Mercy Law Resource Centre
Submission to the Oireachtas Joint Committee on Justice, Home Affairs and Migration on the General Scheme of the Civil Reform Bill
February 2026

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Introduction

Thank you for this opportunity to submit our views to the Joint Committee on Justice, Home Affairs and Migration on the General Scheme of the Civil Reform Bill (the "Bill"). We welcome the focus reform of the civil justice system is now receiving and would like to thank the Committee for their work on this to date.

Mercy Law Resource Centre ("MLRC") was established in 2009 and is an independent law centre, registered charity and company limited by guarantee. MLRC provides free legal advice and representation to people who are homeless or at risk of becoming homeless. It also seeks to advocate change in laws, policies and attitudes which unduly and adversely impact people who are at the margins of our society.

MLRC provides four key services: free legal advice outreach clinics; legal representation in the areas of homeless, housing and related social welfare law; legal support and training to organisations working in the field of homelessness; and policy work.

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

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

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

We make this statement at a time of desperate crisis in homelessness. As of December 2025, there are 16,734 people homeless in Ireland.[1] This is a small decrease in the previous month's all-time highest number of 16,996 people recorded as homeless. Of those recorded in the official statistics as homeless, 2,478 were families and 5,188 were children.[2]

It is within this context that MLRC works with individuals in an effort to uphold and enforce their rights with regards to issues of homelessness and housing. This context of "housing crisis" has directly impacted on the demand for our service. It has also impacted on the demographic accessing our service, with a significant portion of our clients being families. In 2024, we received 2,973 phone calls,

[1] Department of Housing, Local Government and Heritage, 'Monthly Homelessness Report December 2025 https://assets.gov.ie/static/documents/f0b63c6f/Homeless_Report_December_2025.pdf, accessed 3 February 2026

[2] Ibid.

opened 351 new advice client files and dealt with 885 new legal queries.[3] In 2024 demand on our service increased by over 15.5%, with a disturbing 40% increase in the number of legal queries relating to emergency accommodation. Many of our clients come from some of the most vulnerable and excluded groups in society and we have noted that they can face particular barriers to accessing housing and homeless services, and related to this, particular challenges with regards to access to justice.

We also make this submission at a time of opportunity, with the recent publication of the Civil Legal Aid Review 2025. Both the majority and minority reports provide abundant guidance for prudent reform in the linked areas of civil legal aid and civil justice with emphasis being placed on ensuring access to justice through early intervention, education and informing people of their rights.

In this statement, we will highlight our initial thoughts and concerns in relation to how, if implemented, the Bill has the potential to negatively impact on our client group.

As will be outlined below, judicial review is often the only mechanism our clients have to challenge unfair and unlawful decisions by local authorities. Our clients are people who are homeless or who experience related issues in the provision of social housing supports. They are very often among the most vulnerable and marginalised in our society. MLRC works with them in order that they may assert their rights and have meaningful access to justice. In the absence of clear appeals structures for such local authority housing decisions, the judicial review process is the mechanism that is available to them should they need to challenge potentially lawful decisions impacting on them. These decisions are often of fundamental importance: impacting on whether or not someone has a roof over their head for the night. Therefore, any changes to the judicial review process should be given careful consideration as to how they may impact on this most vulnerable group. Given the significant and detailed nature of the subject, MLRC would also argue that the period of time for a full submission to be made is extended beyond 4 February in order that proper opportunity is provided to brief the Committee on the matter.

We have addressed a number of the Heads as they appear in the Bill but note that they intersect with each other.

Head 8 – Judicial Review

MLRC is concerned at the language used at Head 8 and how it potentially contradicts the language used at Head 10(2)(c) and highlights concerns MLRC has raised previously in relation to the lack of a clear system of appeals for social housing decisions and homelessness decisions taken by local authorities.[4]

[3] Mercy Law Annual Report 2024 https://mercylaw.ie/wp-content/uploads/2025/11/Mercy_Law_Annual_Report_2024_DIGITAL-Final-version-1.pdf, accessed 3 February 2026

[4] Mercy Law Resource Centre, *Submission to the Department of Housing, Heritage and Local Government on proposed amendments to the homelessness-related aspects of the Housing Act 1988*, 3 November 2023; Mercy

Head 8 states: "*Subject to Head 13 (Specialised Provisions), a person shall not question the validity of an act of a public body, other than by way of statutory appeal or an application under this Act, to be known as a judicial review application".* MLRC has a concern that this would (perhaps inadvertently) require most of our clients to take judicial review applications to challenge the decisions of local authorities in such housing and homelessness cases as there is no statutory appeal mechanism to deal with such decisions.

The vast majority of MLRC's files are currently resolved outside the courts system; with MLRC able to act on client's instruction to question the legal validity of the acts of public bodies by way of legal correspondence. Any changes to the judicial review system should allow this to continue; otherwise there is a potential that we would be required to bring hundreds of judicial review applications each year in order to protect our clients' position.

It could also have a (perhaps unintended) consequence of limiting the effective advocacy of "frontline" homeless agency workers who currently are able to forcefully and eloquently advocate on behalf of their clients.

The language of Head 10(2)(c) appears to contradict this position somewhat. Head 10(2)(c) states that an application for leave to apply for judicial review may only be sought "*where all appeal procedures or any other administrative remedy available in respect of the decision or act concerned have been exhausted"*. This language is broader than that used in Head 8 in that it refers to *"all appeal procedures"*, not just statutory appeals procedures.

It also makes reference to people exhausting *"any other administrative remedy available"* before commencing judicial review proceedings.

MLRC has a concern that this contradictory language used in the Bill reflects the confusion created by a lack of a statutory appeals system for social housing and homelessness issues. This issue will be commented upon further below.

If the language used in Head 8 is not amended, rather than encouraging a user-focused system, with education and information underpinning early intervention strategies designed to negate, as far as possible, the need to use the courts system, these reforms could have the effect of encouraging litigation at the earliest stage. This would seem to be counter to many of the recommendations of the Civil Legal Aid Review 2025.

The proposed wording may also inadvertently prohibit plenary actions or actions in negligence against public bodies, such as local authorities. This would, of course, be unworkable.

At Head 8(7) there is an attempt to restrict legal costs awards only where *"the final decision of the court provides a significant benefit to the applicant"*. With no statutory or standardised appeals structure for social housing and homelessness decisions and no (or very limited) access to civil legal aid for such judicial review housing cases, it is left to an already overstretched and underfunded

Law Resource Centre, *Submission to the Civil Legal Aid Review Group*, February 2023; Mercy Law Resource Centre, *Submission to the Joint Committee on Justice and Equality*, 11 December 2019

network of independent law centres to fill this gap in access to justice. MLRC relies on the support of Counsel who typically act on a no-foal no-fee basis. It is the experience of MLRC that the majority of proceedings instituted are subsequently settled, very often with a local authority reversing the decision being challenged. If such cases will no longer be eligible for costs awards it could become even more difficult for independent law centres to engage Counsel and therefore to deliver effective representation for our clients.

Head 9 – Jurisdiction

At Head 9(2)(f), it is unclear as to whether housing cases where the likely respondent will be a local authority will be heard in the High Court or the Circuit Court. MLRC would be concerned if such complex cases often involving Constitutional, European, human rights and administrative law were to be heard by the Circuit Court that adequate training is provided for judicial and Courts Service staff. MLRC would be concerned that if the Circuit Court was not adequately resourced and trained to deal with such cases that many cases could end up being appealed to the Court of Appeal, as detailed at Head 12. This could cause further delay in access to justice for our clients.

While at Head 9(4) there is scope for cases to be heard in the High Court if it involves a "point of law of exceptional public importance" or is "in the public interest", it is unclear as to what specific criteria are to be met to fall into these categories. In effect, they would add an additional ground to be made out for clients in their applications. Particularly for clients without legal representation, this is a potential additional barrier in seeking to access justice.

Head 10 – Application for Leave to Apply

Time limits on judicial review proceedings

MLRC has serious concerns that further limiting the time to bring an application for leave for judicial review from 3 months to 8 weeks will act as a significant barrier, or indeed block, in access to justice for our clients.

Many of MLRC's clients are seeking to challenge the decision of a public body, often a local authority. A means through which the decision of a public body can be challenged in the courts is the use of the judicial review procedure and MLRC has acted as solicitors in several such reviews for our clients. Currently, in most instances an application for leave for judicial review must be made within three months from the date on when the grounds for the application first arose.

In the course of the work of MLRC, we have seen the obstacles that the current three-month time limit presents for individuals who are dealing with the impact of homelessness or acute housing difficulties and are highly concerned that further limiting the time to 8 weeks would serve as a further significant barrier or block in access to justice for our clients. If, for example, a person presented to the local authority as homeless, seeking emergency accommodation and was refused they may have a decision that can be challenged. However, difficulties arise when that person must also deal with

the struggle and chaos of finding somewhere to sleep for the night. Identifying a decision that may be legally challengeable will not typically be at the forefront of their considerations.

A further difficulty arises when a person presents as homeless to the local authority on a number of occasions and is continually refused emergency accommodation – what is the relevant decision that can be challenged – the first refusal or the latest refusal? The formal judicial review procedure makes no allowances for these difficulties that an applicant may face and does not marry easily with the statutory provisions in relation to the homeless assessment.

By way of a further example of the challenges that the current three-month time-limit presents is when an individual has had a decision made in relation to their housing matters and spends considerable time seeking to resolve it through advocacy and engagement of local councillors. Oftentimes, by the point at which they access the services of MLRC, the window for any potential challenge will have passed and it will be difficult to make out 'good and sufficient reason' why the time limit should be extended. This would become an even greater issue if the time-limit were reduced to 8 weeks.

Indeed, even if the person is fortunate enough to be in contact with a service such as MLRC, very often the service would need to request information from the public body to try and establish whether there is a legal issue at play as the reasons for a decision may not have been provided by a local authority. Such information can be requested under the Freedom of Information Act, 2014 or under GDPR. It would typically take 30 days to receive such information. Making such requests and reviewing them would be extremely difficult if the time-limit for taking judicial review applications was reduced to 8 weeks.

These concerns also then relate to the consequent restrictions on extensions to the time limits.

Absence of clear appeals structure in housing disputes

As noted above, MLRC frequently engages with local authorities on housing matters and pursues "informal" appeals against refusals of housing entitlements through those authorities. MLRC notes that there is wide variation in how such appeals are processed and a general lack of transparency and formalised process to be followed should an applicant wish to appeal a negative decision. MLRC notes that clients who are refused a service or an entitlement are frequently not informed that they have any right of appeal, a right that arises by virtue of the right to fair procedures. Our experience is that appeals, where they do exist, can be lengthy to determine and there is in some instances a failure to apply independent mechanisms for such appeals. MLRC has a serious concern that such appeals are not legitimate appeals processes or administrative remedies as they are lacking in statutory governance, leading to different standards of decision-making process and outcome throughout the State.

This current inadequate "system" relating to appeals of social housing or homeless decisions taken by local authorities could lead to confusion under the proposed Bill if such decisions are sought to be challenged by way of judicial review. If we set aside the inconsistency between the language in Head 8 and 10, as highlighted, the Bill proposes that before an application for leave is made, all appeals procedures or any other administrative remedy available must be exhausted or where no appeal

process exists, the date on which the decision giving rise to the application was made. This "tiered" process could have the effect of meaning a potential litigant in one local authority's functional area that has a more formalised appeal structure being subjected to a different standard of justice than a potential litigant in another local authority's function area who may not have a formalised appeals process even if the substance of their case is the same.

MLRC would argue that prior to any change in the judicial review process being implemented, that consideration be given to an appeals structure for local authority tenants and those who may be seeking to access emergency homeless accommodation. MLRC notes the 2018 observation of the UN Special Rapporteur's access to justice on the right to housing questionnaire that Irish government was unaware "of examples in your county of community-based initiative to provide hearings and remedies for the right to housing outside formal court or tribunal process".[5] An appeals structure for social housing tenants and those who are seeking emergency homeless accommodation is something that has been recommended by the Joint Committee on Housing, Local Government and Heritage.[6]

This potential uncertainty with regards to social housing and homelessness law is again seen at Head 10(3)(b) where the Bill states that where the grounds for the application *"relate to a failure to comply with timeframes for the making of a decision, such timeframes must be provided in Statute"*. There is no strict statutory timeframe within which a local authority must make a decision in relation to someone's homeless assessment. By their nature they should be conducted expeditiously. However, it is often an issue that an undue delay on the part of a local authority in making such a decision will have an adverse impact on our clients. We would be concerned that this "weakness" in the homeless statutory regime could have an undue impact on clients should they seek to challenge a delay or failure to make such a homeless decision by way of judicial review and find that their path is blocked due to not having reference to a statutory deadline.

MLRC has a concern that the Bill has not given due consideration to these potential issues. In general, for a Bill concerned with making changes to the operation of public law in the State, there is very little reference to "the public" and to how these changes impact on their rights and their means of accessing justice.

Recommendations

In summary, the current judicial review system is already difficult to navigate for the most vulnerable and excluded in our society. Some of the challenges in bringing such housing and homeless cases have been outlined herein and these are only exacerbated if the applicant has no legal representation. Rather than focus on restricting access to judicial review as the Bill does, consideration should instead be given to how access to justice can be widened, with the reform of the civil legal aid system being of key importance. As such, we have the following recommendations:

[5] Office of the United Nations High Commissioner for Human Rights, '*UN Special Rapporteur on adequate housing: Questionnaire: Access to Justice for the Right to Housing, Ireland's Response'*, November 2018, < https://www.ohchr.org/Documents/Issues/Housing/Justice/Ireland.pdf> accessed 3 February 2026

[6] Joint Committee on Housing, Local Government and Heritage, *Report on the Pre-Legislative Scrutiny of the General Scheme of the Housing (Miscellaneous Provisions) Bill, 2024*, May 2024

1. Extend the deadline for submissions beyond 4 February to allow stakeholders adequate time to input on what is a complex and significant Bill.
2. Consideration be given as to how the proposed changes will impact on some of the most vulnerable and excluded in our society.
3. 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 prior to introducing and changes to the judicial review process.
4. The time limit for making judicial review applications should not be reduced to 8 weeks.

Conclusion

Again, MLRC welcomes this opportunity to share our views with the Committee and looks forward to engaging with the Committee further on the important questions relating to reform of the civil justice system.

Thank you for your time and consideration.

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