



Mercy Law Resource Centre

Submission to Department of Children, Equality, Disability, Integration and Youth  
November 2020



**Mercy Law Resource Centre**

**Submission on Statement of Strategy of the Department of  
Children, Equality, Disability, Integration and Youth**

**6 November 2020**

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### **About MLRC**

Mercy Law Resource Centre (MLRC) is an independent law centre, registered charity and company limited by guarantee. MLRC provides free legal advice and representation for people who are homeless or at risk of becoming homeless. It also seeks to advocate for change in laws, policies and attitudes which unduly and adversely impact people who are at the margins of our society.

*Mercy Law Resource Centre's vision is of a society where each individual lives in dignity and enjoys equal rights, in particular the right to a home, which is fundamental to each human being. MLRC's vision is also of a society where every individual enjoys equal access to justice and legal recourse in order to vindicate those rights.*

In that context, MLRC's clients are local authority tenants, people who are homeless or at risk of becoming homeless and people in receipt of social housing support. They include people trying to move away from homelessness who may be struggling with issues often linked to homelessness including for example, addiction, leaving prison, mental illness, relationship breakdown and domestic violence.

MLRC provides five key services: free legal advice clinics; legal representation in the areas of homelessness, housing and related social welfare law; legal support and training to organisations working in the field of homelessness; policy advocacy arising from our casework; and a client befriending service.

MLRC's ethos recognises the dignity of each person. MLRC seeks to ensure that all people are treated with respect and compassion and are enabled to achieve their full potential as human beings. MLRC is committed to the principles of human rights, social justice and equality.

MLRC has built strong working relationships with organisations working in the field of homelessness and housing. Partnership and working in collaboration with others is at the heart of MLRC's approach. Our solicitors are specialised in the areas of housing law and law in relation to homelessness and carry out this work in the ethos of MLRC - with compassion, care and respect for the dignity of every person. Our mission is to provide a unique legal service that is accessible and, as far as possible, is shaped to meet the needs of our clients.

### **The impact of our service**

Since our establishment in 2009, MLRC has provided advice and/or court representation to over 10,000 individuals, families and organisations. In 2019 alone, our solicitors advised 1,611 individuals and families on housing matters and secured many positive and transformative outcomes on their behalf. The bulk of our work in 2019 focused on challenging refusals to provide emergency accommodation; issues



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arising in provision of emergency homeless accommodation; Traveller accommodation issues and assisting persons overcoming barriers to accessing the social housing list.

We are experiencing a growing demand for our unique legal service and our related services. In particular, we have seen a large increase in the demand for our service in the context of the COVID-19 outbreak in Ireland. From March 2020, we have been well-positioned to support those in housing crisis through our accessible and expert service, available nationwide, to vulnerable individuals.

#### **Context of our submission**

This submission comes in the context where Ireland's homeless crisis has now become a potential health crisis in light of the current pandemic. The figures for homelessness have remained consistently high. In November 2019, a record 10,514 people were identified as homeless in Ireland, and at an Oireachtas Committee on Housing meeting in June 2019, it was reported that the housing crisis is expected to get worse over the coming four years.<sup>i</sup>

As of September 2020, of those recorded in the official as homeless 1,128 were families and 2,583 were children.<sup>ii</sup> This figure does not include individuals who were removed from the homeless statistics following a reclassification undertaken in 2018, despite those individuals accessing 'Section 10 funded' accommodation. This figure also excludes people sleeping rough, people couch surfing, homeless people in hospital, prisons and as of late HSE cocooning facilities, those in direct provision centres or emergency reception centres/hotels, and homeless households in domestic violence refuges. Notwithstanding this, more than one in three of those in emergency accommodation are children.<sup>iii</sup>

At the end of July, Dublin Regional Homeless Executive (DRHE) reported that there were 862 families accessing Private Emergency Accommodation in the Dublin region.<sup>iv</sup> Families also appear to be spending longer periods in emergency homeless accommodation and there are increasing numbers of families who are homeless for 24 months or more. DRHE reported that 448 families entered emergency accommodation for the first time between January and August 2020, 78 families presented in the Dublin region in August alone.<sup>v</sup> Despite a slight decline on the 2019 figures (likely to be due to measures introduced to curtail the spread of Covid-19), the number of families entering homeless accommodation in 2020 remains steady.

Furthermore, MLRC has noted through our casework that ethnic minorities face specific barriers to access housing and homeless services. A 2018 IHREC study found that black people are five times more likely to report discrimination than white people.<sup>vi</sup> Further, non-EU nationals are 1.7 times more likely to experience housing deprivation than Irish nationals, and 2.5 times more likely to live in overcrowded housing than Irish nationals.<sup>vii</sup> Non-Irish nationals are particularly susceptible to homelessness. A DRHE



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report on families who entered homelessness in Dublin in 2016 and 2017 highlighted that 33% of those families were headed by a non-Irish national.<sup>viii</sup> This compares unfavourably with 11.6% in the general population.

Reports confirm that members of the Traveller Community are over-represented in the homeless population, and face discrimination in respect of accessing adequate housing. MLRC's engagement with members of the Traveller Community also bears out this experience of housing adversity. One 2018 report published by IHREC noted:

"while they represent less than 1 per cent of the Irish population they make up 9 per cent of the homeless population. Travellers also experience the highest levels of discrimination: they are almost ten times as likely to report discrimination in access to housing as the White Irish population, even after education and labour market status are held constant."<sup>ix</sup>

What must not be forgotten when presented these statistics is what they represent: the lived experiences of families and minority groups in Ireland who are living on the margins of society. Working with these families has afforded MLRC a valuable perspective and their experiences form the basis of this submission.

### **MLRC Engagement with Family and Child Homelessness**

Since 2015, MLRC has had an increasing number of vulnerable families accessing its service, presenting with a range of issues and difficulties including access to emergency accommodation, provision of chronically unstable emergency accommodation, placement in highly unsuitable emergency accommodation, and placement in unsuitable emergency accommodation for excessive and unduly prolonged periods of time. In 2019, MLRC advised 489 such homeless families. This was an increase of 37 homeless families from 452 assisted in 2018.

Since June 2017, MLRC has made a number of submissions to Government and published two reports on child and family homelessness. We include links to these reports and submissions below for your consideration:

- In June 2017, MLRC made a short submission to the Minister for Housing, Planning, Community and Local Government raising very urgent issues relating to the provision of emergency accommodation by local authorities to families and vulnerable people who are homeless. The submission is available [here](#).
- In November 2017, MLRC made a submission in respect of 'Ireland 2014: Our National Planning Framework', in which we highlighted serious concerns about the manner in which homeless accommodation is provided to vulnerable families. This submission is available [here](#).



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- In September 2018, MLRC published a report titled: “Children and Homelessness: A Gap in Legal Protection”. The report highlighted the failure of the State to provide adequate statutory or constitutional protection for minor children of families experiencing homelessness, and set out potential domestic legal reforms to fill the gap in legal protection. This report is available [here](#).
- In June 2019, MLRC made a statement on child and family homelessness to the Joint Oireachtas Committee on Housing, Planning and Local Government, raising urgent concerns about the accommodation provision to homeless families and making several recommendations. The submission is available [here](#).
- In December 2019, MLRC published a report ‘The Lived Experiences of Homeless Families’ bringing the voices of homeless families to the fore and setting out recommendations for policy and law reform to improve protections for homeless families. The report is available [here](#).
- In November 2019, the Joint Committee on Housing, Planning and Local Government and the Joint Committee on Children and Youth Affairs published reports on family and child homelessness, incorporating several recommendations set out by MLRC. The reports are available [here](#).
- In November 2020, MLRC made a submission to the Joint Committee on Housing, Planning and Local Government as part of our membership of the coalition group Home for Good on a Referendum on Right to Housing. A transcript of this presentation is available [here](#).

### **MLRC Recommendations**

MLRC makes the following recommendations on the basis of our extensive engagement with homeless families and sees these as pivotal for the effective development and implementation of homelessness policies in Ireland to alleviate the current suffering of families, particularly children, experiencing homelessness.

#### **Recommendations regarding refusals of emergency accommodation**

1. The Department of Children, Equality, Disability, Integration and Youth work closely with the Department of Housing, Local Government & Heritage to ensure follow through on the programme for government promise to hold a referendum on the Protection of the Right to Housing in the Constitution to create a firm foundation for an enduring protection of the human right to adequate housing;
2. The adoption of a legal rights-based approach to housing provision, including homeless provision, such that housing authorities have a duty to provide interim accommodation for homeless persons. As part of that legal rights-



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based approach, a tightening of the statutory provisions contained in the Housing Act 1988 to eliminate the statutory discretion afforded to housing authorities with respect of the housing assessment and to impose a duty on the housing authority to provide such homeless accommodation.

#### **Recommendations – Placement for excessive time periods in B&B and hotel accommodation**

1. Work with the Department of Housing, Planning, Local Government & Heritage to ensure that the practice of providing “one night only” emergency accommodation, which causes uncertainty and distress for children and their parents remains ceased;
2. Work with the Department of Housing, Planning, Local Government & Heritage to ensure transparency and clear and fair administrative processes in relation to emergency accommodation provision to homeless families and vulnerable groups;
3. Conduct and publish an independent review of the cost of providing emergency accommodation to families and children for excessive time periods;
4. Carry out a full and independent assessment on the developmental impact excessive periods in homeless accommodation has on children’s physical and mental development;
5. Provision of clear and transparent pathways and referral mechanisms so homeless families placed in wholly unsuitable provisions of emergency accommodation are directed and facilitated to access appropriate supports and advocacy services as a vital stepping stone to accessing secure housing;
6. Local authorities to cease reliance on commercial hotels and B&Bs as a form of emergency homeless provision to homeless families and to provide for own door ‘transitional accommodation’ in its place;
7. Amendment to Section 10 of the Housing Act 1988 to place a limit on the time that families and vulnerable individuals may spend in emergency homeless accommodation, including in particular in unsuitable commercial hotels and B&Bs;
8. Issuing of Regulations by the Minister of Housing, Planning and Local Government, under Section 10(11) (a) of the Housing Act 1988, specifying and restricting the type of emergency accommodation that families may be accommodated in, ensuring therefore its suitability and adequacy.

#### **Recommendations – Failure to identify particular needs and vulnerabilities of homeless families**

1. Align and harmonise policy and service delivery across all government





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Departments to secure improved outcomes for children and young people across all sectors;

2. Amendment to the Housing Act 1988 to place a statutory obligation on housing authorities to regard the best interest of the children as a paramount consideration, to have regard to the needs of the family unit and to make provision of suitable accommodation to that family unit, leading to improvement in outcomes for children and youth in Ireland;
3. Drive systems change to ensure provision of supports at point of homeless presentation and allocation of a keyworker at the earliest opportunity to provide holistic support and advocacy for homeless families;
4. Develop targeted supports for vulnerable families to assist with childcare; home schooling; afterschool care; homework clubs and access to adequate nutrition.

## **Conclusion**

MLRC welcomes this opportunity to feed into the Statement of Strategy for the Department. All of the above recommendations, if enacted, would meaningfully and positively impact on the experiences of children seeking access or accessing homeless services. MLRC believes in the inherent dignity of each human being and sees such dignity frequently violated in the deep trauma and distress of homeless families, caused by the housing crisis. MLRC calls on urgent and progressive measures to meaningfully address such trauma, to restore the dignity to individuals impacted by the housing crisis and to reduce the harm currently being inflicted on homeless families.

We very much welcome further consolation on this issue and wish to thank you for taking the time to review our submission.

#### Contact:

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<sup>i</sup> Tim O'Brien, 'Housing crisis to continue to get worse until 2023, Oireachtas told' (*The Irish Times* (12 June 2019) <<https://www.irishtimes.com/news/social-affairs/housing-crisis-to-continue-to-get-worse-until-2023-oireachtas-told-1.3923682>> accessed 3 November 2020.

<sup>ii</sup> Department of Housing, Local Government and Heritage, *Homelessness Report September 2020* <[https://www.housing.gov.ie/sites/default/files/publications/files/homeless\\_report\\_september\\_2020.pdf](https://www.housing.gov.ie/sites/default/files/publications/files/homeless_report_september_2020.pdf)> accessed 4 November 2020.

<sup>iii</sup> Ibid.



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<sup>iv</sup> Dublin City Council, *Report/Update on Covid19 and Homelessness* <<https://www.homelessdublin.ie/content/files/Homeless-update-No.-8-15th-Oct.pdf>> accessed 4 November 2020.

<sup>v</sup> Ibid.

<sup>vi</sup> Rafelle Grotti, Helen Russel, Éamonn Fahey and Bertrand Maître, 'Discrimination and Inequality in Housing in Ireland.' *Irish Human Rights and Equality Commission* (June 2018)

<<https://www.ihrec.ie/app/uploads/2018/06/Discrimination-and-Inequality-in-Housing-in-Ireland..pdf>> accessed 3 November 2020.

<sup>vii</sup> Ibid.

<sup>viii</sup> DRHE, *A report on the 2016 and 2017 families who experienced homelessness in the Dublin region*

<<https://www.homelessdublin.ie/content/files/A-report-on-the-2016-and-2017-families-who-experienced-homelessness-in-the-Dublin-Region.pdf>> accessed 3 November 2020.

<sup>ix</sup> Pavee Point Traveller and Roma Centre and Department of Justice and Equality (2018). *Roma in Ireland: A National Needs Assessment* <<https://www.paveepoint.ie/wp-content/uploads/2015/04/RNA-PDF.pdf>> accessed 3 November 2020.