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An Tuarascáil maidir leis an nGrinnscrúdú Réamhreachtach ar Scéim Ghinearálta an Bhille um Athchóiriú Sibhialta

Bealtaine 2026

Joint Committee on Justice, Home Affairs and Migration

Report on Pre-Legislative Scrutiny of the General Scheme of the Civil Reform Bill

June 2026

34/JC/14


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Leaschathaoirleach

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Catherine Callaghan TD, Fine Gael

Albert Dolan TD, Fianna Fáil

Gary Gannon TD, Social Democrats

Alan Kelly TD, Labour

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Mark Ward TD, Sinn Féin

Senator Robbie Gallagher, Fianna Fáil

Senator Garret Kelleher, Fine Gael

Senator Michael McDowell, Independent

Senator Anne Rabbitte, Fianna Fáil

Senator Lynn Ruane, Independent

Cathaoirleach's Foreword

In January 2026, the Minister for Justice, Home Affairs and Migration, Mr Jim O'Callaghan TD, forwarded the General Scheme of the Civil Reform Bill to the Joint Committee on Justice, Home Affairs and Migration in accordance with Standing Orders for the purpose of pre-legislative scrutiny.

This General Scheme contains provisions that seek to implement the Review of the Administration of Civil Justice, also known as the Kelly Report, which was published in October 2020. The General Scheme also seeks to implement the Report of the Sheriff Review Group 2024. The General Scheme includes measures to place judicial review on a statutory basis, prevent abuse of the discovery process by introducing a new production regime and raise monetary limits on the jurisdiction of the Circuit and District Courts.

The Committee welcomes aspects of the proposed legislation, however, following its hearings on the General Scheme, the Committee wishes to highlight several areas which are of concern to the Committee. These areas include the proposed production of document reform measures contributing to increased costs, exacerbating delays and disproportionally burdening individuals; access to justice for individuals seeking to challenge unlawful decisions particularly in relation to housing, social welfare, environmental and immigration related matters; problematic extension of judicial review jurisdiction to the Circuit Court; changes to the leave requirements and thresholds and the inadvertent impact of civil reform procedures. The Committee is concerned that the General Scheme goes beyond the recommendations made in the Kelly Report and has concerns in relation to its compatibility with international agreements, EU law and the Constitution. The Committee is also concerned that proposed changes in respect of judicial reviews are not informed by data and an understanding of the extent to which the number of judicial reviews is driven by poor decision making by public bodies and the absence of other means to pursue appeals.

The Committee noted in particular the points of concern regarding the General Scheme raised by Professor Paul Daly, one of the leading experts on judicial review and administrative law, in his written submission.

In undertaking pre-legislative scrutiny, the Committee has sought to scrutinise the proposed legislation and provide recommendations on areas where it believes change or amendments are warranted. The Committee has made a number of recommendations, and a copy of this report will be sent to the Minister for Justice, Home Affairs and Migration. I would like to express my appreciation to all the stakeholders for their contributions and to the Members of the Committee for their engagement on this subject.

Finally, I hope that this report will help to inform the legislative process and make a valuable contribution to the forthcoming legislation.

Matt Carthy TD

Cathaoirleach

23 June 2026

1. Recommendations

1. In relation to Head 5, the Committee recommends that the recommendations made in the Review of the Administration of Civil Justice Report (the "Kelly Report") should not be departed from, particularly, in relation to the recommendation that primary legislation is used to only set out the principles and policies of the document production regime and that reform should be implemented though court rules developed by the respective court rules committee and subject to judicial oversight.

2. The Committee recommends that Head 5(1) is amended to remove the requirement to provide all documents and instead provide for a requirement at an initial stage to disclose those documents which are referenced in the initiating pleading and any documents considered or relied upon in producing the pleadings.

3. In respect of Head 5(1), the Committee recommends that consideration be given towards issuing guidance in terms of what is expected of a party when conducting a search of documents and guidance in relation to what scoping exercise is required.

4. In respect of Head 5(1), the Committee recommends that clarity be provided as to whether there is an obligation on a party to proceedings to communicate to the other party the parameters proposed to be applied for a search of documents and the basis on which it considers those parameters reasonable.

5. In respect of Head 5(5), the Committee recommends that the 28-day period to produce documents is reconsidered, particularly in light of concerns that "materiality" may prove difficult to determine where a claimant has not yet had a defence served upon them. The Committee recommends that the production of document regime be reconsidered to provide for the production of documents after the delivery of a defence.

6. In respect of Head 5(6), the Committee recommends that the words '*prior to the date of trial'* be deleted. The Committee recommends that the second stage production of documents takes place at an earlier stage than that which is currently envisaged in the

General Scheme. The Committee, therefore, recommends that Head 5(6) be amended to provide that the appropriate point at which the second stage of the production of documents is to be determined should be relative to the close of proceedings not the date of trial.

7. The Committee recommends the inclusion, at Head 5, of a provision providing clarity in relation to the mechanism by which a party shall inform the other party of any documents which a claim of privilege is being made in respect of.

8. The Committee recommends the inclusion, at Head 5, of clarity in relation to sanctions which are available to the Court in respect of a party's failure to comply with any of the obligations therein.

9. The Committee recommends that, in respect of the changes to the production of documents regime at Part 2 of the General Scheme, that before any far-ranging procedural reforms are introduced consideration is given to a pilot scheme in one or more divisions of the Courts to test the effects of the proposed reforms. There should also be effective public consultation on these proposals, and account taken of any concerns raised, as well as an impact assessment prepared on the potential effects of the proposals, including to identify the additional time and costs precipitated which would be counter-productive and contrary to the objective the reforms intend. And consideration is given to a pilot scheme in one or more divisions of the Courts to test the effects of the proposed reforms.

10. The Committee recommends that to ensure compliance with article 6 of the European Convention on Human Rights, articles 41 (the right to good administration) and 47 (the right to an effective remedy) of the European Union Charter of Fundamental rights, article 19 of the Treaty on European Union, article 14 of the International Covenant on Civil and Political Rights, and article 9 the Aarhus Convention, that: the exceptions to Heads 10,11 and 12 provided for in Head 13(1) be expanded to also include Heads 8 and 9, and shall also exclude all environmental Judicial Review, and not just limited to that falling under the Planning and Development Act 2024, and that Head 8 be amended accordingly.

11. In relation to Head 8(1), the Committee recommends that the words '*other than by way of statutory appeal or an application under this Act'* be reconsidered so as to not preclude a non-statutory appeal mechanism or other administrative measure which is utilised to question the validity of an act of a public body to provide a remedy prior to an application for judicial review.

12. The Committee recommends that Head 8(1) be re-examined, and clarification be provided as to regarding its potential to prohibit judicial review-type remedies from being sought in other types of cases, such as 'plenary' actions.

13. In relation to Head 8(5), the Committee recommends amending the language at Head 8(5) to ensure that the Court's discretion to grant judicial review is retained, rather than limiting as is proposed under Head 8 (5).

14. In relation of Head 8(5), the Committee recommends that reference to the terms '*harm or prejudice'*, '*interests of the applicant and the public interest*" and '*significant benefit'* and '*materially better position'* be deleted, in recognition of the inevitable significant litigation over the meaning of these terms.

15. In relation to Head 8(5)(a)(ii), the Committee recommends that consideration be given as to how the '*harm or prejudice*' requirement would be proven particularly in environmental judicial reviews and that further guidance and definitions should exist within the Bill.

16. In relation to Head 8(5)(a)(v), the Committee recommends that further guidance should be provided in the Bill as to the meaning of '*significant benefit'* and particularly in relation to how significant benefit would be established for individuals and NGOs in environmental related judicial reviews.

17. The Committee recommends that the restriction proposed in Head 8(7) on the court's discretion to award costs be deleted, given the necessity to consider the potential public

interest arising from the case, and to also ensure that costs do not act as a barrier to access to judicial review and its effectiveness as an accountability mechanism and the pursuit of effective judicial remedies.

18. The Committee recommends, that in relation to Head 8(8), that the exclusions specified be expanded to include subhead 8(5)(b), given that the concept of "materially better position" is also not relevant for eNGOs, and that the exceptions provided for in subhead 8(8) be applied to all environmental JR and to organisations meeting the criteria in s.50A(3)(b)(I),(II),(III) of the Planning and Development Act 2000.

19. The Committee recommends that, in relation to Part 3, particularly insofar as it relates to access to justice in environmental matters that advice be sought from the Aarhus Convention Compliance Committee regarding compatibility of the General Scheme of the Civil Reform Bill with the Aarhus Convention.

20. The Committee also recommends that the legislation be opened for public participation in accordance with Article 7 of the Aarhus Convention.

21. The Committee strongly recommends the deletion of Head 8(7).

22. In relation to Head 9, the Committee recommends that judicial review proceeding be retained in the High Court and that jurisdiction to determine judicial reviews not be conferred on the Circuit Court. The Committee strongly recommends that Head 9, therefore, be deleted from the General Scheme.

23. The Committee recommends that the wording of Head 10(2)(c) be reconsidered to address any confusion with respect to its operation with Head 8(1) insofar as Head 10(2)(c) refers to the exhaustion of '*all appeal procedures or any other administrative remedy'* whereas Head 8(1) refers to statutory appeals only.

24. The Committee recommends that Head 10(2)(c) and Head 10(6) be reconsidered, and the language amended to provide flexibility in the rules around alternate remedies in

order ensure that people without a meaningful and effective remedy are not blocked from taking a case.

25. In relation to Head 10(2)(d), the Committee strongly recommends that '*8 weeks'* be replaced with '*12 weeks'*.

26. The Committee recommends amending Head 10(7)(c) to remove the upper limit of 16 weeks for the extension of application for leave.

27. In relation to Head 10(9), the Committee recommends that the Bill include a definition of the term '*effective public administration'*.

28. The Committee recommends that Head 10(3)(b) be given further consideration with respect to its impact on housing related juridical reviews which may not have a statutory deadline for which a decision must be made.

29. In relation to Head 10, and further to the Committees recommendation at paragraph 24 above, the Committee recommends that greater consideration be given as to how current systems and structures of appeals and administrative remedies operate within public bodies, with specific consideration given to a statutory appeals structure for social housing and homelessness decisions of local authorities.

30. The Committee recommends that research should be carried out to ensure policy making in relation to judicial reviews is informed by data and information around the reason why judicial reviews are taken and the extent to which the quality of decision making by public bodies including in areas such as social welfare and access to social housing and emergency accommodation impacts on the number of judicial reviews taken.

31. The Committee recommends amending Head 10(13) to reflect that leave application may only be made before a member of the judiciary and thereby removing the ability for leave applications to be made before the Master of the High Court or County Registrar.

32. In relation to Head 11, the Committee recommends that the current requirements and thresholds for the granting of leave be maintained, and that Head 11(1) be deleted.

33. The Committee also recommends a review of the language at Head 11, particularly, the interplay between the terms 'arguable grounds' and 'reasonable prospect of success' tests included in the General Scheme.

34. In relation Head 12, the Committee recommends the retention of the current appeal system and the retention of existing thresholds for leave to appeal. The Committee recommends that Head 12 is reviewed and amended in light of the deletion of Head 9 and in light of the Department's statement delivered at the end of the Pre-Legislative Scrutiny Hearing on 24 March 2026, that "the Minister has directed that the proposals to expand the jurisdiction of the Circuit Court are to be removed from the Bill".

35. In relation to Head 13(1), the Committee recommends that to ensure compliance with article 6 of the European Convention on Human Rights, articles 41 (the right to good administration) and 47 (the right to an effective remedy) of the European Union Charter of Fundamental rights, article 19 of the Treaty on European Union, article 14 of the International Covenant on Civil and Political Rights, and article 9 the Aarhus Convention, that: the exceptions to Heads 10,11 and 12 provided for in Head 13(1) be expanded to also include Heads 8 and 9, and shall also exclude all environmental Judicial Review, and not just limited to that falling under the Planning and Development Act 2024, and that Head 8 be amended accordingly.

36. In relation to Part 4, Civil Procedures in the Courts and Heads, particular, the Committee recommends that further consideration be given to allow for the reform of civil procedure and the introduction of modern case management and efficiency through a process which is court-led, developed incrementally through court rules committees and overseen by judicial discretion rather than mandatory statutory sanctions, as

recommended by the Kelly Report, and rather than the approach proposed in Part 4. Further consideration should be afforded to the concerns raised in the Bar Council of Ireland's and FLAC Ireland's written submission to the Joint Oireachtas Committee on this Part in particular.

37. In relation to Head 16(3), the Committee recommends the removal of the mandatory language and recommends amending Head 16(3) to permit the Court to consider the conditions which should attach to an adjournment as opposed to a mandatory and automatic penalty.

38. In relation to Head 16, the Committee recommends that greater discretion is afforded to judges, compared to what is currently proposed at Head 16 and further consideration be given towards other measures to strengthen and support judicial discretion in the adjournment of cases.

39. In relation to Head 17, the Committee recommends the adoption of a more flexible definition as to what constitutes a "step in proceedings".

40. In relation to Head 17(5), the Committee recommend a more robust, accessible, reinstatement mechanism. The Committee recommends that the General Scheme is, therefore, amended to broaden the terms for reinstatement as envisaged in the Kelly Report.

41. In relation to Head 19, the Committee recommends removing reference to the Minister and instead recommends that a general power to prescribe pre-action protocols should be conferred on the respective courts rule committee rather than the Minister. In recommending this measure the Committee considers that there should be no departure from the Kelly Report with respect to recommendations made in relation to pre-action protocols.

42. The Committee recommends that prior to the introduction of pre-action protocols that further consideration be given to the best practice emerging in the UK and Northern Ireland.

43. The Committee recommends the deletion of Part 5 of the General Scheme and recommends that an increase in the monetary jurisdictions of the lower courts, should be phased, proportionate and evidence based as contemplated in the Kelly Report.

44. The Committee recommends overall that further consideration be given to the General Scheme as a whole and the wider concerns reflected in the written submissions made, as while it welcomes the clarification that, the proposals to expand the jurisdiction of the Circuit Court are to be removed from the Bill" which was provided only right at the end of the Pre-legislative scrutiny hearings for the General Scheme on the 24 March 2026. The Committee notes that this does signal issue with the extent to which the General Scheme was robustly considered before published and advanced for our scrutiny and regrets the amount of time that was lost to examining other aspects of the General Scheme as a consequence.

45. In relation to Part 6, the Committee recommends greater implementation of the recommendations of the Report of the Sheriff Group 2024.

2.Overview of the Committees' Consideration

2.1 Introduction

This is the report on pre-legislative scrutiny of the Civil Reform Bill, which was approved by the Government of the 34th Dáil on 16th December 2025.

The Joint Committee on Justice, Home Affairs and Migration was requested to undertake pre-legislative scrutiny of the General Scheme on 07th January 2026.

2.2 Purpose of the Bill

The General Scheme consists of 39 Heads. The proposed legislation seeks to see the implementation of the Review of the Administration of Civil Justice, also known as the Kelly Report, which was published in October 2020. The General Scheme of the Civil Reform Bill provides for, among other matters, the placing of judicial review on a statutory basis, reform of the discovery process by introducing a new production of documents regime, raising of the monetary limits of the District and Circuit Courts and introduction of a number of civil reform measures.

2.3 Procedural basis for scrutiny

Pre-legislative consideration was conducted in accordance with Standing Order 181 which provides that the General Scheme of all Bills shall be given to the Committee empowered to consider Bills published by the member of Government.

2.4 Engagement with Stakeholders

The Joint Committee on Justice, Home Affairs and Migration invited submissions from stakeholders on the Civil Reform Bill. A list of the submissions received is provided in Appendix 1.

On 24th March 2026, the Committee held a public engagement with several of these stakeholders. A link to the full transcript of the engagement can be found here.

The full list of witnesses that attended the meeting is available overleaf.

Stakeholders	Capacity
The Bar of Ireland ▪ Mr Seamus Clarke SC, Vice Chair of the Council of the Bar of Ireland. ▪ Ms Bairbre O'Neill SC, Chair of the Bar of Ireland's Public Affairs Committee.	Witnesses
Maynooth University ▪ Dr. Orla Kelleher, Assistant Professor in Environmental and Climate Change Law, Maynooth University School of Law and Criminology.	Witness
Irish Refugee Council ▪ Ms Katie Mannion, Managing Solicitor. ▪ Ms Virginija Petrauskaite, Solicitor.	Witnesses
Free Legal Advice Centers ▪ Ms Eilis Barry, Chief Executive. ▪ Mr Christopher Bowes, Policy & Public Affairs Manager.	Witnesses
Legal Aid Board ▪ Ms Joan Crawford, Chief Executive Officer. ▪ Ms Catherine Fahy, Regional Manager – Civil Operations.	Witnesses
Construction Industry Federation ▪ Mr. Conor O'Connell, Director Housing, Planning and Development Services ▪ Mr. Kieran Rush, Planning Director – Ballymore.	Witnesses

Department of Justice Home, Home Affairs and Migration.

Observers

- Mr Brien Henderson, Principal Officer.
- Ms. Liz Lyne, Assistant Principal Officer.

3. Summary of Written Submissions

3.1 Introduction

A summary is provided in section 4.2 of the key issues raised in the submissions received, in relation to the General Scheme.

The Committee received submissions from the following stakeholders:

- Trim Athboy and District Angling Association
- Supermac's
- Professor Paul Daly, Chair in Administrative Law and Governance, University of Ottawa
- Mercy Law Resource Centre ('MLRC')
- Irish Home Builders Association [Construction Industry Federation] ('CIF')
- McCarthy & Co. LLP
- Fred Logue, Solicitor
- Commercial Litigation Association of Ireland ('CLAI')
- Legal Aid Board ('LAB')
- The Law Society of Ireland
- Uisce Eireann
- Community Law & Mediation ('CLM')
- The Bar of Ireland
- Dr Orla Kelleher, Assistant Professor of Law, School of Law and Criminology, Maynooth
- National Transport Authority ('NTA')
- Environmental Law Ireland ('ELI')
- Irish Immigration Lawyers Association ('IILA')
- Irish Refugee Council ('IRC')
- Free Legal Aid Clinic ('FLAC')
- IBEC
- UNHCR Ireland

3.2 Key Issues Raised in the Submission

1. Production of Documents (Part 2, Head 4 and 5)
2. Judicial Review (Head 8)
3. Jurisdiction (Head 9)
4. Application for Leave to Apply & the Courts Consideration (Head 10, 11 & 12)
5. Civil Procedure in Courts (Head 16, 17 and 19)
6. Jurisdiction of District and Circuit Court & Extension of Monetary Limits (Part 5)

1. Production of Documents (Head 4 and 5)

- A number of organisations representing business and infrastructure development expressed their support in relation to the production of documents provisions of the General Scheme including Supermac's, CIF, NTA and Uisce Eireann.

- Supermac's strongly support the abolition of the existing discovery regime while CIF also indicate support for the reforms in Heads 4 and 5 particularly noting that the requirement that documents be "material" to the outcome as sensible.

- CLAI, however, strongly consider that the recommendations made in the Kelly Report should not be departed from. This view is shared by the majority of the submissions received who note that the General Scheme goes considerably further than the evidence-based reform measures recommended in the Kelly Report.

- Particularly, CLAI consider that detailed provisions relating to the production of documents being implemented by primary legislation is a serious mistake and contend that the Kelly report is specific in recommending that primary legislation should only set out high principles. The Bar of Ireland supports this view.

- CLAI also consider that the proposals are likely to lead to an overall increase in discovery costs compared to the current regime. This view is shared by the Law Society who note that the proposed model may generate disproportionate expense and legal costs particularly as claimants must prepare their case at a very early stage. The CLAI, Law Society and Bar of Ireland express concern that this

frontloading of costs at an initial stage followed by a second stage of discovery may have the unintended effect of increasing overall litigation costs in a substantial category of cases.

- CLAI consider that the current scope of Head 5(1) will not result in any material change to the scoping exercise that is required to be carried out to determine the documents which should be produced and that therefore the costs involved in that exercise will, in large part, remain. The CLAI note an absence of guidance as to the type of search that is reasonable for the party to conduct and suggests that consideration should be given as to explicit guidance.

- CLAI also note an absence of clarity as to whether there is an obligation on a party to communicate the parameters proposed to be applied in searching for documents. CLAI consider that it may be appropriate to specify that a party should communicate to the other party the parameters which it has applied to its search of documents and/or the basis on which it considers those parameters to be reasonable.

- CLAI contend that in order to ensure the second stage of production of documents does not increase costs, it is important that the first document production stage is appropriately narrowly defined. The Bar of Ireland also contend that disclosure obligations should be narrower.

- CLAI is strongly of the view that the appropriate touchstone for determining the timeline for any second stage production of documents should be the close of pleadings, rather than by reference to the commencement of trial, as currently proposed in Head 5(6). CLAI note the possibility of significant practical difficulties and increased costs burdens should this second stage production not take place at an earlier stage.

- In relation to Head 5(1) and Head 5(5), CLAI consider that a default timeline for the production of documents within a period of 28 days of commencing proceedings raises significant and insurmountable practical difficulties.

- CLAI also consider that the materiality requirement would be unworkable in circumstances where a party cannot fully be satisfied as to the materiality of documents until a defence document has been delivered. CLAI express concern that this proposal reflects a substantial departure from what had been recommended in the Kelly Report.

- CLAI further note an absence as to the clarity regarding privileged documents. CLAI claim it is unclear what mechanism is envisaged under the reforms to inform the other side what if any cohort of documents claim of privilege is being maintained in respect of. The CLAI considers that any reforms in relation to production of documents in civil proceedings would need to specify the mechanism by which parties to litigation identify to opposing parties, documents in respect of which privilege has been claimed.

- CLAI also note that it is unclear what, if any, sanction is envisaged for a failure to comply with obligations under Head 5. CLAI submit that careful consideration should be given in any reforms to what sanctions are to be available to a Court and/or to opposing parties in respect of a failure to comply with any of the obligations.

- The LAB welcome the objective of earlier and more focused document production; however, they also express concern regarding the shortened timelines representing a substantial front-loading of work. The LAB express concern that applicants for legal aid often present at a late stage thus creating difficulties under this Head. The LAB, therefore, encourage a flexible judicial approach in cases where parties obtain legal representation at a later stage.

2. Judicial Review (Head 8)

- Supermac's strongly support the codification of judicial review and statutory thresholds for relief claiming that it rebalances judicial review with no practical impact on outcomes. CIF also note that Head 8 provides an enhancement to reforms already made in the Planning and Development Act 2024.

- CLM claim, however, that no evidence is proffered to justify the proposed changes particularly in relation to the delivery of infrastructure, which they state go far beyond what was recommended in the Kelly Report. The Bar of Ireland meanwhile contend that the General Scheme represents a radical curtailment of judicial review. FLAC also note that there is no explanation as to why the General Scheme goes significantly beyond the recommendations concerning judicial review.

- ELI also refer to a lack of evidence base and note that in the context of environmental judicial review that Head 8 is legally problematic noting that environment judicial review is underpinned by a complex legal architecture and associated obligations and rights which are not reflected in the Head and that the infringement on the judicial remedies has not been justified and evidenced. The ELI therefore recommend that environmental judicial review is entirely removed from the scope provided in Head 8.

Head 8(1)

- A number of organisations have expressed concern in relation to Head 8(1) noting difficulties which could be posed by the inclusion of the provision that a person shall not question the validity of an act of a public body other than by statutory appeal or judicial review under the proposed Act.

- Fred Logue notes that there may be scenarios where an act or omission of a public body may be challenged other than by statutory appeal or judicial review. As a result, he considers this subhead to be unconstitutional and in breach of EU law if it excluded such actions.

- Particularly, Fred Logue expresses concerns that subhead (1) is incompatible with planning enforcement actions against a public body noting that an act of unauthorised development by a public body may be challenged under S.160 of the Planning and Development Act 2000 which is neither a judicial review nor a statutory appeal.

- MLRC also express concern that Head 8(1) could require homeless clients to take judicial review applications to challenge decisions of local authorities in housing cases as there is no statutory appeal mechanism to deal with such decisions. MLRC note that the majority of their cases are resolved outside the courts by way of legal correspondence and contend that any judicial review reforms should allow this to continue.

- In relation to Head 10(2) the MLRC identify apparent contradictions with Head 8(1) as it applies to *'all appeal procedures'* not just statutory appeal procedures. MLRC contend that the contradictory language could lead to confusion.

- FLAC contend that it is possible to interpret Head 8(1) as prohibiting judicial review-type remedies from being sought in other types of cases, such as 'plenary' actions which needs urgent clarifications. FLAC contend that plenary proceedings are the most appropriate proceedings to litigate breaches of rights.

Head 8(5)

- A number of organisations express considerable concern relating to the terminology used at Head 8(5) and contend that Head 8(5) is likely to have a restrictive impact on access to justice and for obtaining relief under judicial review.

- The Bar of Ireland note that Head 8(5) is an exceptionally onerous burden to impose on an applicant and appears to be designed to make it significantly more difficult to obtain relief in judicial review.

- CLM contend that Head 8(5) represents a radical departure from decades of settled jurisprudence relating to the granting of leave, with no empirical evidence or reasons proffered as to why such an overhaul is necessary. The Bar of Ireland also consider that Head 8(5) can in no manner be considered a codification of existing case law.

- Dr Orla Kelleher considers that head 8(5) could effectively operate to bar individuals and NGOs from taking an environmental judicial review in the public interest.

- Professor Daly expresses concern of the codification of grounds for granting remedies and claims that concepts such a "materiality", "public interest" and "significant benefit" will generate extensive litigation, and are very problematic in the context of Judicial Review involving eNGOs. The Bar of Ireland notes that such terms are open to many interpretations.

- In relation to Head 8(5) immigration organisations note that the current test governing judicial review in asylum and immigration matters requires that 'substantial grounds' exist for granting leave to seek judicial review noting that this is already a higher threshold than the standard applicable to judicial reviews in other areas of law. They contend that that Head 8(5)(a) is even more restrictive than the current test. The IRC contend that cases will fail at the leave stage under the new provisions, given the additional tests that an applicant must meet.

- The UNHCR recommend deleting Head 8(5)(a) and (b) of the General Scheme and retaining the existing 'substantial grounds' leave threshold for asylum, other international protection and refoulement-related judicial reviews. ELI, meanwhile, contend that Head 8(5) should be deleted in its entirety as it creates an unacceptable bar for achieving effective judicial remedies and adequate and effective reliefs.

- Trim Athboy express concern in relation to the 'harm or prejudice' test. While Dr Orla Kelleher also notes that the suffering 'harm or prejudice' requirement would be exceptionally difficult to prove in a climate case.

- Uisce Eireann, however, welcome the "harm and prejudice" test and the "significant benefit" requirement noting that it would have the welcome effect of focusing judicial reviews on those cases where a decision has had a significant impact on an individual and deterring proceedings which use an alleged procedural defect to

delay or impede necessary development, or where the case has been brought to litigate an academic point.

- Uisce Eireann, however, propose clearer definition of the term ‘harm and prejudice’ and ‘significant benefit’ particularly so in the case of proceedings that might be brought by individuals on environmental grounds. Uisce Eireann note that without some additional definitions or guidance, there is a risk of considerable litigation.

- CIF consider the requirement for the Court to consider the ‘public interest’ is sensible. CIF note that ‘public interest’ could further be anchored by reference to polices of the Government through regulations which enumerate plans or programmes identified in the public interest. Uisce Eireann also recommend consideration of including some guidance as to what constitutes the public good.

- Professor Daly, however, considers that the denying of a remedy on the basis of ‘public interest’ undermines the core purpose of judicial review and considers that it risks being incompatible with EU and ECHR law. ILII is also critical of the “public interest” and significant benefit provisions.

- Supermac’s contend that the ‘significant benefit’ test should be retained, while CIF consider it to be welcome to discourage technical and trivial judicial reviews.

- The CLAI, however, consider that the ‘significant benefit’ requirement in Head 8(5) lacks significant definition and submits that the proposal to include such a threshold merits further consideration, and, at minimum, further guidance should be provided in any draft Bill as to the intended meaning of that phrase. The Bar of Ireland considers that the requirement for an applicant to demonstrate a ‘*significant benefit*’ disproportionately limits the constitutional right to litigate and contends that the State should not enjoy an additional defence of the need to prove a "*significant benefit*" being afforded to an applicant. FLAC also note that the requirement to establish a “significant benefit” to the applicant before relief is granted is also highly problematic given the inherent public interest in having unlawful decisions quashed.

- CLM further contend that it is unclear how 'significant benefit' will be established in practice for both individuals and NGOs, noting that Environmental NGOs do not initiate judicial review for personal interest, but to ensure compliance with domestic and EU environmental and climate law.

Head 8(5)(b)

- The CIF support a 'no difference principle' and recommend that the language in Head 8(5)(b) should be changed to prohibit a court from granting relief where the error was harmless and did not materially affect the result. Uisce Eireann also welcome the inclusion of a 'materiality' test noting that this places on a statutory footing the 'harmless error' jurisprudence.

- Fred Logue considers that Head 8(5)(a)(iii) and (5)(b) are incompatible with the Aarhus Convention and EU case law, noting that EU law doesn't require the applicant to show that a different decision would have been made which would have placed the applicant in a materially better provision for relief to be granted. Fred Logue notes that Aarhus type claims are generally brought in the public interest and not to materially improve the position of the applicant. Fred Logue, on this basis, contends that this criterion for relief is unlawful. ELI and FLAC also express concerns in relation to compliance with the Aarhus Convention and EU case law and recommend actions to take to ensure each head is compliant with the Aarhus Convention.

- The Bar of Ireland meanwhile, notes that the creation of these additional criteria is a significant curtailment one's right to seek a remedy following an unlawful decision and raises significant concerns in relation to the constitutional right of access to the Courts.

Head 8(7)

- The Law Society is strongly opposed to the terms of Head 8(7) noting that it appears intended to serve as a filtering mechanism aimed at reducing the number of Judicial Reviews that are brought.

- The Law Society consider that limiting costs awards to cases in which there is *'a significant benefit to the applicant'*, may operate as a deterrent to meritorious judicial review litigation aimed at addressing unlawful administrative practices. The Law Society therefore recommends its deletion. The Bar of Ireland also considers that normal costs rules should remain, subject to existing statutory discretion.

- The Bar of Ireland note that no basis is advanced for the introduction of this additional significant requirement and notes that proposed subhead 8(7) directly affects access to justice in circumstances when the State knows that many of these cases are taken on a '*no win, no fee'* basis and thus, render it economically unviable for barristers to take on cases.

- Legal Aid organisations also express concern in relation to the restriction of legal costs contained at Head 8(7) noting that the provisions creates a prospect that a successful applicant in judicial review proceedings does not get their costs. FLAC note that there is simply no possible justification for this arbitrary change to the rules concerning costs.

- MLRC note that the absence of a statutory appeal structure for social housing and homelessness and no access to civil legal aid for judicial review housing cases. MLRC further express concern that most cases are settled with local authorities and contend that if such cases are no longer eligible for costs awards it could become even more difficult for law centres to engage counsel.

- ILII contend that this provision will render it economically unfeasible for solicitors to represent clients on a 'no foal no fee' basis. ILII also express concern that measures impacting the no foal no fee arrangement could lead to an increase in lay litigants, placing additional strain on the Courts.

- Dr Orla Kelleher contends that the costs provision in head 8(7) is also likely to fall foul of the ban on prohibitively expensive costs in environmental litigation. Trim Athboy also consider that prohibitively expensive environmental justice is contrary

to the Aarhus convention. ELI also note that the costs provisions are problematic enough to create an impermissible barrier to access to justice.

- The Law Society also express concern regarding the application of Head 8(7) to non-Part 9 environmental judicial review proceedings and note that there are concerns that this is likely to be in breach of the State's obligations under the Aarhus Convention. The Law Society contend that the non-awarding of costs (pursuant to Head 8(7)) to a successful applicant raises the very real prospect of those proceedings being 'prohibitively expensive' under the Aarhus Convention.

- CLM also contends that the proposed changes are in contravention of the Aarhus Convention and calls for the Bill, as it constitutes a plan or programme relating to the environment, in accordance with Article 7 of the Aarhus Convention to be opened to a full, public consultation to ensure early and effective participation while the legislation remains open.

3. Jurisdiction (Head 9)

- A significant majority of organisations expressed concern in relation to the transfer of the jurisdiction to the Circuit Court with some noting disastrous consequences. Amongst the reasons for concerns were a lack of specialised expertise, complexity of cases, capacity, lack of written judgments and relevant consistency concerns, availability of remedies, constitutionality considerations as well as inadvertent impacts on the legal aid system.

- Many organisations contend that a better approach would be a specialised, better-resourced division of the High Court who are noted as already having the relevant expertise. The Bar of Ireland judicial review should remain within the exclusive jurisdiction of the High Court.

- In relation to Head 9(4), MLRC contend that it is unclear what specific criteria are required to fall into the categories for cases to be heard in the High Court on a *'point of law of exceptional public importance'*.

- ILII is critical of Head 9 noting that the Head threatens to further reduce access to justice as skilled legal representatives may not continue with vital 'no foal no fee work' at the Circuit Court costs levels.

- ILII refer to the creation of a two-tier system of the administration of justice whereby the matters that are proposed to be determined by the Circuit Court involve non-nationals. IRC agree that it risks creating a discriminatory two-tier system.

- The IRC recommend that Head 9 be deleted. The Law Society also recommends that judicial review proceedings be retained in the High Court and that jurisdiction to determine judicial reviews not be conferred on the Circuity Court. UNHCR recommend deleting Head 9 of the General Scheme and replacing it with a provision explicitly retaining High Court jurisdiction for judicial review proceedings in asylum, immigration and citizenship cases.

4. Application for Leave to Apply & the Courts Consideration (Head 10, 11 & 12)

- Supermac's strongly support Head 10 and 11 and the tightening of leave requirements contending that early filtering at leave stage is essential to prevent unnecessary escalation of weak claims.

- CIF suggest that the leave stage is redundant in challenges to planning and environmental decisions, where so few applications are refused leave. CIF go further to suggest that, more generally, having regard to the recent reforms under the 2024 Act, there is much force to suggest that the same should apply to all judicial review proceedings that question the validity of any development consent. The CIF consider that the Bill presents an opportunity to remove unnecessary differences and ensure the reforms delivered under the 2024 Act apply more widely.

- ELI contend that the tests and restrictions imposed under Head 10 on the making of an application for leave and further restrictions in Head 11 on the granting of leave risk creating impermissible barriers in respect of the rights to access to justice under Articles 9(1) to 9(3) of the Aarhus Convention and making it excessively difficult to uphold the right to an effective judicial remedies.

- FLAC note that Head 10(2)(c) requires applicants for judicial review to show that there is no 'alternate remedy' available to them. FLAC also note that Head 10(6) creates a limited exception to this new rule for very urgent cases. FLAC contend that some flexibility in the rules around alternate remedies is necessary to account for circumstances where the alternative appeal mechanism available does not provide an effective remedy.

- The Law Society note that Head 10(2)(d) proposes to reduce the time period to apply for leave to eight weeks. The Law Society and FLAC express strong opposition to the proposal and favours the retention of the period of three months. The Bar of Ireland also contend that it is an oppressive burden on applicants which can operate to unfairly restrict access to justice.

- FLAC calls Head 10(2) a restrictive new rule which limits who has standing to take a judicial review case to only people directly impacted by a decision/act of a public body and notes that there is no stated rationale for this proposed change. FLAC contend that the Kelly Report recommends changing the standing rules in a different way.

- The Law Society also notes that Head 10(7)(c) limits the extension of application for leave to 16 weeks, however, claims there is no rationale for imposing this limitation. The Bar of Ireland supports the view that the extension of time is overly restrictive, and the 16-week period is unnecessarily limiting. The NTA, on the other hand, welcome the certainty created by Head 10(7).

- In relation to Head 10(9), the Law Society note that the term '*effective public administration'* has not been defined and therefore does not have a clear meaning in

the General Scheme, nor in case law. The Law Society recommends that an adequate definition of the term be included in the General Scheme.

- MLRC, LAB and FLAC express serious concerns that limiting the time to bring an application for leave for judicial review from three months to eight weeks will act as a significant barrier to access to justice. MLRCC refer to obstacles already experienced in relation to the three-month time limit including FOI requests and requests under GDPR as well as housing provision specific related practical difficulties (advocacy and informal appeals). CLM further contend that the proposed eight-week timeframe is unworkable, in circumstances where a public body can take up to 90 days to respond to a request for records. CLM note that the eight-week timeline also makes it difficult to instruct counsel.

- MLRC note a lack of formalised process for appeals in relation to housing entitlements. MLRCC report serious concerns that appeals, where they do exist in this area, are not legitimate appeals processes or administrative remedies due to a lack of grounding in statutory governance. MLRCC express concern that these systems could result in confusion if such decisions are sought to be challenged by way of judicial review taking into consideration that under Head 8 and 10 that before an application for leave is made, all appeal procedures or other administrative remedies must be exhausted. MLRCC express concern that this could result in inconsistencies between local authority areas with more formalised structures being subject to a different standard of justice compared to a litigant of another local authority without a formalised appeal process.

- In relation to Head 10(3)(b), MLRCC express concern that a path to judicial review could be blocked for an applicant in relation to housing decisions as a result of not having a reference to a statutory deadline due to the fact there is no strict timeframe which a local authority must make a decision. This view is echoed by FLAC.

- In relation to Head 10(13), the Law Society note the change in current practice to permit the Master of the High Court or County Registrars to hear applications for leave. The Law Society recommends that an application for leave to appeal should

be heard only by a member of the judiciary. Therefore, the Law Society recommends that Head 10(13) be amended to reflect this. The UNHCR makes similar observations and recommendations. The IRC also recommends that if Head 9 proceeds that Head 10 (13) should be deleted. FLAC note that is it potentially unconstitutional.

- In relation to Head 11, CIF welcome the requirement, where the leave application is retained, that the Court be satisfied that the claims has a reasonable prospect of success. The NTA also considers that Head 11 brings welcome clarity.

- The Bar of Ireland notes that Head 11(1) changes the current threshold for leave for judicial review, which is having an 'arguable case'. The Bar of Ireland contend that the proposed new threshold will make it more difficult for a litigant to challenge an unlawful decision by way of judicial review imposing additional criteria notably that the grant of a remedy would provide a significant benefit to the applicant and that the claim has a reasonable prospect of success. FLAC also note that raising the leave threshold just leads to more delays and more appeals noting that the proposed new threshold is so high that it would effectively lead to a whole case being argued twice. The Bar of Ireland consider this threshold ultimately inappropriate for the leave stage.

- Professor Daly considers that the 'significant benefit' test and 'reasonable prospect of success' test at the leave stage creates substantial new obstacles for applicants. Professor Daly also considers that the interaction between 'arguable grounds' (head 11(1)(b) and 'reasonable prospect of success' (Head 11(1)(c)) is unclear and will lead to litigation. FLAC also note that it unclear what the relationship will be between the 'arguable grounds' and 'reasonable prospect of success' tests included in the General Scheme and how courts should approach that matter.

- The Law Society also note that the change of threshold at Head 11 will effectively increase barriers to access judicial review without a clear policy rationale. The Law Society recommend that the current requirements and threshold for granting leave to apply are maintained, and therefore that the requirements and threshold set out

in Head 11(1) not remain in the General Scheme. The Bar of Ireland also contends that the existing 'arguable case' threshold at leave stage should be retained.

- Professor Daly expresses concern in relation to Head 12 noting that a more flexible, regulation-based approach would be preferable. ELI consider that the implications of this Head are very concerning.

- CIF note that there is no appeal from the High Court to the Court of Appeal under s.287(1) of the 2024 Act and note that it would make sense for the same to be applied for challenges to other decisions relevant to delivery of important infrastructure. Uisce Eireann also note that the position under this Head is different from that in the 2024 Act and recommend consistency for decisions relating to infrastructure, e.g. decisions of the Environmental Protection Agency or other types of environmental decisions.

- The Law Society note that Head 12 significantly restricts appeal rights. The Law Society recommends the retention of the current appeal system and also the retention of the threshold for leave to appeal to be granted. ILII also express concern with regard to Head 12(3), noting concern that the Circuit Court cannot constitutionally consider the validity of a law.

- The Bar of Ireland note that Head 12 which introduces of a "*certification*" requirement before an appeal may be taken, proposes to expand the procedure which currently exists in limited categories of cases (e.g. planning) to all categories of judicial review. The Bar of Ireland report that where certification is required before an appeal that it consumes significant judicial resources and delays proceedings significantly and for this reason was abolished in the Panning and Development Act 2024.

- The Bar of Ireland considers that the removal of the right to appeal either an application for judicial review or an application for leave to apply for judicial review to the Court of Appeal save with leave of the Court is a serious encroachment upon the right of access to the Courts.

5. Civil Procedure in Courts (Head 16, 17 and 19)

- Supermac's support the presumption against adjournments claiming that the penalty mechanism in Head 16(3) should be retained. Uisce Eireann broadly welcome Head 16.

- CLAI also welcome the presumption against granting of adjournments. In relation to Head 16(2), CLAI note that the mandatory language could result in injustice and recommends that the provision be amended so that the Court is required to consider whether any conditions should attach to any adjournment, as opposed to providing for a mandatory and automatic "penalty". The Bar of Ireland also consider that judicial discretion should not be fettered by mandatory statutory sanctions.

- The Bar of Ireland considers that Head 16 would appear to substantially fetter the discretion of a judge whether or not to grant an adjournment and that Head 16(3) represents a step in excess of what the Kelly Report views as an unnecessary statutory overreach upon the operation of judicial discretion in litigation.

- The Law Society considers the presumption against adjournments to be a significant development, however, recommend that rather than introducing a statutory presumption against the granting of adjournments, that consideration be given to other measures to strengthen and support judicial discretion in the adjournment of cases.

- Supermac's support deemed discontinuance claiming that the provision will incentivise active prosecution of claims and discourage proceedings being used as a holding tactic. CLA also welcome the concept of deemed discontinuance as pragmatic and balanced, however, note that the proposed measures differ from the recommendation in the Kelly Report. Uisce Eireann also welcome Head 17.

- The Law Society recommends that Head 17 be amended so as to reflect the following requirements: where a defendant seeks a discontinuance and lodges the application for deemed discontinuance in accordance with Head 17, the costs

should be granted to the defendant and to be taxed in default of agreement by order of the court. Where such an application is filed by the plaintiff, any agreement as to costs must be the subject of a court application on motion.

- The Law Society recommends the adoption of a more flexible definition of what constitutes a step in proceedings, and a robust and accessible reinstatement mechanism.

- The Bar of Ireland note that Head 17 proposes an entirely different methodology to the recommendations of the Kelly Report and considers that proposed deemed discontinuance after only six months' inactivity seems particularly severe and runs a real risk of injustice. The Bar of Ireland notes that the General Scheme also narrows the setting-aside discretion to three months and requires circumstances where delay was outside the notice party's control, which appears significantly narrower than the Kelly Report's terms for reinstatement.

- ILII express significant concerns regarding the constitutionality of Head 19. ILII contend that it is a blatant attempt at restricting access to justice, noting that Head 19 permits the Minister to make regulations in respect of pre-action protocols for the purpose of '*reducing the number of cases in which actions in the specified area of litigation are brought*'.

- CLAI welcome the principle of pre-action protocols (PAPs) noting their successful use in other jurisdictions, however, express concern that the it departs from the recommendations in the Kelly Report. CLAI contend that if the ability to make pre-action protocols were to rest solely with the Minister, any changes would have to be by way of legislation which may take longer and would occupy resources. The CLAI proposes that a general power to prescribe PAPs for specific categories of dispute should be conferred on the court rules committee rather than the Minister. This view is supported by the Bar of Ireland who note that pre-action protocols should be court led and developed incrementally.

- The Law Society would encourage the Department to introduce the regulations on pre-action protocols in clinical negligence cases. Before introducing pre-action protocols in other areas of litigation (under Head 19), the Law Society recommends that consideration to be given to the best practices emerging from UK and Northern Ireland.

6. Jurisdiction of District and Circuit Court & Extension of Monetary Limits (Part 5)

- The CLAI welcomes the extension of the monetary limits of the Circuit and District Courts. CLAI consider that this should result in lower value cases being assigned to a more appropriate jurisdiction, with a consequent reduction in legal costs and complexity. Uisce Eireann also support the extension of the monetary limit of the District and Circuit Court noting that this will facilitate more proportionality in respect of costs, allowing more cases to be heard in the lower courts which are less costly and do not require the same levels of representation.

- The Bar of Ireland contend that an increased monetary jurisdiction of the lower courts risks unintended consequences including delays and reduced access to High Court justice, without necessarily reducing costs in complex cases. As such the Bar of Ireland contend that any increase in the monetary jurisdiction is phased, proportionate and evidence based and that resource implications for any increase jurisdiction is fully assessed before implementation.

- LAB notes that the extension of monetary jurisdiction in the District and Circuit Court may result in complex cases being heard at those levels. FLAC also note that the proposed changes will increase the volume of cases before both courts.

- The Law Society recommends the deletion of Heads 30, 31 and 32.

- The Bar of Ireland note that Heads 30 – 37 do not derive from the Kelly Report and only supports an increase in the monetary jurisdiction of the District and Circuit Court, which is phased, proportionate and evidence based and does not have

unintended consequences, particularly for access to High Court justice outside Dublin. The Bar of Ireland considers that proposed change is also likely to have a significant effect on the current workload of the District and Circuit Court courts, likely causing additional court delays in accessing a trial date.

4. Summary of Oral Evidence

4.1 Introduction

In the course of the public hearing on 24th March 2026, a number of important points were raised.

A summary of the main areas discussed in evidence to the Committee follows.

4.2 Key Issues raised in the evidence.

1. Production of Documents (Part 2, Heads 4-7)

- The Bar of Ireland expressed very serious concern in relation to the production of documents provisions as they are currently set out in the General Scheme. The Bar of Ireland, in their opening statement, referred to the Kelly Report which they state recommended that any reform of document production should be implemented through court rules, developed by the Rules Committees and subject to judicial oversight. The Bar of Ireland contended that the General Scheme instead, proposes a rigid and front-loaded statutory model that is vague in scope, costly in practice and is likely to generate extensive satellite litigation.

- The Bar of Ireland noted that the proposal, insofar as it relates to the production of documents, risks entrenching inequality and disproportionately burdening individuals, small businesses and legally aided litigants particularly in complex or document-heavy disputes. The Bar Counsel also considered that the measures proposed also seriously risked doubling the cost of discovery and leading to huge delays.

- The Bar of Ireland expressed their concerns regarding the initial 28-day period to produce documents which is provided for in the General Scheme noting that it remains as equally as broad what exists currently. The Bar of Ireland also expressed concern that it takes place at a much earlier stage in proceedings.

- The Bar of Ireland further expressed concern that this issue would likely be exacerbated by the fact that, at a later stage in proceedings, there is a requirement to produce anything else that might be relevant and material. The Bar of Ireland expressed concern in relation to this provision and predicted that it would derail a trial.

- The Bar of Ireland further noted difficulties in allowing a party to produce a host of additional documents 28 days before a trial claiming this provision would give rise to reasons for adjournment. The Bar of Ireland contended that no expert would give evidence where they have not reviewed the documents and that no witness or lawyer would appear in a case where they have not properly reviewed the documents.

- CIF, in their opening statement, expressed support for the move to ensure that only documents material to the outcome of litigation must be produced noting that this would reduce unnecessary legal costs and delays for all parties.

2. Judicial Review (Part 3, Heads 8)

- The Bar of Ireland, in their opening statement, noted that they considered that the General Scheme as it related to judicial review represented a radical curtailment of existing law. The Bar of Ireland contended that the General Scheme risked shrinking access to the courts through placing unnecessary barriers in the path of individuals seeking to challenge unlawful decisions of public authorities and vindicate their rights before the courts.

- The Bar of Ireland, in their opening statement, submitted that the proposed introduction of new statutory thresholds for relief (Head 11), combined with restrictions on appeal rights (Head 12) and significant changes to the applicable

cost's regime (Heads 26 & 27) would substantially alter how judicial review operates in practice. The Bar of Ireland considered that the General Scheme goes considerably further than the recommended procedural reforms outlined in the Kelly Report.

- FLAC, in their opening statement, also note that the proposals constitute a radical curtailment of access to judicial review which they state are likely to disproportionately negatively impact those vindicating their rights to very basic public services.

- FLAC, in their opening statement, already describe judicial review as highly inaccessible identifying barriers such as the operation of the 'no foal, no fee' model, the restrictive three-month time limits and in some cases difficulties in getting costs even in the case of successful cases.

- FLAC contend that the General Scheme would put in place even more restrictive rules for cases in the area of environmental and immigration law. FLAC consider that the 'leave requirement' for judicial review should be removed.

Access to Justice in Environmental Matters

- Dr. Kelleher argued that the General Scheme presents a real risk in relation to restrictions on access to justice in environmental matters. Dr Kelleher, in her opening statement, noted that further restrictions on access to justice risked exacerbating problems already disproportionately experienced by vulnerable and marginalised groups in Ireland, and that the reforms are likely to create further legal uncertainty, generate complex satellite litigation, and cause more delays within the planning system.

- Dr Kelleher contended that restricting access to the Courts in circumstances where judicial review has represented a particularly important avenue towards ensuing compliance with the Climate Act is concerning. Dr Kelleher contended that there was a lack of evidence to support such measures.

- Dr Kelleher, in her opening statement, noted that the General Scheme, fails to take adequate account of the State's obligations under the Aarhus Convention and other related EU law instruments, especially in relation to access to justice provisions. Dr Kelleher noted that the reforms contained in Part 3 of the General Scheme jars with these minimum standards on access to environmental justice.

- Dr Kelleher also noted that the Court of Justice have consistently strongly interpreted the access to justice provisions of the Aarhus Convention, claiming that this approach indicates that the reducing of access to justice rights is not generally perceived to be in line with the objectives of the Convention.

- Dr Kelleher referred to the exit report of the UN special rapporteur for human rights and the environment and states that comments made by the UN special rapporteur specifically singled out this proposed legislation as potentially regressive in the context of reducing access to justice.

- In relation to Head 8(5)(a)(iii), Dr Kelleher, in her opening statement, drew attention to the fact that in deciding whether to grant a remedy pursuant to an application for judicial review, a court would have to consider whether the error was material to the decision. Dr Kelleher further noted that Head 8(5)(b) provides that a court would have to '*take into account whether in the absence of such an error, a different decision would have been made, which would have placed the applicant in a materially better position'*.

- Dr Kelleher contended that, as a result of environmental law often being enforced by members of the public acting in the public interest, that it would be very difficult, if not impossible, to prove that in the absence of the error, an applicant themselves would be in a materially better position. Dr Kelleher therefore claimed that the operation of Head 8(5)(a)(iii) risked further restriction on access to justice.

- Dr Kelleher, in her opening statement, claimed that the impacts of the Civil Reform Bill are even more regressive for other forms of environmental judicial review such as climate litigation under the Climate Act.

- In relation to head 8(5)(ii), Dr Kelleher argues that the suffering harm or prejudice requirement would be exceptionally difficult to prove in a climate case, and if applied strictly could deprive an applicant of their right to an effective remedy. Dr Kelleher also noted that the European Court of Human Rights found a violation of Article 6 of the ECHR in KlimaSeniorinnen v Switzerland on a similar basis.

- In relation to head 8(5)(v), Dr Kelleher claims that the 'significant benefit' requirement is also likely to be difficult to prove given that the benefit of meeting climate obligations is likely to accrue to the public at large rather than of significant benefit to any individual applicant.

- In relation to head 8(7), Dr Kelleher claims that the costs provision is also likely to fall foul of the ban on prohibitively expensive costs in environmental litigation.

- Dr Kelleher recommended that advice be sought from the Aarhus Convention compliance committee concerning the compatibility of the General Scheme with the Aarhus Convention. Dr Kelleher suggested that this would help to tease out compliance issues and foster greater public buy-in for the reforms.

- FLAC, in their opening statement also expressed concern that it is open to doubt whether the proposed changes are consistent with the standards of the Aarhus Convention.

Access to Justice in Asylum and Immigration related matters

- The IRC, in specifically addressing asylum and immigration related judicial review, also refer to the increase in the threshold for leave for judicial review, noting the requirement of 'significant benefit' to the applicant and introduction of a 'public interest' element. The IRC, however, contend that the current thresholds adequately protect the State's interests.
- The IRC further contend that the State already enjoys significant procedural protections in asylum cases, such as higher thresholds than other judicial review

proceedings and requiring substantial grounds. The IRC notes that there is already a two-stage process and a shorter timeframe of 14 days.

- The IRC, in their opening statement, refer to figures stating that in 2024, 97% of leave applications in asylum judicial reviews were granted, contending that this indicated that High Court judges consistently identify relevant grounds for challenging decisions of the State. The IRC considers that both a change of standard of leave and jurisdiction are, therefore, unnecessary and arbitrary.

- The IRC noted that the proposed changes are being introduced at a time when the migration and asylum pact is being transposed through the International Protection Bill 2026 and that this will require oversight and judicial scrutiny to ensure that the protective features of the pact are implemented.

- The LAB stated that they could only provide representation in judicial review in an extremely limited number of cases. They noted that international protection applicants have not had an opportunity to build up time in employment or to build up their lives in Ireland to have the income to seek justice or access solicitors.

- The IRC express concern that the fees in the area of international protection, asylum and migration more generally are extremely concerning.

- The LAB also noted the costs involved in bringing a judicial review contending that it is impossible to see how anybody would take on a level of debt and risk if there is no possibility of not getting any payment at the end.

Judicial Review in relation to Infrastructure Delivery

- The CIF, in their opening submission, contend that Ireland faces a disproportionate volume of legal challenge compared with other common law jurisdictions. On this basis the CIF strongly expressed support for the proposed reforms.

- The CIF, in their opening statement, consider that, in relation to Head 8, an applicant who seeks the quashing of a decision should be required to request that remedy

expressly. The CIF contend that this would prevent other parties facing uncertainty arising from relief that was never sought.

- The CIF further submit that the requirement contained in Head 8 that applicants demonstrate harm or prejudice suffered is essential to safeguard against purely technical or trivial challenges.

- The CIF also contend that the public interest consideration is sensible but could be strengthened through anchoring it to Government policy such as housing. The CIF submit that this could help provide clarity and avoid disputes about the meaning of public interest.

- CIF noted that it is clear that Government has decided that reform is urgently required in this area, contending that it would not change a system in relation to a very important matter of law unless there was evidence.

- CIF referred to a number of individual planning related cases contending that a number of those were quashed on the basis of minor technical matters. CIF contended that there was quite a body of evidence of the need for reform based on these cases.

- Dr Kelleher contends that the courts have, however, been clear and reiterated that courts typically do not quash decisions on a mere technicality.

- CIF contended that there must not only be a quantification in relation to the number of individual judicial review cases taken but that there must also be a focus on the impact of individual judicial reviews.

- The CIF strongly support a ‘no difference principle’ where an error would not have altered the outcome, the Court should be prohibited from granting relief. The CIF submit that this principle is well established and recognised internationally.

- CIF referred to a matrix of solutions to the delivery of infrastructure including funding, streamlining the planning and judicial review systems, and the implementation of the critical infrastructure bill. CIF noted that it is those pieces in the jigsaw that will definitely help to deliver infrastructure quicker in Ireland.

- The Bar of Ireland contend that as a result of the General Scheme other areas of law are suffering as a consequence of the drive for planning and infrastructure change.

- The Bar of Ireland contend that the discussion in relation to judicial review is often shaped by assumptions rather than actual analysis and further argue that perceptions and complaints made a number of years ago do not appear to be valid concerns at this stage.

- The Bar of Ireland noted that while there is a perception that a lot of delays are frequently due to the courts, they contend that in reality the courts have adapted quickly to make sure they can deal with infrastructure projects.

- Dr Kelleher acknowledged that while it is important that we can advance infrastructure and planning decisions, it is also vital that this is done in compliance with human rights and democratic obligations.

3. Jurisdiction (Head 9)

- The Bar of Ireland notes that Head 9 which grants concurrent jurisdiction to the Circuit Court is not one of the recommendations in the Kelly report.

- The Bar of Ireland strongly criticised the proposal to extend concurrent jurisdiction to the Circuit Court and expressed considerable difficulty in understanding the rationale for this approach. The Bar of Ireland expressed concerns about the potential constitutionality of those particular sections and the interference with the constitutional right of access to the High Court.

- The Bar of Ireland noted a number of difficulties and concerns in relation to this approach including: a lack of expertise within the Circuit Court system in dealing

with the relevant matters and issues relating to how a Court of local jurisdiction would contend with an increasing workload of cases involving issues of national jurisdiction.

- The Bar of Ireland express further concern in relation to the mandatory Circuit Court proceedings, which they identify as a new aspect in taking immigration and citizenship cases. The Bar of Ireland note that such a measure would oust the High Court's constitutionally mandated full original jurisdiction.

- The Bar of Ireland further noted that the Circuit Court is not a court of precedent and highlighted a risk of inconsistent decisions and uncertainty in the law as a result of the law being dealt with at the Circuit Court level.

- The Bar of Ireland noted practical concern regarding Circuit Court judges having to balance other work with judicial review. The Bar of Ireland noted the time that will have to be spent by judges to write a judgement on top of other work and referred to this measure as 'ill thought out".

- The Bar of Ireland note that in relation to the Dublin Circuit Court jurisdiction being exclusive in particular areas, that such a measure would wipe it out as a local jurisdiction and effectively turn it into a court of national jurisdiction. The Bar of Ireland emphasised that this needs to be looked at very closely in terms of the legality of the provisions in the General Scheme.

- The Bar of Ireland also contended that additional appeals due to a new layer of decision-making will result in more rather than less litigation.

- The Bar of Ireland also expressed serious concern regarding the likelihood of constitutional challenge if the General Scheme was to proceed as it is. The Bar of Ireland claimed that this would risk more litigation and further delays to cases while such a constitutional challenge is ongoing.

- The IRC, in their opening statement, described the proposed jurisdiction change to the Circuit court as 'constitutionally dubious' noting that it would involve complex judicial reviews in the asylum area.

- The IRC argued that judicial review is an integral component of the High Court's exclusive full original jurisdiction. The IRC further argued that a measure to only invoke the jurisdiction of the High Court in exceptional cases would appear to violate the requirements of Article 34.3.1° of the Constitution.

- The IRC also express concern that asking the Circuit Court to perform a High Court level supervisory role over administrative power relating to the protection of rights against abuses and unfair procedures, is incompatible with the Constitution, and the right to fair procedures.

- The IRC noted that if such a change was to proceed that it would implement a two-tier system for immigration-related decisions, which they state risks breaching Article 40.1 of the Constitution. The IRC strongly considered that the High Court is best placed to hear all judicial review cases due to its level of expertise, resources, time and available remedies. The IRC strongly submit that it is not necessary or appropriate to remove the role the High Court in judicial review, having developed a specialist expertise and a specialist list.

- The IRC raised issue with the fact that there are no written judgements in the Circuit Court. The IRC noted that it will be extremely difficult to even understand what the law is, in the absence of written judgments in the Circuit Court.

- The IRC also note that the High Court has already reduced delays in this area. The IRC express concern that placing the burden of interpreting EU law on the Circuit Court would lead to much longer delays.

- The IRC express concerns around time it might take to deal with asylum related cases given their complexity, the level of expertise at the Circuit Court level, the

remedies available and the resources available to deal with the caseload if it were transferred.

- The IRC note that here are specialist judges on a specialist list who have developed expertise in that area in the High Court. They receive detailed written submissions in advance and consider them in advance of the leave application initially.

- The IRC contend that it would be irresponsible for the Oireachtas to consider creating further delays in the Circuit Court, by burdening it with complex interpretations of the new International Protection Bill 2026, to be introduced by June, in line with EU law, when a competence has been developed in another, more senior, court.

- The IRC contend that the General Scheme of the Bill introduces a two-tier system, transferring immigration-related decisions to the Circuit Court, with additional hurdles to overcome, based indirectly on whether an applicant is an Irish national or of migrant background.

- The IRC contend that the measure in the General Scheme impacts international protection applicants and other migrants' ability to vindicate their rights through the courts, thereby infringing upon their Constitutional right to equal treatment. The IRC contend that this classification does not serve a legitimate purpose and constitutes arbitrary and invidious discrimination.

- The IRC noted that the availability of High Court remedies is also relevant. The IRC noted that the High Court, or the Supreme Court, can make a declaration that a statutory provision or rule of law is incompatible with the State's obligations under the Convention provisions, however no such remedy is available to the Circuit Court.

- The IRC contends that the issuing of declaratory relief is an important recognition that rights have been breached and notes that there is a risk that the Circuit Court would not have the resources to consider whether Irish law or practice was in breach of EU law.

- The LAB raised concern that in the context of vulnerable clients, putting that work into the Circuit Court, is not acceptable at all. The Legal Aid Board contend that putting such important work into the Circuit Court would not work.

- The CIF, in its opening statement, contend that the transfer of planning-related judicial reviews would be premature noting that the High Court has developed a highly specialised Planning and Environment List.

- The CIF also has concerns regarding the resources which have been assigned to the High Court for the planning and environmental list. The CIF also note that it is becoming a court of expertise in that particular area and question why the prosed scheme seeks to so why interfere with its work now.

4. Application for Leave to Apply & Courts Consideration of Application (Head 10 & 11)

- The LAB, in their opening statement, raised concern in relation to compressed timelines which the General Scheme seeks to impose. The LAB specifically raise concern in relation to the 8-week timeline by which applications for leave to apply for judicial review must be sought.

- The LAB claim that the 8-week timeline is not workable, particularly, in relation to vulnerable clients expressing concern that the individuals that would be affected by this are the very people who need access to justice and who have real needs that affect their daily lives.

- The LAB report that they are already experiencing difficulty in relation to time limits and claim that an 8-week time limit would only exacerbate this. The LAB also express concern that the 8-week time limit would interfere with the ability of solicitors to obtain proper instruction and carry out a proper job.

- The LAB also refer to difficulties that the 8-week deadline would impose, noting that some clients present to them very late and sometimes very near the expiry of statutory deadlines. The LAB also report difficulties they encounter including language barriers and difficulties obtaining interpreter services as well as conducting financial assessments which they claim can take time.

- FLAC expressed agreement with the LAB's comments in relation to timelines. FLAC also noted that their clients, are sometimes required to bring freedom of information request which take time. FLAC also noted a need for their clients to get medical reports from consultants which can also contribute to time pressure.

- FLAC also report that they are finding the current three-month limit quite difficult and consider that the difficulties that arise with the three-month time limit, as it is, cannot be discounted.

- FLAC further expressed concern in relation to difficulties they have in persuading colleagues to take on cases on a 'no foal, no fee basis'. FLAC referred to existing barriers involved with this such as a risk of non-payment.

- FLAC contend that the combination of tougher leave to apply provisions and the reduced time limit will make it virtually impossible for individuals to get legal advice in a timely fashion and to satisfy the court, on the onus of proof, that their case is likely to succeed.

- The IRC note the limitations on the appeal from the Circuit Court to the High Court could make it extremely difficult for anybody to get that permission to appeal a decision of the Circuit Court. The IRC note that such changes risk creating a truncated system.

- The Bar of Ireland noted that the presence of attempts to reduce appeals in respect of circumstances where it is necessary to get a certificate to get leave to appeal from the Circuit Court before it is possible to go to the Court of Appeal. The Bar of Ireland

note that this is a very high bar to get over, so it could reduce the number of appeals that can be brought.

- The CIF, in their opening statement, suggested that further consideration be given towards greater alignment with various consent regimes. The CIF note that the current procedural differences create unnecessary complexity.

- The CIF noted that the reforms introduced by the Planning and Development Act 2024 provide a strong foundation that could be applied more broadly, including the removal of the leave stage and the adoption of clear and consistent limitation periods.

5. Civil Procedure Reforms (Part 4 Heads 15 -29)

- The Bar of Ireland, in their opening statement expressed concerns regarding aspects of the proposed civil procedure reforms contained in the General Scheme.

- The Bar of Ireland again noted that the Kelly Report envisaged a programme of procedural reform driven through the Rules Committees of the courts which allowed changes to be introduced incrementally and refined in light of practical experience.

- The Bar of Ireland, instead, consider that many of the reforms proposed in the General Scheme represent significant structural changes in relation to how civil litigation will operate in practice.

- The Bar of Ireland consider that a more flexible, court-led approach to procedural reform, as recommended in the Kelly Report, would better ensure that changes operate fairly and effectively.

- The Bar of Ireland, referring to Mr Justice Frank Clarke's report on civil legal aid, strongly consider that there is a need to tackle civil legal aid legislation and

introduce civil legal aid reform which assists people in having more access to the courts rather than shrinking access to the courts through the Civil Reform Bill.

- The LAB, in their opening statement, note that changes to adjournments, introduction of new case conduct principles and, envisaged penalties for non-compliance with pre-action protocols could have differing impacts across the system, noting that oftentimes personal circumstances sometimes require additional time to gather information or engage in parallel processes.

- The Legal Aid Board express concern that the rigid approach to adjournments could unintentionally limit their ability to prepare cases adequately.

6. Jurisdiction of District Court and Circuit Court (Part 5, Head 30 & 31)

- The Bar of Ireland, in their opening statement, noted that the General Scheme proposes raising the monetary limits of the District and Circuit Courts. The Bar of Ireland indicated their support for an increase in the monetary jurisdictions of the lower courts, however urged that such changes such be phased, proportionate and evidence based as contemplated in the Kelly Report.

7. Office of the Sheriff (Part 6 Heads 38 and 39)

- The Bar of Ireland, in their opening statement, noted that the General Scheme sought to implement 3 of the 27 recommendations contained in the Sheriff Review Group Report published in 2024.

- The Bar of Ireland noted that while the modest reforms proposed by the General Scheme to the Office of Sheriff are welcomed, many key recommendations of the Sheriff Report remain unimplemented. The Bar of Ireland consider that their omission represents a missed opportunity to fully modernise an important public office.

8. Alternative Solutions

Resourcing

- Dr Kelleher referenced the exit report of the UN special rapporteur for human rights and the environment which she states highlighted that Ireland is significantly below the EU average in terms of investment in its judicial system, particularly in the context of the number of judges.

- Dr Kelleher emphasised the importance of adequately resourcing the courts and the planning system and notes that this has worked quite well with the Planning and Environment Court. Dr Kelleher also highlighted improvements in An Coimisiún Pleanála and contended that improvements in staffing there is already helping to clear backlog.

- The Bar of Ireland noted that one simple solution is that there needs to be better judicial resourcing at the High Court level.

- FLAC agreed with the need to resource the courts. FLAC noted that other than the planning courts, it takes over a year for a judicial review to be heard, noting that this is excessive.

- FLAC noted that cases could involve multiple hearings and noted that a possible solution to this could be to get rid of the requirement to apply for permission to bring the case as a way of speeding things up.

- FLAC noted that if the courts are then resourced properly in order that they can hear judicial reviews and make their judgments promptly, that should also improve things considerably.

- The LAB note that if reforms are to achieve their intended benefits that it is important that all statutory bodies involved in civil justice are resourced to discharge their obligations effectively.

- The LAB further noted that it is not just about extra judges but about all the facilities that need to go with that. The LAB noted that there is also a resourcing issue for organisations to be able to represent people.

Improving Decision Making

- FLAC noted that there is a real need for research to be carried out into the numbers of judicial reviews and bad decision-making, and to what extent judicial reviews are caused by bad decision-making. FLAC noted the existence of disputed figures amongst academics in this regard and noted that we need definitive evidence on this as to what the position is in relation to the numbers.

- FLAC noted that they considered the biggest issue in terms of judicial review is the quality of the decision-making, particularly in areas like social welfare and access to social housing and emergency accommodation. FLAC, in their opening statement, identify the reason for many of its judicial review cases to be for poor quality decision making by public bodies and the lack of an alternative mechanism to make an appeal.

- FLAC consider that improving decision-making is a vital part of this process. FLAC noted that if we can improve decision-making, which will hugely reduce the need for judicial reviews in the first place.

- FLAC noted comments from The Comptroller and Auditor General on how successful people are in their appeals in social welfare cases and the length of time it takes for appeals to happen, and the failure of the impact of positive appeals to work its way back to decisions so that we do not see improved decision-making officers.

- FLAC commented that they believed this to evidence that things continue on as before, with no actual improvement to the quality of the decision-making.

- FLAC also noted that issues in relation to decision making in the areas of access to emergency accommodation and homelessness. FLAC noted that local authorities will regularly apply a circular or a policy that has no basis in law and that denies

people access to emergency accommodation or supports. FLAC noted that where they have engaged on challenges and the case will be settled, however, the local authority will continue to apply the practice it has conceded on in the settlement.

- Dr. Orla Kelleher echoed FLAC's comments on improving the decision-making process and highlighted that there is a public interest in improving the quality of decision-making.

- The IRC also note that, in relation to general immigration and when it comes to issues in respect of visa applications and decisions, there is no independent appeal mechanism. The IRC note that when a final decision issues, there might be an opportunity of an internal review but there is no independent appeal mechanism in the area of general immigration.

Oversight

- Dr Kelleher referred to remarks made by the UN special Rapporteur which stated that effective judicial oversight can actually help the Government to improve the adequacy of evaluations done on planning applications.

Lack of Detail, Evidence and/or Supporting Information

- The LAB contend that the General Scheme as it currently stands, contains a high level of generality and lack of detail in key areas. The Legal Aid Board contend that this makes it difficult to fully observe the practical operations of the proposed reforms.

- The LAB contends that a number of important concepts are not defined and the interaction between certain provisions will only become clear once the Bill itself is published.

- FLAC also note that it is wholly unsatisfactory and represents a major cause for concerns that the General Scheme does not include an explanatory section beneath each Head setting out the purpose, rationale and intended effects of each of the draft provisions.

- FLAC consider that the General Scheme to be unintelligible to non-legal readers and to most of the people who are impacted by the changes.

- FLAC is also critical that there is a lack of supporting documents published alongside the General Scheme and that no evidence-based rationale has been articulated or produced for the changes set out. Dr Kelleher also contended that there is a lack of evidence to support the measures contained in the General Scheme.

Appendix 1 – Opening Statements and Written Submissions

Opening Statements – meeting of 20th January 2026

Name of Stakeholder	Link to Opening Statement
The Bar of Ireland	Opening statement
Maynooth University	Opening statement
Irish Refugee Council	Opening statement
Free Legal Advice Centers	Opening statement
Legal Aid Board	Opening statement
Construction Industry Federation	Opening statement

Written Submissions

Name of Stakeholder	Link to Submission
Trim Athboy and District Angling Association	Submission (hyperlink)
Supermac's	Submission (hyperlink)
Prof Paul Daly, Chair in Administrative Law and Governance, University of Ottawa.	Submission (hyperlink)
Mercy Law Resource Centre	Submission (hyperlink)
Irish Home Builders Association [Construction Industry Federation]	Submission (hyperlink)

McCarthy + Co. LLP	Submission (hyperlink)
Fred Logue, Solicitor	Submission (hyperlink)
Commercial Litigation Association of Ireland	Submission (hyperlink)
Legal Aid Board	Submission (hyperlink)
The Law Society of Ireland	Submission (hyperlink)
Uisce Eireann	Submission (hyperlink)
Community Law & Mediation	Submission (hyperlink)
The Bar of Ireland	Submission (hyperlink)
Dr Orla Kelleher, Assistant Professor of Law School of Law and Criminology, Maynooth	Submission (hyperlink)
National Transport Authority	Submission (hyperlink)
Environmental Law Ireland	Submission (hyperlink)
Irish Immigration Lawyers Association	Submission (hyperlink)
Irish Refugee Council	Submission (hyperlink)
Free Legal Aid Clinic	Submission (hyperlink)
IBEC	Submission (hyperlink)
UNHCR Ireland	Submission (hyperlink)

Appendix 2 – Committee information

Publications

All publications for this committee are available on the Oireachtas website.

Committee videos

Footage of Committee proceedings can be found on the Committee videos page.

Committee debates

Transcripts of Committee debates can be found on the Committee debates page.

Contact details

The contact details for the Committee can be found on the Committee page.

Orders of reference

Read the Orders of reference for the Committee.