

Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh - City Hall, Cork - T12 T997

Lyonshall Limited
c/o Harry Walsh
HW Planning
5 Joyce House
Barrack Square
Ballincollig
Cork

10/01/2025

RE: Section 5 Declaration R903/24 Former Ursuline Sister's
Convent, Convent Road, Blackrock, Cork

A Chara,

With reference to your request for a Section 5 Declaration at the above-named property, received on 12th December 2024, I wish to advise as follows:

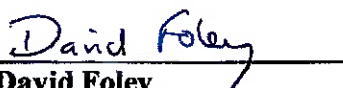
The Planning Authority, in view of the above and having regard to —

- Sections 2, 3, and 4 of the Planning and Development Act 2000 as amended, and
- Articles 6, 9 and 10 and Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2023.

It is considered that the *the specific question for which a declaration is sought* **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT** at Former Ursuline Sister's Convent, Convent Road, Blackrock, Cork.

Under Section 5(3)(a) of the Planning and Development Act, 2000, you may, on payment of the appropriate fee, refer this declaration for review by An Bord Pleanála within 4 weeks of the date it is issued, 10th January, 2025.

Is mise le meas,


David Foley
Development Management Section



We are Cork.

**Planning & Integrated Development
Cork City Council**

PLANNER'S REPORT
Ref. R 903/24

Cork City
Council
Development Management
Planning & Development

Application type	SECTION 5 DECLARATION
Question	<i>Is the temporary change of use of the former Ursuline Sisters Convent to residential accommodation for International Protection Applicants under exempted Class 14H of the Planning and Development Regulations (as amended) development and, if so, is it exempted development?</i>
Location	Former Ursuline Sisters Convent, Convent Road, Blackrock, Cork
Applicant	Lyonshall Limited (owners)
Date	03/07/2025
Recommendation	Is development and is exempted development

INTERPRETATION

In this report 'the Act' means the Planning and Development Act, 2000 as amended and 'the Regulations' means the Planning and Development Regulations, 2001 as amended, unless otherwise indicated.

1. REQUIREMENTS FOR A SECTION 5 DECLARATION APPLICATION

Section 5(1) of the Planning and Development Act 2000 as amended states,

5.—(1) If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of this Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

The requirements for making a section 5 declaration are set out in the Act.

2. THE QUESTION BEFORE THE PLANNING AUTHORITY

The question to the planning authority is framed using the phrasing of section 5.

It is noted in the cover letter by HW Planning, dated 9th December 2024, accompanying the application that the applicants are requesting an exemption for the temporary change of use in accordance with exemption Class 14H of the Planning Development Regulations

In my opinion the intention of the request is clear, and that it is entirely reasonable to consider the question before the planning authority as being:

Is the temporary change of use of the former Ursuline Sisters Convent to residential accommodation for International Protection Applicants under exempted Class 14H of the Planning and Development Regulations (as amended) development and, if so, is it exempted development?

3. SITE DESCRIPTION

The subject property is a part single/part two-storey detached Convent building in the Sustainable Residential Neighbourhoods zoning area. The area is predominantly residential in nature.

4. DESCRIPTION OF THE DEVELOPMENT

The proposed development proposes the temporary change of use of the former Ursuline Sisters Convent to residential accommodation for International Protection Applicants. No physical works to the structure are stated as being proposed.

5. RELEVANT PLANNING HISTORY

R-889-24 Section 5 application querying whether the temporary change of use of the former Ursuline Sisters Convent to residential accommodation for International Protection Applicants is exempted development.

Decision: Deemed not exempt under Class 20F of Part 1 of Schedule 2 to the Planning and Development Regulations 2001

TP 00/24356 Permission GRANTED for a new one/two storey convent building including chapel and heritage centre at Convent Road, Blackrock, Cork.

6. LEGISLATIVE PROVISIONS

6.1 Planning and Development Act, 2000 as amended

Section 2(1)

“exempted development” has the meaning specified in section 4.

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

- (a) where the context so admits, includes the land on, in or under which the structure is situate, and*
- (b) in relation to a protected structure or proposed protected structure, includes—*
 - (i) the interior of the structure,*
 - (ii) the land lying within the curtilage of the structure,*
 - (iii) any other structures lying within that curtilage and their interiors, and*
 - (iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii).*

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Section 3(1)

In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

Section 4(1)(h)

4.(1) The following shall be exempted developments for the purposes of this Act—

...

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;

Section 4(2)

Section 4(2) provides that the Minister may, by regulations, provide for any class of development to be exempted development. The principal regulations made under this provision are the Planning and Development Regulations 2001, as amended.

Section 4(3)

A reference in this Act to exempted development shall be construed as a reference to development which is—

- (a) any of the developments specified in subsection (1), or*
- (b) development which, having regard to any regulations under subsection (2), is exempted development for the purposes of this Act.*

Section 5(1)

See section 1 of this report.

6.2 Planning and Development Regulations 2001 to 2023 as amended

Article 5(2)

In Schedule 2, unless the context otherwise requires, any reference to the height of a structure, plant or machinery shall be construed as a reference to its height when measured from ground level, and for that purpose "ground level" means the level of the ground immediately adjacent to the structure, plant or machinery or, where the level of the ground where it is situated or is to be situated is not uniform, the level of the lowest part of the ground adjacent to it.

Article 6(1)

Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Article 9

Article 9 sets out restrictions on exemptions specified under article 6.

Column 1	Column 2
Description of Development	Conditions and Limitations

<i>Development consisting of a change of use—</i> CLASS 14h from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons,	<i>The number of persons with an intellectual or physical disability or a mental illness living in any such residence shall not exceed 6 and the number of resident carers shall not exceed 2.</i>
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Article 9 (1)

Development to which article 6 relates shall not be exempted development for the purposes of the Act –

- (a) (i) if the carrying out of such development would... contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,*
- (a) (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,*

7. ASSESSMENT

It should be stated at the outset that the purpose of this report is not to determine the acceptability or otherwise of the proposal at this location in respect to the proper planning and sustainable development of the area, but rather whether or not the matter in question constitutes development, and if so, falls within the scope of exempted development.

7.1 Development

The first issue for consideration is whether or not the matter at hand is 'development', which is defined in the Act as comprising two chief components: 'works' and / or 'any material change in the use of any structures or other land'.

'Works' is defined in section 3(1) of the Act as including 'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal'.

In relation to the proposed change of use of the former Ursuline Sisters Convent to residential accommodation for International Protection Applicants, it is clear that "any material change in the use of any structures or other land" comprises 'development'. It is clearly therefore 'development' within the meaning of the Act.

CONCLUSION**Is development****7.2 Exempted development**

The next issue for consideration is whether or not the matter at hand is exempted development. Section 2(1) of the Act defines 'exempted development' as having 'the meaning specified in section 4' of the Act (which relates to exempted development).

Section 4(3) of the Act states that exempted development either means development specified in section 4(1) or development which is exempted development having regard to any regulations under section 4(2).

It is considered that the proposal comes within **subsection (2) of section 4**, i.e. the Regulations, and not subsection (1).

Section 4(1)

It is not considered that the proposal comes within the scope of section 4(1) of the Act.

Section 4(2)

It is therefore necessary to consider whether the proposed change of use comes under the scope of section 4(2) (i.e. exemptions specified in the Regulations), having regard to the use of the word 'or' in section 4(3).

It is noted in the cover letter by HW Planning, dated 9th December 2024, accompanying the application that the applicants are requesting an exemption for the temporary change of use in accordance with exemption Class 14H of the Planning Development Regulations.

It is considered that article 6 and **Class 14H** applies, as the development is for the use by or on behalf of the Minister for Children, Equality, Disability, Integration and Youth to accommodate or support persons seeking international protection.

A letter from the Department of Children, Equality, Disability, Integration and Youth has been provided indicating that the department is interested in utilizing the subject site subject to it satisfying the requirements of the Class 14H or 20F exemptions as per the Planning and Development Regulations.

Having assessed the proposed development against Class 14H and its conditions and limitations, the following is considered:

Class 14H states that the accommodation is to be used "*as accommodation for protected persons*"

Protected Persons is defined in the Planning and Development Regulations as follows:

"protected person", for the purposes of Schedule 2, means

- (a) a person who has made an application to the Minister for Justice and Equality under the Refugee Act of 1996 or the Subsidiary Protection Regulations 2013 (S.I. No. 426 of 2013),*
- (b) a person who falls to be considered or has been considered under section 3 of the Immigration Act of 1999, or*
- (c) a programme refugee within the meaning of section 24 of the Refugee Act of 1996";*

The Section 5 application form and accompanying cover letter indicate that the applicants are requesting an exemption for the temporary change of use as accommodation for International Protection Applicants in accordance with Class 14H of the Planning Development Regulations.

The existing permitted use of the structure is of that of a Convent, in accordance with TP 00/24356. Class 14H of the exemptions states that the change of use from a convent to use

as accommodation for protected persons is considered exempted development. It is therefore considered that the proposed temporary change of use of a convent to a residential accommodation for protected persons comes within the scope of Class 14H of the exemptions.

In this regard the proposed temporary change of use is considered to be exempt.

Restrictions on exemption

It is not considered that any apply in this instance.

CONCLUSION

Is exempted development

8. ENVIRONMENTAL ASSESSMENT

The provisions of sections 4(4), 4(4A) and 177U(9) of the Act are noted which state,

Section 4(4),

Notwithstanding paragraphs (a), (i), (ia) and (l) of subsection (1) and any regulations under subsection (2), development shall not be exempted development if an environmental impact assessment or an appropriate assessment of the development is required.

Section 4(4A)

Notwithstanding subsection (4), the Minister may make regulations prescribing development or any class of development that is—

- (a) authorised, or required to be authorised by or under any statute (other than this Act) whether by means of a licence, consent, approval or otherwise, and*
 - (b) as respects which an environmental impact assessment or an appropriate assessment is required,*
- to be exempted development.*

Section 177U(9)

In deciding upon a declaration or a referral under section 5 of this Act a planning authority or the Board, as the case may be, shall where appropriate, conduct a screening for appropriate assessment in accordance with the provisions of this section.

8.1 Screening for Environmental Impact Assessment

Having regard to the contents of Article 103 and Schedule 7 of the Planning and Development Regulations 2001, as amended it is considered that the proposed development by reason of its nature, scale and location would not be likely to have significant effects on the environment. Accordingly it is considered that **environmental impact assessment is not required.**

8.2 Screening for Appropriate Assessment

The applicant has not submitted an appropriate assessment screening report. The relevant European sites are the Cork Harbour SPA (site code 004030) and the Great Island Channel cSAC (site code 001058). Having regard to the location of the proposed development site

relative to these European sites and related watercourses and to the nature and scale of the proposed development it is considered that the proposed development would not affect the integrity of these European sites. Accordingly it is considered that **appropriate assessment is not required**.

9. RECOMMENDATION

In view of the above and having regard to —

- Sections 2, 3, and 4 of the Planning and Development Act 2000 as amended, and
- Articles 6, 9 and 10 and Part 1 of Schedule 2 of the Planning and Development Regulations 2001 to 2023

the planning authority considers that —

the temporary change of use, under exempted Class 14H of the Planning and Development Regulations (as amended), of the former Ursuline Sisters Convent to residential accommodation for International Protection Applicants at Former Ursuline Sisters Convent, Convent Road, Blackrock, Cork **IS DEVELOPMENT** and **IS EXEMPTED DEVELOPMENT**.



Eoin Cullinane
Executive Planner
08/01/2025

The Development Management Section
Community, Culture & Placemaking Directorate
Cork City Council
City Hall
Anglesea Street
Cork
T12 T997

09 December 2024

HW Planning

5 Joyce House,
Barrack Square,
Ballincollig,
Cork
P31 KP84

www.hwplanning.ie
info@hwplanning.ie
+353 (0)21 487 3250

Directors:

Harold Walsh
Conor Frehill

Company Reg. No.

486211

Accreditations

ISO 9001:2015
ISO 14001:2015
ISO 45001:2018

Re: Request for Declaration under Section 5 of the Planning and Development Act 2000 on whether the use of the former Ursuline Sisters Convent, Blackrock, Cork, as accommodation for International Protection Applicants is or is not exempted development.

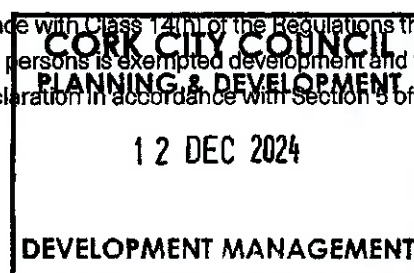
Dear Sir/Madam,

We act on behalf of Lyonshall Limited who request a declaration from Cork City Council on whether the use of the former Ursuline Sisters Convent as accommodation for International Protection Applicants is or is not exempted development.

This is a second request for a Section 5 Declaration submitted by Lyonshall Limited for this property and on December 6th 2024, Cork City Council determined that the temporary change of use of the former Ursuline Sisters Convent to residential accommodation for International Protection Applicants at Former Ursuline Sisters Convent, Convent Road, Blackrock, Cork is development and is not exempted development, Ref. R889/24 refers. This determination was made on the basis that "the existing permitted use of the structure is of that of a Convent, in accordance with TP 00/24356" and it is considered that the change of use of a convent to a residential accommodation for International Protection Applicants does not come within the scope of Class 20(F) of the Planning and Development Regulations 2001-2024.

In their previous request the applicants had indicated that permanent use of the structure was as the Ursuline Sisters Nun 's Convent, chapel and heritage centre permitted in 2000 (Cork City Council Reg. Ref: 00/24356), which is compatible with 'medical and other health and social care accommodation, event and exhibition space and any structure or part of structure normally used for public worship or religious instruction', as defined in Class 20(f) of the Planning and Development Regulations, 2001-2024. The City Council have not agreed with this interpretation and instead determined that the permanent and permitted use of the structure is as a Convent.

The City Council will note that in accordance with Class 14(h) of the Regulations the use of a Convent as accommodation for protected persons is exempted development and the applicants wish to submit a second request for a Declaration in accordance with Section 5 of the Planning and Development Acts on this basis.



Convent, in accordance with TP 00/24356".The property has now been identified as being suitable by the MCEDIY to accommodate designated International Protection Applicants.

02 Legislative Context

Planning and Development Act 2000 (as amended)

Section 3(1) of the Act states 'development' means:

"In this Act, except where the context otherwise requires, "development" means— (a) the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land, or (b) development within the meaning of Part XXI (inserted by section 171 of the Maritime Area Planning Act 2021)"

Section 2 of the Planning and Development Act, 2000 defines 'works' as:

"works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.

Class 14(h) of the Regulations which was inserted by Article 4 of S.I. 582/2015 of the Planning and Development Regulations (Amendment)(No. 4) Regulations, 2015 remains in place and specifies that the following is exempted development

Description of Development

Conditions and Limitations

Class 14(h)

from use as a hotel, motel, hostel, guesthouse, holiday accommodation, convent, monastery, Defence Forces barracks or other premises or residential institution providing overnight accommodation, or part thereof, or from the change of use specified in paragraph (i) of the said premises or institution, or part thereof, to use as accommodation for protected persons,

Accordingly having regard to:

- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended), and.
- Articles 6 and 9 and Class 14(h) as set out in Schedule 2, Part 1 of the Planning and Development Regulations 2001-2024;

we consider that the use of the Ursuline Sisters Convent at Convent Road, Blackrock, Cork, as accommodation for International Protection Applicants is development and is exempted development.

Please do not hesitate to contact us if you have any queries.

Yours Sincerely



Harry Walsh

HW Planning

**COMHAIRLE CATHRACH CHORCAÍ
CORK CITY COUNCIL**

Strategic Planning & Economic Development Directorate,
Cork City Council, City Hall, Anglesea Street, Cork.

R-Phost/E-Mail planning@corkcity.ie

Fón/Tel: 021-4924564/4321

Lionra/Web: www.corkcity.ie

SECTION 5 DECLARATION APPLICATION FORM
under Section 5 of the Planning & Development Acts 2000 (as amended)

1. POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION IS SOUGHT

Former Ursuline Sisters Convent, Convent Road, Blackrock, Cork.

2. QUESTION/ DECLARATION DETAILS

PLEASE STATE THE SPECIFIC QUESTION FOR WHICH A DECLARATION IS SOUGHT:

Sample Question:

Is the construction of a shed at No 1 Wall St, Cork development and if so, is it exempted development?

Note: only works listed and described under this section will be assessed under the section 5 declaration.

Request for Declaration under Section 5 of the Planning and Development Act 2000 on whether the temporary change of use of the former Ursuline Sisters Convent, Chapel and Heritage Centre, Blackrock, Cork, to residential accommodation for International Protection Applicants is or is not exempted development.

ADDITIONAL DETAILS REGARDING QUESTION/ WORKS/ DEVELOPMENT:
(Use additional sheets if required).

Please refer to the Cover Letter prepared by HW Planning.

**CORK CITY COUNCIL
PLANNING & DEVELOPMENT**

12 DEC 2024

DEVELOPMENT MANAGEMENT

3. APPLICATION DETAILS

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square meters (sq. M)

(a) Floor area of existing/proposed structure/s	824 sq.m
(b) If a domestic extension, have any previous extensions/structures been erected at this location after 1 st October, 1964, (including those for which planning permission has been obtained)?	Yes ☐ No ☒ If yes, please provide floor areas. (sq m) _____
(c) If concerning a change of use of land and / or building(s), please state the following:	
Existing/ previous use (please circle) Please refer to the Cover Letter prepared by HW Planning.	Proposed/existing use (please circle) Please refer to the Cover Letter prepared by HW Planning.

4. APPLICANT/ CONTACT DETAILS

Name of applicant (principal, not agent):		Lyonshall Limited	
Applicants Address	Floor 3, Blackrock Hall, Blackrock Avenue, Skehard Road, Blackrock, Cork.		
Person/Agent acting on behalf of the Applicant (if any):	Name:	Harry Walsh - HW Planning	
	Address:	5 Joyce House, Barrack Square, Ballincollig, Cork.	
	Telephone:	021 - 487 3250	
	Fax:	N/A	
	E-mail address:	info@hwplanning.ie	
Should all correspondence be sent to the above address? (Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)		Yes ☒	No ☐

5. LEGAL INTEREST

Please tick appropriate box to show applicant's legal interest in the land or structure	A. Owner X	B. Other
Where legal interest is 'Other', please state your interest in the land/structure in question	N/A	
If you are not the legal owner, please state the name and address of the owner if available	N/A	

6.1 / We confirm that the information contained in the application is true and accurate:



Signature: _____

Date: 9th of December 2024

.....

ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application should be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

The Development Management Section, Strategic Planning & Economic Development
Directorate, Cork City Council, City Hall, Anglesea Street, Cork.

- The Planning Authority may require further information to be submitted to enable the authority to issue the declaration.
- The Planning Authority may request other person(s) other than the applicant to submit information on the question which has arisen and on which the declaration is sought.
- Any person issued with a declaration may on payment to An Bord Pleanála refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.
- In the event that no declaration is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a declaration was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork City Council for the purpose of advising as to the type information is normally required to enable the Planning Authority to issue a declaration under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations 2001 as amended.

DATA PROTECTION

The use of the personal details of planning applicants, including for marketing purposes, may be unlawful under the Data Protection Act 1988-2003 and may result in action by the Data Protection Commissioner against the sender, including prosecution

An Roinn Leanaí, Comhionannais,
Míchumais, Lánpháirtíochta agus Óige
Department of Children, Equality,
Disability, Integration and Youth



Lyonshall LTD,
Ursuline Convent
Blackrock,
Co.Cork,
T12 X982.

05th November 2024

RE: Application for Planning Exemption - Provision of Accommodation for International Protection Applicants at Ursuline Convent, Blackrock, Co.Cork, T12 X982.

To whom it may concern,

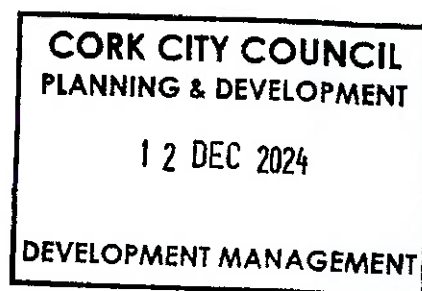
The Department is currently seeking offers of accommodation for properties which have a full grant of planning permission for use as International Protection accommodation or properties which may avail of the Class 14H or 20F exemptions as per the Planning and Development Regulations. The above property has been offered to the Department as temporary emergency accommodation for International Protection applicants subject to grant of a planning exemption. We would therefore request that this correspondence be taken as evidence of engagement with the Department regarding the proposed change of use of the property named above.

I can confirm that the Department is interested utilizing the above property for the accommodation of International Protection applicants subject to all planning, change of use, building control, Certificate of Compliance on Completion (CCC), fire and insurance certifications being in place and subject to contract/contract denied.

If you have any queries regarding the above, please contact me at: [\[redacted\]@equality.gov.ie](mailto:[redacted]@equality.gov.ie).

Yours sincerely,

Seán Woods
Higher Executive Officer
International Protection Procurement Services



An Roinn Leanaí
Comhionannais, Míchumais
Lánpháirtíochta agus Óige
Department of Children
Equality, Disability, Integration
and Youth

Bloc 1, Plaza Miesach, 50-58 Sráid Bhagóid Íochtarach, Baile Átha Cliath 2. D02 XW14
Block 1, Miesian Plaza, 50-58 Baggot Street Lower, Dublin 2. D02 XW14
[\[redacted\]@equality.gov.ie](mailto:[redacted]@equality.gov.ie)
www.equality.gov.ie

