executive Summary

Focus Ireland sets out a range of measures which can be introduced immediately to tackle the housing and homelessness crisis – some of them having immediate effect while others will take time to have impact.

The submission deals primarily with issues directly related to housing, but notes that a wider range of measures, including measures related to mental health, drugs policy, justice and domestic violence, are required for a comprehensive approach to homelessness.

The submission proposes:

- **increases in rent supplement to reflect market rents**
- **measures to link rent increases to inflation**
- **new measures to police compliance with rental legislation**
- **longer-term measures to create ‘secure occupancy’ in the private rented sector**
- **a programme to identify the causes of property lying empty, following on from census data**
- **a new programme to assist homeless families remain for a longer period with broader family**
- **that the social housing programme shifts radically from relying on the private sector to build social housing toward a system in which local authorities are funded to cause the new housing to be built.**
- **new social housing investment to be linked to other necessary infrastructure to overcome local resistance**
- **measures to tackle youth homelessness**

The submission also argues for consensus on a broad framework to approach homelessness including a commitment to end the need to sleep rough, eliminate long-term homelessness and hold a referendum to include the right to housing in the Constitution.

2 Introduction

Focus Ireland welcomes the establishment of the Oireachtas Committee on Housing and Homelessness and its short, focused approach to identifying solutions to a crisis that is impacting on so many families and individuals.

Homeless is a complex problem, with both economic and social causes. It is frequently about much more than a housing problem, but it always includes a housing problem. Every exit from homelessness requires a house. Other supports are often needed, but housing is paramount. This submission takes it lead from the Committee’s agenda and therefore concentrates on housing but it is important to note that in order for homelessness to be effectively tackled, a broad range of measures are also needed. Just as there is a recognition that the current crisis results from a lack of investment in housing, it also needs to be recognized that the lack of investment in social infrastructure such as mental health services and social work must also be reversed if we are to truly solve the problem.

Addressing homelessness requires a sustained commitment, strong principals and a clear vision of what is needed by families, communities and society. In its short lifespan this Committee cannot solve the full range of problems but we hope that it can help to establish such principals across the political spectrum in order to sustain longer term policy making.

The submission concentrates on measures that can and must be initiated immediately, but

in some cases their impact will be immediate and in others will take time to have effect.

3 Measures with immediate effect needed to address the crisis.

3.1 The Private Rented Sector

A large majority of the families that are becoming homeless had their last secure home in the private rented sector. While some of the longer-term solutions to the housing crisis must be found in other areas – such as adequate supplies of social housing, and more accessible homeownership – immediate measures must address the crisis that is currently shaking the private rented sector.

There are three interlocking elements to the private rented crisis

- rapidly escalating rents
- landlords exiting the market (either voluntarily or as a result of repossessions by lending institutions)
- a shortage of available homes to rent (both for families and single people)

3.1.1 Levels of rents

Rapidly rising rents are the primary immediate cause of homelessness and housing insecurity for families and individuals. It is important to recognize that this is not just a problem for people relying on social welfare, but with 20% of the population living in the private rented sector, it impacts on people at all income levels. It creates problems for multinationals attempting to recruit skilled workers to come to Ireland, it reduces disposable income (and leads to wage pressures) for middle earning workers, but for low waged households and those relying on social welfare it creates a real risk of homelessness.

The principle of rent regulation is well established in the Irish private rental market. For over a decade, Private Rental legislation has regulated rents by stating that they can only be reviewed on an annual basis and that increases should be in line with market changes. Tenants can refer disagreements on such annual reviews to the Private Rental Tenancy Board (PRTB) for resolution. Despite the dire warnings of landlords about the impact of such regulation, the private rented sector doubled from 10% to 20% of the Irish housing market after it was introduced.

In 2015, the Government proposed to link rent increases to the Consumer Price Index rather than ‘market levels’ but eventually opted for the less effective instrument of limiting rent increases to every two years instead on one.

There is little evidence that this measure has helped limit rent increases, and the evidence shows that it has had no impact on the rate at which families are becoming homeless – which has continued to rise.

Focus Ireland believes strongly that the Committee should recommend the introduction

of legislation to extend current rent regulation to include linking rent increases to the CPI.

3.1.2 Rent Subsidies for households relying on social welfare

Rent supplement, the primary rent subsidy, is provided by the Department of Social Protection through the supplementary welfare programme. Rent supplement rates have been frozen since 2013 and have not kept pace with market rents. In Dublin they are now some 50% below market rents. Some of the reasons offered for the rate freeze have been that to increase the rate would inflate the cost of renting for low income households, and increase expenditure by the department of social protection, while offering little increased supply of housing.

It is abundantly clear that the policy of freezing rent supplement has not had the intended effect of moderating rent increases. Indeed the inflexible position taken by the department has rather forced many households out of their homes or left them with no alternative but to illicitly ‘top up’ their rent payment by bridging the gap between the rent supplement limit and the actual rent. Topping up has left many families struggling to provide for other necessary basics, and is one of the primary causes of the current rise in homelessness.

We recognize and have welcomed the discretionary mechanisms used directly by the Department or indirectly through Threshold, however they are piecemeal responses to what is a systematic problem and they have not slowed down the number of families becoming homeless.

It has been noted that increasing rent supplement will not increase the supply of rent supplement. But this is not its purpose-its purpose is to ensure that households which rely on rent supplement can maintain their existing homes. The decision to freeze rent supplement amounts to a decision that the full burden of the housing shortage will be borne by those on the lowest incomes.

The objective of rent supplement must be that households that rely on social welfare and live in the private rented sector must have access to sufficient income to pay their rent at prevailing market rates.

Rent supplement increases are not a panacea for the chronic shortage of homes and the other issues that are caused by the systemic failure of our housing market. Rent supplement can be viewed as a symptom of a housing market that has ill served Irish citizens for more than 30 years.

In the short term Focus Ireland submit that the committee should recommend rent supplement increases to keep individuals and families in their homes.

These changes must be part of a larger programme to address the failures of the private rental sector and should include the introduction of ‘secure occupancy’ as proposed by NESC with increased legal protection for tenants, as well as the broader supports and

protections advocated for later in this submission.

3.1.3 Separating tenant security from landlord ownership

The current private rented legislation establishes a four year tenancy agreement between landlords and tenants – however it creates a ‘get out clause’ for landlords who are entitled to tear this agreement up if they wish to sell the property.

The provision, which was established to protect the interests of small landlords, now serves the interest of large financial institutions and ‘vulture funds’, who as a matter of course terminate tenancy agreements when they take possession of the premises so that they can obtain ‘vacant possession’. It has been estimated that 47,000 properties are now owned by “non-bank entities” or vulture funds.

In light of a recent well-documented event involving ‘vulture funds’ and recent case law, Focus Ireland believes that this get out clause is no longer appropriate for all sections of the Irish rental market. Just as approved housing bodies are now regulated based on their size we believe that the private rental market regulations need to differentiate between investor properties and ‘accidental’ or single property landlords.

For the former, Focus Ireland proposes to the committee that it recommends that the private rented legislation is immediately amended to remove the ‘get out clause’ which allows landlords to terminate tenancy agreements if they wish to sell. Effectively this would put investor landlords on a similar footing to those landlords who invest in office or retail properties. The tenant is secure for the duration of the tenancy and should the investor wish to sell during the tenancy the property must be sold as a going concern.

Given the scale of the difficulties in the rental market and in buy-to-let mortgages, we believe the supreme court will see such measures as warranted ‘in the public interest’ rather than an infringement of property rights. Property rights have been similarly limited in the past with the consent of the Courts. However the committee may have to consider the tax treatment of investors to bring them progressively closer to the treatment of investors in the retail and office sector.

For single property or ‘accidental landlords’ Focus Ireland proposes to the committee that it recommends a review of the regulations recently introduced in this area in light of recent judgement in *Hennessy v PRTB*.

The recent regulations set out that a landlord must sign a commitment that they will sell the property on serving notice on a tenant.

In *Hennessy v PRTB* Judge Barker in her decision stated an intention to sell by itself is not enough to end a tenancy. She said that intention “in many cases will involve the requirement that the landlord has identified a potential purchaser, or commenced negotiations towards an eventual sale”. While she does not go so far as to say that the legislation is limited to instances where there is an identified sale, she states that this will

often be the case.

We believe that the new regulations, while an improvement at the time of development, have now been surpassed by the case law which has afforded greater and welcome security to tenants. The regulations should be amended to comply with the findings of *Hennessy*.

Furthermore, Focus Ireland believes that Local Authorities and the RTB should be made responsible for effective policing in this area. LAs should inform the RTB of cases where a household assessed as homeless indicates that they were issued a NoT on foot of a family members taking up occupancy or sale of property. The LA should notify the RTB of the address, and the RTB should proactively assess whether the appropriate declarations were made and whether the action actually occurred, and take appropriate action as necessary.

3.2 Empty housing Census

Figures from the 2011 Census show that the national vacancy rate at the time was 14.5%, which corresponds to some 290,000 homes. Vacancy rates differed substantially across the country, with Dublin experiencing an 8.2% vacancy rate and Leitrim experiencing rates over 30%. The average vacancy rate in Europe is 7%. While the rate in Dublin is lower than other parts of the country, a reduction in the rate by even 1% would result in over 5,000 homes entering the market.

The 2016 Census will provide an updated picture of housing vacancy in Ireland, and will allow policy makers to determine how best to increase housing stock where it is most urgently needed. Focus Ireland lobbied for the CSO preliminary results to include information about current housing vacancy. Data collated by census enumerators can be released long before the census forms are evaluated and this year the data they release will include information about vacant housing.

It is vital that this information is used to bring much-needed housing stock into the market. In high demand areas, the Department of the Environment should ask Local Authorities to undertake an immediate investigation to identify the reasons why properties are standing vacant and develop policy responses to increase housing stock accordingly.

3.3 Support families to remain with broader family where possible

The severe housing shortage in Dublin has meant that families who enter emergency accommodation are finding it difficult to secure accommodation and move on. While work to increase the housing stock is ongoing, much of this progress takes time. Meanwhile, families are spending months residing in unsuitable emergency accommodation.

Analysis carried out by both the DRHE and Focus Ireland indicates that up to one third of

households cite ‘family breakdown’ as the reason they became homeless. Our research has shown that a number of families who have experienced instability in the private rental sector move in with family members. This accommodation arrangement often becomes untenable and families then enter emergency accommodation. The question arises as to whether it would be better, in some cases, if this informal arrangement with family members could be extended and if so, what supports and intervention would enable this to happen.

Focus Ireland has drafted a proposal document for a pilot entitled: ‘Alternatives to Emergency Accommodation’. The first stage of the pilot would involve our team working with families who have been accessed as homeless to determine whether previous accommodation arrangements could be salvaged to prevent families entering emergency accommodation. Importantly, such a pilot would not constitute homeless prevention, but would be an alternative to the current emergency accommodation regime, which often consists of one room hotel accommodation. Those who return to accommodation provided by family would continue to be supported by the Family HAT and would retain their position on the housing list.

The first stage of the pilot would enable our team to evaluate its appropriateness. If this phase shows that the initiative is viable a second phase is proposed in which Local Authority staff assessing families as homeless identify them as potentially benefiting from the programme and immediately schedule them for an early interview with the HAT.

The above proposal is not a sustainable solution to family homelessness, but may ease some of the pressure experienced when families are forced to reside in emergency accommodation. Further details of our proposal can be obtained from the Focus Ireland Advocacy Department.

4 Immediate measures having longer term effect

4.1 Increasing the supply of Social Housing

The Housing Agency and ESRI have calculated that we need to deliver over 20,000 new homes each year. Focus Ireland is deeply concerned that this has increasingly been seen as a ‘target’ to be reached over a number of years, rather than an assessment of the number of units required just to match demographic changes. Continued economic success and inward migration will increase this ‘standstill’ figure even further. We need to be clear that in every year – such as 2015 and, in all likelihood, 2016 – in which we do not build 20,000 new housing units, our housing crisis will deepen.

The outgoing Government Social Housing Strategy established a strong framework for delivering the social housing required and the various ‘streams’ within the strategy, after a frustrating period of bedding down, are now seen as beginning to gain traction. These elements must be maintained and reinforced. However, the fundamental weakness of the strategy needs to be recognized and addressed – it remains fatally dependent upon the

private development sector to deliver the homes. This dependency manifests itself in two ways – the reliance on Part V provision to build and supply socially owned housing and the reliance on private development to build units which will come into social use through leasing, HAP etc. It must be clear at this point that it is a fundamental requirement of an effective strategy that the state must cause the units to be built.

As a housing association Focus Ireland is committed to supporting this necessary work. Our experience points us to two particular areas that require consideration by the committee.

The first is the well documented funds that exist within the Housing Finance agency. Ways must be found to release this capital to support local authorities and approved housing bodies to build homes.

The second relates to current funding mechanisms: the capital assistance scheme (CAS) and capital advance leasing facility (CALF). One of the significant issues with these schemes is that while properties can be found, the operation of these schemes can cause opportunities to purchase properties to be lost.

We recommend that the committee review the possibility of the administrative processes of local authorities for these schemes being centralised in the Housing agency or in a ‘lead’ local authority.

Focus Ireland would also make the point that the commitment to deliver housing units must be linked with a commitment to ensure that new building creates vibrant communities rather than just ‘housing’. This means that housing provision must be balanced with investment in infrastructure. This balanced approach would help overcome some of the resistance of local communities to new social housing in their areas.

4.2 Allocations of social housing to homeless households

Historically, while patterns varied in different local authority areas, fewer than 10% of allocations of social housing were made to homeless households, despite their categorisation as a ‘priority’ group.

In January 2015, Minister Alan Kelly issued a Ministerial directive that increased this proportion of allocations significantly: 50% going to homeless (and other vulnerable) households in Dublin, with 30% in Cork, Limerick and Waterford. Provisional evaluation of the impact of this initiative undertaken by Focus Ireland suggests that it has been of critical importance in the fight against family homelessness.

While these allocation levels are unlikely to be sustainable in the long-term, we strongly believe that on-going commitments of at least 30% allocations in Dublin and 15% in other cities will be required over the next few years to tackle the homelessness problem. Such targets need to be established and monitored at national level.

5 Measures to be initiated now and introduced in the medium term

5.1 Secure Occupancy in the Private Rented Sector

For the Private Rented Sector to flourish and provide both secure homes for tenants and reliable returns on investment for landlords, it requires substantial and balanced reform of regulation and tax treatment. The Private Residential Tenancy Board (now the Residential Tenancy Board) published a long list of necessary legal reforms to simplify and improve the efficiency of the sector.

The National Economic and Social Council has recently published a series of detailed reports which make a case for ‘Secure Occupancy’, and the OECD recently published important research demonstrating the positive impact that such policies can have on the private rented market.

These contributions and others should form the basis for a substantial and comprehensive review of regulation in the sector which would address both landlord and tenant concerns. While this review is urgently needed and long-overdue, it requires adequate time for debate in the Oireachtas and wider society. This review should be initiated immediately with a goal of passing legislation within the first year of the current government.

5.2 Annual, transparent & independent review of Housing Assistance Payment (HAP) levels

Currently the base rates for the Housing Assistance payment (HAP) simply mirror those established by the Department of Social Protection for rent supplement. While the Department of Environment has monitored local areas and introduced some flexibility in some local authority areas, HAP does not permit the individual discretion regarding rent levels which Community Welfare Officers can exercise with Rent Supplement.

The Department of Social Protection lead role arises from the history of the scheme and the fact that the majority of the initial budget for HAP was transferred from the Department of Social Protection to the Department of Environment Community and Local Government.

The level of Rent Supplement is set through an irregular, opaque process by a section of the Department of Social Protection applying a wide range of policy objectives. HAP is defined as a social housing support and as such is there to meet long-term housing need.

Focus Ireland recommends to the committee that it propose that the Department of Environment should take the lead for setting the framework of rents which will be covered by state subsidy and should establish an independent and transparent mechanism to review these annually.

5.3 Strengthen the Housing protocol for young people leaving care

Young people who have grown up in state care continue to have a higher than average

risk of becoming homeless as adults. The protocol on young people leaving care was a welcome addition which ensured that there is clear direction to local authorities on their requirement to engage with young people leaving care on the issue of their housing need. However, this needs to be further developed.

In the short-term, local authorities have to be instructed to ring-fence a number of units each year for the most vulnerable young people leaving care. Access to this accommodation could be based on assessment of need carried out by Tulsa.

In the medium to long-term Focus Ireland believe that local authorities should plan, develop and provide appropriate housing to those young people leaving care who require this support to continue building their independent lives after the care experience.

5.4 Amend Section 10 of the housing act to support prevention of homelessness.

The importance and cost effectiveness of preventing homelessness has been recognised since the Department of Environment's *Homelessness – A Preventative Strategy* in 2002. However, the current legal definition of homelessness and the wording of Section 10 of the Housing Act (1988) refer exclusively to people who are already homeless. While central and local government has been flexible in interpreting this legislation, the weak legal basis results in preventative interventions that are underdeveloped and piecemeal. Amending the Housing Act 1988 would facilitate local authorities to harness skills from other sectors and to more effectively meet the needs of the homeless strategy. Two amendments are needed. The first is an amendment to Section 2 that introduces the concept of and provides a definition of 'at risk of homelessness'. This serves to locate the point at which local authorities can interact with a person's housing support issues, and focus attention on practical steps to avert homelessness. A similar definition of 'threatened with homelessness' was introduced in the UK in 1996, with overall very positive effects.

The second element is to create, under Section 10, provisions which enable the funding of suitably approved bodies to deliver the various types of intervention that will deliver on the objective of preventing homelessness. This change would facilitate local authorities in planning and delivering a range of internationally proven interventions including family reconnection, hospital and prison in-reach and rapid rehousing. See more on this issue [here](#).

5.5 Protect the under 26's who experience homelessness

Young people who are homeless can be prevented from moving on into independent living due to the unintended consequences of the reduced rate of social welfare paid to people under 26.

This problem has been addressed in the case of young people coming from a care background where an exemption was included in the original legislation, however this was not extended to the case of other young people who become homeless. As a result, young people who become homeless can be trapped in emergency accommodation for very long periods as they are unable to sustain the rent on independent accommodation.

This problem impacts on a relatively small number of young people but is likely to have a long-term damaging impact on their life chances.

It also represents a significant cost to the state as the young people continue to reside in emergency accommodation.

Focus Ireland believes that it is long past time that this issue was addressed.

In the short term the needs of those young people currently trapped in this situation have to be addressed. This can be achieved by undertaking an audit of the number of young people in this situation and providing funding through supplementary welfare allowance to provide the required support.

In the medium term there is a need to agree a sustainable long term solution that acknowledges the support needed by a young person when they experience a period of homelessness and provides a clear supported pathway out of homelessness.

6 Measures which reflect a long-term vision

Tackling homelessness requires strategic, long-term thinking. It is not enough to put in place short-term solutions which ignore the root of the problem. Below are a number of underlying principals and commitments which will ensure that the current levels of homelessness do not become the norm.

6.1 Referendum on a Right to a Home

The Convention on the Constitution recommended that Economic, Social and Cultural Rights (ESCR), which includes a right to housing, should be included in the Irish Constitution. Introducing the right to housing would require a referendum and Focus Ireland believes that there should be a commitment to holding such a referendum during the term of the next Dáil. Such a change in the constitution would not in itself eliminate homelessness, but it would make a strong statement about the values of our society.

Placing the right to housing on a constitutional footing would mean that policies introduced by the State would have to consider and balance this right. Existing rights, such as the right to property, could not be leveraged against the need for social and affordable housing or used to excuse inaction. A constitutional amendment would provide citizens with a justiciable right to housing and would raise the State's standing as a protector of human rights.

6.2 End long-term homelessness and the need to sleep rough

When the objectives of ending long-term homelessness and the need to sleep rough were adopted by Government in 2008 it was a historic step forward in our national understanding of homelessness and our commitment to tackling it. Despite the difficulties in achieving these goals it is of critical importance that they are not abandoned.

These commitments have widespread social and political support. They were first made by the Fianna Fail/Green Government in the national homelessness strategy 'The Way

Home' in 2008, and were subsequently adopted by the Fine Gael/Labour Government in 2013. Sinn Fein also supported this objective in its 2011 Election Manifesto, and politicians from other parties and independents have also endorsed it.

While commitments were previously linked to particular target dates, they should be primarily understood as a collective statement that homelessness is not a 'natural phenomenon' but is rather the result of particular political and economic policies - and can be solved.

Ending long-term homelessness (people remaining homeless for more than 6 months) is not the same as ending homelessness entirely. This commitment recognises that some people will become homeless due to a variety of factors, but with the right public policies they can quickly return to mainstream accommodation. Sometimes these individuals need additional support services, but not always.

Targets to end long-term homelessness have not been met, so there is a strong temptation to completely abandon this approach. However, when Focus Ireland looks back over our 30 years of working to end homelessness, we see clear reasons to believe that progress is possible and that strong, ambitious commitments drive that progress, even when the target is not immediately achieved.

For instance, in the past 30 years we have seen an end to children, alone and separated from their families, sleeping rough on our streets, which was commonplace when Focus Ireland was established. While the 2010 target was not achieved, it is important to recognise that in cities like Cork, rough sleeping was all but eradicated for the first time. In Dublin the numbers of people sleeping rough in winter 2010 was the lowest ever recorded (70). The most recent figures released show that 102 people were sleeping rough on a night in April 2016, despite the addition of almost 500 emergency beds in the six months preceding the count.

Ending the need to sleep rough is, at one level, about simply having enough emergency beds available for those who need them and ensuring that individuals feel safe enough to use them. However, unless there is a parallel commitment to produce the requisite number of homes, long-term homelessness will not be eradicated. People must be able to access secure and stable accommodation when they are ready to leave sheltered emergency placements.

6.3 Governance structures

Tackling homelessness requires the active collaboration of a range of government departments around agreed goals and targets. Because circumstances can change quite dramatically, it demands a form of collective flexibility, which is difficult for Government to achieve. It also requires the active participation and engagement with the voluntary organisations which provide most of the front-line services.

After a number of years, the current Government has now established a strong framework to tackle homelessness. Progress on an 80 point 'Implementation Plan' is monitored by a

broad National Consultative Committee on Homelessness and is reported on a regular basis to the Cabinet Committee on Social Policy and Public Sector Reform.

Clearly improvements can be made in the functioning of any governance structure, but it is essential that any incoming government recognise the importance of maintaining such structures, or similar alternatives, to ensure that the combined energies of all government departments and voluntary organisations can be marshalled to tackling the problem.

Focus Ireland supports proposals that a cabinet minister be given lead responsibility for tackling housing and homelessness as a core objective of the Government. We sound a note of caution however about establishing a new Department of Housing to deliver this. We are concerned that such a step will lead to long periods of time being wasted on administrative requirements. We also emphasise the need for cross-cutting and local mobilization of resources, which would become more difficult in a new stand-alone department.

6.4 Maintaining budgets

Public funding for homeless services comes primarily from the Department of Environment (Section 10) through local authorities, which must cover at least 10% of the costs from their own resources. Important funding also comes from the HSE (in relation to social inclusion, mental and general health) and Tusla (in respect of care leavers, youth and unattached children).

The Department of Environment funding was increased in 2010 and 2015, but reduced in the intervening years; other funding lines have been substantially cut, year on year. Staff in homeless services have foregone pay increments and in many cases seen pay cuts over the last 6 years, and yet services have been cut to the bone. Further cuts in any of these grants would lead to closure of essential services. While wages in the voluntary sector are not linked to public sector wages, it is important that staff in these front-line services are taken into account in the broader consideration of public sector pay.

There needs to be a commitment to increase funding for services, at least in line with inflation, until there is a significant decline in the numbers who are homeless. A commitment to set budgets early so that homeless services can plan would improve the efficiency of spending and be very welcome in the sector.