

TNC (Travellers of North Cork) and RAWG (Regional Accommodation Working Group) submission to the Joint Committee on Traveller Accommodation

1. Introduction

- 1.1. Thank you for inviting our project, TNC (Travellers of North Cork) to make a submission to the Joint Committee on Traveller Accommodation in Ireland.
- 1.2. Our project is part of the Regional Accommodation Working Group (RAWG) of Cork & Kerry, made up of the following groups: The Cork Traveller Women's Network (CTWN), The Traveller Visibility Group (TVG), Travellers of North Cork (TNC), Travellers of East Cork (TEC), West Cork Travellers (WCTC), Kerry Traveller Health and Community Development Project (KTHCDP) and the Southern Traveller Health Network (STHN), working in conjunction with the Traveller Health Unit (THU).
- 1.3. Our submission and statement draws on the experiences gained by these groups in advocating for improved access to adequate Traveller accommodation and aims to highlight the ongoing and unacceptable manner in which Irish housing policy and legislative frameworks continue to undermine the rights of Irish Travellers to an adequate standard of living and non-discrimination in provision of Traveller-specific accommodation and particularly the worrying rates of homelessness which result amongst the Traveller Community owing to these insufficient frameworks.
- 1.4. In this submission, we wish to highlight the range of issues currently faced by Travellers in the South-West of Ireland, and the need to develop a robust human rights based framework for the development and delivery of Traveller accommodation to ensure that legislation, policy and practice is fully compatible with international human rights standards.
- 1.5. Together, we need to ensure that the national and local government takes real steps in improving access to adequate, culturally appropriate accommodation for the Traveller Community. A task that has been unmet in decades of policy development, which has ranged from assimilationist, identifying Travellers as in need of 'settlement' and integration into the settled community, to exclusionary, marginalising Travellers and confining them to life on the 'outside' of society. Such policy approaches -- informed by attitudes which are at best lacking in awareness and at worst openly racist -- do not take into account the culturally diverse nature of Travellers and their variety of needs; state duty bearers have, repeatedly and over the course of decades, patently failed in their duty to enable Travellers to access their right to adequate housing.

2. Summary of key recommendations

- Create a new, independent National Traveller Accommodation Agency.
- Increase and monitor the Traveller Accommodation Budget.
- Ensure collaborative decision making around Traveller accommodation.
- Monitor the 5-year Traveller Accommodation Programmes (TAPs) at a national level.
- Ensure culturally appropriate options.
- Implement recommendations of the NTACC Review of the Traveller Accommodation Act.
- Support Traveller nomadism.
- Uphold the Department of the Environment's directive around fire and safety checks.
- Plan effectively around the needs of Travellers experiencing homelessness.
- Ensure that Emergency homeless provision for Travellers is suitable for the developmental needs of infants and children.

3. Travellers of North Cork (TNC) and the Regional Accommodation Working Group (RAWG)

- 3.1. The Traveller project in North Cork began working with the Traveller community in 2006. Its main focus is as a primary health care project, working to improve health outcomes for the Traveller community in this area. Whilst working with people on health issues and their access to health services, it emerged that the biggest issues affecting their health were outside their direct control, and that chief among these was accommodation. Damp, lack of heating and overcrowding -- contributing to both respiratory and other physical illnesses as well as to mental ill health -- were frequently reported. Some families had little or no access to basic facilities such as running water, sanitation or electricity and increasingly, more Travellers were becoming homeless or being evicted into homelessness.
- 3.2. Staff and volunteers of the Travellers of North Cork (TNC) had been involved with a number of actors, including Cork County Local Traveller Accommodation Consultative Committee (LTACC) and the Health Impact Assessment (HIA) Group for Ballydineen halting site, to encourage dialogue with the local authority around accommodation. However, the TNC felt, despite many years of consultation, that the engagement had not yielded access to good quality accommodation for members of the

Traveller community and our participation was tokenistic. Our project, along with CTWN, WCTC and TVG finally withdrew from the Cork County Council LTACC in November 2017, as the Traveller organisations and representatives were not granted the same parity of respect given to other members of the committee and our submissions to the development of Traveller Accommodation Plans (TAPs) and interim reviews were ignored repeatedly.

- 3.3. Many of the issues facing Travellers in accessing adequate accommodation were replicated across the local authorities of Cork City, Cork County and Kerry and the Traveller projects working in these areas decided that we would work together on a regional basis to highlight the issues and seek remedies. Together, our regional projects have held seminars on Traveller accommodation and produced a number of reports, including the National Traveller Accommodation Conference Report(2016)¹, RAWG Positioning Paper on Traveller Accommodation (2016)²,TNC Research Report “I Know My Rights But They’re Being Denied” (2018)³, Traveller Homelessness in the South-West (2020)and which have been used to form the basis for this submission, along with data gathered as part of the Regional Accommodation Survey (RAWG, 2018).

3. Overview

- 3.1. As an indigenous ethnic group, it has long been recognised that the Irish Traveller Community has a right to culturally appropriate accommodation in light of their unique cultural needs. In writing this submission to the Joint Committee, the RAWG hopes to draw attention to the proliferating accommodation crisis faced by Irish Travellers in the South West of Ireland. This submission will highlight how the failure of the State to adequately define and respond to homelessness has resulted in Travellers bearing the brunt of the recent housing crisis.
- 3.2. A consistent under spend, growing implementation gap between legislation and policy, compounded by a lack of political will at local authority level have resulted in a crisis where Travellers, despite accounting for only 1% of the total Irish population, account for up 8-13% of homeless adults and 25% of homeless children.⁴This submission will address the national and regional barriers to securing adequate accommodation for the Travelling Community. Since ethnic recognition in 2017 the accommodation rights of many Irish Travellers and the inadequate and unacceptable standards of Traveller-specific accommodation have proliferated to unprecedented levels.
- 3.3. Owing to their unique cultural status as a traditionally nomadic societal group, and recently recognised ethnic status, the accommodation needs of Travellers are very specific. Cultural traditions such as nomadism, living in extended family units, and the Traveller tradition of keeping horses, all raise specific accommodation needs. In particular, the family composition of Traveller households is very different to those in the general population, with Travellers often living in extended family units – such closeness has a direct effect on the type of accommodation, which is considered culturally appropriate. This difference in family composition is reflected in recorded statistics which note that 50% of Traveller women had given birth to five or more children, in stark contrast to just under 1 in 20 (4.2%) of settled women in this age group. More than 1 in 4 Irish Traveller households had six or more persons compared with less than 1 in 20 households in the State overall. Furthermore, many Traveller households had more than one family (2.5% compared with 1.1%) residing in the same residence, in a practice (forced onto the community) commonly known as ‘doubling up’. Travellers also tend to marry at a younger age, with 33.4% of those aged 15-29 married, in comparison to just 8.2% of the settled community. This tendency to marry at a young age, coupled with the fact that Traveller women have, on average 4.7 children each (compared to an average of 2.9 for settled women) has resulted in a rapidly growing demand for housing directly attributable to the Community’s high growth rate. As a result, overcrowding is a common and endemic issue for many Traveller families. This is evidenced by the high number of families ‘doubling-up’ in halting sites.

4. Background (National Context)

- 4.1. The October 2015 ‘Carrickmines Halting Site tragedy,’ in which ten members of the Traveller community, including five children, died in a fire at a cabin and caravan on an overcrowded halting

¹ National Accommodation Conference Report, (2016), TVG, Cork . <http://www.tvgcork.ie/sites/default/files/downloadableResources/2017-%20Accommodation-Report.pdf>

²<http://www.tvgcork.ie/sites/default/files/downloadableResources/traveller-positioning-paper%20-%20FINAL-PROOF.pdf>

³ “I Know My Rights, But They’re Being Denied,” Travellers of North Cork (2018) available at https://issuu.com/ppr-org/docs/i_know_my_rights_but_they_re_being.

⁴Pavee Point, Traveller Accommodation Crisis, <https://www.paveepoint.ie/traveller-accommodation-crisis/>

site in Carrickmines, south Dublin, focused wider public attention on the issue. The extended family had been living at the ‘temporary’ site for eight years while awaiting a permanent site elsewhere⁵.

- 4.2. This event and its aftermath highlighted the complexity of the issues around Traveller accommodation as well as the need to consider and evaluate the impact of State policies and practices. After the fire, the local authority suggested using a nearby greenfield site as a temporary emergency halting site for the fifteen surviving, bereaved members of the family, so that the remaining children could remain in their community and at their school while a six-month project of work on an already-identified permanent site was underway. On hearing of the proposal, however, some settled people living in the cul de sac adjacent to the field objected, even blocking access to the site with their cars. One of them, explaining their objections to the press, cited “a difference of cultures” between the Travellers and settled people⁶.
- 4.3. Local officials bowed to this pressure and moved the Traveller families to another, less suitable site on a council-owned car park. This in effect legitimised anti-Traveller attitudes amongst some of the local population and reinforced the alienation and segregation of the already bereaved Traveller families.
- 4.4. This incident spotlights key issues facing Traveller accommodation in Ireland today. Mandatory targets for Traveller accommodation introduced 18 years ago have never been met; even worse, over successive four-year periods they have been missed by ever-increasing margins. Meanwhile, the existing stock of accommodation has been deteriorating markedly⁷. Planning procedures in Ireland require consultation with local residents and councillors on planning applications; according to national Traveller organisations, objections are lodged against most applications for Traveller accommodation, creating a major blockage to efforts by local authorities to meet their targets for this area. As a result, funds allocated for Traveller housing remain unspent, and much-needed homes remain unbuilt⁸ and as mentioned above, the under spend on Traveller accommodation has also impacted maintenance and upgrades of existing accommodation. Where halting sites have been built, they have been sited away from residential areas, adding to the exclusion of the Traveller community.
- 4.5. The lack of progress in meeting a host of rights – including the right to adequate accommodation – was highlighted in the 2011 NGO Alliance against Racism Shadow Report to the UN Committee for the Elimination of Racial Discrimination. In addition, the report noted with concern that “there are no sanctions against a local authority that fails to adequately provide suitable Traveller accommodation under the legislation.”⁹

5. **Key Issues:** Key issues faced by Travellers in the South-West Region include homelessness, hidden homelessness, inadequate standards of accommodation, discrimination, evictions, and a growing implementation gap between the legislative framework and the human rights which Travellers are afforded both at an international and domestic level.

5.1 The State’s failure to adequately respond to homelessness, hidden homelessness and severe overcrowding: The growing number of hidden homeless amongst the Traveller Community has created much cause for concern for the members of the Cork & Kerry Regional Accommodation Working Group who stress that in the South West region, there are increasing numbers of young people and young families having to rely on couch surfing, staying with family in already overcrowded conditions and doubling up on overloaded halting sites due to the inability of the Local Authorities to supply sufficient levels of Traveller Accommodation regionally. The RAWG therefore recommends that the State’s definition of Homelessness be expanded to align with the ETHOS (European Typology on Homelessness) definition, as recommended by the ESPN report of September 2019¹⁰. ETHOS identifies

⁵ Will Carrickmines be a turning point in treatment of Travellers?, 17 October 2015 at <https://www.irishtimes.com/news/social-affairs/will-carrickmines-be-a-turning-point-in-treatment-of-travellers-1.2394836>

⁶ ‘We are going to fight this to the death’ say residents opposed to temporary halting site for fire survivors, 20 Oct 2015 at <https://www.herald.ie/news/we-are-going-to-fight-this-to-the-death-say-residents-opposed-to-temporary-halting-site-for-fire-survivors-34125172.html>; Pervasive Racism: How public and political responses to a recent tragedy in Ireland’s Traveller Community were shaped by Anti-Traveller hostility, 9 Nov 2015 at <http://www.internationalhatestudies.com/pervasive-racism-public-political-responses-recent-tragedy-irelands-traveller-community-shaped-anti-traveller-hostility/>.

⁷ See inter alia Traveller housing targets have not been met in 18 years, 14 Sep 2017 at <https://www.irishtimes.com/news/social-affairs/traveller-housing-targets-have-not-been-met-in-18-years-1.3220044>; Will Carrickmines be a turning point in treatment of Travellers?, 17 October 2015 at <https://www.irishtimes.com/news/social-affairs/will-carrickmines-be-a-turning-point-in-treatment-of-travellers-1.2394836>.

⁸Ibid

⁹ NGO Alliance against Racism Shadow Report in response to the Ireland’s Joint Third and Fourth Periodic Reports to CERD under the United Nations International Convention on the Elimination of All Forms of Racial Discrimination, January 2011 at http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/IRL/INT_CERD_NGO_IRL_78_9047_E.pdf, p. 33.

¹⁰ ESPN Homelessness Report <https://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=9456&furtherNews=yes> and synthesis report <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8243&furtherPubs=yes>

4 main categories of living situation – which goes much further than the Irish definition and largely covers all living situations which amount to forms of homelessness across Europe:

- i. Rooflessness (without a shelter of any kind, sleeping rough)
- ii. Houselessness (with a place to sleep but temporary in institutions or shelter)
- iii. Living in insecure housing (threatened with severe exclusion due to insecure tenancies, eviction, domestic violence)
- iv. Living in inadequate housing (in caravans on illegal campsites, in unfit housing, in extreme overcrowding).¹¹

- 5.2 The effects of this general housing crisis upon the provision and supply of Traveller accommodation has reached critical levels. Nationwide the impacts upon this has caused rapidly increasing levels of homelessness as increasing numbers of Travellers have been forced into homelessness is increasing at an alarming rate. Recent figures obtained by RTÉ report that 25% of homeless children living in emergency accommodation outside of Dublin are Travellers, and 13% of homeless adults are from the Travelling community. Nationally, Travellers make up at least 8% of homeless adults staying in emergency accommodation and 12% of homeless children. Furthermore, this data, based on figures from 27 of Ireland’s 31 local authorities, most likely reflects an underestimate as some Travellers will not identify themselves as Travellers to Council officials for fear of discrimination. Such high percentages of homeless Travellers are particularly shocking when one considers that Travellers are a minority group in Ireland and only make up around 1% of the population.¹²
- 5.3 Despite these bleak statistics, it is widely agreed that the reality is in fact much worse as the Government’s Homelessness Count statistics obscure the reality of homelessness and accommodation conditions within the Traveller community and fail to recognise that those having to live in overcrowded and highly unsuitable conditions are in fact homeless owing to their status as ‘hidden homeless’.
- 5.4 Those ‘hidden homeless’ Travellers are often forced to live in severely overcrowded conditions due to the lack of available accommodation options – the aforementioned RTÉ survey noted that 10% of Traveller families share a halting site bay or a house with another household. However, this is considered by Traveller groups to be a gross underestimate as Local authority data often makes reference to the number of Travellers ‘sharing’ houses and halting bay sites. In reality, ‘sharing’ ‘is a euphemism for Travellers living in chronic overcrowding.’¹³
- 5.5 The RAWG notes that the impacts of homelessness amongst the Traveller Community have been acute and far-reaching as a result of the aforementioned issues. Recognising that the impacts of “homelessness both as serious deprivation of access to housing and as an extreme form of social exclusion, discrimination and loss of dignity,” in 2018 the Regional Accommodation Working Group commissioned data collection in the form of surveys to Travellers within their catchment area of which 397 family units responded. The following data is therefore not a complete overview of the region – but rather forms a basis through which to analyse the extent of homelessness amongst those surveyed, how many of these have health issues, or disabilities and how many of these are ‘homeless’ under the ETHOS Lite broadened definition of homelessness, by including those living in overcrowded accommodation, temporary accommodation or in unstable accommodation such as those camped at the roadside.
- 5.6 Broken down regionally, there were 9 homeless family units in Cork City recorded in the survey, one family unit in West Cork, six in North Cork and 16 in Kerry. In total, 32 family units out of the 397 family units in the survey self-identified as homeless. This amounted to a total of 88 individuals and included 40 minors under the age of 18. 18 of these minors were under the age of 5, 16 of those surveyed were aged 5-12 and 6 of these were aged 13-18. 48 adults were identified as homeless, with two of these being over the age of 60.
- 5.7 Of those classified as homeless, 14 family units had been on the social housing list for between 6-10 years. 14 had been on the list for under 5 years and one had been on the housing list for over 10 years. Furthermore, of those 32 homeless family units who were classified as homeless, 12 had at least one member with a disability, 7 family units with at least one member with a significant health concern and 4 family units need specialised housing due to a disability or health concern.

¹¹The ETHOS approach to defining homelessness covers most of the ways which Travellers can become homeless – the four groups are explained in more detail here: <https://www.feantsa.org/download/ethos2484215748748239888.pdf>

¹² RTE Investigates ‘Lives on the Fringes’ <https://www.rte.ie/news/investigations-unit/2018/12/17/1017612-travellers-in-local-authorities-data/>

¹³ Pavee Point, Traveller Accommodation Crisis, <https://www.paveepoint.ie/traveller-accommodation-crisis/>

- 5.8 Under the ETHOS Lite definition which encompasses those living at the roadside, in unstable accommodation or in overcrowded accommodation, those recognised as ‘hidden homeless’ should be included in an expanded definition of homelessness. It is important to therefore recognise that 44 family units said they lived at the roadside, and 207 of those surveyed said they lived in overcrowded accommodation, meaning that 339 of 396 surveyed family units would qualify as homeless under the expanded ETHOS Lite definition.
- 5.9 The above data, although limited, in that it is not a complete survey of the South-West Traveller population in full – is still extremely worrying when the amounts of those experiencing homeless and hidden homeless are recognised. Under the Irish State definition of homelessness 88 of 396 respondents qualified as homeless, which is 22.2%. However, as aforementioned, this definition fails to recognise those in overcrowded, or temporary accommodation such as roadside encampments as homeless. In contrast, the more inclusive ETHOS Lite definition recognises the deep and sustained effects of living in overcrowded and temporary accommodation, and that this ‘houselessness’ should be recognised as the new, broadened definition of homelessness. Taking the ETHOS definition, the figures of those homeless in the South West rises to a shocking 85.6%.
- 5.10 **Actions of local authorities that have evicted Travellers into homelessness:** RAWG has evidence of case studies where Travellers with insecure accommodation circumstances were driven into homelessness as a direct result of Local Authority actions. This includes in Cork city: Traveller families on unauthorised sites being evicted through legal actions of the City Council into homelessness and also other families living in mobile homes in communal land adjacent to their family’s home on Traveller group housing schemes, being evicted by legal action of the Council and driven into already overcrowded bays and yards. The key point is that alternative accommodation was not offered to these families, who were evicted into homelessness or more precarious and unsafe accommodation. Such evictions have occurred with the presence of armed Gardaí and without alternative arrangements being made for those being evicted. The RAWG recognises the importance of correct fire-safety management and minimising risk to health and safety on Local Authority sites and accommodation generally. The Council must recognise however, that due to the shortage of Traveller-specific accommodation options, that many Travellers have nowhere else to go, and that by evicting them, the Council is making such individuals homeless. This is in direct breach of the Basic Principles and Guidelines on Development Based Evictions and Displacement, set out in Annex 1 of the report of the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (A/HRC/4/18).¹⁴
- 5.11 **Under spend on funding allocation for Traveller accommodation:** Despite, specific funding being allocated for provision of Traveller specific accommodation, routine under spend is reported by the Department of Environment, with two local authorities in the South-West region Cork City and Kerry County Council having spent none of their current allocated funding by mid November 2019, and Cork County Council have shown consistent under spend during the previous TAP, despite clearly identifiable need. The impact of this on Travellers in the South-West region and indeed at a National level has been sustained and deeply worrying. Irish Travellers have far more negative health outcomes in particular mental health, are extremely vulnerable to forced evictions and as a result, have disproportionately high rates of homelessness. As such their vulnerability as an ethnic minority is worsened by their exclusion from adequate provisions of vital services such as accommodation.
- 5.12 **Lack of cultural adequacy:** The RAWG asserts that the State, through the actions of the relevant local authorities, has failed to respect the culturally adequacy of accommodation, such as resettling residents who would prefer halting site or transient site provision into standard social housing and failure to provide transient sites suitable for nomadic Travellers. Section 24 of the *Housing (Miscellaneous Provisions) Act 2002* criminalises nomadism.
- 5.13 Nomadism played a vital role both historically and culturally for Travellers in the past. Section 24 makes stopping on both public and private lands to be a criminal offence. When the Act was implemented it had a notable and immediate effect on those Travellers who had a nomadic way of life, with a surge of evictions, prosecutions and seizing of property. Worse still, it was used by many local authorities against homeless, roadside Traveller families, which had nowhere else to go; used by the very same local authorities which have a statutory duty to accommodate these families.
- 5.14 The Regional Accommodation Working Group recommends the repeal of the Section 24 of the 2002 Act in recognition of the disproportionate effect which the Act has on Travellers, and in order to

¹⁴https://www.ohchr.org/Documents/Issues/Housing/Guidelines_en.pdf

promote the need for transient sites, as necessitated under the *Housing (Traveller Accommodation) Act 1998*. At present there are no active transient sites in the South West Regions of Cork and Kerry, although the Regional Accommodation Working Group believes there is a demand for these – while the recent 2019-2022 Traveller Accommodation Programmes for Cork City, County and Kerry stress that there is currently no demand from the Traveller Community for such transient sites. However, data gathered by the RAWG directly refutes this.

5.15 The Regional Accommodation Working Group therefore supports the development of a transient site system, akin to the ‘negotiated stopping’ arrangements facilitated in Leeds, UK. In their 2018 report “I Know My Rights, But They’re Being Denied,” Travellers of North Cork outlined the interconnectivity between the State’s failure to recognise Traveller ethnicity for many years and its ongoing failure to provide for and respect the nomadic nature of Traveller heritage.

5.16 It is easier to see particular aspects of Traveller lives, especially nomadism, as choices which people are free to make or not. If local authorities were to view nomadism as a practice by choice, as opposed to an intrinsic practice of a distinct ethnic minority population, then it is understandable that their approach to meeting the accommodation needs of Travellers may focus on encouraging the abandonment of nomadic practices and facilitating Travellers to adopt more ‘settled’ or sedentary lives.¹⁵

5.17 All local authorities within the South West region refute that there is a need for transient sites to facilitate Traveller nomadism. E.g. Cork County Council notes “The Travellers surveyed did not indicate a preference for transient sites and it is not proposed to develop one during the lifetime of the Plan.” The County Council’s failure to adequately consider provision of such a transient site is largely disappointing. The only concrete reference to provision of transient sites is under the ‘Timeframes for Implementation’ section which notes that provision of transient sites will be ‘reviewed in the lifetime of this programme.’ Such a position compounds a 25-year history by Cork County Council of failing to recognise a key traditional aspect of Traveller heritage and culture, nomadism.

5.18 This position taken by the Local Authorities in the South West is further undermined by the data mined from the May 2018 questionnaire, in which of 397 Travellers surveyed 223 or 56% noted that they would like to travel if this was possible. When asked why they are not currently nomadic, 30% of those stated that they could not travel owing to the provisions of the 2002 Act which makes stopping on public and private land illegal. A further 23% noted that this was compounded by the lack of places to park. Such survey results are clearly in direct contradiction to the South West Local Authority findings, that there is no demonstrable desire amongst Travellers to be nomadic. The RAWG therefore asserts that State policies directly undermine the cultural needs of Travellers, in making their nomadic lifestyle preferences, in effect, impossible.

5.19 **Cancelling the development of Traveller accommodation in the light of public objections and the use of Part 8 of the planning process to block development of Traveller accommodation:** The resistance at local government level and from sections of the public to developing Traveller accommodation is a massive block to addressing the Traveller accommodation crisis. Part 8 of the planning process needs to be amended to remove the need for public consultation on the development of proposed Traveller accommodation. For example; in Cork city, the draft TAP, although sadly lacking in acknowledgement of Travellers living in overcrowded housing and homeless Travellers, was the first ambitious plan we have seen in terms of addressing overcrowding in the poorest quality Traveller accommodation schemes. Yet this plan received hundreds of objections, supported and mobilised by a number of councillors who supported objections from the public on the north side. There included objections from commercial premises objecting to the expansion of a site on the south side on the grounds that it might affect their business. To get the TAP adopted in Cork city required massive mobilisation from the Traveller community who organised hundreds of letters of support, also direct lobbying of councillors, including site visits and national pressure from national Traveller projects and the Oireachtas group who we understand wrote to the councils.

5.20 One organisation commented “It’s like Travellers have to beg and cajole every step of the way to get accommodation delivered, like it’s a favour as opposed to it being a service that the state is providing”.

¹⁵ “I Know My Rights, But They’re Being Denied,” Travellers of North Cork (2018) available at <https://onedrive.live.com/?authkey=%21AKz0VcjOVjJBRdE&cid=191109ED4A24D446&id=191109ED4A24D446%2113960&parId=191109ED4A24D446%219013&o=OneUp>

5.21 **Issues with Implementation of the Housing (Traveller Accommodation) Act 1998:**The *Housing (Traveller Accommodation) Act 1998*, was the first piece of domestic legislation that recognised the unique accommodation needs of the Traveller Community. This need is highlighted as central to the provision of Traveller specific housing as, ‘the distinct needs and family circumstances of Travellers.’¹⁶ Recognising the nomadic nature of Traveller culture and allowing for provision of such transient sites, ‘to address the accommodation needs of travellers other than as their normal place of residence and having regard to the annual patterns of movement by Travellers.’¹⁷

5.22 The range of accommodation had to include standard local authority housing, group housing, permanent caravan parks, transient halting sites and emergency provision. It also mandated that there should be provision ‘for the annual patterns of movement by Travellers’ (Section 10(3) (c)). The local housing authorities are further obligated to ‘take any reasonable steps as are necessary’ (Section 16(1)) to implement the accommodation programmes. However, there are no sanctions or penalties in the Act if the local authorities do not implement the accommodation programmes, which have caused significant issues for residents in local authorities who underperform under the TAPs.

5.23 A number of ‘negative trends’ are prevalent within the Act, including ‘the failure to secure timely, adequate provision of Traveller accommodation since 1998,’ perceiving this issue to stem from the ‘language of reasonableness’ included in the Act, while also noting its failure to expressly include cultural rights. As the Act requires significant judicial oversight in order to enforce the provisions of the Act, it is clear that the toothlessness of such a requirement is exacerbated in light of the judiciary’s reluctance to engage with positive obligations under the Act, deferring instead to the Executive under the separation of powers doctrine.¹⁸

5.24 These deficiencies in the language of the 1998 Act have created a system which is slow to implement TAPs, over relying on social housing stock in place of Traveller-specific accommodation such as halting sites.¹⁹ the fault for the current situation faced by Travellers in securing and enforcing their right to Traveller-specific accommodation falls to the gap between policy agreed at national level and implementation at a local level.

5.25 The 1998 Act, while not perfect (a lack of enforcement in the case of underperformance of local authorities to provide Traveller-specific accommodation has proven problematic) is not the cause of the significant underperformance in providing Traveller-specific accommodation. The views of the NTACC reports reflect this; with the consensus, being that issues with implementation rather than the Act itself is causing the backlog.

5.26 **Cork County and City Council’s failure to adequately allow for the involvement of the Traveller community when drafting accommodation programmes:** The RAWG asserts that both Cork city and Cork County have failed in the obligation to allow for the involvement of the community in drafting Traveller accommodation programmes (Article 23, UNDRIP).²⁰For Cork city, the Traveller Accommodation Plan adopted in December 2019 excludes the needs of one small family grouping, despite the proactive representations of the family to have their needs included in the plan which were rejected by the Council. In Cork County: In November 2017, Traveller organisations engaged in the Cork County Council LTACC withdrew from attendance at the LTACC meetings. There had been a number of issues regarding the way in which Traveller projects participation was treated and the lack of appropriate measures taken by the LTACC to address concerns raised by Traveller projects, including: a very clear lack of implementation in the delivery of Traveller accommodation, including an ongoing under spend in approved funding (as evidenced by the Housing Agency Report).

5.27 Key issues raised by Traveller projects in submissions made both at the development of the Cork County TAP and to the midterm review of the TAP, were mostly ignored or sidelined; reducing Traveller representative involvement to tokenism. Concerns were raised over the removal of Travellers as a category of need in housing allocation as happened in both Cork City and Cork County Councils, and just one other local authority during the last cycle of TAP and Traveller organisations wanted to ensure that data gathering and housing assessment to be compliant with the *Housing (Traveller Accommodation) Act, 1998*).

5.28 The (NTACC) National Traveller Accommodation Consultative Committee (which was established, on a statutory basis, under the *Housing (Traveller Accommodation) Act 1998*) and

¹⁶*Housing (Traveller) Accommodation Act 1998* s3.b

¹⁷*Ibid*

¹⁸ D. O’Donovan ‘Breaking the cycle of discrimination?’ Traveller/Roma housing exclusion and the European Convention on Human Rights. (2016) *International Journal of Discrimination and the Law*, 16(1), 5–23.

¹⁹ *Ibid*.

²⁰https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

Department of Housing, Planning, Community and Local Government, conducted cluster meetings in the Autumn of 2017 to review the progress of the local authorities TAPs and requested presentations from each LTACC. However, the Cork county local authority officials vetoed submissions from the local Traveller project for the presentation and failed to provide members of the LTACC with a copy of the presentation prior to the meeting and reversed the decision to have a Traveller representative present our findings, thereby demonstrating a disregard to the Traveller representatives and made their continued participation on the LTACC untenable.

5.29 Following this, the Cork county LTACC continued to meet, despite representations and efforts made by the local Traveller project to have their concerns as outline above addressed in order to ensure their confidence in meaningfully participating in the ongoing LTACC going forward. The LTACC went on meet and progress their work in the absence of participation of the Traveller community thereby denying involvement in drafting future Traveller Accommodation Programmes.

5.30 **Failure of the State to take measures necessary to ensure Travellers enjoy the right to adequate housing without discrimination:** Many Travellers are unable to access the private rented sector. Travellers are recognised as the ethnic group most likely to experience discrimination in accessing private rental accommodation. Many landlords will avoid renting to Travellers where possible, despite this being in contravention of the Equal Status Acts, with an RTÉ survey revealing that 82% of landlords will not rent to Travellers.²¹ It is not surprising then that Travellers are one of the most likely ethnic groups in Ireland to become homeless. The RAWG is aware of numerous instances where individuals or families have been able to rent from a private landlord without disclosing their identity for fear of eviction or refusal to rent – in other instances, Travellers have been evicted often with no notice, once the landlord has discovered that the tenants are Travellers. With nowhere to go these Travellers often find themselves homeless and attempting to access emergency accommodation.

5.31 In the South-West region, many Travellers trying to access the private rental section are reliant on the Housing Assistance Payment – which provides a portion of rent depending on factors such as family size etc. In areas where Housing Assistance Payment schemes are in place, the value of allocated HAP payments is often far below the average rental value of the majority of not all property. In Cork City for example, there were no 2-bed properties available within the limits of HAP in August 2019 – in fact the only available properties were located far beyond the City Council catchment in West Cork.²²

5.32 **Failure to provide adequate housing for those Travellers with disabilities:** Of those surveyed in May 2019, 29% noted that they had a disability, with a further 20% noting that they had a serious illness. Of those who identified as disabled, 41% were without a wheelchair ramp, one family in a halting site in County Cork noted that they had tried for years unsuccessfully to have a wheelchair ramp installed but the Council refused to do so. This is unfortunately a common theme – with the majority of Local Authorities noting that provisions such as wheelchair access ramps are not part of their duties under the Housing Act 1998, this is despite the O'Donnell v South County Dublin Case, which held that Local Authorities are required to provide adequate and accessible accommodation for Travellers with disabilities.²³

5.33 **Failure of local authorities to secure adequate access to sanitation:** Many of those residing on both official and unofficial halting sites in the South West Region have limited access or no access to clean drinking water and/or sanitation. In the May 2018 survey, 46% experienced dampness in their home, 26% had no hot water, 11% had no electricity, 15% had no toilet facilities (note this considers portaloos as toilets, many halting sites do not have proper toilet facilities but instead rely on portaloos) while 35% had no heating in their accommodation e.g. Nash's Boreen, Cork City and Ballydineen Halting Site, County Cork. This is directly breaching a number of international standards including Art 25 UDHR²⁴ and Article 11 ICESCR²⁵.

5.34 In its General Comment No. 4, the UN Committee on Economic, Social and Cultural Rights identified key factors to be considered in determining whether housing is adequate, including: legal security of tenure; availability of services, materials, facilities and infrastructures, such as safe drinking water, energy for cooking, and sanitation; affordability; habitability; accessibility; location, in proximity

²¹ RTE Investigates 'Lives on the Fringes' <https://www.rte.ie/news/investigations-unit/2018/12/17/1017612-travellers-in-local-authorities-data/>

²² Figures correct as of Daft.ie check daily from the 5th August to the 21st August 2019.

²³ O'Donnell & ors -v- South Dublin County Council & ors [2015] IESC 28 (13 March 2015) <https://scoirl.wordpress.com/2015/03/14/odonnell-v-south-dublin-co-co-a-plague-on-both-your-houses/>

²⁴ United Nations, Universal Declaration of Human Rights Article 25. <https://www.un.org/en/universal-declaration-human-rights/>

²⁵ International Covenant on Economic, Social and Cultural Rights. Article 11. <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

to services such as health care, schools and employment options; and cultural adequacy. Unfortunately the majority of sites both official and unofficial in the South-West region are located in poorly connected sites – either at the side of busy, main roadways e.g. St Michael’s Halting Site, Killarney, County Kerry, Brennan’s Glen, Co Kerry, or in sites which were previously used as either quarries or dumps e.g. Spring Lane Halting Site, Cork City or removed from any transport infrastructure in the middle of the countryside e.g. Ballydineen Halting Site. It is often felt that halting sites are placed in such unsuitable places to encourage residents to avail of housing, despite their desire to remain in a site with their family unit.

6 Key recommendations/ Initiatives to support access to housing for the Traveller community at local and national level:

- 6.1 **Create a new, independent National Traveller Accommodation Agency.** Government reports have called for a national Traveller Accommodation Agency from as far back as 1995. Development of Traveller accommodation is currently the responsibility of local authorities (via national funding). After 17 years, this system has failed to provide culturally appropriate homes to meet the needs of the community. We call for the establishment of a new independent agency that can ensure delivery on the ground.
- 6.2 **Increase and monitor the Traveller Accommodation Budget.** The National Traveller Accommodation Budget has been cut from €40 million to €5.5 million in 2016. We call for an urgent increase to the budget to meet the current accommodation crisis. We also call for a system of monitoring and sanction for local authorities who fail to deliver accommodation linked to budgetary allocations.
- 6.3 **Ensure collaborative decision making around Traveller accommodation.** Although Local Traveller Accommodation Consultative Committees (LTACCs) have been set up under the Traveller Accommodation Act 1998, their decision making is controlled by local authorities. Travellers on these committees are often unheard, not given equal access to information and frustrated by lack of progress. LTACCs appear unaccountable: these committees have no links to other strategic council committees and despite government policy, do not produce annual reports on their work. We call for independent regulation for LTACCs to ensure openness, effective delivery of accommodation and a commitment to real partnership. We also call for meaningful consultation and resident engagement in the creation of new and management of existing Traveller accommodation.
- 6.4 **Monitor the 5-year Traveller Accommodation Programmes (TAPs) at a national level.** In Cork City, County and Kerry the TAPs have been inadequate throughout the last 15 years. Delivery of accommodation through the TAPs was hindered by insufficient needs assessments, lack of clear targets, (despite statutory obligations) and failure to implement plans. We call for a national monitoring and sanction system for local authority TAPs.
- 6.5 **Ensure culturally appropriate options.** The option of Traveller-specific accommodation (halting site, group housing or standard housing) is not consistently catered for by councils – as it should be according to the Traveller Accommodation Act. At present, there are no clear routes for Travellers living in standard housing or in homelessness to move to Traveller-specific accommodation (a continuation of the old, discredited settlement policy). Traveller projects are concerned that many families have been forced into standard housing due to a lack of Traveller-specific accommodation.
- 6.6 **Implement recommendations of the NTACC Review of the Traveller Accommodation Act.** The operation of the Housing (Traveller Accommodation) Act, 1998 was reviewed as far back as 2004. The NTACC Review made a body of recommendations to strengthen the Act, which have not yet implemented by local authorities.
- 6.7 **Support Traveller nomadism.** Nomadism is an important aspect of Traveller culture. The Criminal Trespass Act (2002) has been disproportionately used against Travellers practicing nomadism and seasonal travelling – yet no transient halting sites were created. This law has also been inappropriately used by local authorities, against vulnerable homeless Travellers living on the roadside (Cork City, 2014). We call on the creation of a national network of well-managed, serviced, transient Traveller halting sites to provide facilities for nomadic families. We further call for the repeal of the Criminal Trespass Act (2002).
- 6.8 **Uphold the Department of the Environment’s directive around fire and safety checks.** Following the Carrickmines tragedy, the Department of the Environment directed all local authorities to undertake fire and safety audits of Traveller accommodation without delay. This work must be carried out in partnership with Traveller residents and local Traveller Organisations. Reviews should not be used as a

means to push Traveller families into standard housing (or to be evicted). Local authorities should be obliged to provide emergency Traveller-specific accommodation if a site cannot be made safe.

6.9 **Plan effectively around the needs of Travellers experiencing homelessness.** Homelessness is a major crisis nationally. Travellers face additional barriers to securing suitable social housing and private rented homes. Many Traveller families are trapped ‘couch surfing’, in severely overcrowded houses, or living in caravans in parents’ yards and driveways or other unauthorised areas without facilities. These families are not being recognised by the current system. Travellers seeking homes or have also been negatively affected by the ‘habitual residence’ condition, which discriminates against any families moving around. Travellers are also routinely refused emergency accommodation on the basis that “they made themselves homeless”, i.e. left the county to travel for a period of time, literally being punished for practising their culture. The particular impact of the housing crisis on Traveller families needs to be officially acknowledged. We also call for an end to evictions of families who have had to move caravans onto the road site due to homelessness and a commitment to providing supports for these families.

6.10 **Ensure that Emergency homeless provision for Travellers is suitable for the developmental needs of infants and children** and also, families are not placed in mixed provision with single adults experiencing problems with drugs or alcohol.

7 **Conclusion: Lessons for the State**

7.1 When the Irish government ended its practice of denying ethnic minority status to Traveller communities in 2017, this was hailed as an opportunity for the state to begin to adequately address the needs of Traveller communities, which it had struggled to do while ethnic minority status was denied. However, it is necessary to make clear that to date successive Governments have only symbolically recognised Traveller ethnicity and it has not yet been codified in law. It has been important to recognise Travellers as a distinct ethnic minority in law because the culture and identity of Travellers have shaped their needs and experiences. Government strategies or policies, designed to alleviate inequalities experienced by Travellers, will only lead to substantive change if they take into account the particular culture and identity of the community and if they are correctly framed in a legislative context.

7.2 It was correct and appropriate for the Irish state to accept the international human rights consensus and recognise Travellers as a distinct ethnic minority group within Ireland. Decades of denial and assimilationist tactics had created an anti-Traveller bias at all levels of the state, of which the impacts are still felt today.

7.3 The absence of statutory recognition for the ethnic minority status of Traveller communities in Ireland up to 2017, led to varying levels of service delivery across local government within the state with different authorities developing their own practices. Without a statutory framework to guide local authorities in how they are to relate to their Traveller communities, prejudice and bias can impact on decision makers’ abilities to make robust and human rights-based policies.

7.4 A human rights-based approach to responding to the needs of Traveller communities should not focus on their need to ‘change’ but rather on the state responding to their needs as they present. The state should absolutely provide settled housing for Traveller communities, if that is their desire, but should also provide the adequate resourcing to halting sites and other relevant infrastructure to facilitate Travellers who wish to maintain a nomadic lifestyle.

7.5 However, a human rights-based approach does not simply mean that when Travellers wish to live in settled accommodation that they should be treated as members of the majority population. Instead, local authorities should recognise the communal and extended family nature of Travelling communities and should seek to provide communal or multi-home accommodation to Travelling communities which allow for the maintenance of their established communal traditions in a more settled context.

7.6 Until the Irish state, at all levels, from government to local authority, values the intrinsic merits of Traveller communities and stops seeing Travellers as a ‘problem’ in need of being ‘managed’, the state will continue to respond poorly to the needs of the population.

7.7 Failure to improve Traveller accommodation has impacted on the health of the Traveller community and has made the community more vulnerable at times of public health emergencies e.g. covid 19 crisis.