



Mercy Law
Resource Centre

**Submission to the Joint Oireachtas Committee on Housing, Local
Government and Heritage on the General Scheme of the Housing
(Miscellaneous Provisions) Bill 2024**

03 May 2024

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Introduction

Mercy Law Resource Centre (MLRC) was established in 2009 and is an independent law centre, registered charity and company limited by guarantee. MLRC provides free legal advice and representation to people who are homeless or at risk of becoming homeless.

We thank the Joint Oireachtas Committee on Housing, Local Government and Heritage (the **Committee**) for inviting this additional submission on the General Scheme of the Housing (Miscellaneous Provisions) Bill 2024 (the **General Scheme**). We reiterate that, as expressed in our joint letter to the Committee dated 18 April 2024, it is our view that these proposals should be subject to a full public consultation inviting views from a wide range of stakeholders.

The stated aims of the proposed Housing (Miscellaneous Provisions) Bill 2024 are to provide, amongst other things, for:

- legal and habitual residency as an eligibility requirement for access to social housing support; and
- limiting the eligibility criteria for social housing support for EU/EEA nationals to those who have been in the State for 3 months or less.

We welcome the consideration of legislative reform to bring clarity to a complex area of law. We particularly welcome the proposed replacement of the Housing Circular 41/2012, which MLRC has long highlighted as problematic.¹

However, MLRC shares the concerns expressed in our joint letter and by other organisations before the Committee that the proposed provisions in the General Scheme as currently formulated will exacerbate current social housing and homelessness problems by, among other things:

- immediately disempowering people who currently rely on social housing supports;
- triggering a significant increase in homelessness and reducing pathways out of homelessness;
- creating significant additional complexity in the assessment of eligibility for social housing supports without the required infrastructure to support this; and
- disproportionately impacting minority and migrant communities.

We are further concerned that the General Scheme in its current form will bring unintended and/or unduly harsh consequences in practice. We have set out these concerns below and have included examples from MLRC casework and research which we hope will inform the Committee and the Department of Housing, Local Government and Heritage (the **DHLGH**) in taking next steps to refine the proposed legislative change. MLRC remains available to assist the Committee and the DHLGH in this matter in any way possible.

¹ These concerns were summarised in a joint letter from MLRC and other stakeholders to the Minister for Housing dated 21 December 2022, See further our 2021 policy report *Minority Groups and Housing Services: Barriers to access*". Available at: https://mercyllaw.ie/wp-content/uploads/2021/03/ML_2020_Minority-Groups-and-Housing-Services_Report_D6.pdf

1. Habitual and lawful residence as a prerequisite to social housing eligibility assessment

There is a lack of clarity in the General Scheme as to whether the habitual residency and lawful residency criteria are to be added as additional criteria for consideration as part of the social housing assessment under section 20 of the Housing (Miscellaneous Provisions) Act 2009 or if these are instead to form part of a new and distinct 'prerequisite' step. This presents two concerns: (i) if this confusion is retained in the final legislation, it risks misapplication by local authorities, inconsistency of outcomes and litigation and disputes arising therefrom; and (ii) if it is in fact intended that these criteria will be a 'prerequisite', further significant issues addressed below would arise.

Lack of clarity in the General Scheme

The notes to Head 4 and 5 of the General Scheme state that a proposed new definition of habitual residency "*will serve as a prerequisite to proceeding further in assessing a household's eligibility for social housing support*", clearly suggesting that this is a pre-assessment step rather than an additional element of the social housing eligibility assessment procedure under section 20 of the Housing (Miscellaneous Provisions) Act 2009.

However, this is preceded by the text "*Head 5 below inserts a provision...that has the effect of inserting residence as an assessment criteria.*" Further, Head 5 is subtitled "INSERT SECTION 20A PROVIDING FOR RESIDENCY AS AN ELIGIBILITY CRITERIA FOR SOCIAL HOUSING SUPPORT". However, the following draft text of Section 20A refers to the lawful and habitual residency criteria as applying "*[i]n order to be eligible to be assessed for...social housing supports*" (emphasis added).

By way of further context, a letter dated 2 February 2024 from the Minister for Housing, Local Government & Heritage to the Chair of the Committee regarding the General Scheme states that the Housing (Miscellaneous Provisions) Bill 2024 intends "*to provide for legal and habitual residence as an eligibility criterion for social housing support*".

It is clear from this that the title, text and notes are not aligned and leave wide scope for misunderstanding and misapplication of the legislation. This inconsistency must be clarified. If such confusion were carried through to the final legislation it would inevitably lead to inconsistency of application and ultimately to costly litigation as impacted individuals seek clarity on their entitlements.

Introduction of a prerequisite step is overly complex and risks breaching constitutional justice requirements

If it is the case that the intention behind the General Scheme is to introduce assessment of habitual and lawful residency as a 'prerequisite' step to the social housing assessment procedure under the Housing (Miscellaneous Provisions) Act 2009, this presents significant risks.

At the outset, we note that the General Scheme gives no indication whatsoever as to how such a prerequisite step would be assessed. There is a clear statutory framework for assessment of social housing eligibility under the Housing (Miscellaneous Provisions) Act 2009. This framework does not provide for any prerequisite stage. This framework is of vital importance given the nature and seriousness of a determination of eligibility (or ineligibility) for social housing supports. Such a decision is accepted to attract the constitutional requirements of fair procedures and natural justice. Among other things, these include the requirement to give reasons for a decision; to hear both sides; and to consider all relevant considerations and to not take irrelevant considerations into account. As the result of determining a person to have failed the proposed 'prerequisite step'

would be to exclude them from social housing supports, such a decision would clearly also attract those requirements. Excluding the habitual and lawful residency criteria from the existing statutory framework for assessing social housing eligibility creates significant risk that these fundamental constitutional requirements will not be consistently met.

More generally, we note that the determination of habitual residency and lawful residency is by its nature a complex and multi-factorial assessment. This is clearly borne out by the experience of habitual residency assessments under the Social Welfare Acts. It is frankly untenable to suggest that determining both habitual and lawful residency is an assessment of such simplicity that it does not require the same decision making structures and scrutiny as other elements of the social housing assessment procedure.

As discussed further at 3 below, even if these criteria are brought within the existing eligibility assessment process, the particular complexity of habitual and lawful residency determinations presents significant risks in light of existing deficiencies in those procedures. Most notably these include the lack of any formal appeals process in relation to social housing matters and varying standards of decision making across local authorities.

Lastly, we note with concern that these criteria are the only eligibility criteria for social housing which are based on innate characteristic of the applicant rather than on their economic circumstance. Every other eligibility criteria² relates, in effect, to the ability of the applicant to house themselves, which is a clear and objective measure of a person's need for social housing supports. In contrast, the proposed new criteria can be distilled as whether a person is entitled to housing supports based on their nationality and, for those who are not Irish citizens, their legal status in Ireland. By its very nature, if not carefully handled this eligibility criteria attracts risks concerning discrimination and unequal treatment. Carving these criteria alone out of the statutory social housing assessment procedure and into a standalone 'prerequisite' step raises serious equality concerns and, discussed further below, concerns related to Section 42 of the Irish Human Rights and Equality Commission Act 2014.

2. *Unduly harsh: requiring all household members to meet eligibility criteria*

Section 20A(1) of the General Scheme states that the lawful and habitual residency criteria must be met by *all* household members in order for the household to be eligible to be assessed for social housing supports. MLRC strongly advises against the mandatory application of the proposed criteria to all household members. There is considerable scope for unintended and / or unduly harsh consequences from a mandatory exclusion of an entire household from assessment for social housing support in circumstances where different household members may have different residency statuses or duration of residence. Such differences between individual household members are naturally occurring owing to normal life events, such as households comprised of persons of different nationalities, the ability to travel together at a given time due to financial constraints, political events outside of the household's control, or the birth of a child.

The rigid requirement that all family members in a household can demonstrate lawful **and** habitual residence in the State, rather than facilitating discretion on the part of the decision maker, could result in determinations relating to housing rights of families that are disproportionate and which do not align with common sense and reason. These could include eligible applicants, including Irish nationals, losing entitlement to social housing supports (which include the housing assistance

² With the exception of 'local connection', which concerns eligibility to apply to a particular local authority for social housing rather than eligibility to apply for social housing supports generally.

payment) by reason of co-habiting with a partner or family member who is legally resident in Ireland but does not yet meet all of the criteria applicable to their specific residency status under Section 20A. This is an arbitrary approach to what should be a nuanced assessment. Indeed, it is arguable that the imposition of a habitual residency requirement on *all* members of an applicant's household is disproportionate and therefore contrary to the CJEU's decision in *Collins*, discussed further below.

Lack of justification

The notes to the General Scheme explain this proposed approach as being because *“As all other eligibility criteria apply to each household member, the extension of this policy [to ensure that, in the first instance, the housing authority are satisfied that all household members hold lawful residence and have a long-term intention to remain in the State] is therefore considered reasonable and recommended.”*

With respect, this justification does not withstand scrutiny. As discussed in Part 1 above, the existing eligibility criteria considered in applying for social housing supports largely relate to the ability of a household to provide for their own accommodation. It is wholly logical that if one household member has the means to accommodate the household, that household does not have a need for social housing supports. In contrast, under the current proposal a person who themselves meets the criteria under Section 20A would be unable to access the social housing waiting list and, even more urgently, would be unable to access housing assistance payment (HAP).

To give just one example of how this approach would result in an increase in homelessness, it is a matter of fact that it is near impossible for a person on a low income in Ireland to afford to rent privately without access to HAP, particularly if they need to source a new tenancy. This approach therefore risks creating a situation where a person who is themselves entitled to social housing support cannot access social housing or the private rented market and is therefore forced into homelessness. The fact that this outcome would be based entirely on the nationality of their partner or family member raises serious equality concerns, discussed further below.

Risk of discrimination and unequal treatment

We are concerned at the apparent lack of reflection within the General Scheme of the considerable human rights and equality considerations raised by the proposed measures, particularly in relation to discrimination, as required under Section 42 of the Irish Human Rights and Equality Commission Act 2014 (**section 42**). This specific proposed approach of mandatory application of the criteria to the full household raises particular equality and human rights issues which the DHLGH is bound to consider. The legislation as it currently stands runs the risk of facilitating outright discrimination against non-EEA nationals. Clearly, the ability of every individual in every non-EEA household to meet the requirements of the General Scheme will disproportionately affect non-EEA individuals and those who have made their families with them, including those who meet the eligibility criteria on an individual basis, but who would fail to meet it owing to the residency status of a household member.³ In addition, if non-Irish EU Citizens must fulfil a 'special' habitual residence condition

³ EU Council Directive 2000/43/EC (“the Race Equality Directive”). Broadly speaking, the Race Equality Directive prohibits discrimination in the social and economic fields, including in the provision of social housing supports, on the basis of race or ethnicity. The Equal Status Acts 2000-2018 prohibit a person being treated less favourably than another person has been or would be treated in a comparable situation, including on grounds of race, colour, nationality, or ethnic or national background.

which does not apply to Irish EU citizens, such provision may well conflict with the EU principle of equal treatment.

3. Need for formal appeal infrastructure and improved standard of local authority decision-making

MLRC has regularly called for the introduction of a formal, standardised appeal process in respect of social housing decisions⁴ and for investment in improving local authority decision-making in relation to social housing and homelessness matters. As matters stand, appeals in relation to social housing assessments are only possible where a local authority chooses to operate an internal appeal process. There is wide variation in whether such appeals are facilitated and how such appeals are processed, and the legal status of such appeals is unclear.

In the absence of a formal appeal structure, individuals who are subject to unlawful decisions by local authorities have limited recourse other than to bring High Court judicial review proceedings. This brings delay and cost risk to both the individual and the local authority, as well as occupying valuable court resources. Further, in practical terms there are many barriers to an individual bringing judicial review proceedings and therefore in practice for most people subject to an erroneous determination in the social housing context no formal remedy is available.

While this is an issue that already exists for social housing assessments, it will be further exacerbated by the addition of new, complex eligibility criteria as proposed under the General Scheme. MLRC and other organisations previously highlighted this to the DHLGH⁵. We emphasise again that if legislative reform is to be pursued in this area, the opportunity to bring in a much-needed social housing appeals structure should not be squandered.

Lessons to be learnt from the Social Welfare context

As noted in the General Scheme, similar criteria are already applied in the context of social welfare. Important lessons can be learned from the reality of the practical implementation of the Habitual Residence Condition under section 246 of the Social Welfare Consolidated Act 2005 (SWA). In that context, expert decision makers who are experienced in dealing with habitual residence matters make these important decisions and a substantial formal appeals infrastructure exists with multiple levels of recourse all the way to the High Court⁶.

In its Annual Report 2022, the Social Welfare Appeals Office states that 52.1% (12,654) of all social welfare appeals finalised had a favourable outcome for the appellant. 27.7% of appeal decisions were revised in favour of the applicant before the appeal was referred to an Appeals Officer. 66.5% were finalised by Appeals Officers either summarily or by way of oral hearing.⁷

These statistics demonstrate the clear value of an appeals process in correcting erroneous decisions without requiring recourse to the courts. Social housing decisions have equally

⁴ See for example “Liberties Rule of Law Report 2023 – Ireland” at page 25. Available at: <https://www.iccl.ie/wp-content/uploads/2023/02/230220-Liberties-Rule-of-Law-Report-2023-Ireland-Chapter.pdf>

⁵ In a meeting that took place between MLRC, Crosscare, FLAC and the DHLGH in February 2023.

⁶ Department of Social Protection, Appeals Procedures. Available at: <https://www.gov.ie/en/publication/eeb34f-appeals-procedures/#decision-making-by-appeals-officers>

⁷ Social Welfare Appeals Office, Annual Report 2022. Available at: <https://www.gov.ie/pdf/?file=https://assets.gov.ie/267678/fa47277b-b0f6-42cd-b9f9-7844d552961c.pdf#page=null>

important and impactful consequences for individuals to social welfare decisions and, particularly if the proposed habitual and lawful residency criteria are introduced, can be equally as complex.

The General Scheme proposes that the complex determination of habitual and lawful residency be made by local authority housing staff who have no expertise in this area and without any appeals infrastructure equivalent to that under the SWA, creating huge risk. For the reasons outlined, the legal and practical implications of such an approach merit significant consideration.

Case Studies

To aid the Committee in its consideration of this issue, we have summarised below just some examples from our casework of erroneous decisions by local authorities that were reversed following legal intervention or which the local authority refused to review despite being unable to provide any legal basis for their conduct.

- MLRC represented a family who became homeless following a lawful refusal to allow them to succeed one of the members' parent's social housing tenancy. The family were informed that they had been assessed as homeless, instructed to book into a B&B, and informed that the local authority would begin paying for this accommodation the following week. On returning to the local authority they were informed that a senior manager had overruled this decision on the basis of an unwritten, unpublished policy refusing to fund emergency accommodation in such a scenario. MLRC engaged with the local authority which refused to reverse their decision despite having no legal basis. In the absence of an informal appeal mechanism, judicial review proceedings were brought and settled in favour of our clients.
- MLRC assisted a family who were informed that due to moving out of a HAP property without consulting the local authority they were suspended from access to all social housing supports and emergency accommodation for one year. No legal basis was advanced for such a refusal. Prior to MLRC's involvement, the family requested an informal internal appeal and were a more senior decision maker upheld this decision. On receiving the family's housing file under the Freedom of Information Act it became clear that, in violation of fair procedures requirements, the senior decision maker had in fact also made the initial decision. Following the issuing of pre-litigation correspondence the decision was reversed.
- MLRC assisted an individual who, having been granted legal status to remain in Ireland, became homeless following an exit from IPAS accommodation. The client, who was already approved for social housing supports by their local authority, requested access to emergency homeless accommodation. A senior decision maker within the local authority determined that the client should return to IPAS to seek accommodation, refused access to emergency accommodation, and cancelled the applicant's already approved social housing application. No law was cited in making this determination. Following the issuing of correspondence by MLRC the client's social housing file was reopened by the local authority. The client was granted meaningful access to emergency accommodation only after High Court judicial review proceedings were lodged. These proceedings were subsequently settled in our client's favour.
- MLRC assisted a client whose social housing application was informally rejected by their local authority. Having lodged a social housing application, the client was physically handed back their application form without it being assessed. The client was informed

that the local authority operated their own policy restricting access to applicants from a particular cohort which included our client. Such policy was demonstrably not in compliance with the Housing (Miscellaneous Provisions) Act 2009 or the Regulations made thereunder. The local authority refused to reconsider their opinion or facilitate any form of internal review.

4. Limiting access to homeless services and emergency accommodation through conflation of homeless services and social housing

A further matter that arises but is unaddressed in the General Scheme is what if any impact the proposed changes will have on eligibility for homeless services under the Housing Act 1988. MLRC has seen a significant increase in demand for its service over the last two years, both generally and specifically in relation to issues concerning emergency homeless accommodation; in 2021 we received 15 new requests for legal assistance concerning emergency homeless accommodation; in 2022 we received 54 such requests; in 2023 we received 127; and in Q1 2024 we received 50. Access to emergency accommodation for people experiencing homelessness is becoming increasingly difficult and we wish to ensure that the Committee is aware of the serious risk that the General Scheme in its current form may create additional barriers to access.

As was correctly noted by members of the Committee at the hearing on the General Scheme, social housing supports and homeless services are governed by separate and distinct legislative regimes. We further note that representatives of the DHLGH speaking before the Committee indicated that homeless assessments carried out under the Housing Act 1988 are not impacted by the General Scheme. We wholly agree that in principle the amendments proposed under the General Scheme should not impact on eligibility for homeless services. However, it is commonly observed by MLRC and other organisations that local authorities conflate social housing eligibility criteria with eligibility for homeless services. It is therefore vital that this issue is not overlooked in consideration of the General Scheme.

The DHLGH recently sought submissions from some organisations working in the area of homelessness on the prospect of introducing similar residency requirements as are contained in the General Scheme to the Housing Act 1988. Submissions from MLRC and other colleagues across the sector identified an evidenced risk of increased rough sleeping if such measures proceeded and the disproportionate impact that the proposed measures would have on minority groups. To our knowledge, to date the DHLGH has not proceeded with such proposals. Nonetheless, the risk that the General Scheme could have similar practical impacts must be considered.

Conflation in Practice

While conflation of the statutory regimes for social housing and for homelessness is without legal basis, it is the experience of MLRC and organisations we work with across the sector that it regularly occurs. This conflation is not universally applied across, or even within, Local Authorities and is often on a haphazard basis. However, at **Appendix 1** to this submission we have enclosed examples from the websites and published policies of a number of local authorities which clearly show elements of social housing eligibility being linked to eligibility for emergency homeless accommodation under the Housing Act 1988. Most commonly, this is through a stated requirement that a person must be on the social housing waiting list of that local authority in order to be considered for access to emergency accommodation.

Aside from the clear examples in **Appendix 1**, it is the experience of MLRC through our casework that imposition of various aspects of social housing eligibility to access homeless services occurs

regularly in practice, often on a seemingly arbitrary basis through the placing of additional barriers to entry on applicants for emergency homeless supports. Often, such additional barriers are set aside by the local authority once a case has been referred to our office and correspondence has issued from solicitors. This raises serious concerns about the extent of the application of such barriers to applicants who do not have recourse to keyworker or legal support.

Local Connection Test

A common example of such a barrier is the so-called “Local Connection” test. The ‘local connection’ test for social housing supports under Regulations 5 and 6 of the Social Housing Assessment Regulations 2011 (SI 84/2011) (the **2011 Regulations**) is one element of the social housing eligibility assessment procedure. The 2011 Regulations have no relevance to homelessness and the Housing Act 1988 contains no such equivalent test. As such it does not and should not be applied to applicants seeking access to homeless services. The Minister for Housing has previously confirmed that the test should not be applied to homeless services.⁸

However, it is the experience of MLRC that a version of a “local connection” test continues to be applied by many local authorities refusing access to emergency accommodation. **Appendix 1** includes examples of the “local connection” test being expressly stated to apply to access to homeless services on the websites and publications of a number of local authorities.

MLRC regularly assists persons who have been refused access to emergency accommodation on the grounds of lacking a ‘local connection’ to the local authority area concerned. Such a policy disproportionately impacts vulnerable groups including those fleeing domestic violence, migrants who become homeless and persons who have exited IPAS Accommodation following receipt of legal status to remain in Ireland. For ‘IPAS Leavers’, such barriers are applied despite Departmental guidance indicating that a ‘local connection test’ should not be applied in social housing assessments for people from this cohort. As such, conflation of regimes in this manner can in practice result in higher barriers to access emergency accommodation than social housing.

CCMA Local Connection Protocol

In this context, we note the dissemination to local authorities of a document titled ‘*Local Connection Protocol for Homeless Presentations outside county of origin*’ by the County and City Managers Association in July 2023 (the **Protocol**) which we enclose at **Appendix 2**. The Protocol does not cite any clear legislative basis.

Nonetheless, MLRC understands that the Protocol is now being applied by local authorities and resulting in refusals of access to emergency homeless accommodation to persons who meet the definition of homeless under section 2 of the Housing Act 1988. The Protocol and our experience of its practical implementation demonstrates the complexity of applying social housing concepts in a homelessness context; it is centred around the concept of a ‘county of origin’, an undefined term not reflected in legislation.

The Protocol also indicates that, in identifying the ‘Local Authority of Application’, regard should be had to whether the household has qualified for social housing support in that local authority area. It is unclear from drafting whether this is intended as a firm requirement, but MLRC’s casework and a number of the examples at Appendix 1 reflects that it is regularly applied as such. Again, this clearly highlights that conflation of aspects of social housing eligibility with eligibility

⁸ Baker, N. “*Local connection should not be barrier [to] emergency accommodation – Housing Minister*”, Irish Examiner, 18 January 2021. Available at: <https://www.irishexaminer.com/news/arid-40209704.html>

for access to emergency accommodation under the Housing Act 1988 occurs not just in isolated incidents but on a formal basis in many areas. The risk that aspects of the General Scheme would also be used in this way without a clear legislative statement to the contrary cannot therefore be disregarded.

Pathway to Housing

The Protocol indicates that “[h]ouseholds entering emergency accommodation should have an identified exit mechanism through the provision of social housing supports.” MLRC casework experience reflects that rigid application of such extra-legal rules to emergency accommodation is becoming common across a number of local authority areas. The General Scheme will disentitle some cohorts from access to social housing supports, and as such limit their ‘pathway to housing’ or ‘exit mechanism’. The consequences of these impacts for access to emergency accommodation must therefore be fully considered.

It should be noted that a person may temporarily be without a ‘pathway to housing’ but can then regain such a pathway in due course, for example once a fresh visa application is processed following a change in circumstances such as relationship breakdown due to domestic violence or loss of employment. Indeed, the General Scheme recognises that a person may be legally and habitually resident in Ireland, with the intention of remaining resident, but not yet have met the requisite reckonable residency period applicable to them. Further, as noted above, under the General Scheme as currently proposed persons who are themselves fully eligible for social housing may be without a ‘pathway to housing’ as they are excluded from access to social housing supports due to the residency status of a family member.

Application of the Protocol and other unwritten practices experienced by MLRC through our casework would, if extended to aspects of the General Scheme, not only see an increase in homelessness but also an increase in persons denied access to or evicted from emergency accommodation into street homelessness. Some examples from our casework of this conflation in practice are included below.

Case studies

- MLRC assisted an individual who had become homeless following an eviction from private rented housing and was residing in emergency accommodation. Despite being lawfully resident and working in Ireland, they did not yet have five years reckonable residency. Applying Circular 41/2012 the local authority refused their application for social housing supports including HAP. Applying reasoning reflecting the language of the Protocol, the Local Authority then removed the individual from emergency accommodation citing a lack of a ‘*pathway to housing*’, rendering the person in the extremely precarious situation of being homeless without access to emergency accommodation.
- MLRC assisted an individual who had left their local authority home due to being subjected to domestic violence by their partner, an Irish national. A non-EEA national, the client’s social housing entitlements were tied to the rights of their Irish national abuser. The client sought to exit the domestic violence refuge in which they were residing and submitted an application for social housing supports to a different local authority due to fear of returning to the vicinity of their abuser. This local authority refused to process their application for social housing supports on the basis of Circular 41/2012 and the ‘local-connection’ test. Having refused a social housing assessment, the local authority also refused to provide emergency accommodation under the Housing Act 1988 by applying

the extra-legislative 'local-connection' and 'pathway to housing' factors detailed above. Intervention by MLRC and application of Departmental guidance on responding to domestic violence resulted in the local authority resiling from their position and processing the social housing application by reference to their discretion to disapply the social housing 'local-connection' test in such cases. In a clear example of conflation, it was only on completing a social housing application that the client was allowed access to emergency accommodation.

- MLRC assisted a family who exited IPAS Accommodation following receipt of legal status to remain in Ireland and moved to an urban centre in search of work. Following losing employment, the family entered homelessness and could no longer afford to rent privately without social housing support. The local authority refused to carry out a social housing assessment on the basis of a lack of a 'local-connection' despite Departmental guidance indicating that IPAS leavers do not require a 'local-connection' to access social housing supports. Having refused to carry out a social housing assessment, the Local Authority also refused access to emergency accommodation on the basis that the family had no 'pathway to housing' nor 'local connection' to the local authority area concerned.
- MLRC represented a family who became homeless following eviction from private rental. The client had historic arrears outstanding from a previously held tenancy with a different local authority that they had surrendered under difficult circumstances. The client applied for social housing supports with the local authority in whose functional area they were now residing while also seeking access to emergency accommodation. The local authority refused to process social housing application on the basis of arrears, despite the client engaging in a repayment plan and therefore being entitled to social housing supports under the relevant provisions of the Housing (Miscellaneous Provisions) Act 2009. The local authority also refused access to emergency accommodation on the basis that the client did not have an entitlement to social housing and, as such, had no 'pathway to housing'. This put the family, including young children, in a situation of couch surfing with severe risk of entering street homelessness. The local authority only resiled from their position following instigation of High Court judicial review proceedings.

In MLRC's experience, migrants already struggle to access homeless services.⁹ In light of the widespread conflation of the regimes of social housing and homeless supports which already exists, we are deeply concerned that the proposals in their current form will result in increased rough sleeping and would most impact those who are particularly vulnerable such as those with intersectional challenges such as language barriers, mental health difficulties, addiction issues or trauma from domestic violence or other events.

One manner in which these difficulties could be addressed would be to amend the General Scheme to include a legislative amendment to the Housing (Miscellaneous Provisions) Act 2009 that expressly clarifies that eligibility for social housing supports has no bearing on homeless assessments carried out under Section 2 of the 1988 Act, nor the form of support provided under Section 10 of the 1988 Act to persons assessed as homeless. We ask the Committee to take this opportunity to consider this important issue.

⁹ See *Minority Groups and Housing Services: Barriers to Access* at footnote 1 above.

5. EU Law compatibility

The General Scheme as currently framed raises a number of significant concerns regarding compatibility with EU law. We have noted some of these issues below.

Need to distinguish between free movement of workers and free movement generally

We are concerned at the apparent lack of reflection within the General Scheme in relation to EU law, including in relation to compatibility with freedom of movement law. There is a failure to distinguish between EEA citizens exercising free movement rights generally and those exercising those rights as workers. EU law provides special protection for workers, including under the Citizenship Directive (Directive 2004/38/EC) and under Regulation 492/2011 concerning free movement of workers. This is reflected in the case law of the Court of Justice of the European Union (CJEU), such as in *Garcia C-299/14*.

In relation to the Citizenship Directive, it is arguable that the list of categories of persons deemed legally resident in the State is incomplete. In light of CJEU decisions in both the *Ibrahim (C-310/08)* and *Teixeira (C-480/08)* cases, there are additional categories of persons who have a right to reside other than those provided for in section 20A(5)(c) of the General Scheme (EU/EEA citizens under the Citizenship Directive and EC (Free Movement of Persons) Regulations 2015).

Compatibility of habitual residence test with EU law

Under the General Scheme, when determining if an applicant is ‘habitually resident’ the decision maker appears to be confined to the matters set out in Section 20A(6)(a)-(e) of the General Scheme. While reference is made in paragraph (e) to “*all of the circumstances*”, this is confined to those circumstances in so far as they impact the decision-maker’s view on the applicant’s future intentions.

In *Swaddling*¹⁰, the CJEU outlined the factors which must be considered in assessing habitual residence. These are “... *the employed person's family situation; the reasons which have led him to move; the length and continuity of his residence; the fact (where this is the case) that he is in stable employment; and his intention as it appears from all the circumstances*”. It appears that, particularly in the absence of a general obligation to take all circumstances into account, the statutory criteria set out at Section 20A(6) do not reflect the test as set out in *Swaddling*.

In *Collins*¹¹ the CJEU held that where a habitual residence requirement is enforced, it must be done for legitimate purposes and in a proportionate manner. The proposed Section 20A may fall foul of the requirement to provide for a proportionality assessment in that it fails to expressly empower a decision-maker to take into account “*all of the circumstances of the case*”. Further, as noted above it is arguable that the imposition of a habitual residency requirement on *all* members of an applicant’s household is disproportionate and therefore contrary to the CJEU’s decision in *Collins*.

¹⁰ C-90/97

¹¹ C-138/022



Mercy Law
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Submission to the Joint Oireachtas Committee on Housing, Local Government and Heritage on the General Scheme of the Housing (Miscellaneous Provisions) General Scheme 2024

03 May 2024

Appendix 1

Mercy Law Resource Centre
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Mercy Law Resource Centre Limited is a company limited by guarantee and not having a share capital, registered in Dublin, Ireland. Co.Reg No:471072. It is also a registered charity, Chy No:18698. Directors: Edward Gleeson, Dr Sarah Hamill, Ciara McGrath, Tom O'Brien, Annette O'Donnell, Turlough O'Donnell SC, Liam Twohig

a. Cavan County Council

Homeless Supports

Who may be able to assist you?

If you are homeless or at risk of homelessness and your last permanent address is in Cavan County Council local area, please contact Cavan County Council and request to speak with a member of the homeless team on [049 437 8300](tel:0494378300). Phone lines are open 9.30 am until 4pm Monday to Friday.

When necessary, you may be required to attend the homeless unit in person for an assessment. Assessments are by appointment only and initially will assess eligibility under Section 2 of the Housing Act 1988.

The initial assessment involves:

- Establishing accommodation history
- Establishing reason for homelessness
- Establishing eligibility for specific homeless services/emergency accommodation
- Establishing support needs & signposting to other relevant services.
- Establishing if you are registered or eligible to register with a Local Authority for social housing supports.

Available at: < <https://www.cavancoco.ie/services/housing/homeless-support/>>

Conditions of Stay in Emergency Accommodation: An agreement between the Emergency Accommodation Service User and Clare County Council.

Service User 1 Name: _____ (Please Print)

Service User 2 Name (if applicable) _____ (Please Print)

- Where applicable rent must be paid on time as required by the service provider
 - You are required to use the accommodation offered. Failure to use the accommodation will result in the Council withdrawing it: i.e., alternative accommodation will not be offered. No more than 4 absences within a month.
 - No other people are permitted to stay in the accommodation
 - Emergency accommodation will cease if a valid offer of accommodation, including alternative Emergency Accommodation is refused. (In making an offer, all reasonable efforts will be made by to ensure that the accommodation meets the needs of the individual/family)
 - Families/Individuals are required to comply with the House Rules of the service into which they are placed. The accommodation is to be kept in a clean and reasonable state.
 - Clients will demonstrate that they are actively seeking all forms of alternative accommodation. Evidence may be requested to verify same. Emergency Accommodation will be withdrawn if engagement with support services is not demonstrated.
 - Any anti-social behaviour or interference with other occupiers will result in the accommodation being withdrawn: alternative accommodation will not be offered for a twelve month period.
 - Children are not to be left unattended in your room under any circumstances or unsupervised in communal areas.
 - Violence/threat of violence towards staff or any other occupier will not be tolerated and will result in an immediate exclusion. Alternative Emergency Accommodation will not be offered.
 - The use of illegal substance is not permitted on the premises. Selling or any association with dealing illegal substance is not tolerated. Should this take place an immediate exclusion will take place.
 - **Individuals/Families must submit an application for Social Housing to CCC. Individuals/Families that do not meet the eligibility criteria for social housing will not be eligible for emergency accommodation and services will be withdrawn.**
 - Individuals/Families in Emergency Accommodation will be listed as Homeless on the CCC Housing List and will be eligible for social housing supports such as RAS, HAP, Leasing, Approved Housing Bodies accommodation and Council Tenancies.
- 15
- I understand that my exit from Homeless Services is to private rented/HAP property or in exceptional circumstances Local Authority Housing or Approved Housing Bodies and any refusal of same or disengagement will result in the withdrawal of homeless services and accommodation.

Code of Conduct and agreement between the Emergency Accommodation service user and Clare County Council

Service User 1 Name: _____ **(Please Print)**

Service User 2 Name: _____ **(Please Print)**
(If applicable)

- You are required to use the accommodation offered. Failure to use the accommodation for one night will result in the Council withdrawing it: i.e., alternative accommodation will not be offered.
- No other people are permitted to stay in the accommodation without authorisation from the Council. Any visitors are only permitted in communal areas.
- Families/Individuals are required to comply with the House Rules of the establishment into which they are placed. The accommodation is to be kept in a clean and reasonable state.
- No alcohol or illegal drugs is to be brought onto the premises at any point during your stay. No tab to be made or room service availed of.
- Any anti-social behaviour or interference with other occupiers will result in the accommodation being withdrawn: alternative accommodation will not be offered for a twelve month period.
- Children are not to be left unattended in your room under any circumstances or unsupervised in communal areas.
- Individuals/Families must submit an application for Social Housing to CCC. Individuals/Families that do not meet the eligibility criteria for social housing will not be eligible for emergency accommodation and services will be withdrawn.
- Individuals/Families in Emergency Accommodation will be listed as Homeless on the CCC Housing List and will be eligible for social housing supports such as RAS, HAP, Leasing, Approved Housing Bodies accommodation and Council Tenancies.
- Offers of Housing to families/Individuals in Emergency Accommodation will be made where possible in their areas of choice. However, in the event of a suitable property not being available in an area of choice, offers may be made outside of this area. A refusal of any offer may result in withdrawal of emergency accommodation.
- I understand that my exit from Homeless Services is to private rented/HAP property or in exceptional circumstances Local Authority Housing or Approved Housing Bodies and any refusal of same or disengagement will result in the withdrawal of homeless services and accommodation.

While you are in Emergency Accommodation you will receive support to assist you regarding your housing need. This support may be from a staff within the service that you are residing in or social care staff from the Homeless Action Team. It is a requirement of your stay in Emergency Accommodation that:

- I agree to engage with the HAP service if in Emergency Accommodation and acknowledge that failure to engage will result in withdrawal of housing supports.
- I give my commitment to try and source private accommodation with the aid of HAP services or social care staff.
- I acknowledge where lack of effort to source accommodation or where anti-social behaviour is apparent, there will be withdrawal of emergency accommodation supports.

c. **Dun Laoghaire Rathdown County Council**

Homeless Assessment and Placement Service

If you are homeless, rough sleeping or at risk of becoming homeless, please contact the Homeless Section on 01 205 4700 or email homeless@dlrcoco.ie to arrange a full homeless assessment.

If you don't have an application for social housing support with dlrcoco or a connection to the area, please contact your relevant local authority for help.

Available at: <<https://www.dlrcoco.ie/housing-provision-applicants/homeless>>

d. **Galway City Council**

I am homeless - who should I contact for assistance?

If you are in need of emergency homeless services, you should register yourself as homeless at the Housing counter at Galway City Council's offices, 9.30am to 1p.m. Monday to Friday. Galway City Council will carry out an assessment and make a decision regarding your eligibility for homeless service provision.

Galway City Council's housing counter is located in City Hall, College Road, Galway.

[View a map of Galway City Council's location.](#)

Galway City Council's housing counter is open from 9.30AM to 1PM Monday to Friday.

Tel. 091-536400

If you require assistance outside of the Housing Counter hours, please contact COPE Galway on Freephone number 1800 788 887

If you are outside of Galway City you must contact the housing department of the local authority where you are resident for assistance, assessment and the provision of a service.

I am not from Ireland, can I still access homeless services?

If you are a non-Irish national, which includes Asylum Seekers, Refugees and persons from EU Accession countries, you have the option of going to the following office: HPU Office, 77 Gardiner Street, Dublin 1. 10am - 11.30am and 2pm to 3.30pm (Monday to Friday) or Telephone **01-858 5100**.

This service will check if you are eligible to claim for mainstream Social Welfare Payments.

[If you are aged under 18 years](#)

The Health Service Executive (HSE) has responsibility to respond to your needs if you are homeless and aged under 18 years. A social worker with the HSE will help you. If you become homeless or are at risk of homelessness, go to your [local area health office](#).

If after 5pm (i.e. the local area health office is closed), go to the local Garda Station and the Gardaí will contact the on-duty Social Worker for the HSE Area so that emergency accommodation can be arranged.

Once an assessment has been carried out and you are deemed eligible and in need of homeless services you will be offered emergency accommodation, which will be regularly reviewed by Galway City Council.

Emergency Homeless Accommodation is available at the following locations in Galway City:

Available at: <<https://www.galwaycity.ie/homeless-services-information>>

e. Kildare County Council

The screenshot shows the Kildare County Council website at the URL <https://kildarecoco.ie/AllServices/Housing/HomelessServices/>. The page header includes the council's name in Irish and English, navigation links, and a search bar. The main content area is divided into a left sidebar and a main body. The sidebar contains contact information for Rent/Travellers, Housing Maintenance, and an email list. The main body features the title 'Kildare County Council Homeless Service', a paragraph explaining the service, a list of required information for an assessment, and a section titled 'Who does Kildare County Council understand to be eligible for emergency accommodation?' with a bulleted list of criteria. A red arrow points to the bottom of the page.

Rent/Travellers
Appointment Only
Monday to Friday 2pm to 4pm
Level 3
045 980991

Housing Maintenance
045 980998
045 980200

Email
allocations@kildarecoco.ie
conveyancing@kildarecoco.ie
estatemangement@kildarecoco.ie
hap@kildarecoco.ie
homelessadmin@kildarecoco.ie
housingadmin@kildarecoco.ie
housingloans@kildarecoco.ie
inspections@kildarecoco.ie
leasing@kildarecoco.ie
rentassessment@kildarecoco.ie

Kildare County Council Homeless Service

If you are **(a)** homeless, **(b)** at risk of homelessness, **(c)** rough sleeping, and your last permanent address was in Co Kildare and you have a valid Social Housing Application you can contact the homeless team at 045 980200 or email customerservice@kildarecoco.ie. A member of our team will carry out an assessment, if you are deemed homeless, temporary accommodation will be organised.

The following information will be required to carry out the assessment.

- Photo ID for all adults and children (if available)
- Proof or PPSN for adults and children
- Verification of homeless correspondence – NTQ
- Bank statements
- Proof of income
- Proof of accommodation history to establish a jurisdiction for a person's homelessness according to the Housing Act 1988 (sec 10)

Who does Kildare County Council understand to be eligible for emergency accommodation?

- If are you eligible for Social Housing with Kildare County Council.
- If you have nowhere to stay on the day you contact Kildare County Council
- If you have no right to remain in the place where you have been staying
- If you are at risk of harm if you remain where you have staying

Who does Kildare County Council understand to be eligible for emergency accommodation?

- If are you eligible for Social Housing with Kildare County Council.
- If you have nowhere to stay on the day you contact Kildare County Council
- If you have no right to remain in the place where you have been staying
- If you are at risk of harm if you remain where you have staying
- If you cannot pay for any accommodation for yourself.

When a person declares themselves homeless, Kildare County Council will conduct an assessment to determine if they are eligible for homeless service provision under section 2 of the Housing Act 1988.

Available at: < <https://kildarecoco.ie/AllServices/Housing/HomelessServices/> >

f. *Kilkenny County Council*

Available at:

https://kilkennycoco.ie/eng/your_council/council_meetings/kilkenny_county_council_ordinary_meetings/2021-council-meetings/homeless-policy.pdf

and

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiSk-aw1PGFAxUya0EAHQpFDmYQFnoECCsQAQ&url=https%3A%2F%2Fkilkennycoco.ie%2Feng%2Fservices%2Fhousing%2Fhomeless-services%2Fhomeless-services-policy.docx&usg=AOvVaw1lCXBhFBdNHOBc5grTRI9M&opi=89978449/>

HOMELESS PRESENTATION:

Homeless Services Clinic (for presentations): Monday to Friday 9am to 1pm daily
[by appointment during COVID 19 Restrictions]

Tel: 056 7794900 Email address: homelessservices@kilkennycoco.ie

Kilkenny County Council Homeless Services
Johns Green House
Johns Green
Kilkenny.

Out of Hours Homeless Services by contacting:

Tel: 056 7722566 Email address: info@thegoodshepherdcentrekilkennv.ie

Good Shepherd Centre
Church Lane
Kilkenny.

Persons presenting as homeless / at risk of homelessness will undergo a comprehensive homeless services **eligibility** assessment where;

- a) They can demonstrate that their permanent place of residence is Kilkenny City/County **and** any of the following
- b) They are approved social housing applicants with Kilkenny County Council
- c) They have been in receipt of social housing supports including Rental Accommodation Scheme (RAS) /Housing Assistance Payment (HAP) in Kilkenny
- d) They are in receipt of a payment in Kilkenny from Department of Social Protection
- e) They are in possession of a valid Notice of Termination
- f) They are in possession of a valid repossession order from their bank

Having met the above eligibility criteria, persons will only be considered for emergency accommodation if they

- can demonstrate that they have exhausted all other accommodation options without success
- have not made themselves intentionally homeless
- have no rent arrears in their previous accommodation (except where payment plan is in place and is being adhered to for a 12-month period)
- have not been evicted from their previous accommodation due to anti-social behaviour (ASB). Where eviction for ASB applies access to Social Housing Support is removed for a two-year period as per Kilkenny County Council Anti-Social Behaviour Policy.

Homeless Services Policy Document

Introduction:

Homeless Services in Kilkenny are co-ordinated by Kilkenny Homeless Action Team (KHAT). The interagency team, which was formed in 2017, is managed by KCC and includes membership of both NGO and statutory service providers. The principle aim of KHAT is to work in partnership to **'develop and enhance the delivery of Homeless Services, in an integrated, efficient and effective way'**, with a key objective to assist homeless persons in to their own homes as quickly as possible.

This **Homeless Services Policy Document** is part of the ongoing commitment to providing a quality homeless service to those in need.

1. Legislative/National Policy Framework:

Homeless services are provided within government policy and legislation as follows;

- Rebuilding Ireland
- Housing Acts 1966 – 2009
- 1988 Housing Act
- South East Regional Homeless Plan
- Kilkenny Homeless Action Team Policies and Procedures
- Kilkenny County Council Housing Policy (Allocations & Housing First)
- Kilkenny County Council Safeguarding Children Policy

2. Homeless Presentation:

- a) Persons presenting as homeless will be entitled to a comprehensive homeless services **eligibility** assessment if any of the following apply;
 - Their permanent place of residence is Kilkenny City/County
 - They are approved social housing applicants with Kilkenny County Council
 - They have been in receipt of social housing supports RAS/HAP in Kilkenny
 - They are in receipt of a payment in Kilkenny from Department of Social Protection
 - They are in possession of a valid Notice of Termination
 - They are in possession of a valid repossession order from their bank

- b) Having met the above eligibility criteria, persons will be considered for emergency accommodation if;
 - They have demonstrated that they have exhausted all other accommodation options without success
 - They have not made themselves intentionally homeless
 - They have no rent arrears in their previous accommodation (except where payment plan in place)
 - They have not been evicted from their previous accommodation due to anti-social behaviour or for non payment of rent
 - They have not surrendered a social housing tenancy
 - They have not abandoned a social housing tenancy
 - They can prove that there is not adequate room in the family home.

g. Leitrim County Council

Vacant Homes >	<p>If you are experiencing homelessness or at risk of becoming homeless you will need to present to the Housing Department at Aras an Chontae, Carrick on Shannon. Our office is open Monday to Friday from 9.30 a.m. to 1 p.m. and 2 p.m. to 4.30 p.m. It is advisable to ring in advance to make an appointment – (071) 9620005.</p> <p>Eligibility for Social Housing Supports</p> <p>In order to qualify for access to social housing supports in the Leitrim area you must produce evidence of your local connection to the County. A local connection is determined having regard to the following criteria:</p> <p>A member of your household has resided for a continuous 5-year period in the area concerned, or</p> <p>The place of employment of any household member is in the area concerned or is located within 15 kilometres of the area, or</p> <p>A household member is in full-time education in any university, college, school or other education establishment in the area concerned, or</p> <p>A household member with an enduring physical, sensory, mental health or intellectual impairment is attending a medical or residential establishment in the area concerned that has facilities or services specifically related to such impairment, or</p> <p>A relative of a household member resides in the area concerned and has resided there for a minimum period of 2 years.</p> <p>Upon presenting at the Housing Office the Homeless Officer will complete an initial homeless assessment with you to establish:</p> <p>You have a local connection to the area and whether you are registered as homeless with any other local authorities</p> <p>Recent accommodation history You are homeless or likely to be homeless The circumstances which contributed to your current situation Eligibility for Social Housing Supports</p>
Traveller Accommodation	
Tenant (Incremental) Purchase Scheme	
Choice Based Letting Scheme	
Housing Notices	
Social Housing Support Application	
Housing Supports	
Existing Housing Tenants	
Housing Grants	
Policy and Publications	
Private Residential Tenancies	

Available at: < https://www.leitrimcoco.ie/eng/services_a-z/housing/housing-options/homelessness-services.html >

h. Longford County Council

Homeless Services

If you are homeless, rough sleeping or at risk of becoming homeless you need to present to the Housing Office in between the hours of 10.00am and 1pm and 2pm to 4pm. Our email address is homeless@longfordcoco.ie

Should you require assistance outside of these hours please contact the out of hours service on 087 445 4542 or email outofhoursservice@midlandssimon.com between the hours of 6pm-12am (midnight) 7 days a week.

When presenting at your local housing office you will require:

- Photo ID (valid driver's license/passport)
- Proof of income
- Proof of last permanent address
- Proof of homelessness (for example notice to quit, copy of lease agreement, local authority surrender or eviction notice, court order)

<https://www.housing.gov.ie/housing/homelessness/other/homelessness-data>

Am I entitled to temporary emergency accommodation?

- If you are eligible for social housing with Longford County Council
- If you have nowhere to stay on the day you present to the Local Authority.
- If you have been staying in a place but have no right to remain there.
- If you have somewhere to stay but are at risk of harm if you remain there.
- If you cannot pay for any accommodation for yourself.

Proof of the above will be assessed by Housing staff.

It will then be determined if you have a priority need for temporary accommodation/access to social housing supports.

Available at: < <https://www.longfordcoco.ie/services/housing/>>

i. Meath County Council

If you are homeless, rough sleeping or at risk of homelessness, and your last permanent address is situated in Meath County Council local area, contact the Homeless Service Unit directly at 046-9097297 and you will be offered an appointment with our Settlement Officers.

Opening Hours: 9am to 1pm and 2pm to 5pm (Monday to Friday)


What does the initial assessment involve?

The Initial Assessment involves:

- Establishing accommodation history
- Establishing causes of homelessness;
- Establishing eligibility for settlement services and/or emergency accommodation;
- Establishing support needs;
- Establishing if you are registered or eligible to register with a local authority for social housing support.

Available at: <<https://www.meath.ie/council/council-services/housing/homeless-service>>

j. Sligo County Council



HOME CONTACT US NEWS GAEILGE

Sligo County Council, County Hall, Riverside, Sligo for a full assessment on the next working morning between the hours of 9.30am – 1pm.

Am I entitled to temporary emergency accommodation?

At present, in order to qualify for access to social housing supports in the Sligo area, you must produce evidence of your local connection to the county. A local connection is determined having regard to the following criteria:

- a member of your household has resided for a continuous 5-year period at any time in the area concerned; or
- The place of employment of any household member is in the area concerned or is located within 15 kilometres of the area; or
- A household member is in full-time education in any university, college, school or other education establishment in the area concerned; or
- Any household member with an enduring physical, sensory, mental health or intellectual impairment is attending an educational or medical establishment in the area concerned that has facilities or services specifically related to such impairment, or
- A relative of any household member lives in the area concerned and has lived there for a minimum period of 2 years.

Upon presenting at the Housing Office the Homeless Liaison Officer will complete a homeless assessment which will have regard to whether:

- You have a local connection to the area and whether you are registered as homeless with any other local authorities.
- You are homeless or likely to be homeless,
- The circumstances which contributed to your current situation

It will then be determined if you have a priority need for temporary accommodation/access to social housing supports.

Available at: < <https://www.sligococo.ie/housing/HomelessServices/> >

k. South Dublin County Council

Who does the local authority understand to be eligible for emergency accommodation?

- If you are eligible for social housing with South Dublin County Council
- If you have nowhere to stay on the day you present to the Local Authority Assessment and Placement Service.
- If you have been staying in a place but have no right to remain there.
- If you have somewhere to stay but are at risk of harm if you remain there.
- If you cannot pay for any accommodation for yourself.

Proof of the above will be assessed by the Assessment and Placement Service.

The local authority cannot provide permanent accommodation immediately, but if a person is considered homeless, temporary emergency accommodation may be arranged until a more long-term accommodation solution can be put in place.

Am I entitled to temporary emergency accommodation?

To help decide whether the local authority has a duty to find temporary emergency accommodation or long-term housing for you, the Housing Officer will look at whether you:

- Are eligible for social housing with South Dublin County Council?
- Are homeless or are likely to be homeless?
- Have a priority need for temporary emergency accommodation / access to housing?

While the local authority is considering your situation, temporary emergency accommodation may be provided if you have nowhere else to stay.

What service does the Assessment and Placement Service provide?

This is a specialised service that provides information and advice. An initial assessment is carried out to help place you into temporary emergency accommodation (if required). The Assessment and Placement Service will organise temporary emergency accommodation for you, if you have nowhere else to stay and will assign a Housing Officer, who will work with you to explore all accommodation options available.

What does the initial assessment involve?

The Initial Assessment involves:

- Establishing identity;
- Establishing accommodation history i.e. confirming where you last lived and when, particularly your last permanent address;
- Establishing support & need for temporary emergency accommodation;
- Establishing if you are registered or eligible to register with a local authority for social housing support.

What do I need to bring with me?

You will need to bring a form of photo identification i.e. passport; driver's license etc., proof of income, proof of last permanent address and proof of homelessness.

I am not from Ireland, Who do I contact?

If you are not from Ireland, please contact:

Homeless Persons Unit, 77 Upper Gardiner Street, Dublin 1.

Opening Hours: 10am - 11.30am and 2pm - 3.30pm (Monday to Friday) or Telephone 01- 858 5100.

This service will check if you are eligible to claim for mainstream Social Welfare Payments.

Available at: < <https://www.sdcc.ie/en/services/housing/finding-a-home/homeless-services/>>

I. Tipperary County Council

2.6.3. Determination of Appropriate Social Housing Support for Homeless Applicants

On presentation of an individual to the Council as **Homeless**, the individual will be assessed by the **Homeless** team. In the event that the individual does not have an application for social housing support, he/she will be requested to complete one.

If the applicant has been approved for social housing support he/she will be provided with the assistance of the HAP Place finder Service if it is deemed appropriate.

In exceptional circumstances a decision may be made to provide emergency accommodation on a short-term basis. However, it is expected that the individual will actively engage with the HAP Place finder to secure private rented accommodation thereafter.

Available at: <<https://www.tipperarycoco.ie/housing/social-housing-support/housing-allocation-scheme>>

m. Westmeath County Council

The screenshot shows a web browser window displaying the Westmeath County Council website. The page title is "Homeless or at risk". The header includes the council's logo, name in English and Irish, and a search bar. A navigation menu contains links for "Our Services", "Your Council", "Contact Us", "Pay for It", "Apply for It", "Report It", and "Vacancies". The breadcrumb trail reads "Home > Our Services > Housing > Homeless or at risk".

Homeless or at risk

Homelessness means more than just sleeping rough. If you are living in a hostel or bed and breakfast or staying temporarily with friends because you have nowhere else to go, you are homeless.

If you are threatened with homelessness, that is, if you think you may lose your home soon for whatever reason, you should immediately contact your local authority and, if necessary, get advice about your situation from a Citizens Information Centre or Threshold.

Qualifying Criteria for Homeless Supports

The following criteria applies:

- You must be on Westmeath County Council's housing waiting list.
- You must be genuinely homeless or at risk of homelessness and able to prove that this is so.

Accommodation for homeless people, depending upon whether the need is for short-term, long-term, transitional or emergency reasons, can take the form of local authority housing, hostel type accommodation (provided by statutory agencies or voluntary organisations), emergency B&B accommodation provided in the private sector, or suitable private rented accommodation.

Emergency Accommodation

If you are in immediate need for emergency accommodation, please present as homeless before 12pm at the housing counter of your nearest local authority office (Athlone or Mullingar)

Emergency Accommodation provided by the Local Authority may take the form of hostel accommodation if available.

On the right side of the page, there is a sidebar with two expandable sections: "Housing" (expanded) and "Homeless or at risk" (collapsed).

Available at: < <https://www.westmeathcoco.ie/en/ourservices/housing/homelessoratrisk/> >

Housing

Living / Services / Housing /

IN THIS SECTION

- Social Housing +
- Homelessness
- Housing Assistance Payment Scheme (HAP)
- Buying Your Property +
- Rental Accommodation Scheme (RAS) +
- Traveller Accommodation
- Housing Supply / Part V / Part 8 / Section 179A / Turnkey Acquisitions +
- Grants
- Minimum Standards in Rented Accommodation
- Forms and Documents
- Leathanach Gaeilge Tithíocht +
- News & Events
- FAQ's

Homelessness

Information on homeless resources available from Wicklow County Council and contact details for the Homeless Persons Unit.

Wicklow County Council is continuing to move away from the model of providing emergency accommodation for the homeless from large units towards a best practice Housing First model. This involves a number of different approaches including the use of smaller units with visiting support for up to three to four clients per house as well as securing units supplied from voluntary housing bodies, the private rented sector, and by the local authority directly for people at risk of homelessness.

If you are homeless and registered within Wicklow Local Authority, you can apply to the homeless section of the local authority to access [HAP](#). Contact 0404-20120 and request meeting with our Homeless Officer.

Contacting the Homeless Persons Unit

The Homeless Persons Unit provides payments under the Supplementary Welfare Allowance Scheme and offers advice on your social welfare entitlements.

Please call 1800 724 724 for more details.

Available



Mercy Law
Resource Centre

Submission to the Joint Oireachtas Committee on Housing, Local Government and Heritage on the General Scheme of the Housing (Miscellaneous Provisions) General Scheme 2024

03 May 2024

Appendix 2

Mercy Law Resource Centre
25 Cork Street
Dublin 8
Ireland
Phone: 01 453 7459
www.mercylaw.ie

Mercy Law Resource Centre Limited is a company limited by guarantee and not having a share capital, registered in Dublin, Ireland. Co.Reg No:471072. It is also a registered charity, Chy No:18698. Directors: Edward Gleeson, Dr Sarah Hamill, Ciara McGrath, Tom O'Brien, Annette O'Donnell, Turlough O'Donnell SC, Liam Twohig



Cumann Lucht Bainistíochta Contae agus Cathrach
County and City Management Association

Local Connection Protocol for Homeless Presentations outside county of origin

July 2023

Developed by the CCMA Homeless Regional Leads

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1. Background

The CCMA Housing, Building and Land Use committee acknowledges that homelessness is a priority and as such established the CCMA Homelessness working group. This working group is currently chaired by Ms AnnMarie Farrelly, Chief Executive, Fingal County Council, CCMA HBLU committee reps and all regional leads are represented.

As a result of the following:

1. A letter from the Minister of Housing issued to all Directors of Housing in Local Authorities in December 2020 during the height of the Covid 19 pandemic referring to rough sleepers who were presenting from outside the County advising that “It is particularly important that local authorities continue to address homelessness at the point which it occurs, at a time when we are seeking as a nation to minimise movement between counties”. The requirement to minimize movement between counties was entirely appropriate in the context of the emergency public health measures in place at that time.
2. Recent meetings of the working group and discussions around the need for a robust protocol to be developed to act as a guide for Local Authorities addressing the issue of Homeless presentations outside county of origin.
3. Post covid, increasing numbers of homeless presentations being experienced across the sector in recent months from individuals and families from outside their county of origin/functional area.

2. Purpose

The purpose of this report is to outline the local Connection Protocol for Homeless Presentations outside county of origin, to provide a consistent approach across the sector and to provide clarity to both the individuals/families presenting as well as Homeless support staff/practitioners working in this area. It has been completed by the CCMA Homeless Regional Leads.

3. Protocol

As a general rule a household seeking supports from a local authority, on the basis of being at risk of or experiencing homelessness, should present to their LA of origin. A household presenting as homeless will have an immediate and, in the majority of cases, a long-term housing need. The local authority where a household has a local connection (as defined in S.I. No. 84/2011 Part 1 (6)- Social Housing Assessment Regulations 2011) is best placed to assess the household's needs, both immediate and long-term.

Each local authority assesses households presenting as homeless in accordance with legislative provisions. Households entering emergency accommodation should have an identified exit mechanism through the provision of social housing supports.

The following is a guide as to the actions to be taken and supports given on presentation:

1. On presentation the household that has presented from another local authority (from outside of their county of origin and who are determined as not having links to the county of presentation) is assessed to determine if they are Homeless as defined in S.2 of The Housing Act 1988.

Homeless persons for the purposes of this Act.

2. —A person shall be regarded by a housing authority as being homeless for the purposes of this Act if—

(a) there is no accommodation available which, in the opinion of the authority, he, together with any other person who normally resides with him or who might reasonably be expected to reside with him, can reasonably occupy or remain in occupation of, or

(b) he is living in a hospital, county home, night shelter or other such institution, and is so living because he has no accommodation of the kind referred to in paragraph (a),

and he is, in the opinion of the authority, unable to provide accommodation from his own resources.

2. If it is determined that the household is homeless and in need of accommodation arrangements are made to seek accommodation on an emergency basis for the day/night of presentation. Contact will then be made with the relevant local authority to advise of presentation and to arrange for supports to be put in place as soon as possible.

The individual/family will be advised to present to their local authority of origin to seek social housing supports and/or services.

3. In the event that there are time delays in arranging social housing supports and/or services in the households county of origin the county of presentation shall continue to make emergency accommodation available on a day to day basis for up to a period of up to a maximum of 5 days (which shall include weekends if applicable)
4. On the expiration of this period the responsibility for the provision of supports will rest with the county of origin of the family/individual presenting and this person/family will be advised of this and referred to this local authority.
5. Establishing the LA of Application:
 - a. The household has qualified for Social Housing Support with the Local Authority.
 - b. The household became homeless from an address within the local authority.
 - c. The household was normally resident in the local authority prior to institutional admission e.g. prison or hospital.
6. Local authorities may arrange for accommodation outside their own administrative boundaries where this is required to ensure the household is not at risk of rough sleeping or where they cannot source accommodation suitable to the household's needs.

End of Document