

# Mercy Law Resource Centre

25 Cork St, Dublin 8

Phone: 01 4537459

Email: [info@mercylaw.ie](mailto:info@mercylaw.ie)

[www.mercylaw.ie](http://www.mercylaw.ie)



---

James Browne TD  
Minister for Housing, Local Government and Heritage  
Leinster House  
Kildare Street  
Dublin 2

## Re: Housing and Residential Tenancies (Miscellaneous Provisions) Bill 2026.

9 June 2026

Dear Minister Browne,

We write to you on behalf of Mercy Law Resource Centre (“**MLRC**”) regarding the recently announced Housing and Residential Tenancies (Miscellaneous Provisions) Bill 2026 (the “**Bill**”).

We are supportive of attempts to modernise and clarify the law on social housing in Ireland. However, we have serious concerns regarding the potential negative implications of the Bill, including consequences which may not be within the intention of your Department.

While we appreciate the urgent need to modernise and clarify the law of social housing in Ireland, we have a significant concern that the urgency with which this Bill is seeking to progress fails to allow time for the Joint Oireachtas Committee to give it full consideration and to investigate any potential unintended consequences. Indeed, it is striking that the Bill fails to give consideration to the victims of trafficking who may have difficulty in satisfying the new “habitual residence” test. Similarly, a person returning to Ireland in crisis may have difficulty in proving habitual residence. We need only look at the recent actions of immigration officials in other jurisdictions to see the impact that this could have. These are merely two examples that jump out to us from our initial reading of the Bill. There are bound to be further examples and these need to be given due consideration by the Joint Committee.

At the outset, we have 3 broad concerns with the Bill in its current form:

1. The Bill may fail to comply with EU law, particularly as it relates to the requirement that *all* members of a household must satisfy the habitual residence requirement.
2. The appeal structure that the Bill seeks to create lacks the necessary independence and fairness to ensure that people’s rights are protected.
3. There is a lack of discretion with regards to the application of the habitual residence test which could impact on particularly vulnerable cohorts, such as victims of trafficking.

We also note that the Bill contains “transitional provisions” that could impact children and families currently on social housing waiting lists.

Noting that we have only had a very limited window to review the Bill and we cannot be certain of its impact, we have set out some of our observations and concerns that we would like to draw your attention to. For

### Solicitors:

Paul Dornan

Adam Boyle

Kate Heffernan

Erika Hayes

Mercy Law Resource Centre CLG 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, Rebecca Keatinge, Tom O’Brien, Annette O’Donnell, Helena O’Donoghue, Conor Roe, Liam Twohig.

# Mercy Law Resource Centre

25 Cork St, Dublin 8

Phone: 01 4537459

Email: [info@mercylaw.ie](mailto:info@mercylaw.ie)

[www.mercylaw.ie](http://www.mercylaw.ie)



---

ease of reference we have include at Appendix 1, a table of previous recommendations from both the Joint Committee and the Irish Human Rights and Equality Commission and our analysis as to whether these have been incorporated into the Bill.

As our expertise lies in both social housing and homelessness law, we have included references to homelessness assessments as a way to more fully illustrate our initial concerns. It is of critical importance to our clients that the proposed legislation does not, in any way, prevent access to emergency accommodation while matters relating to residency status are adjudicated on by a local authority.

Our more detailed initial observations and concerns are included at Appendix 2 to this letter.

## Concerns with Procedure

MLRC are deeply concerned with the speed with which this important Bill is being moved through the Oireachtas. As detailed below, our office has reservations about the compliance of multiple sections of this Bill with human rights law, EU law, and indeed potentially Irish Constitutional Law. In addition to outstanding concerns carried over from previous iterations, this new Bill carries substantial departures from any previous Heads of Bills that raise their own independent and serious legal concerns. However, with the Bill only released on Wednesday 3 June with the intention that it pass Committee stage by 16 June, we are deeply concerned that the speed of the process engaged in will have the effect of limiting any substantive legal and human rights review of this important legislation. This creates a risk that this Committee would legislate a Bill which may have unintended and wide-reaching harmful consequences for large numbers of households in need of State support, while also potentially operating in breach of EU law, human rights obligations, and potentially Constitutional requirements of fair procedures.

MLRC note that some elements of this Bill have been shared or discussed by the Department of Housing, Local Government and Heritage (the “DHLGH”) in various forms in recent years. The most comprehensive form was the Heads of Bill for the Housing (Miscellaneous Provisions) Bill 2024 (the “2024 Heads of Bill”) which underwent Pre-Legislative Scrutiny by the previous Housing Committee in May 2024. Following this, the IHPG had one high level meeting with the DHLGH where it was indicated that a fresh bill was being prepared, providing a limited opportunity to raise concerns and opportunities to improve on the previous 2024 Heads of Bill. We are concerned that the key legal issues raised to the DHLGH before the Housing Committee previously by the contributing organisations IHREC, and indeed the Housing Committee itself have not been addressed in this new Bill.

We further note that the 2024 Heads of Bill did not include s. 20B “Social Housing Appeal” nor s. 9 “Transitional Provisions”. These sections reflect substantial changes to the law of social housing in Ireland. As will be noted below, they raise their own serious legal concerns which deserve due scrutiny.

In the interests of ensuring sufficient regard is had to the serious potential impacts of this legislation, we would ask the members of the Committee to request that this Bill be referred for pre-legislative scrutiny, and that the pace of movement on the Bill be slowed to allow it to be considered properly.

## Solicitors:

Paul Dornan

Adam Boyle

Kate Heffernan

Erika Hayes

Mercy Law Resource Centre CLG 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, Rebecca Keatinge, Tom O'Brien, Annette O'Donnell, Helena O'Donoghue, Conor Roe, Liam Twohig.

# Mercy Law Resource Centre

25 Cork St, Dublin 8

Phone: 01 4537459

Email: [info@mercylaw.ie](mailto:info@mercylaw.ie)

[www.mercylaw.ie](http://www.mercylaw.ie)



---

## Conclusion

Again, we would like to thank the Joint Committee for considering our initial observations on the Bill and we would welcome an opportunity to engage constructively on these going forward to ensure that this Bill does provide the clarity and certainty that local authority decision-makers need when they are assessing applications for social housing supports. At this juncture, we would recommend that the Minister for Housing and his Department should:

1. Urgently publish all relevant documentation setting out the policy rationale for the proposals contained in the Bill (and any potential Committee Stage amendments to it), including the results of all legislative reviews and consultation processes undertaken by the Department;
2. Outline whether the Department will implement IHREC's recommendations to "*consider the human rights and equality considerations raised by the proposed measures*" and to "*demonstrate the need for, and value of, the proposals and how it will ensure that the proposals will not have a discriminatory and disproportionate impact on structurally vulnerable groups.*"
3. Facilitate detailed consideration of the Bill by the Housing Committee and more generally, by:
  - a. Allowing time for detailed scrutiny of the legislation by the Oireachtas Housing Committee and making witnesses from the Department of Housing available to that Committee.
  - b. Seeking the views of IHREC in relation to the Bill.
  - c. Undertaking a consultation on the aspects of the 2026 Bill which have not been subject to consultation and/or pre-legislative scrutiny previously. These aspects include the proposed social housing appeal process and the proposed new legal residence and habitual residence conditions for access to emergency accommodation.
  - d. Consulting with groups who are most likely to be impacted by the proposals contained in the Bill. The Department should also consult with Independent Law Centres, Irish Homeless Policy Group, homelessness organisations, and migrants' rights organisation. The results of these consultations should be published.

If we can provide any further information on this we will be happy to discuss in person, or we can be reached at the email address and number above, or to our Managing Solicitor Paul Dornan at [paul@mercylaw.ie](mailto:paul@mercylaw.ie)

Kind regards,



Mercy Law Resource Centre

## Solicitors:

Paul Dornan

Adam Boyle

Kate Heffernan

Erika Hayes

Mercy Law Resource Centre CLG 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, Rebecca Keatinge, Tom O'Brien, Annette O'Donnell, Helena O'Donoghue, Conor Roe, Liam Twohig.

# Mercy Law Resource Centre

25 Cork St, Dublin 8

Phone: 01 4537459

Email: [info@mercylaw.ie](mailto:info@mercylaw.ie)

[www.mercylaw.ie](http://www.mercylaw.ie)



## **Appendix 1 – Recommendations related to the Heads of Bill of the Housing (Miscellaneous Provisions) Bill 2024**

### **1. Recommendations of the Joint Committee on Housing, Local Government and Heritage, “Report on the Pre-Legislative Scrutiny of the General Scheme of the Housing (Miscellaneous Provisions) Bill, 2024”<sup>1</sup>**

<b>Recommendation</b>	<b>Implemented into Housing (Miscellaneous Provisions) Bill 2026</b>
<p>1. The Committee recommends that a robust and independent appeals mechanism be included in the legislation.</p> <p>Given the complex nature of assessing habitual residency, this appeals process should not be operated by local authorities; rather, it should be centrally operated in order to ensure that a level of expertise can be build up over time.</p>	Partial/no.
<p>2. The Committee recommends further clarity be provided in the legislation as to whether residency and the Habitual Residency Condition (HRC) are to be an additional eligibility criterion, or form a precursor to an eligibility assessment.</p>	Awaiting guidance note.
<p>3. The Committee recommends that if residency and the HRC are to form a separate prerequisite assessment, then due consideration must be given in legislation to ensure that it meets the requirements of fair procedure and natural justice.</p>	N/a

<sup>1</sup> Available at: [https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint\\_committee\\_on\\_housing\\_local\\_government\\_and\\_heritage/reports/2024/2024-05-29\\_report-on-the-pre-legislative-scrutiny-of-the-general-scheme-of-the-housing-miscellaneous-provisions-bill-2024\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/joint_committee_on_housing_local_government_and_heritage/reports/2024/2024-05-29_report-on-the-pre-legislative-scrutiny-of-the-general-scheme-of-the-housing-miscellaneous-provisions-bill-2024_en.pdf)

#### **Solicitors:**

**Paul Dornan**

**Adam Boyle**

**Kate Heffernan**

**Erika Hayes**

Mercy Law Resource Centre CLG 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, Rebecca Keatinge, Tom O'Brien, Annette O'Donnell, Helena O'Donoghue, Conor Roe, Liam Twohig.

# Mercy Law Resource Centre

25 Cork St, Dublin 8

Phone: 01 4537459

Email: [info@mercyllaw.ie](mailto:info@mercyllaw.ie)

[www.mercyllaw.ie](http://www.mercyllaw.ie)



4. The Committee recommends that, given the potential number of people it would exclude from eligibility for social housing support, the requirement for all members of a household to be reckonably and habitually resident should be dropped.	No.
5. A provision should be included in the legislation setting out explicitly that that the HRC for the purposes of social housing does not and should not affect an individual's or a household's eligibility for access to emergency accommodation.	No.

## 2. Recommendations from the Irish Human Rights and Equality Commission “Submission to the Minister for Housing, Local Government and Heritage on the General Scheme of the Housing (Miscellaneous Provisions) Bill 2024.

Recommendation	Implemented into Housing (Miscellaneous Provisions) Bill 2026
The Commission recommends that before proceeding further with the legislative proposals the State consider the human rights and equality considerations raised by the proposed measures.	Unclear.
The Commission recommends that any legislative proposals in relation to access to social housing supports must take account of the Department's Public Sector Duty obligations under Section 42 of the Irish Human Rights and Equality Commission Act 2014.	Unclear.
The Commission recommends that in light of the significant human rights and equality issues raised by the legislative proposals the State must first demonstrate the need for, and value of, the proposals and how it will ensure that the proposals will not have a discriminatory and disproportionate impact on structurally vulnerable groups.	No, as per Press Release:  <i>“The introduction of this Bill will have little material effect on the numbers accessing social housing. The Bill seeks to underpin the existing policy on a statutory footing and to ensure that successful applicants have a long-term right to reside in the State; and</i>

### Solicitors:

Paul Dornan

Adam Boyle

Kate Heffernan

Erika Hayes

Mercy Law Resource Centre CLG 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, Rebecca Keatinge, Tom O'Brien, Annette O'Donnell, Helena O'Donoghue, Conor Roe, Liam Twohig.

# Mercy Law Resource Centre

25 Cork St, Dublin 8

Phone: 01 4537459

Email: [info@mercylaw.ie](mailto:info@mercylaw.ie)

[www.mercylaw.ie](http://www.mercylaw.ie)



	<p><i>similarly, have a long-term intention to remain.</i></p> <p><i>The General Scheme went through pre-legislative scrutiny, and a report was submitted by the Irish Human Rights and Equality Commission. “</i></p>
The Commission recommends that a formal, standardised independent appeals mechanism in respect of social housing decisions be set out as a statutory requirement in the legislation.	Partial.
The Commission recommends that it must be set out clearly in the legislation that the requirement to prove lawful and habitual residence does not apply to applications for emergency services under the Housing Act 1988 in order to prevent any issues for persons accessing emergency accomodation.	No.
The Commission recommends that the legislation clarifies that the lawful and habitual residence requirement forms part of the overall assessment of housing need and will not be a new preliminary criterion which an applicant must meet before they can be assessed for social housing.	No.
The Commission recommends that the requirement for all household members to demonstrate lawful and habitual residency in the State be removed.	No.
The Commission recommends that the absolute bar on all EU/EEA citizens accessing social housing assistance during the first three months of residence in Ireland be removed from the legislation as it is not compliant with EU law.	No.
The Commission recommends that the State must ensure that any difference in treatment between third country nationals based on length of residence and/or residence permission must be objectively and reasonably justified, pursue a legitimate aim, and be proportionate to the aim.	No clarity.

## Solicitors:

Paul Dornan

Adam Boyle

Kate Heffernan

Erika Hayes

Mercy Law Resource Centre CLG 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, Rebecca Keatinge, Tom O'Brien, Annette O'Donnell, Helena O'Donoghue, Conor Roe, Liam Twohig.

# Mercy Law Resource Centre

25 Cork St, Dublin 8

Phone: 01 4537459

Email: [info@mercylaw.ie](mailto:info@mercylaw.ie)

[www.mercylaw.ie](http://www.mercylaw.ie)



The Commission recommends that the legislation be amended to ensure that the 5 years reckonable residency requirement does not apply to victims of trafficking in a manner that is contrary to the Anti-Trafficking Directive.	No.
The Commission recommends that the legislation be amended to include parents of EU citizen children accessing education in another Member State in the list of persons having a lawful right to reside.	No, EU Law section does not appear to reflect the breadth of derived rights to residence.
The Commission recommends that it is made clear in the legislation that residence in the State prior to receiving status can be relied upon for the 5 years reckonable residency requirement so that there is not a disproportionate impact on international protection applicants seeking housing assistance.	Yes.
The Commission recommends that the legislation should include exemptions from the habitual residence requirement for victims of trafficking and victims of domestic, sexual, or gender based violence.	No.

## Solicitors:

Paul Dornan

Adam Boyle

Kate Heffernan

Erika Hayes

Mercy Law Resource Centre CLG 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, Rebecca Keatinge, Tom O'Brien, Annette O'Donnell, Helena O'Donoghue, Conor Roe, Liam Twohig.

---

## **Appendix 2 – Initial Concerns of MLRC following high level review of the content of the Housing (Miscellaneous Provisions) Bill 2026**

### **Concerns Regarding Compliance with EU Law**

It is disappointing to note that key legal issues related to compliance with EU law submitted to the DHLGH and previous Housing Committee appear to have been disregarded in the preparation of this Bill. These include a recommendation from IHREC that a three-month bar on accessing social housing supports for all EU migrants, including workers, be dropped as it may fall foul of EU rules on Freedom of Movement and equal treatment. MLRC and other services noted that the judgement of the CJEU in the case of *Collins*<sup>2</sup> may support the position that the imposition of a habitual residency criteria on all members of a household may be disproportionate and therefore contrary to EU Law.

It is disappointing and concerning that there has been such limited regard for these serious potential breaches of EU Law.

### **Committee Recommendations Regarding the 2024 Heads of Bill**

During pre-legislative scrutiny of a precursor piece of legislation, the 2024 Heads of Bill, the Housing Committee issued five recommendations. MLRC are deeply concerned that most of these recommendations do not appear to have been implemented in the new Bill.

### **Appeal Structure**

The first recommendation of the previous Housing Committee was as follows:

1. *The Committee recommends that a robust and independent appeals mechanism be included in the legislation.*

*Given the complex nature of assessing habitual residency, this appeals process should not be operated by local authorities; rather, it should be centrally operated in order to ensure that a level of expertise can be build up over time.*

This recommendation was reiterated by IHREC. MLRC welcomes steps towards standardising an appeal structure for decisions related to social housing supports, which is long overdue. However, it does not appear that the DHLGH has complied with the Housing Committee's recommendation with the introduction of the appeal structure in the recent Bill in a number of ways. We would welcome additional time for the Committee

---

<sup>2</sup> C-138/022

### **Solicitors:**

**Paul Dornan**

**Adam Boyle**

**Kate Heffernan**

**Erika Hayes**

# Mercy Law Resource Centre

25 Cork St, Dublin 8

Phone: 01 4537459

Email: [info@mercylaw.ie](mailto:info@mercylaw.ie)

[www.mercylaw.ie](http://www.mercylaw.ie)



---

to review this element of the Bill and for submissions to be made by legal and advocacy organisations working with the populations who will be impacted by these changes.

## ***Not centrally operated***

The Housing Committee expressly indicated that the appeals process not be operated by local authorities. The Housing Committee recommended a centrally operated appeal body which could hear appeals of decisions of all 31 local authorities of Ireland, in order to build up a level of expertise over time. It appears that this has been rejected by the DHLGH in favour of a localised appeal structure. The operation of 31 different localised appeal structures appears likely to result in continued variance in application of legal norms across geographic areas, impacting on the rights of applicants seeking access to social housing supports.

## ***No Fresh Information for Appeals – No “De Novo” Appeals***

The appeal structure which has been recommended by the DHLGH is far from robust, both in terms of the breadth of decisions it can review and the nature of the review itself. The DHLGH have indicated that these amendments are “consistent with the approach taken in social protection”.<sup>3</sup>

However, the DHLGH Bill appears to indicate at s. 20(8) that a social housing appeal may only include information which was previously provided to the housing authority concerned. This is directly contradictory to the approach taken in social protection related appeals. These are governed by s. 311(c) of the Social Welfare Consolidation Act 2005 (as amended) which reads:

*“An appeals officer, when deciding a question referred under subsection (1), shall not be confined to the grounds on which the decision of the deciding officer or the determination of the designated person, as the case requires, was based, but may decide the question as if it were being decided for the first time.”*

It is not clear why a choice to differentiate social housing appeals from social welfare appeals in this manner has been made. Oftentimes applicants for social housing support may struggle to provide all documents or information required by local authorities. Even before the imposition of a habitual residency criteria, applicants can struggle to identify all evidence which may be required, and local authorities do not always provide clear requests of what information is needed.

Many households who require social housing support may face literacy or numeracy difficulties, or otherwise struggle to navigate a complicated bureaucratic system. It is for this reason that across the country so many housing and advocacy charities exist, such as those which make up the IHPG. In many cases, households may only be successful following the support of such a service which can assist them both through advocacy and also in gathering and submitting evidence. In many cases, applicants who make an initial application without

---

<sup>3</sup> Press Release available here: <https://www.gov.ie/en/department-of-housing-local-government-and-heritage/press-releases/new-bill-to-bring-greater-clarity-on-eligibility-for-social-housing/>

## **Solicitors:**

**Paul Dornan**

**Adam Boyle**

**Kate Heffernan**

**Erika Hayes**

Mercy Law Resource Centre CLG 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, Rebecca Keatinge, Tom O'Brien, Annette O'Donnell, Helena O'Donoghue, Conor Roe, Liam Twohig.

# Mercy Law Resource Centre

25 Cork St, Dublin 8

Phone: 01 4537459

Email: [info@mercylaw.ie](mailto:info@mercylaw.ie)

[www.mercylaw.ie](http://www.mercylaw.ie)



---

such support may be provided with supporting advocacy letters or otherwise provide further evidence of their entitlements after first being rejected for social housing supports.

It appears widely accepted that the imposition of additional legislative criteria including lawful, habitual, and reckonable residency will increase bureaucratic complexity of social housing applications. This is likely to lead to an increase in first instance rejections of households not due to a lack of eligibility, but rather a lack of knowledge on navigating the increasingly complex social housing system. A full rehearing on appeal, as exists in social welfare legislation, would allow applicants to submit up to date evidence and advocacy support, increasing the efficacy of appellate decisions. In the absence of a full rehearing, appeals officers will be prevented from approving persons for social housing where those persons have clearly demonstrated eligibility through production of new information at appeals stage. Under the proposed structure, it appears that such persons would instead be returned to the beginning of the application process, resulting in an overall likely increased cost and administrative burden on the social housing application system. We would also be concerned that local authorities may wrongfully seek to refuse to accept fresh applications at this stage on the basis of the appeals officer having rendered a “final decision”. Such actions would be contrary to the principle set down by the High Court in *H v South Dublin County Council*<sup>4</sup> that an applicant may re-apply to a local authority for social housing supports.

In order to better comply with the recommendations of the previous Housing Committee, IHREC, and frontline housing services, appellate decision makers should be empowered with at least as much discretion in their decision making as is currently enjoyed by social welfare appeals officers.

## ***Timelines for Appeals***

The Bill seeks to introduce a time limit of 14 days (not 14 working days) for an applicant to lodge an appeal. In an of itself, this is a very short period of time to lodge an appeal on what will be a complex matter and is particularly unfair when the Bill does not appear to grant the appeal decision-maker any discretion in extending this timeframe, with good reason.

Under the Bill, appeal decision-makers are allowed up to 28 days to decide on the outcome of the appeal. It is unclear as to why the applicant only has 14 days to lodge an appeal and while the decision-maker is afforded 28 days to reach the decision.

## ***No Procedural Safeguards***

The social welfare appeal system is governed by law, both primary statute and secondary regulations. These regulations, in particular, provide for the procedure to be followed in carrying out appeals. This allows for procedural safeguards to be implemented to ensure that decision making is compliant with Constitutional rights to fair procedures. These include, by way of example, procedures related to oral hearings, calling

---

<sup>4</sup> [2020] IEHC 250

## **Solicitors:**

**Paul Dornan**

**Adam Boyle**

**Kate Heffernan**

**Erika Hayes**

Mercy Law Resource Centre CLG 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, Rebecca Keatinge, Tom O'Brien, Annette O'Donnell, Helena O'Donoghue, Conor Roe, Liam Twohig.

# Mercy Law Resource Centre

25 Cork St, Dublin 8

Phone: 01 4537459

Email: [info@mercylaw.ie](mailto:info@mercylaw.ie)

[www.mercylaw.ie](http://www.mercylaw.ie)



---

witnesses, and processing evidence. This Bill includes no such procedural safeguards, nor indeed does it empower the Minister to issue regulations governing same. These lack of safeguards raise substantial concerns about the compliance of such appeals with the Constitutional fair procedures rights of persons engaging in them.

## ***Limited Matters Amenable to Review***

The appeal structure included in this Bill allows applicants to appeal a range of decisions related to social housing supports made pursuant to Section 20 of the Housing (Miscellaneous Provisions) Act 2009 (the “**2009 Act**”) and regulations made thereunder. In particular, decisions made pursuant to **only some** regulations of the Social Housing Assessment Regulations 2011 (the “**Assessment Regulations**”) are amenable to review. These include determinations made under regulations 17-21 related to income thresholds, regulations 22-23 related to alternative accommodation, and regulations 25-25A related to alternative accommodation.

However, the list of decisions which can be reviewed is incomplete. For example, regulations 5 & 6 of the Assessment Regulations appear to be exempt from consideration by this appeal structure. These regulations relate to which local authority should accept a social housing application, including determinations as to where an applicant “normally resides” or has a “local connection”. Misinterpretation of these regulations has been a consistent issue across the country since 2011. Following intervention by the Ombudsman, in 2013 the DHLGH circulated guidance to all local authorities to reiterate how to make these decisions. In 2016 the regulations were amended to seek to add to the clarity of this guidance. Despite this, further guidance in 2017 and 2025 has issued from the DHLGH which reiterates elements of the 2013 guidance. As recently as late 2025 MLRC met with members of the DHLGH to report on the widespread issue of local authorities continually misapplying regulations 5 & 6 of the Assessment Regulations.

The exclusion of some of the Assessment Regulations from review by the appeal structure does not appear to have a logical basis.

In addition, MLRC have reportedly extensively on widespread misapplication of Sections 2 and 10 of the Housing Act 1988 (the “**1988 Act**”), being homeless assessments. These should be assessments which are much more straightforward than complex social housing applications; a local authority must simply determine whether a household has alternative accommodation or the means to provide for their own accommodation. Despite this, MLRC have reported substantial annual increases in cases requiring legal intervention where these assessments are incorrectly carried out. The result of these common issues in local authorities is an increase in hidden homelessness and rough sleeping. A robust, independent appeals mechanism would also empower applicants to have these types of rejections reviewed.

## **Clarity on Habitual Residency Condition (HRC)**

The Housing Committee made two recommendations specifically related to clarity around the operation of the Habitual Residency Condition (“**HRC**”). These sought to confirm whether the HRC assessment would form

### **Solicitors:**

**Paul Dornan**

**Adam Boyle**

**Kate Heffernan**

**Erika Hayes**

Mercy Law Resource Centre CLG 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, Rebecca Keatinge, Tom O'Brien, Annette O'Donnell, Helena O'Donoghue, Conor Roe, Liam Twohig.

# Mercy Law Resource Centre

25 Cork St, Dublin 8

Phone: 01 4537459

Email: [info@mercylaw.ie](mailto:info@mercylaw.ie)

[www.mercylaw.ie](http://www.mercylaw.ie)



---

part of a social housing assessment or a precursor to same, and requested that the legislation ensure the assessment meet the requirements of fair procedures and natural justice.

In September 2025 the DHLGH informed members of the IHPG that any Bill legislating the HRC would be accompanied by clear guidance to be issued to every local authority and secondary legislation. It is unclear whether such guidance has yet been completed and whether this guidance provides a sufficient response to these recommendations of the Housing Committee.

## **Reckonable and Habitual Residence for all household members**

One of the issues raised during Pre-Legislative Scrutiny of the 2024 Heads of Bill was the disproportionate administrative and bureaucratic burden placed on households in needing to prove that every member of the household was both reckonably and habitually resident. It was noted that in some family circumstances an entire household would be deemed ineligible on the basis that one single member had not yet reached the required reckonable residency in Ireland, or was deemed to have failed to prove habitual residence. It was noted that some elements of the assessment process currently apply to all household members, but that this was generally related to the availability of alternative accommodation. By way of distinction, pursuant to the Assessment Regulations only one member of a household needs to prove normal residence or local connection in order to be deemed eligible for housing support from a particular local authority.

As such, recommendation 4 of the Housing Committee reads:

*“4. The Committee recommends that, given the potential number of people it would exclude from eligibility for social housing support, the requirement for all members of a household to be reckonably and habitually resident should be dropped.”*

This recommendation was echoed by IHREC in June 2024 when they recommended that “the requirement for all household members to demonstrate lawful and habitual residency in the State be removed.”

This Bill does not comply with these recommendations. Instead, strangely, at s. 20A(2) it indicates that children in a household need not be lawfully resident in the State in order for the household to be eligible for social housing supports. This may be a mistake, in that it fails to make clear that children need not be habitually or reckonably resident as recommended by the Housing Committee. In the absence of including these two criteria, s. 20A(2) is of no practical effect and does not reflect the recommendations of the Housing Committee.

## **Homeless Services**

The General Scheme of the Housing (Miscellaneous Provisions) Bill 2024 did not include any explicit safeguards to confirm that the complex eligibility criteria being legislated would not apply to decisions made pursuant to the 1988 Act. These are decisions on whether a household is homeless and whether to provide that household with access to emergency accommodation.

### **Solicitors:**

**Paul Dornan**

**Adam Boyle**

**Kate Heffernan**

**Erika Hayes**

Mercy Law Resource Centre CLG 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, Rebecca Keatinge, Tom O'Brien, Annette O'Donnell, Helena O'Donoghue, Conor Roe, Liam Twohig.

# Mercy Law Resource Centre

25 Cork St, Dublin 8

Phone: 01 4537459

Email: [info@mercylaw.ie](mailto:info@mercylaw.ie)

[www.mercylaw.ie](http://www.mercylaw.ie)



MLRC submitted concerns and case studies which reflected widespread misapplication of social housing eligibility criteria and other extra-legal rules being applied by local authorities across the country which were resulting in unlawful refusals of access to emergency accommodation and an increase in hidden homelessness. The MLRC submission was accompanied by anonymised case studies and extracts posted on the public websites of local authorities. Unfortunately, in the intervening two years MLRC have observed and reported increasing cases of unlawful refusals of access to emergency accommodation since 2024.

That is to say, MLRC are aware of increasing cases across the country where households who should lawfully be determined to be homeless and eligible for emergency accommodation were determined not to be, or otherwise not engaged with by local authorities. Many of these cases, unfortunately, result from households at the point of homelessness being asked to produce more and more documentation to comply with needless bureaucratic checks at a time of incredible trauma and distress. Where these households cannot, at this point of homelessness, comply with these requests for additional documents, they are increasingly at risk of entering hidden homelessness or rough sleeping. In the context of social welfare, assessments of the HRC are document and time intensive, often taking several weeks to complete. A homeless assessment occurs in an emergency situation, requiring a local authority to make urgent decisions to mitigate the risk that a family will be left rough sleeping. The imposition of additional criteria at the stage of a homeless assessment, in particular the imposition of the highly complicated HRC assessment, would be administratively unworkable and contribute to families being left without access to urgently required emergency accommodation at the time that they need it.

These concerns were raised by members of the previous Housing Committee at length and reiterated by other services which made submissions to the Committee. Mr David Kelly of the DHLGH indicated as follows to the Committee:

*“The legislation that is before us does not impact on somebody's right to access emergency accommodation. It refers specifically to the entitlement to long-term social housing support. An assessment for emergency accommodation is carried out under separate legislation, namely, section 2 of the Housing Act 1988. It is a matter for a local authority to determine if a person is homeless. That includes whether the person has alternative accommodation. It is a separate process and separate legislation, however. It is not impacted by the legislation that is before the committee today.”*

Despite this, it was clear that there was a fear or apprehension that increasing the bureaucratic requirements to demonstrate eligibility for social housing supports could have knock-on impacts for those seeking access to emergency homeless services. As such, the Housing Committee recommended as follows:

*“5. A provision should be included in the legislation setting out explicitly that that the HRC for the purposes of social housing does not and should not affect an individual's or a household's eligibility for access to emergency accommodation.”*

It is disappointing that no such provision has been included in this Bill.

## Solicitors:

Paul Dornan

Adam Boyle

Kate Heffernan

Erika Hayes

Mercy Law Resource Centre CLG 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, Rebecca Keatinge, Tom O'Brien, Annette O'Donnell, Helena O'Donoghue, Conor Roe, Liam Twohig.

# Mercy Law Resource Centre

25 Cork St, Dublin 8

Phone: 01 4537459

Email: [info@mercylaw.ie](mailto:info@mercylaw.ie)

[www.mercylaw.ie](http://www.mercylaw.ie)



---

As was demonstrated by MLRC’s submission to the 2024 Housing Committee, local authorities across the country are increasingly adding – without lawful basis – additional eligibility criteria as a prerequisite to access emergency accommodation supports. The vast majority of homeless clients with whom MLRC work, both Irish nationals and migrants lawfully resident in the State, experience very limited access to detailed records or other evidence at the point of seeking access to emergency accommodation. No clear justification can be provided for increasing the evidentiary burden on such households, and indeed the previous Housing Committee called on the DHLGH to clarify this point.

## **Additional Areas of Concern**

As has been noted, the speed at which this Bill has been introduced and advanced has restricted MLRC’s ability to carry out a comprehensive review of the legal issues raised.

Other vulnerable groups whose interests were raised by submissions to the previous Housing Committee include victims of trafficking and victims of domestic, sexual, or gender-based violence. In many cases, these households may be unable to prove the five-years reckonable residency required to access housing supports where their immigration status was controlled by the perpetrators of violence against them. At present, local authorities are entitled to assess such households for access to social housing support without needing to show five years of reckonable residence where their immigration status has been regularised. Despite recommendations from IHREC, Crosscare, and other organisations on this point, the DHLGH’s Bill would act to restrict this access and close this important discretion.

In addition, we have deep concerns about the “transitional provisions” in terms of their impact on households approved for housing supports, local authorities processing reviews, and advocacy services working with persons in housing insecurity. These transitional provisions hinge on a “prescribed form” from the Minister which has not been disclosed alongside this Bill. These provisions empower local authorities to review all social housing applicants who are already approved, providing them with 21 days to prove compliance with the HRC and other new requirements of social housing law. We understand that the forms required for proving HRC for a single applicant for social welfare support can be longer than twenty pages and are remarkably difficult to complete and assess. In the absence of a substantial increase in support, training, and funding both for local authority staff and advocacy organisations, we are concerned that these transitional provisions raise a profound risks for households currently on the social housing waiting list. We are concerned that large numbers of households which are fully eligible for social housing supports will struggle to comply with new bureaucratic requirements of proving eligibility. Local authority staff who are already overburdened and unfamiliar with these new rules may struggle to render correct decisions, and frontline advocacy services may be overloaded in seeking to assist households with these reviews. Those households who struggle to correctly navigate this new emerging structure will face removal from the social housing list, losing time accrued on the waiting list, and potentially losing access to the Housing Assistance Payment (“HAP”) increasing the risk of further homelessness.

## **Solicitors:**

**Paul Dornan**

**Adam Boyle**

**Kate Heffernan**

**Erika Hayes**

Mercy Law Resource Centre CLG 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, Rebecca Keatinge, Tom O’Brien, Annette O’Donnell, Helena O’Donoghue, Conor Roe, Liam Twohig.