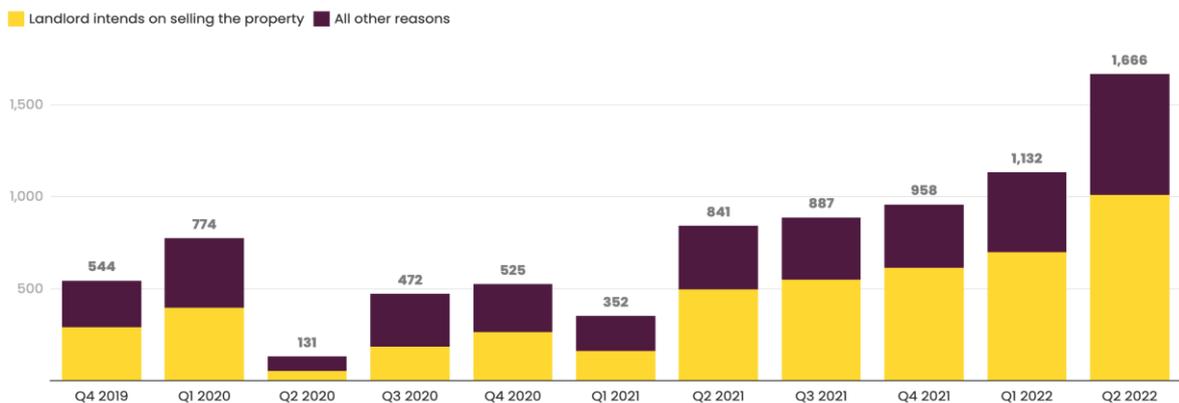


## An urgent responding to the ‘evict to sell’ crisis

The number of people in emergency homeless accommodation reached a new record level of 10,568 in July 2021. With local authorities across the country informing people who present as homeless that there is no emergency accommodation and they should try to make arrangements to stay with family and friends the level of hidden homelessness is also at record levels.

At the same time, the new early warning system created by new legislation requiring landlords to inform the Residential Tenancies Board (RTB) when the issue a Notice of Termination is giving notice of an alarming number of households who will lose their homes over the next few months. Of the 2,798 NoT issued in the first 6 months of the year, 1,709 were due to the landlord planning to sell the property.

Total Notices of Terminations received by the RTB and reason for notice, Q2 2019- Q2 2022



Most of those directly involved in tackling homelessness expected the situation to get worse before the housing supply measures in ‘Housing For All’ started to improve the situation. But the deterioration has been faster and more severe than expected. Government must respond to this by accelerating the medium and long-term measures in Housing For All (tackling vacancy & dereliction and building social & affordable homes). But more urgent immediate measures are also needed, and one key focus of these must be measures to reduce the number of evictions due to landlords selling up.

In this context, Focus Ireland is setting out 6 key actions that we believe can contribute to stemming the flow of households into homelessness from landlords deciding to evict-to-sell.

- Target income tax relief to encourage landlords to commit to providing homes for tenants
- Target Capital Gains Tax Relief to encourage landlords not to evict tenants
- Link climate change goals to maintaining tenancies through conditional funding for BER upgrades
- Introduce a streamlined scheme for selective purchase of ‘evict to sell’ homes
- Reduce pointless hassle for landlords by resourcing of RTB
- Introduce a pause in evicts-to-sell while these measures take effect

## Introduction

Since 2016, Focus Ireland has been publishing evidence which shows that landlords leaving the market and evicting their tenants to ensure the best return on their investment, is the primary cause of family homelessness. Over that period, we have proposed a range of different solutions, from increasing tenancy rights to changes in the tax treatment of individual landlords. The response of successive Governments has been to question our evidence, while not providing any contradictory evidence and to claim that our proposed reforms would alienate landlords, while themselves introducing a range of reforms which alienated landlords without meaningfully giving greater security to tenants.

The record level of homelessness and RTB data confirm what Focus Ireland services are seeing right across the country, families and individuals are receiving Notices of Termination for their homes and are unable to find anywhere else to rent. Households facing this crisis include people in regular employment, parents with children with a disability, elderly people – in other words, people from all walks of life. On top of this, households that are homeless and in desperate need of shelter are being turned away by local authorities because they have no more space in emergency shelters, hotel rooms or B&Bs.

The political and media debate since these reports were published gave strong indications that ‘something is going to be done’ in the budget. Hard experience suggests that the ‘something’ that is done in these circumstances sounds plausible for a short period, but fails to effectively address the realities on the ground. In this context, Focus Ireland has decided it would be useful to set out the range of measures which we believe are urgently needed.

## A tactical response

Before setting out our proposals for action, it is useful to set out our analysis of how the current crisis has emerged and the context in which it should be addressed.

The problem of families and individuals being evicted into homelessness arises in the private rental sector, but its causes lie in a shortage of social and cost rental housing, not in the private rental market. While there may be disagreements about scale and speed of delivery, the Government view that the long-term solution to this problem is through increased provision of social and cost rental housing is the correct position. Delivery of this aspect of the plan should be accelerated,

However, the current pattern of large numbers of small landlords leaving the market creates a short-to-medium term problem (4-6 years, if Government housing targets can be met and housing need assessments are correct). The fact that restructuring of the private rental market through large scale departure of private landlords is taking place now, rather than in, say, five years, presents very real challenges which must be urgently addressed.

The displacement of renting families through eviction and their replacement by the new owner-occupiers is not a ‘zero sum game’, but rather involves enormous costs to individual and families and to state services. The tenants who are displaced by this process are more likely to be (but not exclusively) ‘vulnerable’ and on lower incomes than the households who purchase the properties. The displaced households are more likely to require support from public funds after eviction, while the purchasers are unlikely to be relying on homeless accommodation prior to purchasing. The experience of relying on emergency homeless accommodation for many families and individuals will have life-long negative consequences on health, education and labour market participation.

Policy responses to this must focus on addressing and minimising the trauma caused to individuals and families as a result of losing their homes.

Urgent policy responses are required in the Private Rental Market should be targeted at landlords who are considering evicting their tenants to sell over the next 6 years, and convincing them it is in their interest to stay, or not to evict when they are selling.

## Six Proposals

The measures set out below are additional to the range of measures currently set out in 'Housing For All'. They are not proposed as lasting solutions to homelessness or even as long-term strategies for a balanced housing system, we have made such proposals elsewhere. These proposals are set out as immediate targeted measures, based on our experience on the ground, designed to limit the scale of homelessness while the longer term measures start to deliver

### **1. Target income tax relief to encourage landlords to commit to providing homes for their tenants**

Most of the debate on landlord taxation by the Tax Strategy Group, commentators and landlord representatives has concentrated on the general treatment of landlord income and comparisons between the tax treatment of individual and corporate landlords. Focus Ireland recognised that there are important issues to be considered here in relation to how a well-regulated private rental market would best operate within a functioning housing system. However, we do not believe that this is the appropriate debate at this stage and runs the risk of benefiting landlords who had no intention of leaving the market while not dissuading those who plan to sell.

Any new incentives to landlords should be linked to measures which provide security of tenure for tenants.

Focus Ireland believes that many decision by landlords are made on short-term considerations and can be altered through short-term incentives. We propose consideration of income tax relief measures for small landlords which explicitly links the relief to a commitment to remain the market (i.e. temporarily forego the legal to sell the property) through a system which accrues the relief and makes it payable only at the end of 6 years. Others are in a better position to assess the most cost-effective level of relief, but one option would be to accrue all, or part of the difference between the lower and the higher rate of tax, to be payable in the final year – in a scheme similar to the Special Savings Interest Account (SSIA) in the past. While there is some risk of high rates of landlords selling at the end of scheme, it is important to note that there will be no incentive to do so, and a lot will depend on the housing market at that time. If the scheme is successful, and still necessary, further phases could be considered.

### **2. Target Capital Gains Tax Relief to encourage landlords not to evict tenants**

The 2017 Report of the Working Group on the Tax and Fiscal Treatment of Rental Accommodation Providers, and the recent Tax Strategy Group papers, examined the option of introducing a Capital Gains Tax (CGT) relief of 4 per cent per annum where a property is purchased with a tenant in situ and is retained as a rental property for a minimum of five years.

Focus Ireland would welcome the introduction of a scheme along these lines. We recognise that some landlords need to sell their properties and that measures to keep such properties in the rental market, without disruption to the sitting tenants, are needed at this point.

We believe that CGT relief schemes could be used to go further than just targeting properties where the landlord has decided to sell and could incentivise landlords to remain in the market.

CGT relief should be explored for landlords with 1 or 2 properties which are linked to a commitment to remaining in the market in the medium term (i.e. foregoing the right to evict to sell, replace the tenant with a family member or upgrade the property for a number of years). This could incentivise

owners who are considering evicting-to-sell in the next five years to retaining their rental property for longer if it is financially worthwhile.

### **3. Link climate change goals to maintaining tenancies through conditional funding for BER upgrades**

The homes of lower income households should be prioritised for retrofitting and many of these are homes owned by smaller landlords.

Households that rent their homes more likely to experience poverty and deprivation than owner-occupiers, and this needs to be reflected in all policies and schemes that seek to address fuel poverty, housing insecurity and our climate targets. The National Retrofit plan recognises that improving the energy efficiency of private rented accommodation will pose more challenges than retrofitting owner-occupied homes. The National Retrofit Scheme plans to address this issue through the introduction of a minimum BER rating requirement for private rental properties where feasible from 2025, in line with the commitment in *Housing for All*. SEAI grant support will also continue to be made available to help landlords to retrofit their properties as well as the planned low-cost loan scheme for retrofit.

These proposals do not reflect the realities of the current rental market. The number of current evict-to-sell NoTs confirms recent research from the RTB that found that 1 in 4 small landlords say they plan on selling their property in the next 5 years. None of this indicates a sector ready to respond to 'low-cost loans'. The prospect of a minimum BER rating applied to private rented accommodation without an appropriate level of support to small landlords, would result in more landlord departures and homelessness, rather than warmer homes.

The low-cost residential retrofit loans proposed for landlords should be replaced with a grant system that covers the majority of costs in exchange for increased tenure security for tenants from eviction. This would improve the value of the property for landlords, provide more better and more secure homes for tenants and help support climate change goals. Such retrofitting schemes targeting private rental accommodation would also need to ensure that work could be carried out on a property without a tenant needing to vacate and potentially become at risk of homelessness.

### **4. Introduce a streamlined scheme for selective purchase of 'evict to sell' homes**

Where landlords are planning to evict tenants so that they can sell the property, one obvious intervention would be for the local authority (or an AHB on their behalf) to purchase the property with the tenant in situ. Focus Housing Association has worked with a number of local authorities to achieve just that, and other local authorities have their own schemes for this. But these schemes are small scale and face a number of challenges which need to be addressed uniquely in each case.

Some of these challenges are inherent to the scheme – tenants must be eligible to be on the housing list, the landlord and purchaser must agree a price aligned to what would be available in a sale to the open market etc. However, some challenges such as covering the cost of necessary renovations or remedying minor problems with retention of planning permissions often block purchases or make them enormously time consuming.

The Department of Housing should put in place a pro-active, well-funded and problem-solving scheme to purchase appropriate homes, in partnership with AHBs. All evict-to-sell NoTs reported to the RTB should be reviewed for suitability for the scheme and the percentage of potential evictions-to-sell which have been averted in each county area should be reported quarterly in the Housing For All quarterly reports. Focus Housing Association is ready to play a role in such a programme.

## 5. Reduce pointless hassle for landlords by resourcing of RTB

Over recent years, the Government has introduced a large number of well-intentioned amendments to tenancy legislation, but has not responded to repeated calls by the RTB for a simplified consolidation of legislation. Many of the regulatory unfairness which many landlords complain about – and which fuels their decision to sell-up – arises from needless complexity and provides no additional protection to the tenant. This cannot be resolved immediately, but the Government should send a clear message that will prioritise simplifying tenancy legislation, without reducing the rights of tenants, but removing unnecessary hassle and regulation.

Focus Ireland acknowledges that increased funding has been allocated to the RTB along with new responsibilities, but the range of functions has increased at an even faster rate. Long delays and other problems arising from capacity issues often contribute to the decision of landlords to evict-and-sell as the fastest mechanism to resolve disputes. At this point, new functions should only be added to the RTB role where they directly relate to tackling the homeless crisis, and the RTB should be allocated sufficient funding to tackle capacity constraints. This should be accompanied by a clear commitment to short-timelines for hearing and resolving disputes.

Cases where tenants experience mental health issues which make it difficult for them to sustain their tenancy frequently manifest themselves as ‘anti-social behaviour’ complaints. After prolonged regulatory, legal and enforcement processes, these cases usually end with the tenant entering homeless services. After several years in emergency accommodation the individual may become eligible for Housing First support which will enable them to then sustain a tenancy. This is an expensive and wasteful process. A better approach in cases where an eviction is occurring due to ASB caused mental health and related issues, would be for the landlord or RTB to be able to refer tenants to appropriate AHBs with Housing First supports. The provision of alternative housing with appropriate supports would remove the distress and cost involved in such evictions and reduce the sense of risk that many landlords report.

## 6. Introduce a Moratorium or pause in evicts-to-sell

Successive Governments have decided not to introduce a general ‘ban’ on evictions to sell as they consider that it is contrary to the Constitution. However, it is clear from measures taken during the pandemic that there is a case on the ground of ‘the common good’ under Article 43.2.2 of Bunreacht na hEireann to introduce a moratorium or pause in such evictions in severe circumstances. The level of homelessness, the lack of emergency homeless accommodation and the scale of NoTs notified to the RTB create a very strong argument that such a ‘common good’ case exists today. In addition, while the leadership shown by the Government in committing Ireland to a welcoming response to the refugees fleeing the Russian invasion of Ukraine is morally correct and Focus Ireland has supported this both publicly and in our work on the ground, it has consequences on the demand for emergency and long-term accommodation that must be acknowledged.

In these circumstances, we believe that a temporary pause or moratorium on NoTs is justified and necessary to allow would allow adequate time to put in place the measures listed above.

Ends

