***Submission to the Department of Housing, Planning, Community and Local Government to inform the review of Rent Predictability Measure***

**Simon Communities in Ireland**

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## Introduction

Ireland's private rented sector is not working for private renters or recipients of State housing payments. According to the Daft.ie quarter 1 2017 Rental Report, the average nationwide rent now stands at €1,131 per month, up 52% since 2012. Property availability within the private rented sector has plummeted to match record lows with fewer than 3,100 properties available to rent nationwide on the 1st of May 2017, a significant drop of 82% since 2012.[1] The Residential Tenancies Board (RTB) quarter 1 2017 rent index shows that the average national standardised rent is €987 per month, a 7% increase on the same quarter a year previously.[2] These market pressures are compounded by the continuing overreliance on the private rented sector for the delivery of affordable housing through the Housing Assistance Payment (HAP) and Rent Supplement (RS) schemes. As rents spiral upwards and supply falls, these vital payments are becoming increasingly ineffectual leaving recipients locked out of a crowded and increasingly competitive market, increasing their risk of entering or re-entering homelessness. This submission will firstly examine the rent predictability measure as introduced in December 2016 and the designation criteria to qualify as a Rent Pressure Zone (RPZ). This will be followed by an examination of the allowable rent increases within RPZ's and the need for greater rent certainty across the private rented sector. The need to increase security of tenure and the associated links with rent price control will then be explored. This will be followed by an examination of some of the unintended consequences of the Rent Predictability measure. To close, this submission will examine the current over-reliance on the private rented sector for the delivery of social housing tenancies and the ongoing need for the strategic delivery of affordable housing options for those with the greatest housing need.

## Recommendations

- Rent Predictability must be extended nationwide as a matter of priority to reflect the national scale of the rental crisis. Ongoing monitoring on the basis of local electoral area boundaries is essential to gauge the impact of the measure.
- At a minimum, consideration must be given to the removal of the second RPZ designation criterion as this may prove too onerous and prevent the application of rent predictability in areas that have experienced significant rent increases.
- Allowable rent increases in RPZ's should be restricted to the current 4% per annum. Under no circumstances should allowable rent increases be revised upwards.
- The pro-rata mechanism of rent increases for tenancies that have not had rent increases for three years prior to the introduction of the Rent Predictability measure should be discontinued. This mechanism could have a disproportionate impact on a short-term basis for households already struggling to meet current rents.
- A public awareness campaign is required to provide clarity and to ensure landlords and tenants are aware of the implications and obligations attached to the Rent Predictability measure.
- Consideration must be given to index linking the cost of rent to the consumer price index. At a minimum further research is required to examine the viability of this rent certainty measure in addition to exploring alternative methods of rent certainty successfully employed in other jurisdictions.
- Active enforcement of the Rent Predictability measure by the RTB is required to ensure compliance within RPZ's.
- A register of current sitting rents is now required to ensure active enforcement, compliance and to combat inflationary rent increases being applied at the commencement of new tenancies.
- Fast track the existing Private Rental Strategy commitment to move towards indefinite leasing.

[1] Daft.ie, Quarter 1 Rental Report, May 2017, https://www.daft.ie/report/2017-Q1-rental-daft-report.pdf.
[2] RTB Rent Index, Quarter 1 2017, http://www.rtb.ie/docs/default-source/default-document-library/rtb-rent-index-2017-q1-(3).pdf?sfvrsn=2.

- The RTB should closely monitor terminations relying on Section 34 reasons to ensure landlords are acting in good faith and in compliance with the new standards contained in the Planning and Development (Housing) and Residential Tenancies Act 2016.
- Increased monitoring by the RTB of 'further' Part 4 tenancy terminations is required.
- The RTB must apply high levels of scrutiny to any applications brought by property owners seeking to invoke the market value exemption contained in the Tyrrelstown amendment.
- Local Authorities must be fully resourced to re-engage in large scale social housing construction to meet ever-growing housing need with the support of Approved Housing Bodies (AHB's).
- Ongoing review and adjustment of RS/HAP limits is necessary to counter the negative impact of private rental market volatility on the provision of social housing supports for those with the greatest housing need.
- The commitment to develop a cost rental model for low and middle income families is welcome. AHB's must be fully resourced to engage with this model.
- Tax incentives for cost rental providers must be considered to ensure their viability and must include conditionality in terms of security of tenure and quality.

## Designation Criteria for Rent Pressure Zones

To date, 57% of tenancies nationally are covered by the Rent Predictability measure comprising 19 Rent Pressure Zones (RPZ's). There are two criteria an area must satisfy to become designated as an RPZ, the quarterly rent inflation in the area must be 7% or more in four of the last six quarters and the average rent for tenancies in the area, as registered with the RTB in the previous quarter, must be above the average national rent in the quarter. In its current format, this criteria may prove too onerous and prevent the application of Rent Predictability in areas that have experienced significant rent increases. An area may satisfy the quarterly rent inflation criterion but the average rent for tenancies in the area, as registered with the RTB, may not have been above the average national rent in the quarter. Average national rent may be distorted by higher than normal rents in urban centres particularly within the four Dublin Local Authorities. Rent Predictability must be extended nationwide as a matter of priority to reflect the national scale of the rental crisis. At a minimum, consideration must be given to the removal of the second of the above-mentioned criterion. This is particularly pertinent given projections that national rents outside RPZs could rise by as much as 8-11% in Leinster, 9-10% in Munster and 7-9% in the Connaught/Ulster region during 2017.[3] It has been suggested that if the designation criteria were applied to the most recent Daft.ie rental report figures, rent predictability would be extended to 87% of the areas used in the generation of that index. Although not directly comparable, there is a high degree of correlation between the RTB and Daft.ie indices with a slight lag in the RTB figures.[4]

## RPZ allowable rent increases and rent certainty

Once designated a rent pressure zone, rent increases for tenants in these areas are limited to 4% per annum over three years amounting to a compound increase of 12.5% in three years which is considerable for hard-pressed families already struggling to meet rents. These rent increases are allowable 24 months after the tenants last rent increase. If a tenant had a rent increase three years before the introduction of this measure there is provision for a landlord to apply a 2% pro rata increase for the period since the previous rent increase. In other words, an initial 6% increase is permissible if the rent had not been increased for 3 years. The pro rata mechanism could make it increasingly difficult for tenants who could potentially face a possible 10% increase in their rent in one calendar year if an initial 6% is applied followed by an additional 4% twelve months later. The Simon Communities would firmly reject any proposals that would allow for rent

[3] Society of Chartered Surveyors of Ireland, *'Residential & Commercial Property Review & Outlook 2017'*, https://www.scsi.ie/policy_research/residential_commercial_property_market_review_2017_full.
[4] Ibid 1, at P. 2.

increases beyond the 4% per annum currently allowed under the measure even in circumstances where the rent for a property is considerably below market rent. Furthermore, the pro-rata mechanism should not be available given the disproportionate impact this could have on a short-term basis.

Consideration must now be given to linking the cost of rent to the consumer price index. At a minimum, further research is required to examine the viability of this rent certainty measure in addition to exploring alternative methods of rent certainty successfully employed in other jurisdictions. This is particularly pertinent as rental sector supply increases and an increasing number of households make their home in the rental sector. In the interim, active enforcement of the current rent predictability measure by the RTB is required to ensure compliance and to deliver the desired impact on spiralling rents. Currently, enforcement of the measure is through tenants referring rent notices to the RTB. Such an approach is likely to increase conflict between landlords and sitting tenants and is likely to be ineffectual for new tenants unaware of previous rental rates or reluctant to enquire given the overly competitive nature of the market. Active enforcement would require the RTB to establish a register of sitting rental rates which would require landlords to notify the RTB when they change the rent throughout the duration of a lease. Such a register would be made publicly available and would allow prospective tenants to view rents paid by current and previous tenants combatting inflationary increases being applied at the commencement of a new tenancy. [5]

### Increase security of tenure

Fast tracking the existing commitment to move toward indefinite leasing would have a dual benefit for tenants in terms of increasing security of tenure and the associated impact on the cost of rent. Recent research published by the UK Institute of Public Policy Research has found that longer, more secure tenancies in the German rental market were more affordable, acting as a break slowing the process of rent increases.[6] The extension of the duration of the Part 4 Tenancy from 4 to 6 years is a welcome start in enhancing security of tenure. Section 34 of the Residential Tenancies Act as the basis of termination of tenancies continues to be a concern. The RTB should closely monitor terminations relying on Section 34 reasons to ensure landlords are acting in good faith and in compliance with the new standards contained in the Planning and Development (Housing) and Residential Tenancies Act 2016.[7] The continued use of sale and renovation as reasons for terminating an individual tenancy are of utmost concern. Tenants should be permitted to remain in situ during and after sale, particularly if the property will continue to be a rental property. Increased monitoring by the RTB of 'further' Part 4 tenancy terminations is required. This ensures landlords continue to act in good faith, as per the required statutory declaration when sale of property under Section 34 of the RTA is cited as the primary reason for termination of such tenancies. Measures to prevent the simultaneous serving of termination notices on large numbers of residents in a single development are welcome. Further amendments to these measures should be considered in cases of simultaneous termination of less than 5 tenancies. The RTB must apply high levels of scrutiny to any applications brought by property owners seeking to invoke the market value exemption contained in the Tyrrelstown amendment. Tenants of Buy-to-Let (BTL) properties in receivership must have full protection. All landlord obligations should transfer to the receiver and subsequently to the new property owner.

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[5] Ronan Lyons, *'Now is the time for a register of rental rates'*, http://www.independent.ie/business/personal-finance/property-mortgages/now-is-the-time-for-a-register-of-rental-rates-35736020.html.

[6] Institute of Public Policy Research, *'Lessons from Germany: Tenant power in the rental market'*, January 2017, Pp. 4, 17, http://www.ippr.org/files/publications/pdf/lessons-from-germany-jan17.pdf?noredirect=1.

[7] Planning and Development (Housing) and Residential Tenancies Act 2016, P. 46, http://www.oireachtas.ie/documents/bills28/acts/2016/a1716.pdf.

## Polarising impact of the Rent Predictability Measure

It could be argued that the introduction of rent predictability has had a polarising effect on the wider rental sector on two counts. Firstly, the designation of rent pressure zones using the above-mentioned criteria has created two systems for controlling increases in rent that apply significantly different approaches. Outside RPZ's, rents can be increased to market value every 2 years. Inside RPZ's, rents can be increased every year by 4% for three years amounting to a total compound increase of 12.5% over that term. Furthermore, the non-extension of rent predictability to all areas nationwide could act as a perverse incentive, impacting rents outside RPZ's as landlords seek to maximise previously unchanged rents in advance of the designation of their area as a RPZ. Secondly, the operation of rent predictability within RPZ's has a differential impact on households depending on whether they are currently within a lease or whether they are in the process of changing tenancy. The beneficial impact of the rent predictability measure will primarily be felt by households who are currently within a longer-term lease (sitting tenants). These households are likely to have maintained these tenancies due to preferential rents. Ronan Lyons of Trinity College Dublin suggests that the Rent Predictability Measure, whereby the use of trends rents paid by mover households (market rents) to control rents paid by sitting households, could be making a volatile rental market worse. As a result, sitting households now enjoy a discount relative to the market rent in addition to protection of that lower rent into the future. In stark contrast, mover households currently face spiralling market rents combined with little or no availability, amplifying the insider-outsider nature of the rented sector.[8]

## Over-reliance on the private rented sector

The Private Rental Sector is under increasing pressure to deliver social housing tenancies though the RS and HAP schemes and there are 91,600 households on the social housing waiting list.[9] The insider-outsider nature of the private rental sector is likely to be felt hardest by those in receipt of these payments as they seek to acquire tenancies in a crowded and overly competitive market. It is essential that Local Authorities get back into the business of building and acquiring social housing on the scale required to meet ever-growing housing need with the support of Approved Housing Bodies (AHB's). In 2016, 2,204 new social housing units were delivered. This includes 665 newly built social houses funded through the Social Housing Investment Programme (SHIP), the Capital Acquisition Scheme (CAS) and the Capital Advanced Leasing Facility (CALF), and a further 1,552 social houses acquired by Local Authorities. Social housing construction and delivery is not happening quickly enough; the pace must be accelerated to have a meaningful impact on the housing and homelessness crisis.

A recent Locked Out of The Market snapshot study carried out by the Simon Communities has shown that the beneficial impact of increases in RS/HAP limits introduced in July 2016 are being undone at an increasing rate by continued volatility in the Private Rental Sector. These limits are becoming increasingly inadequate as private market rents grow quarter by quarter. The snapshot study found that only 12% of rental properties were available to rent within RS/HAP limits across 11 study areas. Over three consecutive Locked Out of the Market snapshot studies since July 2016 when the limits were increased, availability of properties within RS/HAP limits has dropped by three and five percent respectively, dropping from 20% in August 2016 to 17% in November 2016 to 12% in March 2017. The most recent Locked Out of the Market snapshot study revealed 88% of properties available to rent remained beyond the reach and choice of those in receipt of RS/HAP payments, marking the continuation of a worrying and unacceptable trend. Ongoing review and adjustment of RS/HAP limits is necessary to counter the negative impact of private rental market volatility on the provision of social housing supports for those with the greatest housing need.

[8] Daft.ie Q1 2017 Rental Report, P. 3, https://www.daft.ie/report/2017-Q1-rental-daft-report.pdf.
[9] Housing Agency, '*Summary of Social Housing Needs Assessment*', 2016, https://www.housingagency.ie/Housing/media/Media/Publications/Summary-of-Social-Housing-Assessment-Needs-2016.pdf.

## Increase access to affordable housing

The Simon Communities believe that one of the primary solutions to the housing and homelessness crisis lies in strategic State investment in affordable housing for low and middle income households. The commitment to develop a cost rental model for the rental sector is encouraging. In this regard we support the work of NESC[10] and the Nevin Economic Research Institute[11]. To provide as many affordable housing units as possible, Approved Housing Bodies (AHBs) must be fully resourced and supported to engage with this model. Tax incentives for cost rental providers must be considered to ensure their viability. At a minimum, this should include mortgage interest relief, local property tax deductibility and access to current and future home renovation schemes. However, any tax incentives must include conditionality in terms of security of tenure and quality. The proposed use of Local Authority owned land to deliver rental units targeting middle-income families is welcome but must be balanced by securing significant conditions from investors in terms of security of tenure, rent certainty, quality standards and developer contributions similar to existing part V contributions for social housing. Ultimately, Local Authorities must be fully resourced to re-engage in large scale social housing construction. The current targets contained in the *Rebuilding Ireland: Action Plan* should be reviewed and revised upwards where possible. Current completion rates are disappointingly low, with only 665 new units built in 2016.

## Conclusion

Despite the introduction of Rent Predictability in December 2016, market rents continue to rise within newly designated rent pressure zones and in those areas that have not yet satisfied the onerous RPZ designation criteria. The review of this mechanism offers a significant opportunity to further consider the core elements of a sustainable and affordable private rented sector. More needs to be done to provide greater rent certainty for all households in the private rented sector by extending Rent Predictability to all areas nationwide. To be effective, this extension must be matched with active enforcement by the RTB to ensure compliance. Greater security of tenure is required as an increasing number of households enter the private rented sector. Existing commitments to introduce indefinite leasing must be fast-tracked to ensure the associated rent certainty benefits can be realised. The continued over-reliance on the private rented sector for the provision of social housing tenancies remains a concern. New models and greater output of affordable housing are required to meet the housing needs of low and middle income households. Ultimately, Local Authorities must be resourced to reengage in large scale social housing construction.

[10] NESC, '*Social Housing at the Crossroads: Possibilities of Investment, Provision and Cost Rental*', June 2014, http://files.nesc.ie/nesc_reports/en/138_Social_Housing.pdf.
[11] NERI, '*Ireland's Housing Emergency – Time for a Game Changer*', March 2017, https://www.nerinstitute.net/download/pdf/irelands_housing_emergency_time_for_a_game_changer.pdf.

**About Simon Communities**

The Simon Communities in Ireland are a network of eight regionally based independent Simon Communities based in Cork, Dublin, Dundalk, Galway, the Midlands, the Mid West, the North West and the South East that share common values and ethos in tackling all forms of homelessness throughout Ireland, supported by a National Office. The Simon Communities have been providing services in Ireland for over 40 years. The Simon Communities deliver support and service to over 8, 300 individuals and families throughout Ireland who experience – or are at risk of – homelessness every year.

Whatever the issue, for as long as we are needed, Simon's door is always open. For more information please visit www.simon.ie

**Services include:**

- Housing provision, tenancy sustainment & settlement services, housing advice & information services helping people to make the move out of homelessness & working with households at risk;
- Specialist health & treatment services addressing some of the issues which may have contributed to homeless occurring or may be a consequence;
- Emergency accommodation & support providing people with a place of welcome, warmth & safety;
- Soup runs & rough sleeper teams who are often the first point of contact for people sleeping rough.

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**Appendix 1: Housing and homelessness crisis in numbers**

- During one week in April 2017 (latest available figures), there were 7,680 men, women and children in emergency accommodation across the country. This included 3,211 adults with no dependents in their care and 1,302 families with 2,708 children. (DHPCLG, April 2017).
- On the night of 22nd November 2016, there were 142 people without a place to sleep in Dublin City. This included 65 people sleeping rough and 77 people sheltering at the Nite Café. Unfortunately, Dublin is the only area where an official rough sleeper count takes place, making it difficult to get a countrywide rough sleeping picture. (DRHE 2016).
- Homelessness and housing insecurity are more acute and visible in our cities but the Simon Communities are working at capacity countrywide – in urban and rural areas.
- There are 91,600 households on the social housing waiting list. Two-thirds of households on the list were living in the private rented sector and one fifth living with parents, relatives or friends. 5,159 households (5.6%) had at least one member considered to be homeless, a proportion which has doubled since 2013 (Housing Agency, 2016).
- Social housing commitments will take time to begin to deliver housing. This is far too long for the people we work with and those at risk of homelessness. In 2016, just 665 new social housing units were built.
- Average national rent now stands at €1,131, representing an increase of 52% since 2012. Property availability in the private rented sector has dropped by 82% since 2012 with fewer than 3,100 properties available to rent nationwide on May 1st 2017. (Daft.ie Rental Report Q1 2017).
- *Locked Out of the Market VII* (May 2017 Simon Communities) found that 88% of rental properties are beyond the reach for those in receipt of state housing support.
- Over 76,000 principle dwelling mortgage accounts are in arrears. 43% of all mortgage arrears are in arrears of over 720 days (Central Bank of Ireland, May 2017).
- At the end of March 2017, 20,009 or 16% of buy-to-let mortgages, were in arrears of more than 90 days. (Central Bank of Ireland, May 2017).
- 750,000 people are living in poverty in Ireland (*Poverty, Deprivation and Inequality* (July 2016) Social Justice Ireland Policy Briefing).
- Since 2007 the deprivation rate, which looks at the number of people forced to go without at least 2 of 11 basic necessities examined, in Ireland has doubled - 29% of the population or 1.3 million people are experiencing deprivation (Social Justice Ireland ibid).
- According to Census 2016, there are 183,312 vacant houses nationwide.