



Mercy Law Resource Centre

Submission to: Ireland 2040 Our Plan National Planning Framework

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Mercy Law Resource Centre Limited is a company limited by guarantee and not having a share capital, registered in Dublin, Ireland. Co.Reg No:471072. It is also a registered charity, Chy No:18698. Directors: Anne Doyle, Niall Farrell, Jo Kennedy, Ciara McGrath, Helena O'Donoghue, Deirdre Quigley, Margaret Roche, Patrick Stagg, Liam Twohig, Gerry Whyte.



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1. Introduction

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

MLRC provides five key services: free legal advice clinics; legal representation in the areas of housing and social welfare law; legal support and training to organisations working in the field of homelessness; policy work; and a befriending service. 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.

In our work in MLRC, in 2016 we legally assisted 1077 clients and a number of issues were raised for those who are homeless or at risk of homelessness.

- Every week we meet individuals and families who are homeless and living in their cars. They are homeless because the local authority have refused them emergency accommodation or told them that there is simply none available.
- We meet families who are being accommodated for prolonged periods of up to two years in one room of a hotel or B&B before the family are appropriately accommodated. This is grossly unsuitable for their needs, for their health and for their dignity. This is clearly having a detrimental impact on the well-being of the children and their parents.
- We meet these people who have become almost numb to the humiliation, are deeply distressed, in chaos and are in fear.

2. Background

This is a time of a desperate crisis in homelessness. We have not seen since such a crisis in homelessness since the foundation of the State. President of Ireland, Michael D. Higgins in a recent address described this as "the most pressing of all the manifestations of inequality in Ireland...nothing less than a fundamental challenge to the legitimacy of institutions and morality of the State." There is no right to housing in Irish law and the crisis we are seeing is due to a failure in policy. The protection of the right to housing would be a positive, strong step for the future to create enduring fundamental protection of home for every adult and every child. A right to housing in the Constitution would not mean the right to a key to a home for all. A Constitutional right to housing would however put in place a basic floor of protection. It would require the State in its decisions and policies to protect the right to housing in balance with other rights. For example, if the State decided to cut funding to homeless accommodation, the courts could review this in a case. It would mean that the policies in relation to housing and homelessness could not be on a political whim but would have this grounding, this obligation to respect the right to housing. It would be an enduring protection.



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Homelessness figures 2017:

- Recent figures show a record total of 8,160 people homeless in Ireland.¹
- Nationally there are now 5,187 adults and 2,973 children homeless, meaning more than 1 in 3 people experiencing homelessness in Ireland is a child.²
- The number of homeless children thus rose by 27% in the period from July 2016- July 2017 from a total of 2,348 children in July 2016.³
- The total number of people homeless rose by 25% from July 2016 to July 2017.⁴
- The most recent figures show that 826 young people aged between 18 and 24 are homeless in Ireland. This is an increase of 24% from July 2016 to July 2017.

Young families represent the changed demographic in Irish homelessness. Figures released by the Central Statistics Office following the 2016 Census reveal a startling two-fold increase in the number of homeless in Ireland since 2011. Of the 6,906 homeless in Ireland, there are 896 families, with the majority (63%) being that a single parent, more specifically a single mother. The number of homeless children is perhaps the most chilling feature of these statistics. Of the record 2,895 homeless children in Ireland, 765 are below the age of 5. This makes such children the single largest group of homeless individuals in the country. It appears young children are the primary victim of our housing climate, a trend that that is all too apparent from our work at MLRC.

While young family are suffering, local authorities are also feeling the pressure. With more than 70% of Irish homeless being based in Dublin, the county's four local authorities are struggling to deal with the influx, none more so than Fingal County Council. Paul Reid, its Chief Executive, recently commented on the Council's capacity, or incapacity, to adequately address the crises. He says the reality is that homeless families are looking for emergency accommodation faster than families are being moved out of them and into permanent residences. This back log is at the heart of the crisis. As a result, more and more unsuitable means of emergency accommodation are being relied on to address the enormous back log of homeless families facing the council.

The sheer inadequacy of emergency accommodation is yet another dimension of the housing crises that MLRC has first-hand experience of. In our recent submission to the Minister for Housing and Planning, MLRC identified the systematic failures associated with our current emergency accommodation regime. Perhaps the most concerning failure noted in the submission, is the worrying number of unlawful refusals of emergency accommodation applications by housing authorities. Furthermore, should a family or individual be granted emergency accommodation, the over reliance on self-accommodation sees vulnerable families and individuals frequently unable to access emergency accommodation, or being placed in unsuitable hotels or B&B's for indefinite periods of time, we are regularly meeting families in clinic who are now living approximately 22

¹ Department of Environment Homelessness figures for July 2017:

http://www.housing.gov.ie/sites/default/files/publications/files/homeless_report_-_july_2017.pdf.

² Department of Environment Homelessness figures for July 2017:

http://www.housing.gov.ie/sites/default/files/publications/files/homeless_report_-_july_2017.pdf.

³ <https://www.focusireland.ie/resource-hub/latest-figures-homelessness-ireland/>.

⁴ <https://www.focusireland.ie/resource-hub/latest-figures-homelessness-ireland/>.



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months in one bedroom of a B&B, without access to cooking or living spaces. We have met family sizes of 6, 8, 10 and so forth, all sharing one bedroom for over a year and some nearing on two years, all languishing in totally inappropriate emergency accommodation. In our experience, the suffering of families in emergency accommodation continues to deepen. The state of limbo families find themselves in can be hugely distressing, particularly when young children are involved. Our submission calls for a number of actions to ensure that vulnerable families and individuals have their needs met at the earliest opportunity and are provided with suitable and appropriate emergency accommodation, without delay or issue.

We welcome the commitments of government and local authorities to step up the response to the crisis, and hope that the acute issues we are encountering in our casework are addressed so as to alleviate the pressure on the most vulnerable of our homeless families and individuals. However we have serious concerns that the long term commitments to build affordable homes will not provide enough homes for people as the figures of homelessness are currently so large and stark with no sign of abating.

3. Purpose of this submission is to:

- Raise very urgent issues relating to the provision of emergency accommodation by housing authorities to families and vulnerable people who are homeless; and
- Raise issues for consideration which address these issues.

We call on the National Planning Framework to:

- Address Homelessness
- Accelerate Social Housing
- Build More Homes
- Improve the Rental sector, and
- Utilise Existing Housing

4. Urgent issues in relation to provision of emergency accommodation by housing authorities

From our work with families and individuals who are homeless, MLRC has noted several issues arising in the provision of emergency accommodation by housing authorities that are of serious concern. These include:

- A high number of unlawful refusals of emergency accommodation by housing authorities, leaving families and individuals who are homeless sleeping rough or at risk of sleeping rough.
- A practice by housing authorities of blocking families who are homeless, who have been apparently refused emergency accommodation, from accessing the crisis Family Homeless Action Team (Family HAT). This service is ordinarily available on a night-to-night basis to families who are homeless at risk of rough sleeping.
- Housing authorities failing to properly apply the law in relation to homelessness which indicates a lack of training and expertise of frontline staff in those authorities.
- Housing authorities failing to carry out comprehensive needs assessments of individuals and families who present as homeless. This failure results in the authorities not sourcing a



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placement that best suits the family's or the individual's needs and not referring them to appropriate services.

- The absence of suitable emergency accommodation for people who are homeless who are suffering from a disability or who have particular health needs and vulnerabilities.
- Housing authorities over-relying on the self-accommodation option, obliging families to secure their own emergency accommodation, which is often not possible and puts families at risk of rough sleeping.
- Families and vulnerable individuals being placed in unsuitable hotel and B&B accommodation for very prolonged periods with no upper time limit, causing severe detriment to families and, in particular, children.
- The absence of any system to prioritise families or individuals with recognised medical needs within the homeless lists of each housing authority.

5. Proposed actions to address issues arising in provision of emergency accommodation

MLRC proposes, for consideration, the following actions to address these serious issues:

- Training of front-line staff in housing authorities specifically on the proper application of the Housing Act 1988 in relation to the provision of emergency accommodation.
- The issuing of a protocol or guidance document to housing authorities to inform and guide staff making assessments of requests for emergency accommodation, to include, for example:
 - Details of the eligibility criteria for emergency accommodation as distinct from the social housing eligibility requirements, including for example, clarification that the local connection test and Circular 41/2012 are not applicable to the assessment in relation to emergency accommodation.
 - Criteria to ensure vulnerable individuals and families and those with special needs or a disability and provision of appropriate emergency accommodation are identified, supported and suitably accommodated.
 - Guidance on engaging with and assessing distressed and vulnerable applicants.
 - Details on appropriate services for referrals for applicants presenting with specific needs.
- The issuing of a Ministerial Directive or Circular notifying housing authorities that the practice of placing a block on PASS so that homeless families cannot access the crisis night-to-night Family HAT service, thus putting families at risk of rough sleeping, is to be stopped.
- A legislative amendment or Regulation under section 10 of the Housing Act 1988 to set an upper time limit, as is operated in the United Kingdom, which has a time limit of 6 weeks for placing of homeless families and vulnerable people in inappropriate hotels and B&Bs, after which the family must be provided with appropriate emergency accommodation.
- A review undertaken of emergency accommodation placements available to people presenting with special needs or a disability and measures introduced to ensure suitable placements are available to housing authorities in their stock for such people.
- A review undertaken of the self-accommodation option with a view to introducing reforms to the option to ensure that it meets the needs of families who are homeless, particularly vulnerable families including members of the Traveller Community and non-nationals.
- A review undertaken of the operation of homeless priority lists and appropriate reforms introduced to ensure that the homeless priority list can take account of recognised medical



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needs of people who are homeless and so ensure that priority within the homeless priority list is given on the basis of those medical needs.

Family hubs are being rolled out as an alternative to commercial hotels and B&Bs for homeless families, offering accommodation that includes cooking facilities, play facilities, as well as on-site “wrap-around” supports like homework clubs. The Department of Housing say hubs will be a “short-term” response until housing supply increases however no time limit has been introduced for their use. According to Kitty Holland of the Irish Times, dated 20 September 2017, some 304 families are in the hubs, with about 700 still in commercial hotels and B&Bs.

We acknowledge the introduction of “family hubs” as a step up and improvement from a room in a B&B or Hotel however we would have serious concerns on the institutionalisation effect on families, the lack of research and lack of a time limit into their use for emergency accommodation. Dr Hearne and Dr Murphy presented findings in their report, *Investing in the Right to a Home* in which they say: “We find no international research or evidence base to justify the emerging family hubs model and note there have been no pilots to demonstrate how they might work. The danger with ‘hubs’ is that they both institutionalise and reduce the functioning capacity of families.” The Irish Human Rights and Equality Commission also raised its concerns in relation to the provision of emergency accommodation, focused particularly on the development of “family hubs” and their use. We agree with the Irish Human Rights and Equality Commission recommendations to amend Section 10 of the Housing Act 1998 and place a limit on the time that a family may spend in emergency accommodation. This should be limited to three months with an obligation on a local authority to provide suitable permanent family accommodation thereafter.

6. Conclusion

This crisis is a call to us, to ask ourselves what we consider an evolved, decent and humane society should protect for every person. We believe that a home is the cornerstone of every civilised society and we are failing in our duty to provide socially affordable homes to all the people of Ireland. MLRC would very much welcome the opportunity to meet with you to discuss the issues identified in this submission and the proposals contained in it. We look forward to working with the Minister of Housing Planning and Local Government and all housing authorities to ensure that the very urgent needs of families and vulnerable people who are homeless are met in a humane, dignified and appropriate manner.

Many thanks for your review of this submission.

Yours sincerely,

Sinead Kerin
Acting Managing Solicitor of Mercy Law Resource Centre
10.11.17