Irish Traveller Movement Report

In response to the European Commission against Racism and Intolerance (ECR) Ireland’s fourth monitoring round (April 2015)
The Irish Traveller Movement (ITM) is a national membership organisation representing Travellers and Traveller organisations across Ireland founded in 1990. One of its core principles and objectives is to challenge the racism that Travellers face in Ireland, promoting integration and equality within Irish society. It is thus with over 25 years of experience of policy analysis that we report on the steps to implement recommendations made by the European Commission against Racism and Intolerance (ECRI) in its latest report on Ireland made in February 2013.

Before reporting from the ITM’s analysis on steps taken by the Irish State since 2013 to implement recommendations made by ECRI in its 4th Monitoring Cycle the ITM would like to provide an overarching review of the position of Travellers in Irish Society for the rapporteurs. These key themes which reoccur in our submission relate to: the failure of the State to recognise Traveller ethnicity (and hence undermining protection afforded to Travellers as a minority ethnic group), draconian reduction to budgets relating to Traveller inclusion under the rubric of “austerity”, the lack of implementation of Traveller-specific policies (namely in accommodation and education) and the need for targeted measures in relation to employment.

The position of Travellers in Irish society

The position of Travellers and the human rights violations they are subject, is highlighted consistently by international and Irish human rights bodies. Travellers face particular obstacles to the enjoyment of their human rights and across a broad range of social indicators Travellers fare poorly compared to the settled majority.

Endemic individual and institutional racism experienced by Travellers is reflected in their outcomes in terms of unemployment, health inequality, low educational attainment, poor and inadequate living conditions. Travellers’ experience of access to relationships of care, respect and solidarity with the wider society are often characterized by tension, disrespect and abuse.

Travellers who benefitted less from years of economic success have been disproportionately impacted as a result of austerity imposed following Ireland’s economic collapse. Research carried out by Brian Harvey for Pavee Point in 2013,\(^1\) called ‘Travelling with Austerity - Community Development & Impacts of Cuts on Travellers’, identified that between the years 2008 and 2013, the following cuts were imposed on the Traveller sector:

Programmes for Travellers

- Interagency activities -100%
- Traveller education -86.6%
- Traveller accommodation -85%
- Equality -76.3%
- National Traveller organisations -63.6%
- FAS Special Initiative for Travellers -50%
- National Traveller Partnership -32.1%
- Traveller SPY youth projects -29.8%
- Health -5.4%

Programmes and funding lines of importance to Travellers

- Equality and rights agencies -69%
- Local & Community Development Programme -42.3%
- Initiatives against drugs -32.5%

These cuts have had devastating effect on services and supports to the Traveller community and have no doubt further marginalized a community already socially, economically and culturally excluded in Ireland and will be revisited as ITM looks at the relevant recommendations made by ECRI and what progress has been made to implement changes to positively impact on Travellers since the 4th ECRI report on Ireland.

Recognition of Travellers as an ethnic minority

The State has failed to recognise Travellers as an ethnic group and has not provided comprehensive grounds for their continued refusal. Travellers satisfy the standard legal and sociological criteria for recognition as an ethnic group. Within Ireland, the Irish Human Rights Commission and the Equality Authority have both recommended the Government move to recognition. The British and Northern Irish authorities have recognised Travellers as an ethnic group, separate from non-Traveller Irish people.

International human rights bodies (UN CERD and Advisory Council on the Council of Europe Framework Convention on the Protection of National Minorities) have consistently reminded the Irish State of the application of the *principle of self-identification* in addressing the campaigns of Irish Travellers to same. Domestic ethnicity denial undermines Ireland’s position on the UN Human Rights Council. It is contrary to the *equivalent* human rights protections guaranteed under the Good Friday Agreement – which give effect to a Traveller

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in Newry, Northern Ireland being a member of an ethnic group but a Traveller residing ten miles across the border in the Republic of Ireland is not.

The State justifies non recognition by pointing to the fact that membership of the Traveller Community is considered a separate ground for the purpose of equality legislation, this is limiting and subject to political whim. The State’s assertion that Travellers enjoy the protections enjoyed by ethnic minorities in EU Directives and international conventions is also misleading; reliance on CJEU jurisprudence in interpreting the Equal Status Acts (as amended) has been challenged on the basis that due to the failure of the State to recognise Traveller ethnicity that Travellers are not entitled to rely on CJEU jurisprudence in the development of the protections of the Race Directive. The insistence that the Government is committed to applying all the protections afforded to ethnic minorities under the Convention on the Elimination of Racial Discrimination CERD equally to Travellers is immediately contradicted by the failure to accept a direct recommendation from CERD on recognising Traveller ethnicity.

The Joint Oireachtas (Parliamentary) Committee on Justice April 2014, having considered the matter made three recommendations including that either the Taoiseach or Minister for Justice and Equality make a statement to Dáil Éireann confirming State recognition, that the Government would inform relevant international bodies of that decision and that a time-limited dialogue would be undertaken with Traveller representative groups about possible new, or amendments to existing legislation, now required.

The upper house of Parliament’s Seanad Public Consultation Committee (June 19th 2014) published a report on Ireland’s Compliance with the International Covenant on Civil and Political Rights and said “The Committee requests the State adopt the recommendations of the cross-party parliamentary report (Oireachtas Justice Committee) on Traveller Ethnicity.”

The UN Human Rights Committee in examining Ireland under ICCPR (International Covenant on Civil and Political Rights) (July 24th 2014) again in its concluding observations commented “The Committee regrets the lack of progress in implementing its previous recommendations to recognize Travellers as an ethnic minority.”

The current Minister for State at the Department of Justice has publicly indicated that recognition of Traveller ethnicity should be progressed. (November 2014)

**Recommendation: The Government should immediately recognise Travellers as an ethnic minority group**

[4]http://www.courts.ie/judgments.nsf/6681dee4565ecf2c80256e7e0052005b/d0a44d0f0be3f1c5a80257 8e8002e4c36?OpenDocument&Highlight=0,Stokes
ITM Specific Response to ECRI recommendations from 4th ECRI Report on Ireland

17. ECRI recommends again that the authorities strengthen the protection provided by the Irish Constitution against Racism and racial discrimination

Irish Traveller Movement response

In relation to combating racism, a key driver for combating the racism that Travellers face is to name it for what it is: anti-Traveller racism. At the core of this argument is the need to recognise Traveller ethnicity and from this stems the fact that the discrimination that Travellers face is based on their ethnic identity, and hence is racism.

Since the closure of the NCCRI many of its functions in relation to integration were transferred to the Office of the Minister for Integration, which as it excludes Travellers, means that Travellers are outside of national and local strategies to promote integration and challenging racial discrimination.

Recommendation:

By recognising Traveller ethnicity, Travellers will be automatically be included in all national and local anti-racism and integration strategies

Strengthening legislation in relation to incitement to hatred

The 1989 Incitement to Hatred Act has been proved in a number of instances, including a high profile case taken by Travellers in relation to an anti-Traveller Facebook page, to be completely unworkable. The Irish Traveller Movement and other NGOs have been lobbying the Irish Government to meet the very real needs of Travellers and other ethnic minorities, especially in relation to online bullying and hate speech.

Recommendation: That the Department of Justice urgently develop and enact relevant and workable incitement to hatred legislation, which includes protection for Travellers from hate speech (online, in print etc)

23. ECRI strongly encourages the Irish authorities to improve and to supplement the existing arrangements for collecting data on racist incidents and the follow-up given to them by the criminal justice system. In this respect, it draws the authorities’ attention to the section of its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing which concerns the role of the police in combating racist offences and monitoring racist incidents

Irish Traveller Movement response:

In relation to collection of data on racist incidents it is vital that the racism experienced by Travellers is named as such. Much of the denial of anti-Traveller racism stems from the failure
to recognise Traveller ethnicity and from this stems the fact that the discrimination that Travellers face is based on their ethnic identity, and hence is racism.

Since the dissolution of the NCCRI in 2008 there has been no State aggregation to accurately monitor the levels of racism experienced by minority ethnic groups in Ireland, including Travellers. However, the ENAR i-report system is one which has been developed and is supported by the Irish Traveller Movement and other Traveller groups. This needs support and buy-in from the Government in order for a complete, independent system for monitoring racism in Ireland, and one which includes anti-Traveller racism.

While data collection gives Ireland vital insights to the level of racism in Ireland, the impact of racism needs also to be monitored. Racism has real impacts in terms of health, through self-esteem, stress and mental health, increased illness etc. Research needs to be carried out with groups experiencing racism to map the impacts of racism as part of any awareness campaigns.

**Recommendations:** Resource and support ENAR iReport system to ascertain levels of racism in Ireland, specifically anti-Traveller racism

The Irish Traveller Movement has supported members to use the existing (inadequate) legislation in relation to incitement to hatred. In some of our members’ experience front line Garda were unsure at how to handle enquiries in relation to this legislation. When an individual has experienced a hate crime they are often in a vulnerable position and need to know that their case will be understood in order to bring redress

**Recommendation:** All frontline Garda staff receive training in how to treat and investigate crimes under the incitement to hatred legislation

27. ECRI recommends that the Irish authorities assess the application of the criminal law provisions against racism in order to identify, including notably from recent case-law, any gaps that need closing or any improvements or clarifications that might be required, so that changes can then be made if necessary. In this respect, ECRI draws the authorities’ attention to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination which contains guidelines in this area, including on making racist motivation an aggravating circumstance.

**Irish Traveller Movement response:**

As listed under recommendation 17, the Irish Traveller Movement, has found the 1989 Incitement to Hatred Act has been proved in a number of instances, including a high profile case taken by Travellers in relation to an anti-Traveller Facebook page, to be completely unworkable. The ITM has lobbied with other human rights organisations for an overhaul of this legislation to reflect new challenges in relation to racism, including the impact of on-line racial abuse.

The Irish Traveller Movement has raised a number of concerns over comments made by members of the judiciary in relation to Travellers in recent times. Not only do these comments...
reinforce negative stereotypes, but going uncorrected they feed into perceptions among Travellers that the judicial system is biased against them.

The ITM has called for an independent judicial council to provide clear guidelines in relation to dealing with minority ethnic groups, including Travellers, as well as consequences or censure for members of the judiciary who make derogatorily remarks based on ethnicity or race

Recommendation: Establish a judicial council

27. ECRI recommends that the Irish Government reviews, in consultation with NGOs, the Equality Act of 2004, drawing inspiration from its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination

Irish Traveller Movement response:

The Irish Traveller Movement feels that for Travellers or other ethnic minorities to integrate into Irish society, we feel that at a premium everyone should have access to goods and services in order to participate as equals. In provision of goods and services, many Travellers still face racism by refusal by service providers to meet their needs.

Equality legislation brought welcome recourse to Travellers and other groups facing discrimination but cutbacks in funding to the Equality Tribunal has meant that many Travellers and other ethnic minorities now face waits of up to three years to have their cases heard. The Irish Traveller Movement feels that “justice delayed is justice denied”

For integration to occur in any society there needs to be opportunities for people from diverse backgrounds to meet and get to know each other. Irish society may be changing rapidly, but exchange of ideas and socialising often has taken place in licensed premises. Travellers frequently find it difficult to access pubs, even for a meal or a cup of coffee, due to their ethnicity and are not only denied their right to access goods and services but also are denied a real opportunity to integrate into Irish society. This has a knock-on effect of denying Travellers and settled people opportunities to share an important social space and break down barriers between their communities. We outline below measures that need to be addressed in order for real integration for Travellers in relation to accessing goods and services in Ireland.

Accessing Justice through Adequate Resources for the Equality Infrastructure

In relation to the “Equality Infrastructure” that currently exists in Ireland, the ITM feels that there are a number of matters that could be addressed to make the protection from discrimination far more robust and effective in addressing the wide scale discrimination that Travellers (and other groups) experience on a daily basis.

Delays
One of the principal issues of concern is the delays that occur in having complaints investigated by the Equality Tribunal. It now takes at the very least three years, and sometimes longer, to have a complaint investigated. It is clear that these delays occur in large part due to lack of resources available to the Tribunal to deal with its case load. Delays in having complaints heard are frustrating for complainants and undermines confidence in the system for protection from discrimination. Delays are also contrary to the principle that neither party to a hearing, complainant or respondent alike, should be prejudiced in presenting their case due to avoidable delays.

**Remedies**

A linked issue is the lack of effective remedies particularly for cases where discrimination is happening on an ongoing basis. Clearly there is a need to consider giving the Tribunal jurisdiction to hear applications on an urgent basis and to grant injunctions in appropriate circumstances. If it is not felt that the Tribunal should have such a jurisdiction then the Circuit Court should be enabled to grant temporary and urgent relief to preserve the status quo until the hearing of the matter. Such a jurisdiction exists for most other causes of action, and should not be excluded from complaints of discrimination.

**Reasonable Accommodation**

It is submitted that the State should consider deploying the concept of reasonable accommodation as already applies to disabilities across the nine protected grounds. The concept of reasonable accommodation would be beneficial to the Traveller community as it would require service and goods providers to consider what positive accommodation they could make to facilitate Travellers in accessing such goods and services. For instance this might require that the delivery of welfare services, health and education services be provided on a nomadic basis. In addition it would oblige local authorities to consider positive measures to make accommodation provision more culturally appropriate for Travellers.

**Collective Enforcement**

The competence of associations and organisations to combat discrimination is recognised in the European Race Directive. The State should give serious consideration to allowing recognised organisations with competence in the area, to make collective complaints of discrimination. This would take the burden off individuals to enforce equality law and would make anti-discrimination laws much more robust, as widespread occurrences of discrimination could be resolved through a single mechanism rather than wasting huge resources on multiple individual cases all raising the same issue. Examples would include NGOs and Trade Unions.

In relation to Section 19 Intoxicating Liquor Act 2003, the change in jurisdiction of equality cases involving licensed premises introduced by the Intoxicating liquor Act 2003 is of
particular concern for Travellers. Indeed it could be argued that the change in jurisdiction was a discriminatory act in and of itself as it had a particular impact on Travellers when contrasted with other grounds protected under the equality legislation. It should be recalled that the Traveller community referred the vast majority of complaints of discrimination against licensed premises to the Equality Tribunal, prior to the change in jurisdiction.

Prior to the introduction of section 19 of the Intoxication Liquor Act 2003 on 29th September 2003, the adjudication of discrimination cases involving licensed premises rested with the Equality Tribunal as with all other providers of goods and services. Section 19 transferred this jurisdiction to the District Court.

The changes that were made in relation to taking cases against licensed premises in 2004 were made before there had been a review of the Equal Status Act, where all interested parties could have identified what were the key issues that needed to be addressed and then if there were changes that were needed to be made these would be made in consultation with the key stakeholders. This did not happen and as a result Travellers’ confidence in the Government’s commitment to address the issues of discrimination and the inequality has been damaged.

The ITM believes that cases against licensed premises on grounds of discrimination that are covered by the Equal Status Act should be heard by the Equality Tribunal. Any changes that are made should be done in accordance with the Act in terms of a review. This would not interfere with the annual renewal of licences held in the district court each year. The Equality Tribunal should hear those cases taken against licensed premises under the Equal Status Act.

The reasons for establishing the Tribunal were:

- To move away from the formal setting of the court.
- To make the process more accessible and less expensive.
- Equality Officers trained in the complexities of discrimination, hear the cases.
- Legal costs are not an issue
- Procedures for making complaints are made simple and accessible.
- Representation is flexible before the Tribunal
- Hearings are in private, although decisions are published
- The investigation is inquisitorial rather than adversarial.

**The District Court**

The Commission on Liquor Licensing which includes more than seven representatives from the licence trade strongly recommended that the licensing of premises for sale of intoxicating liquor should remain within the courts system and those complaints under the Equality
legislation should be transferred to the district courts, “The district court is accessible, inexpensive and independent” (chap. 1 p.53).

The State response to this question further justifies the transfer of jurisdiction on the basis that it was considered appropriate and desirable that it (District Court) should also have jurisdiction in relation to prohibited conduct at licensed premises. While the district court has traditionally under numerous licensing provision have responsibility for granting licences to public houses, it is a cause for concern the role of the Equality Tribunal that had the responsibly for dealing with prohibited conduct by licensed premises was undermined on the strength of lobby campaign by the Vintners industry.

Accessibility

In relation to the specific question asked by the Advisory Committee the ITM believes that since the changes in legislation the District Court has proved to be inaccessible to many Travellers due to the costs and formal nature of the judicial system this is illustrated by the figures contained in the Government report. “The changes in Jurisdiction have resulted in an almost complete reduction in complaints taken under the law in relation to prohibited acts of discrimination” average numbers of claims annually taken with the Equality Tribunal from 2000 to 2003 were 516”. Due to the way the system operates it very difficult to obtain accurate figures of cases taken, but from the States report the figures have been greatly reduced, and outcomes are not encouraging.

The original reason for setting up the Equality Tribunal was that the District court was not deemed accessible to Travellers but also by many other groups as well. Also the fact that similar quasi judicial structures have been in operation in this country for a long time and have been successful in dealing with the issues that they have been set up to deal with for example, the Employment Appeals Tribunal.

The Equality Tribunal was established to make the taking of cases more accessible to people who felt they had been discriminated against under one of the nine grounds outlined in the both the Equal Status Act and the Employment Equality Act. It was also to move away from the formality of the courts system where it can be very impersonal and claimants can feel detached from the case as legal professionals represent the arguments with legal jargon that can be difficult to understand for many Travellers. There is also the issue of Mediation, where two parties can opt to mediate an agreement instead of hearing, this option is no longer available to either party involved.

Affordability
Another reason the Tribunal was set up was to accommodate people who could not afford to take cases through the expensive court system. The Tribunal allows for claimants to represent themselves or to be represented by a nominated advocate with no cost involved. The current court system does not allow for representation other than by the claimant themselves or a legal professional the claimant to be represented by a solicitor and costs can be awarded against them, which many people on low incomes would not be able to bear thus preventing them for taking further legal action. This effectively prevents people on low incomes from taking worthy cases even when they have been openly discriminated against. This allows discrimination to continue unchecked and protects the perpetrators of discrimination.

**Specialisation**

Discrimination is not centrally a licensing issue. Discrimination happens in many contexts and there is no reasons why discrimination on licensed premises should be treated any differently. Where as the courts would be independent they might not be as sensitised to dealing with issues of discrimination. The Equality Tribunal is an independent body and their decisions are independent and could be appealed to the Circuit Court. In fact very few have been appealed. In the district courts Travellers past experiences has been that the District court does not understand the complexities of discrimination and might not be as sensitive to the issues involved and therefore it is harder to get a balanced hearing.

**Undermining Equality Legislation**

The changes that were made in relation to taking cases against licensed premises in 2004 were made before there had been a review of the Equal Status Act, where all interested parties could have identified what were the key issues that needed to be addressed and then if there were changes that were needed to be made these would be made in consultation with the key stake holders. As a result confidence in the Government’s commitment to address the issues of discrimination and the inequality has been damaged.

The ITM believes that based on the issues raised that cases against licensed premises on grounds of discrimination that are covered by the Equal Status Act should be heard by the Equality Tribunal. Any changes that are made should be done in accordance with the Act in terms of a review. This would not interfere with the annual renewal of licences held in the district court each year.

**Recommendations:**
In order to bring about an integrated Irish society, goods and services must be accessible to all, whether private or public services.

In instances where this has been denied, swift recourse to justice needs to be made available. The Equality Tribunal needs to be adequately resourced in order for Travellers and other ethnic minorities to have a system in place to challenge racism.

Licensed premises need to be brought back under the remit of the Equality Tribunal

59. ECRI recommends that the reporting procedure and the monitoring mechanism established by the NCCRI is continued by the body established by the merger of the Human Rights Commission and the Equality Authority

Irish Traveller Movement response:

70. ECRI recommends that the authorities evaluate whether the new voluntary Code of Practice for Newspapers and Magazines constitutes an effective means of combating racist and xenophobic discourse in the media and invites them to encourage the press industry to strengthen it if necessary

Irish Traveller Movement response:

Ongoing monitoring by the Irish Traveller Movement of national print media reporting has shown a slight shift in the period in reporting and where there has been some improvements in what might be described as “fairness” with significant exceptions within some of the tabloid media where impartiality and stereotyping remain and the some Sunday papers.

It remains a concern that occasionally where papers have improved / maintained good or better practice on fairness in news reporting, there are occasions when opinion pieces within the same paper might reflect a different, often stereotyping view of Travellers, causing harm to the community.

The historical way in which Travellers are presented in the media would require daily positive stories to redress the negativity created within the public mind-set instead they are most likely the subjects of news rather than being visible throughout mainstream media materials. There remain ongoing and unjustifiable issues of invasion of privacy and ethnic identifying
Roma Children: Identified as de facto guilty and where lack of early verification signified dismal reporting standards. The Minister for Justice ordered an enquiry by the Ombudsman for Children into the overall matter which was a serious case of wrongful and inappropriate use of powers by the Gardaí. She concluded “There are outstanding questions to be asked about the cultural competence within An Garda Síochána, the lack of training and support to ensure this cultural competence, the exercise of significant policing powers for which there has been no public accountability, the lack of support, recognition and training for gardaí working in child protection.”

I recognise the Gardaí in question honestly believed they were acting in the best interests of the children. However, gardaí are not always conscious of the degree to which they are applying generalisations and stereotypes. They are not alone. The tip-offs from the public that triggered these investigations and the actions of An Garda Síochána were based on an erroneous view of the case of “Maria” in Greece, a case then making international headlines, and an explicitly prejudiced view of the Roma community. Linked here: http://www.oco.ie/2014/07/ombudsman-for-children-welcomes-publication-of-the-special-inquiry-2/

Other examples include: The death of Melanie McCarthy – an innocent murdered bystander whose death was undermined by initial reporting as being twined with the criteria of both being Traveller and making an assumption on criminal association of death. So too Jacqueline McDonagh a victim of domestic murder whose death was originally reported as feud related, when in fact it was a case of domestic abuse.

As referred in her report re Garda / policing sources: The symbiotic nature of the relationship between the media and the Gardaí cannot be regarded as “independent” and has caused concern and inaccuracies where negative stereotypes are perpetuated. The Press Council of Ireland upheld a complaint made by The Irish Traveller Movement to an article in The Evening Herald 2011 which was in breach of Principle 2 (Distinguishing Fact and Comment) and 8 (Prejudice) of the Code of Practice for Newspapers and Magazines in a related matter. http://presscouncil.ie/decided-by-the-press-council-after-referral/irish-traveller-movement-and-the-evening-herald-.2294.html

69. In further reference to The Broadcasting Authority of Ireland (BAI) adopted Codes relatedly the Code of Programme Standards and The Code of Fairness, Impartiality and Objectivity in News and Current Affairs.

Principle 5 of the Code of Programme Standards “Respect for Persons and Groups in Society” The manner in which persons and groups in society are represented shall be appropriate and justifiable and shall not prejudice respect for human dignity. Robust debate is permissible as is the challenging of assumptions but programme material shall not stigmatise, support or condone discrimination or incite hatred against persons or groups in society in particular on the basis of age, gender, marital status, membership of the Traveller community, family status, sexual orientation, disability, race, nationality, ethnicity or religion.
The BAI further sought submissions from the general public on appropriateness of the principles and whether any other principles should be added. The Irish Traveller Movement respectfully suggested that the explanation of the word “Fairness” include a reference to respect for diversity and avoidance of bias and stereotyping. This suggestion was not accepted.

On the principles of Objectivity & Impartiality it was suggested that there would be inclusion of a more explicit reference to the proportionate balance of Traveller related topics in broadcast settings, where there can be a reliance on a debating format both in news, current affairs and entertainment programmes where Travellers are often defending their community/culture in panel discussions or from audience views. Given Travellers are statistically underrepresented across media programmes either as contributors or deliverers of media, can in itself, perpetuate a negative stereotype. This suggestion was not accepted.

In submissions we drew attention to a specific General Comment by the Committee on the Elimination of All Forms of Racial Discrimination in this regard. General Comment XXVII (Fifty-Seventh Session, 2000) Discrimination against Roma2, A/55/18 (2000) 154 and “Measures in the field of media 36, 37, 38, 39 and 40

By reference to ethics, fairness and objectivity Travellers statistically experience unequal participation within the domain of media instead experience ongoing imbalance both in the way issues which relate to their community are reported and how little value is placed on their views on wider Irish society. While no concrete measures have been implemented to remedy or give affirmative actions to increase Travellers input into the media infrastructure in explicit recognition of their individual protection within the Equal Status Legislation; the opposite is often true exampled by bad practice in relation to fundamental principles governing the way in which some broadcast media engage with Travellers, on issues decided by that media - as newsworthy Traveller related broadcast items.

The specific naming of Travellers for special affirmative actions to include sensitive measures within the Broadcasting Authority of Ireland’s Code of Fairness would be extremely welcomed and contribute to addressing a long term imbalance of reporting.

85 E.C.R.I recommends that the authorities continue to monitor the situation and step up their efforts to combat direct and indirect discrimination in employment in cooperation with the key partners in this area and in particular the trade union and employer organisations

Irish Traveller Movement response:

The State as employer also has a role in promoting visibility of Travellers and other minority ethnic groups within Irish Society. Given that at the end of 2012, the State and Semi-State
employed 25.8% of the country’s workforce, significant potential exists (even under the constrains of the public sector recruitment embargo) to put in place positive action measures within the civil & public service to actively target the employment of Travellers, thereby not only tackling the chronic unemployment rates within the community but also creating ways for minorities to have the opportunity in delivering and not only accessing public services and would also increase the visibility of Travellers within the public workforce.

**Recommendation:** A specific national strategy to tackle Traveller unemployment, specifically looking at how statutory bodies and Semi-State agencies can develop plans to proactively employ Travellers

The Traveller economy has historically played a significant role within the community through self-employment and entrepreneurship which involved extended members of families working together and organising themselves as a work unit, travelling, providing services or goods to the wider community. The Traveller economy principally focuses on a number of key areas; horses, recycling, and markets. It is noted that the Task Force Report on the Travelling People in 1995 noted that “If developed, the Traveller economy could play a significant role in enabling increased numbers of the Traveller community towards financial independence.”

It is noted that the Report made a number of recommendations that have not been implemented including the provision of transient sites for casual transient traders, Travellers should be identified as one target group in the licensing of casual trading, the design and construction of Traveller specific accommodation should include economic areas.

As is set out elsewhere in this document, the State failed to provide transient sites to facilitate nomadic Travellers including nomadic traders, this coupled with the fact that the State introduced draconian evictions legislation effectively illegalising nomadism rendered nomadic trading impossible for many Travellers.

Both the Casual Trading Act, 1995 and the Control of Horses Act, 1996 had a severely negative impact on Travellers’ economic activities, neither piece of legislation was adequately poverty proofed at any stage. Restrictive accommodation provision, where local authorities refuse to provide work space beside accommodation space (as is culturally appropriate) and the ongoing attacks on nomadism exacerbate this problem. As a result, only a minority of Travellers have remained economically active within the Traveller economy.

Within the mainstream labour market, Travellers continue to find it very difficult to access employment. Travellers are discriminated against both directly (i.e. refusal to hire or provide services) and indirectly (i.e. poor education, health and accommodation status of Travellers). Opportunities within the labour market have not replaced decreasing opportunities for self-employment within the Traveller economy, leaving many Travellers long-term unemployed and living on social welfare. Innovative and supported strategies are required to develop Traveller access to training and labour market opportunities.

Census 2011 indicates that unemployment in the Irish Traveller community stands at 84.3%, an increase from 74.9% in 2006. It is noted that Micheál Mac Gréil in his book “Pluralism and
Diversity in Ireland” found that 41% of the 1,014 people surveyed are not willing to employ a Traveller.5

The Traveller community faces extreme hostility and prejudice due to the wider discriminatory practices within the workplace. Legislation introduced to prohibit discriminatory practice in the work place does not address the wide spread exclusion of the Traveller Community. It has long been noted that positive discrimination in relation to Traveller employment is required.

A report carried out by Equality Authority Published in 2008 (Positive Action for Traveller Employment) highlighted a selection of positive initiatives in place and demonstrated how increased opportunity to access the labour market had a positive development in relation to Traveller employment. Unfortunately as a result of austerity and the disproportionate impact of austerity on Traveller specific measures, positive discrimination and employment initiatives have been significantly curtailed.

**Recommendations:**

Introduce strategies to improve Travellers in training and employment opportunities and to provide supports in employment, urgently introduce a National Strategy for Traveller Employment to address poor economic status of Traveller Community, reverse the significant cuts to training and employment support to the Traveller Community, introduce positive actions initiatives to increase Traveller visibility in private and public services, support the Traveller economy.

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Under the National Action Plan for Social Inclusion 2007 -2016 commitments were made to Travellers for Training and Employment. Almost €4.9 billion was allocated by the Department of Enterprise, Trade and Employment over the period 2007-2013 to provide targeted training and supports to groups outside the labour market including Travellers.

**Outcome on Training and Employment:** 84% of Travellers were unemployed (2011 Census). No specific measures under the Plan were identified to tackle the high unemployment and additionally no targeting of Travellers in the Youth Guarantee – the national youth unemployment strategy or the Pathways to Work strategies 2012 and 2013.

None of the Government’s proposed National strategies or jobs initiatives have targeted Travellers as a group with distinct disadvantage.

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5 Mac Gréil Michaeáil, Pluraliam and Diversity in Ireland, Prejudice and Related Issues in Early 21st Century Ireland, 2011
Community Services Programme targets within the Plan: 2007 - 2014

The objective of the Programme is to support local community activity to address disadvantage, while providing employment opportunities for people from the following priority target groups: people with disabilities; the long-term unemployed, Travellers, lone parents and stabilised drug addicts.

A very small number of Travellers were enumerated as participating on available schemes and attempts to ascertain data within the relevant Department has not been possible. There was no targeting of Travellers specifically into employment within the Plan. Difficulties arise where Travellers are unaware of the availability such programmes, no evidence or incentive for employers to attract Travellers into employment within those schemes, and no policy measures advocated to address pathways for Travellers into these mainstream initiatives, through positive discrimination actions. Of the available budget in 2014 - 177,231 out of 19.5 million was allocated to Traveller targets.

92. ECRI strongly recommends that the authorities step up their efforts to involve local authorities in the implementation of the parts of the National Traveller/Roma Integration Strategy pertaining to housing to meet the needs of the Travellers. In this connection, ECRI encourages the national authorities to envisage introducing measures binding on local authorities and to raise awareness among the general public of Traveller housing rights and promote respect thereof.

Irish Traveller Movement response:

It is critical that the annual count figures from the Department are not considered in isolation. While the reduction in the number of families living on unauthorised sites without access to basic facilities is to be welcomed, the reduction is not indicative of a success in the provision of Traveller accommodation. The figures reflect the influence of the introduction of criminal and other legislation resulting in families being forced out of their nomadic way of life; the National Traveller Accommodation Consultative Committee (NTACC) Annual Reports in 2002 and 2003 highlight this issue. The amendment to the Public Order Act in 2002 is largely responsible for the decrease in the number of families living in unauthorised sites, a decline in nomadism and the increase and continuation of families sharing accommodation. The 2002 NTACC Annual Report illustrates the commencement of the decline: ‘The number of families on unauthorised sites decreased over the same period, from 1,017 families at the end of 2001, to 939 families in 2002’. The 2003 NTACC Annual Report further notes the decline in families living on unauthorised sites while noting the increase in the number of families sharing accommodation:

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6 NTACC Annual Report 2002
“The Committee is pleased by the decrease in the number of families living on unauthorised sites, down to 788 units at the end of 2003 from 939 units at the end of 2002. It is appreciated, however, that while the number of Traveller families living on unauthorised sites decreased this year, the number of Traveller families living in temporary sites and those sharing facilities increased in the same period. These families remain in need of suitable accommodation and this issue must continue to receive ongoing attention.”

It is important to note that while the number of families living on unauthorised sites has decreased, in recent years there has been a marked increase in the number of families sharing accommodation. The difficulties and concerns relating to families sharing accommodation were highlighted as far back as the 2007 NTACC annual report:

‘It would be worrying if the number of families sharing all types of accommodation continued to increase, as sharing, by its nature, puts pressure on already limited resources and can worsen living conditions’.  

The 2010 NTACC Annual Report comments on the number of families sharing housing:

‘The number of families sharing housing also showed an increase in 61 families and now stands at 451 families. While some of those sharing are doing so in perfectly acceptable conditions there are also those who are sharing overcrowded accommodation and these families, and those on unauthorised sites, should continue to be prioritised by local authorities’.  

Despite the concerns expressed by the NTACC, the annual count figures show the number of families sharing accommodation has increased steadily from 451 families in 2010 to 663 families in 2013. The concerns set out in the NTACC reports relating to the number of families sharing accommodation continue to affect Travellers with many families living in cramped conditions, with a number of generations living together creating tensions and stress.

In the annual count of 2013(most recent figures available at present) it was noted that 2,717 families were living in private rented accommodation. This is not accommodation that is provided by the State, but accommodation that is owned by private landlords and rented with the assistance of rent supplement. The NTACC in its 2008 Annual Report indicated that families living in private rented accommodation do not have security of tenure: ‘Families accommodated with the assistance of rent supplement are not so secure’. The security of tenure is further undermined in a property market where house prices and residential rents are increasing rapidly and dramatically, particularly in large urban centres where large numbers of Travellers reside. Even where a family living in private rented accommodation

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7 NTACC Annual Report 2003
8 NTACC Annual Report 2007
9 NTACC Annual Report 2010
10 NTACC Annual Report 2008
have accrued so-called Part 4 rights under the Residential Tenancies Act 2004, entitling them to a four year tenancy, the tenancy can be terminated if the landlord is selling the house.

The number of Traveller families who were without accommodation according to the annual count in 1999 was 1,207\(^\text{11}\); the number of families without accommodation as per the annual count\(^\text{12}\) in 2013 and who are sharing accommodation or living on unauthorised sites is 1,024. Also in 2013 361 families were living in unauthorised halting sites (accounting for over 1,400 individuals). These figures had decreased most notably after the introduction of the Criminal Trespass Act (2002) during the period analysed, however the number of families living in unauthorised sites from 2011 has increased annually from 327, 330 to 361. These families are living in conditions that are often un-safe, overcrowded and in most cases lacking in the most basic of facilities, such as water, sanitary and electricity services. This does not reflect a significant improvement in relation to the accommodation of Travellers.

Local authorities continue to fail to provide Traveller specific accommodation in accordance with their own targets. The number of Traveller families living in private rented (owned by private landlords) accommodation has increased and the number of families living in Traveller specific accommodation has steadily decreased over the past decade. This is the result of Travellers being forced out of their nomadic way of life by a combination of a lack of Traveller specific accommodation and legislation which criminalises (and otherwise renders impossible) nomadism in Ireland. Travellers have been forced to abandon nomadism. State funded research establishes that failings on the part of local authorities, and not changes in the way of life of Travellers, have driven down the number of families opting for Traveller specific accommodation.

The 2008 Annual Report of the NTACC indicates the following in relation to the increase in the number of Travellers living in private rented accommodation: ‘Following the trend of 2006 and 2007, the accommodation option recording the largest increase in 2008 was again the private-rented sector, up a further 373 to 1,516 families. It has to be noted that this is occurring in the context of the slower rate of provision of local authority standard housing and Traveller specific accommodation in some areas’. The NTACC report rightly attributes the increase in private rented accommodation to the failure of local authorities to provide Traveller specific accommodation.

In the year 2000 the Minister for Housing and Urban Renewal was advised: ‘While there are difficulties with some of the mechanisms used to calculate the current and future requirements, the overall figure of in excess of 3,600 units, having regard to the increase in the population overall, appears to be satisfactory in terms of the number of units [of Traveller

\(^{11}\) Department of Environment Annual Count 1999
\(^{12}\) Department of Environment Community and Local Government Annual Count 2013
accommodation] nationally’. It is noted that the State has failed to provide the number of Traveller specific units, this effect of this failure is compounded by the fact that as the State indicates there has been an increase in the number of Traveller families living in Ireland.

Furthermore, as discussed earlier, a need was identified by the authorities several years ago for 1,000 units of transient accommodation, today there is not one single site in Ireland with an operating unit of transient accommodation. Those that are described as transient accommodation including 47 units are actually being used as emergency sites and do not operate as transient sites. This failure to provide transient accommodation together with the introduction of draconian evictions legislation has in effect, criminalised nomadism rendering it impossible for Traveller families to be nomadic.

The fact that the majority of Travellers do not reside in temporary accommodation is not necessarily as a result of a lack of desire to live a nomadic lifestyle, but rather the fact that the State has rendered nomadism impossible through draconian evictions legislation and a failure to provide operating and functioning transient accommodation. A reduction in nomadism is also a result of assimilationist policies dating back to the Commission on Itinerancy Report in 1963. The failure to provide transient sites together with draconian evictions legislation has rendered it impossible for Travellers to be nomadic.

The spend on Traveller specific accommodation;

The budget allocated for Traveller accommodation has fallen from an estimated €40 million in 2008 to €3 million in 2014, a decline of 93%. Substantial parts of the (now meagre) allocation are unspent. The following table was included in Brian Harvey’s Report Travelling to Austerity illustrates the decrease in the capital Traveller accommodation budget from 2008 to 2013. The impact of these cuts was exacerbated as from 2007-2012, €50 million of the Traveller accommodation budget was under spent by local authorities. The ITM’s views of the reasons are further set out in this report.

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13 Report to the Minister for Housing and Urban Renewal by the National Traveller Accommodation Consultative Committee on the 5 Year Traveller Accommodation Programmes Adopted by Local Authorities in 2000
The proportion unspent was set out in the report and is reproduced below.

Table 5: Proportion Traveller accommodation budget spent\textsuperscript{15}

<table>
<thead>
<tr>
<th>Year</th>
<th>Spent</th>
<th>Unspent</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>88%</td>
<td>12%</td>
</tr>
<tr>
<td>2009</td>
<td>56%</td>
<td>44%</td>
</tr>
<tr>
<td>2010</td>
<td>46%</td>
<td>54%</td>
</tr>
<tr>
<td>2011</td>
<td>62%</td>
<td>38%</td>
</tr>
<tr>
<td>2012</td>
<td>66%</td>
<td>34%</td>
</tr>
</tbody>
</table>

Figures rounded.

This gives an average figure of 63.6% of the budget spent, or, conversely, 36.4% unspent. If we measure the total cut according to the amount actually spent then the overall reduction is higher. This underspend has occurred at a time when the 2011 national housing needs survey found that 1,824 Traveller households are in need of accommodation.

In relation to monies spent by the State, in the Final Report of the Fourth NTACC, there was discussion around asking the ‘Value for Money Unit’ within the Department of the Environment and Local Government to carry out a value-for-money study on Traveller accommodation. Ironically, due to a failure to allocate resources to the project within the Value for Money Unit it was not possible to carry out this study.\textsuperscript{16} The issues of value for

\textsuperscript{15} Id.

\textsuperscript{16} NTACC Final Report of the Fourth NTACC
money in the development of Traveller specific accommodation have been raised by Traveller organisations for many years, the State has invested resources in Traveller accommodation, however concerns have been raised by Traveller organisations relating to the cost per unit of Traveller specific accommodation and the fact that there were concerns that the State was not investing resources in the most effective manner possible. The State cannot rely upon their own failure to ensure that value for money is attained in State expenditure when Travellers and Traveller organisations have been calling on the State to ensure that best value for money is obtained and it, in turn, refuses to examine these concerns.

The lack of sanctions on local authorities failing to provide Traveller accommodation
In reality, underspending by local authorities is fundamentally due to a lack of will, including political will, on the part of local authorities to provide Traveller accommodation and thereby fulfil their obligations under the Covenant. This is clear from domestic court judgments concerning the provision of Traveller Accommodation. Cases also demonstrate lack of sanctions, both legislative and judicial for local authorities who underspend. The courts remain powerless under the current legislation. The Local Traveller Accommodation Consultative Committees (LTACCs), NTACC or other similar agency could easily be empowered to impose further sanctions where directed resources in areas are not spent and Traveller accommodation is found to be inadequate. This would result in a focussed strategy which would ensure that all resources allocated for Traveller specific accommodation be applied in full for that purpose. It would be a fair and reasonable manner of ensuring that local authorities effectively carry out their statutory functions.

Issues with the State’s operation of Traveller specific accommodation
The Report of the Housing Agency and the National Traveller Accommodation Consultative Committee on ‘Why Travellers leave Traveller-specific accommodation’. KW Research & Associates (2014)\(^\text{17}\) concluded that Travellers have left Traveller specific accommodation mainly due to issues relating to site location, lack of support from local authorities, and hostility from local residents and the wider community. At page 31 of the report, the authors note that local authorities and Travellers agree that Travellers leave these sites for four main reasons: feuding and intimidation; issues related to site location, design and management; poor relations with the local authority; and particular personal circumstances.

The current design of Traveller sites (which effectively eliminated any opportunities for Travellers to engage in self-employment) contributes to a lack of accommodation, increasing stress levels on sites. This in turn leads to feuding amongst the Traveller Community. The Local Authorities’ response appears to be to isolate members of the Community and in extreme circumstances to close the site. The serious substandard condition of the sites is not being addressed by authorities. According to the report, both local authorities and Travellers believe that relationships between local authorities and Travellers at a local level are generally poor. Some Travellers believed that things were being set up to fail, in order to facilitate a process of assimilation and fragmentation of Traveller culture. Travellers believe that there

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should be clear documented protocols outlining how transfers and relocations within Traveller specific accommodation should be handled. Travellers consulted for the report by KW Research referred to directly above note the overall rise in the total Traveller population and the levels of overcrowding and sharing occurring within the Traveller Community. The Community who were consulted said that they were so desperate for suitable accommodation that they ticked all of the options on their housing application, not just their preference.

Travellers often opt for private rented accommodation as a means of escaping the difficulties encountered on local authority halting sites particularly younger Travellers. The Travellers interviewed said that they believed that if the issues identified in relation to halting sites were addressed, the attractiveness of private rented accommodation would be significantly diminished. The report indicates that Travellers recognise that private rented accommodation is often not the answer to their housing needs and is not considered a long term solution for many Traveller families.

The use of the Housing (Miscellaneous Provisions) Act 2002 and other Eviction Legislation

Over the last two decades, the Government of Ireland has steadily introduced housing legislation that obliges local authorities to provide halting sites and other accommodation for Travellers, the Government has failed to deliver the accommodation needed. At the same time, Ireland has passed increasingly regressive evictions legislation, whereby speedier and harsher forced evictions are permitted against Travellers living by the roadside or in other informal situations. These eviction laws have been passed and used despite the fact that the Government has singularly failed to implement housing legislation to provide adequate and formal halting sites and other accommodation to Travellers. Here follows an outline of the principal relevant legislation currently in force.

‘Criminal Trespass Legislation’: Public Order Act 1994 (as amended)

In 2002, the Government of Ireland amended the Criminal Justice (Public Order) Act 1994 (‘Public Order Act’) in order to facilitate the eviction of persons ‘entering and occupying land without consent’. The legislation permits the police (Gardaí) to direct individuals to immediately leave land and remove all objects they had brought onto the land. While earlier housing legislation had restricted evictions if no alternative accommodation was available, such conditions are not included in the Public Order Act. The amendment is known colloquially as the ‘criminal trespass legislation’.

Section 19C of the Public Order Act, as amended by section 24 of the Housing (Miscellaneous Provisions) Act, 2002, now reads:

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(1) A person, without the duly given consent of the owner, shall not—

(a) enter and occupy any land, or

(b) bring onto or place on any land any object, where such entry or occupation or the bringing onto or placing on the land of such object is likely to—

(i) substantially damage the land
(ii) substantially and prejudicially affect any amenity in respect of the land,
(iii) prevent persons entitled to use the land or any amenity in respect of the land from making reasonable use of the land or amenity,
(iv) otherwise render the land or any amenity in respect of the land, or the lawful use of the land or any amenity in respect of the land, unsanitary or unsafe,
(v) substantially interfere with the land, any amenity in respect of the land, the lawful use of the land or any amenity in respect of the land.

(2) A person who contravenes subsection (1) shall be guilty of an offence.

(3) Where a member of the Garda Síochána [police officer] has reason to believe that a person is committing or has committed an offence under subsection (1) the member—

(a) may demand of the person his or her name and address,
(b) may direct the person to leave the land concerned and to remove from the land any object that belongs to the person or that is under his or her control, and
(c) shall inform the person of the nature of the offence in respect of which it is suspected that person has been involved and the statutory consequences of failing to comply with a demand or direction under this subsection.

A person who refuses to provide their name or address to or comply with the direction of a police officer is guilty of an offence (section 19D). Section 19E enables the police to arrest such a person without a warrant while section 19F empowers the police to remove, store and dispose of the person’s property, which, in the case of nomadic Travellers, includes their home. If an affected person is able to retrieve their property, a fee is charged for the

19 Section 19E provides that: 'A member of the Garda Síochána may arrest without warrant a person— (a) who fails or refuses to give his or her name and address when demanded under section 19C(3)(a) or gives a name or address which the member has reasonable grounds for believing is false or misleading; (b) who fails to comply with a direction given under section 19C(3)(b); or (c) whom the member finds committing an offence under section 19C(1).'
20 Section 19F reads in part:

(1) Where a person fails to comply with a direction under section 19C(3)(b), a member of the Garda Síochána may remove or cause to be removed any object which the member has reason to believe was brought onto or placed on the land in contravention of section 19C(1) and may store or cause to be stored such object so removed…. 
(4) An object removed and stored under this section shall be given to a person claiming possession of the object if, but only if, he or she makes a declaration in writing that he or she is the owner of the object or is authorised by its owner to claim it or is, for a specified reason, otherwise entitled to possession of it and, at the discretion of the Commissioner, the person pays the amount of any expenditure reasonably incurred in removing and storing the object.
(5) The Commissioner may dispose of, or cause to be disposed of, an object removed and stored under this section if—
(a) the owner of the object fails to claim it and remove it from the place where it is stored within one month of the date on which a notice under subsection (3) was served on him or her, or
(b) the name and address of the owner of the object cannot be ascertained by reasonable enquiry.
removal and storage. The penalties for violation of the law include imprisonment and fines. Section 19G(1) provides that ‘A person guilty of an offence under this Part shall be liable on summary conviction to a fine not exceeding €3,000 (now €4,000, under section 22 in conjunction with schedule 2 of the Intoxicating Liquor Act, 2008) or to a term of imprisonment not exceeding one month or to both.’

The legislation also effectively provides for a presumption of guilt. The court is to assume that the person lacked consent to remain on the land as required by section 19C. Section 19G(2)(1) states that: ‘In any proceedings for an offence under this Part it shall be presumed until the contrary is shown that consent under this Part was not given.’ During any criminal proceedings, a defendant is also largely prevented from raising any claim under civil law with respect to the ownership of the land.21

It is widely believed by Traveller groups that the legislation was specifically aimed at Travellers and came about as a direct result of an illegal encampment on the banks of the river Dodder in Dublin in 2001. In 2001 during Parliamentary debate in the Dáil and Seanad, in reply to a question concerning whether or not he had met ‘…a delegation from South Dublin County Council to discuss the illegal Traveller encampment at the Dodder [in Dublin in 2001]…’, the Minister for the Environment and Local Government asserted that he had and that: “The council representatives [had] outlined the difficulties encountered by the authority as a result of the large scale unauthorised encampments by Travellers…”. The Minister then concluded that, “[t]he necessity for any changes in the legislative provisions regarding unauthorised encampments….will be considered”.22

The amendment was strongly criticised by its minority opponents in the Dáil (parliament), who pointed to the draconian nature of this legislation and its correlation to the insufficient provision of Traveller accommodation under the weak provisions of the 1998 Act: “The Housing (Traveller Accommodation) Act, 1998, provided for the adoption by local authorities of five year plans to accommodate Travellers within their catchment area...That legislation was to provide for sufficient Traveller accommodation within a five year timeframe. The Act was passed in 1998. We have now reached the latter end of that timeframe. Of the 2,200 purpose provided Traveller accommodation places on halting sites or group housing schemes, only a little over 100 have been provided to date. The principal problem of illegal or unauthorised Traveller encampments remains due to the provision of insufficient accommodation, notwithstanding the passing of the required legislation.”23 Furthermore, the criminal trespass legislation was rushed through the Dail (parliament) as was noted by sitting

21 Section 19H states:
(1) Notwithstanding any statutory provision or rule of law to the contrary, the jurisdiction of the District Court shall not, in summary proceedings in relation to an offence under this Part, be ousted by reason solely of a question of title to land being brought into issue.
(2) Where in summary proceedings in relation to an offence under this Part a question of title to land is brought into issue, the decision of a justice of the District Court in the proceedings or on the question shall not operate as an estoppel in, or a bar to, proceedings in any court in relation to the land.

members of the House “This is an incredible way to attempt to progress legislation in Dáil Éireann. It is highly insulting to the elected representatives of all the Irish people to present such a far-reaching measure that most of us received a few hours before the debate and to attempt to ram it through the Dáil, after a few hours of discussion.”

It is noted that the UN Human Rights Committee in its concluding observations in 2008 and 2014 under the International Covenant on Civil and Political Rights expressed concerns in the relation to the criminalization of trespassing on land in the 2002 Housing Act which disproportionately affects Travellers. The Committee recommended that legislation be amended to meet the specific accommodation requirements of Traveller families.


Specific legislation for the removal of temporary dwellings was introduced in Section 10 of the Housing (Miscellaneous Provisions) Act 1992. ‘Temporary dwelling’ is defined to mean ‘any tent, caravan, mobile home, vehicle or other structure or thing (whether on wheels or not) which is capable of being moved from one place to another, and (a) is or was used for human habitation, either permanently or from time to time, or (b) was designed, constructed or adapted for such use’.

In 1998, this Act was amended by the Housing (Traveller Accommodation) Act 1998 to ensure Travellers had access to sufficient alternative accommodation in the event of an eviction as prescribed for in the legislation. It was further amended in 2002 by the Housing (Miscellaneous Provisions) Act 2002 to provide more precise clarification in section 10, subsection (c), and, additionally, to extend the circumstances under which a housing authority may serve notice under that subsection to cases where only the ‘use and enjoyment’ of nearby amenities are affected. Section 10 now permits evictions of Travellers in the following circumstances:

(1) Where, without lawful authority, a person erects, places, occupies or otherwise retains a temporary dwelling in a public place and such temporary dwelling—

(a) is within a five mile radius of any site provided, managed or controlled by a housing authority under section 13 of the Act of 1988 (as amended by the Housing (Traveller Accommodation) Act, 1998), or any site provided or managed under section 6 and the temporary dwelling concerned could, in the opinion of the housing authority within whose functional area such temporary dwelling has been erected, placed, occupied or otherwise retained, appropriately be accommodated on that site, the housing authority may serve a notice on that person requiring that

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25 This is defined in Section 10(14) as: ‘any street, road or other place to which the public have access whether as of right or by express or implied permission and whether subject to or free of charge and any property or other land owned or occupied by or leased to a public authority’.
person, within a specified period, to remove the said temporary dwelling to the said site,

(b) is, in the opinion of the housing authority concerned—

(i) unfit for human habitation due to lack or inadequacy of water supply, sanitation or other essential services, or

(ii) likely to obstruct or interfere with the use of public or private amenities or facilities, or the maintenance of such amenities or facilities, or

(iii) likely to constitute or constitutes a significant risk to personal health, public health or safety,

and such temporary dwelling could, in the opinion of the housing authority within whose functional area such temporary dwelling has been erected, placed, occupied or otherwise retained, appropriately be accommodated on any site provided, managed or controlled under section 13 of the Act of 1988 (as amended by the Housing (Traveller Accommodation) Act, 1998), or any site provided or managed under section 6, the housing authority may serve a notice on that person requiring that person, within a specified period, to remove such temporary dwelling to the said site,

(c) is within a one mile radius of any site provided, managed or controlled by a housing authority under section 13 of the Act of 1988 (as amended by the Housing (Traveller Accommodation) Act, 1998), or any other traveller accommodation provided, managed or controlled by a housing authority under the Housing Acts, 1966 to 1998, or any traveller housing accommodation provided or managed under section 6 and the housing authority within whose functional area such temporary dwelling has been erected, placed, occupied or otherwise retained is of the opinion that, whether by reason of being one of a number of such temporary dwellings or otherwise, such temporary dwelling—

(i) is causing a nuisance or obstruction to the occupants of that site or traveller accommodation or to the occupants of any other dwelling or dwellings within a one mile radius of that site or that traveller accommodation, or

(ii) creates a risk to the quality of water, sanitary, electrical or other services associated with that site or traveller accommodation or any other dwelling or dwellings within a one mile radius of that site or traveller accommodation, or

(iii) obstructs or interferes with the use or enjoyment by any person of any public or private amenity or any public or private facility or the maintenance of any such amenity or facility, within a one mile radius of that site or Traveller accommodation,

the housing authority concerned may serve notice on that person requiring that person, within a specified period, to remove the said temporary dwelling, (iii) creates a risk to the quality of water, sanitary, electrical or other services associated with that site or traveller accommodation or other
dwellings within the vicinity of that site or traveller accommodation but where the site specified in a notice under paragraph (a) or paragraph (b) is a site provided by a housing authority other than the housing authority serving such notice or a body standing approved for the purposes of section 6, such notice shall not be served until the consent of the housing authority or body concerned to such service has been obtained.

In summary, a housing authority (in most instances the local authority) can evict Travellers living in caravans in three circumstances under section 10(1) of the Act. First, if the caravan of the Traveller is located within 5 miles (8.05 kilometres) of an approved halting site that the housing authority believes could accommodate the Travellers (Section 10(1)(a)). Second, if the site on which the caravan is currently located is unfit for human habitation, obstructs a public or private amenity or constitutes a health and safety risk. However, the eviction cannot be carried out if the Traveller cannot ‘appropriately be accommodated’ on an official halting site (Section 10(1)(b)). Third, if the Traveller caravan is located within 1 mile (1.61 kilometres) of an approved halting site and the housing authority is of the opinion that the occupants of the caravan are causing nuisance to or a risk to water supplies or public facilities of any dwellings within a one-mile radius, or are interfering with the use or enjoyment of private or public facilities within a one-mile radius (Section 10(1)(c). It is notable that no provision exists for the provision of alternative accommodation under the third scenario.26

The Section 10 notices must contain the following information:

a) the location of the site to which the temporary dwelling relates;

b) the location of the site to which the temporary dwelling is required to be removed, or where a notice is served under subsection (1)(c), that the temporary dwelling is required to be removed to at least a distance of one mile from the specified site;

c) the period, being not less than 24 hours from the time at which the notice is served, within which the requirements of the notice are to be complied with; and

d) the statutory consequences of failure to comply with the requirements of the notice.

The authority may enforce the provisions of the notice and the owner of the caravan can retrieve the vehicle upon proof and payment of a fee for the reasonable costs of the

26 Indeed, Section 10(c) is closely modelled on the original 1992 provisions whereby caravans could be removed without the offer of alternative accommodation. The only substantive difference is that the distance from a halting site was reduced from 5 miles to 1 mile.

27 Section 10(5) (again, as amended by the Housing (Traveller Accommodation Act, 1998, section 32, provides: Where, in the opinion of the housing authority, the requirements of a notice under subsection (1) have not been complied with in all or any respects, then, without prejudice to any other provisions of this section, the authority may, without further notice, remove or procure the removal of the temporary dwelling—

(a) to the site specified in the notice or, where a notice is served under subsection (1)(c), to a location that is not less than one mile from the site referred to in that subsection, or

(b) where they are for any reason prevented from so doing, to another location for storage by or on behalf of the authority....
removal and storage. A housing authority may dispose of a caravan after one month unless it is recovered or placed on a lawful site (Section 10(9)). Section 10(10) permits the housing authority ‘to sell the temporary dwelling for the best price reasonably obtainable’ and remit any proceeds to the owner after the deduction of costs reasonably incurred the removal, storage and sale and ‘any expenditure incurred by that or another housing authority in the provision of the temporary dwelling’. Section 10(12) provides penalties of fines not exceeding £1,000 or imprisonment up to one month or both in circumstances if a person fails to remove their temporary dwelling in accordance with a notice or obstructs a housing authority in carrying out their functions under section 10.

Roads Act 1993

The police and other authorised persons can evict Travellers under the Roads Act 1993. The relevant sections of the law are comparable to the Public Order Act, although the roads legislation is less detailed. Section 69 of the Roads Act 1993, states that:

(1)(a) Any person who without lawful authority erects, places or retains a temporary dwelling on a national road, motorway, busway or protected road shall be guilty of an offence.

(b) Any person who without lawful authority or the consent of a road authority erects, places or retains a temporary dwelling on any other prescribed road or prescribed class, subclass or type of road shall be guilty of an offence.

(c) A consent under paragraph (b) may be given by the road authority subject to such conditions, restrictions or requirements as it thinks fit and any person who fails to comply with such conditions, restrictions or requirements shall be guilty of an offence.

(2) An authorised person may remove a temporary dwelling from a national road, motorway, busway, protected road or any other prescribed road or prescribed class, subclass or type of road.

(3) An authorised person may store, or procure the storage of, a temporary dwelling removed by him under subsection (2).

(4) Where the name and address of the owner of a temporary dwelling removed and stored under this section can be ascertained by reasonable inquiry, the road authority concerned or the Commissioner shall serve a notice upon the owner informing him of the removal and storage and of the address of the place where the temporary dwelling may be claimed and recovered, requiring him to claim and recover it within one month of the date of the service of the notice and informing him of the statutory consequences of his failure to do so.

(5) A temporary dwelling removed and stored under this section shall be given to a person claiming the temporary dwelling if, but only if, he makes a declaration in writing that he is the owner of the temporary dwelling or is authorised by its owner to claim it and, at the discretion of the road authority concerned or the Commissioner, pays the amount of the expenditure reasonably incurred in removing and storing the temporary dwelling.

(6) The road authority concerned or the Commissioner may dispose, or procure the disposal, of a temporary dwelling removed and stored under this section if—

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28 Section 10(8).
(a) the owner of the temporary dwelling fails to claim it and remove it from the place where it is stored within one month of the date on which a notice under subsection (4) was served on him, or
(b) the name and address of the owner of the temporary dwelling cannot be ascertained by reasonable inquiry.
(7) A temporary dwelling shall not be disposed of under this section within six weeks of the date of its removal under this section.
(8) The provisions of this section are without prejudice to the functions of a public authority under any other enactment.
(9) In this section—
“authorised person” means—
a person authorised in writing by a road authority for the purposes of this section;
a member of the Garda Síochána;
“temporary dwelling” means any tent, caravan, mobile home, vehicle or other structure or thing (whether on wheels or not) which is capable of being moved from one place to another (whether by towing, transport on a vehicle or trailer, or otherwise), and—
(a) is used for human habitation, either permanently or from time to time, or
(b) was designed, constructed or adapted for such use,
but does not include any such temporary dwelling—
(i) used by a State authority, road authority, local authority or a statutory undertaker during the course of works on, in or under a national road, motorway, busway, protected road, or any other prescribed road or prescribed class, subclass or type of road, or
(ii) used in connection with a fire or other emergency.

The roads legislation allows the local authority to confiscate a caravan home without prior notice. It is sufficient under the Act that a notice later be displayed in the local Garda station. The legislation takes no account of the reasons for the presence of the temporary dwelling and there is no possibility or opportunity of providing a lawful excuse in advance of the seizure of the temporary dwelling. While the legislation states that it only applies to temporary dwellings located on the roadside without consent and consent may be applied for subject to conditions there is in fact no known mechanism for Travellers to apply for such consent and the Traveller organisations are unaware of any Traveller who has successfully applied for such consent.

Planning and Development Act 2000

Planning authorities (local authorities) are authorised to demolish or remove structures, which would include caravans, under section 46 of the Planning and Development Act 2000, where these constitute ‘unauthorised developments’.\(^\text{29}\) Section 46 was left

\(^\text{29}\) Section 46(1) provides: (1) If a planning authority decides that, in exceptional circumstances—
(a) any structure should be demolished, removed, altered or replaced,
(b) any use should be discontinued, or
(c) any conditions should be imposed on the continuance of a use,
untouched by the substantial Planning and Development (Amendments) Act 2010. A notice must be served within seven years of the commencement of the unauthorised development, specifying the location of the structure or land and the steps that will be required to be taken within a specified period, including the demolition, removal, alteration or replacement of any structure. The notice must also invite any person served with the notice to make written submissions or observations to the planning authority, with at least 4 weeks from the date of service of the notice given for this purpose.

In considering whether to proceed with the action, which can include eviction of a Traveller, a planning authority, in deciding whether to confirm a notice pursuant to this section, shall consider:

a) the proper planning and sustainable development of the area,
b) the provisions of the development plan,
c) the provisions of any special amenity area order, any European site or other area designated for the purposes of section 10(2)© relating to the area, and
d) any other relevant provision of this Act and any regulations made thereunder.

Notably, there is no requirement to consider the human rights of the persons involved.

Unlike the Public Order Act, a notice can be appealed within eight weeks of the date of service of the notice to the Board established under the Act. Upon the withdrawal of the appeal or it being decided in favour of the planning authority, demolition, removal or other relevant action may proceed. If a person served with a notice fails to comply with the requirements of the notice he or she shall be guilty of an offence (Section 46(11)).

Furthermore, under section 160 of the 2000 Act the local authority may seek an injunction compelling a person to remove a temporary dwelling from land owned by them if it does not comply with planning requirements. It is very difficult for most Travellers to comply with these planning requirements. Many planning guidelines state that an
applicant must be from the local area. Travellers who were or are traditionally nomadic will find this to be an insurmountable obstacle as they can only show a tie to the general locality in most circumstances but not the particular town. Grounds for refusal have also included the assessment that caravan homes are prejudicial to public health and injurious to public amenities. This is contradictory to the Housing (Traveller Accommodation) Act 1998, which allows for the provision of halting site accommodation for caravans by the State.

Local Government (Sanitary Services) Act 1948

The demolition of ‘unsanitary structures’ is permitted under the Local Government (Sanitary Services) Act 1948, upon the provision of an order/bye-law by a sanitary authority (in most cases, a local authority). 35 Non-compliance with the notice is an offence and a person shall be liable on summary conviction to a fine not exceeding €1,269.74. 36 A second or subsequent conviction under this provision in relation to the same temporary dwelling, “the Court may, in addition to or in lieu of imposing a fine, order the forfeiture of the temporary dwelling to the sanitary authority concerned and thereupon that authority may take possession of the temporary dwelling and dispose of it by sale, destruction or otherwise as they think fit”. This sanction, which may be – and has been – used to destroy a home carries no explicit statutory requirement to take into account human rights provisions. A sanitary authority may request a member of the Garda Síochána to assist them in the exercise of their certain powers. It is notable that the only requirement in relation to notification of the existence of an Order made by is that, 14 days after an order has come into force, the local authority (or sanitary authority) is required to publish a copy of the order in a newspaper circulating in the area. However, there does not appear to have any requirement to erect signage. Nor does there appear to be any requirement to give notice prior to issuing a summons and bringing a prosecution in court for breach of the order/bye-law. Alternatively, a court itself, rather than a local authority, can make an order itself prohibiting the erection of a temporary dwelling in a particular location, and failure to comply with that order becomes an offence.

Public Health (Ireland) Act 1878, as amended by the Environmental Protection Agency Act 1992

This Act allows the local authority to serve a notice on a person residing in a caravan in its functional area requesting that they ‘abate the nuisance’. Failure to do so to their satisfaction may result in an application before the District Court.

Under Section 111, “[i]f the person on whom a notice to abate a nuisance has been served makes default in complying with any of the requisitions thereof within the time specified, or if the nuisance, although abated since the service of the notice, is, in the opinion of the [district council], likely to recur on the same premises, the [district council] shall cause a

35 Section 31.
36 The fine was increased to the amount of IR£1,000 by section 113 of the Environmental Protection Agency Act, 1992, amending section 31 of the Local Government (Sanitary Services) Act 1948. Article 1 of Council Regulation (EC) No. 2866/98 of 31 December 1998 confirmed that the conversion rate between the Irish punt and the euro was fixed at IR£0.787564 to €1, and so IR£1,000 equates to €1,269.74.
complaint relating to such nuisance to be made before a justice, and such justice shall thereupon issue a summons requiring the person on whom the notice was served to appear before a court of summary jurisdiction.”

If a local authority considers that a temporary dwelling is causing a nuisance under the above Act they can apply to the court for an order to remove it. There is no requirement that the housing requirements of its occupiers be considered by the court and no provision is made to re-house those affected.

Where such a public health nuisance is found to exist, the district council has the power to issue an abatement notice or a prohibition notice or both. These notices can be served either on the creator of the nuisance, or on the owner or the occupant of the place from where the nuisance is emanating. If the notices are not complied with, the local authority will issue a fine. Alternatively, the local authority might complete the works in default and charge the owner or creator of the nuisance for the cost. It will do this in particular where the creator of the nuisance cannot be found and it is clear that the nuisance does not result from the owner’s actions.

The Irish Traveller Movement welcomes the National Traveller/Roma Integration Strategy and ECRI’s recommendation” ECRI encourages the national authorities to envisage introducing measures binding on local authorities and to raise awareness among the general public of Traveller housing rights and promote respect thereof. “

Recommendations:

- The State should review and repeal significant portions of the suite of evictions legislation used against Travellers, in particular the 2002 Housing Act

- The State should introduce sanctions for housing authorities who fail to meet their targets under Traveller Accommodation Programmes revising the powers of Local and National Traveller Accommodation Consultative Committees empowering them to take action against local authorities who fail to deliver accommodation and/or underspend their budgets and who fail to act on their advices following consultation in particular in relation to the provision of Traveller accommodation.

- The State should conduct a value for money study relating to money spent on Traveller specific accommodation since the enactment of the Housing (Traveller Accommodation) Act 1998 and ensure that all social workers employed since the Act was enacted to deal with Travellers are fully professionally qualified social workers.

- A budget ring-fenced for Traveller accommodation until delivery of accommodation has met the need.
• A specific housing agency is set up to oversee the delivery of a national Traveller accommodation strategy.

• It is recommended that a national strategy is developed to provide a transient network of sites. The local authority would have responsibility for managing the transient sites in their areas.

• The state should continue to support the employment of two national Accommodation Officers within the ITM as part of the National Traveller Accommodation Strategy.

100. ECRI strongly recommends that the Irish authorities step up the provision of training programmes to teachers and other school staff, in accordance with its General Policy Recommendation No. 10, in order to enhance their understanding of a variety of cultures and equip them to work effectively in increasingly diverse classrooms, including strengthening their capacity to teach English as a second language to children with a different mother tongue.

105. ECRI recommends that the Irish authorities pursue and step up their efforts to ensure that the education system guarantees all children of immigrant origin equality of opportunity in access to education, including higher education.

171. ECRI encourages the Irish authorities to continue to implement intercultural education in practice in all schools.

An intercultural society will be one whereby all citizens are equipped to feel comfortable in their own identity as well as celebrating other cultures. An important component of this will be an education system that promotes equality and diversity that will meet the needs of an increasingly diverse Irish society, while recognising the already existing ethnic diversity in Ireland, including Traveller ethnicity.

There have been significant demographic changes in Irish society over the past 15-20 years. This is reflected in the data collected through the 2011 CSO which revealed that the population of Non-Irish nationals is up 143% in 9 years; that 12% of residents in Ireland in 2011 were non-Irish nationals; that there were a total of 544,357 non-Irish living in Ireland in April 2011, representing 199 different nations.
In addition to the diversity created by the 12% of residents in Ireland that are non-Irish nationals, the All Ireland Traveller Health Study (AITHS) in 2010 showed that we also have over 40,000 Irish Travellers resident in Ireland.

The Department of Education and Skills (DES) have developed a number of policy documents over the past number of years to support the inclusion of children of non-Irish nationals as well as Traveller children in the Irish Education system. Some of the key policy documents include the *Report and Recommendations for a Traveller Education Strategy* published in 2006; *The Intercultural Education Strategy 2010-2015*; and more recently the *DES Action Plan on Bullying 2013* which recognised that some children, particularly children of non-Irish nationals & Traveller children are more vulnerable to racist bullying because of their identity and recommended that preventative strategies needed to be put in place by schools to address this.

The Yellow Flag Programme is an intercultural education model that was developed by the Irish Traveller Movement (ITM) in 2008. It aims to work with students, staff, management, parents and the wider community so that issues of diversity and equality are not merely seen as ‘school subjects’ but can be understood and taken outside the school setting into everyday life. In its development the Irish Traveller Movement has ensured the programme, Yellow Flag, promotes the inclusion of all children from both majority and minorities backgrounds, including Traveller children.

The eight step programme, in parallel with the Green Schools environmental programme, is a practical programme with an award incentive. Schools apply those steps to the day to day running of the school. Following completion of the 8 steps and external assessment, the school is awarded a “Yellow Flag” in recognition of its work in promoting diversity & inclusion.

**The 8 practical steps of the programme** are:

1. Anti-Racism and Intercultural Awareness Training for Staff and Management.
2. Going Beyond the School Walls: Engaging with the Community
3. The Diversity Committee
4. The Intercultural Review
5. The Action Plan
6. Monitoring, Evaluation and Information Dissemination
7. Curriculum Work
8. The Diversity Code and Anti-Racism Policy
It is important to note that there are no other programmes like Yellow Flag currently operating in Ireland.

The Yellow Flag was initially piloted in 4 schools (2 Primary, 2 Secondary) in 2008/2009. With the support of philanthropic bodies, it has increased its reach and is impacting on the lives of children of over 13,000 children in over 40 schools in Dublin, Wicklow, Meath, Louth, Cavan, Clare, Galway, Cork, Kerry and Limerick, Kildare. Currently 22 schools have their Yellow Flag and 18 schools are working towards their Yellow Flag. In 2012 ITM also completed piloting the Yellow Flag in a College of Education, Frobel College in Blackrock.

(Further information on the programme including Yellow Flag Handbook & Research reports are available to download on www.yellowflag.ie Hardcopy also available on request)

The Irish Traveller Movement believes that its Yellow Flag Programme is well placed to support the implementation of the DES Intercultural Education Strategy; Report & Recommendation for a Traveller Education Strategy and DES Action Plan on Bullying.

The programme receives philanthropic funding and small grants from Local Authorities to carry out training with schools in its area. Significantly, the Department of Justice and Equality committed State funding for the first time in October 2014 to run the programme in 2015

**Recommendation:** Adequately resource the Yellow Flag Programme to promote inclusion, integration, anti-racism and respect for diversity within all Irish schools.

152. ECRI recommends that the Irish authorities continue their efforts to provide their law enforcement officials with training in human rights, focusing on the fight against all forms and manifestations of racial discrimination and xenophobia and on policing in a multicultural society, and make it a compulsory part of their initial and on-going training.

153. ECRI encourages Irish authorities to pursue their efforts to implement measures designed to ensure that a significant number of persons of non-Irish background is recruited in the police to make the latter truly representative of Irish society

156. ECRI reiterates its recommendation that the Irish authorities monitor the application of the Immigration Acts 2003 and 2004, in particular as regards allegations of racial profiling. ECRI recommends further that the Irish authorities consider adopting legislation prohibiting any form of racial profiling

The Irish Traveller Movement, as a membership organisation, engaged its members to ascertain the nature of local relationships between Travellers and An Garda Síochána.

While Traveller organisations recognise some advances based on the development of Local Traveller Interagency Committees, at which Traveller organisations and State agencies plan actions collectively (and where representatives of An Garda Síochána also participate)
are a number of significant issues that provides the context for the Irish Traveller Movement submission to the Committee in relation to oversight of An Garda Síochána:

Travellers stressed repeatedly the need for ongoing Equality & Traveller Cultural Awareness Training for members of An Garda Síochána as a means of building trust and relationships locally.

Trust between Travellers and An Garda Síochána is repeatedly raised by our members as an issue. Many Travellers do not feel the Gardai offer protection to them in terms of Travellers being victims of crime (e.g. slow response time to Traveller calls of incidents on halting sites).

Travellers feel that Gardai see them only as criminals and never victims and cite practices of frequent stop & search/ question of Travellers (especially van drivers and young Traveller men generally), which further erodes trust between the force and the community.

Some Travellers report frequent Garda car patrols on halting sites / group housing schemes up to 3 times a day. Travellers feel this is merely to “keep them under surveillance” as during these patrols, there is no interaction from the Gardai with the community.

The surveillance, or perceived surveillance, of the entire community by Gardai further alienates Travellers from An Garda Síochána. Installation of CCTV cameras beside existing or planned Traveller accommodation, without notification or public consultation further erodes trust (see Dail Debates for recent example http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2014040900074?opendocument#WRX00550)

Travellers often feel that the frequent use of armed response units and large numbers of Gardai, when State officials are ‘visiting’ halting sites creates a conflictual stance whereby the Gardai are no longer “their” police force. The presence of large number of (often armed) Gardai at the behest of Local Authorities strains relationships further.

In terms of Travellers using the Gardai, many Travellers do not feel they are treated with respect when they need to use Garda stations (e.g. lack of eye contact, unfriendly manner, Gardai casually dropping into an unrelated conversation stating they know other family members who have criminal records, makes innocent people feel criminalised and racially profiled). This negative relationship is not only noted by our members, it is borne out by research carried out by An Garda Síochána in the past.

In “Public Attitudes Survey & Traveller/Ethnic Minority Communities attitudes Survey to An Garda Síochána” (2007) whereas 14% of the general population were “very satisfied” with the service provided by An Garda Síochána, only 5% of Travellers were; and more tellingly, while 16% of the population were “dissatisfied”, 26% of Travellers were; with 22% of Travellers “very dissatisfied” (as opposed to 3% of general population).
In an independent human rights audit of An Garda Síochána the researchers found that “Officers and members (of An Garda Síochána) expressed negative views about some communities, in particular Travellers, and the Nigerian community” and found “allegations about levels of criminality among the Traveller and the Nigerian communities were made at every level of those taking part in this survey, with very little hard evidence provided to substantiate them”. The chapter in this audit on Human Rights and Operational Policing concluded: “on the basis of this audit it seems clear that there is institutional racism within An Garda Síochána in its dealing with certain groups in the community and in the absence of organisational structures which would identify and deal with what is a very fundamental abuse of human rights”. iii Academic research on the poor relationships between Travellers and An Garda Síochána also highlights the scale of the problem iv

While work locally has happened through Traveller Interagency Committees, Joint Policing Committees and links between our members, Local Traveller Organisations, and the Ethnic Minority Liaison Officers within An Garda Síochána, this trust has rapidly eroded based on a string of allegations raised by Garda “whistleblowers” in relation to ethnic profiling of Travellers, including Traveller infants, on the Garda PULSE System (see among others, Dail Debates http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2014031100072?opendocument#WRV01250)

The Irish Traveller Movement has been inundated with calls and emails from Travellers who fear their details and their children’s details will have been entered onto the PULSE system simply because of their identity. In recent history, it is the opinion that very few allegations have caused such widespread distress among the community, which has seriously impacted on relationships between An Garda Síochána and Travellers in Ireland.

It must be recognised, that even with the best intentions, policies designed to serve some dominant notion of society, or indeed policing, produce inferior outcomes for those outside of the dominant groups. It would not be surprising, given the pervasive levels of anti-Traveller racism for discrimination and bias not to be found in the practices of the force. The Mac Pherson enquiryv into the Metropolitan Police Service investigation into the death of Stephen Lawrence concluded the force was “institutionally racist” and stated that:

“Institutional racism consists of the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness, and racist stereotyping which disadvantage minority ethnic people.”
The important features of this definition are as follows: firstly that racism can be unconscious and unintended; secondly that the focus is on behaviour and effects; and thirdly that it focuses on the performance of whole organisations and groups rather than just individuals. It allows that the discrimination might be direct against people because of their ethnic or racial group; or it might be indirect, in that routine operating procedures simply have the effect of disadvantaging certain groups.

The independent human rights audit of An Garda Síochána raised serious concerns about institutional racism that would need to be addressed in terms of oversight of the force. It claimed that through discussions “assumptions were made about criminality which cannot help but impact on the policing of those communities and lead to a respect for their rights and failure to protect them from abuse. The submissions from various organisations mentioned at the start of this chapter, as well as the comments expressed in community groups, suggest that it is not just a matter of attitude. These attitudes are being expressed in the behaviour of some members towards some members of different communities.”

Given the concerns outlined by our members, it appears that not enough has been done to overcome potential institutional bias; indeed the allegations in relation to ethnically profiling Traveller infants has confirmed for many Travellers the existence of institutional anti-Traveller racism within the force.

Recommendation:

An Independent Policing Board.

Based on best international practice, a policing board would be formed in order to oversee the practice of An Garda Síochána. Legislation should be developed and enacted to create an Independent Policing board with nominations from both political parties and civil society. Given the historical lack of relationship between the force and the community, at least one Traveller would be part of the policing board, from a representative organisation that would allow Travellers’ voices to be brought from a local level to a national oversight committee.

The policing board would make clear recommendations for the force in relation to ethnic monitoring, racism and challenging institutional racism as per the Mac Pherson report, within An Garda Síochána. This would include defining policies in relation to information gathering and the instances of ethnic profiling.

Annual independent human rights audits with recommendations made to the Policing board in order to identify and combat all forms of institutional racism.

In terms of oversight, legislation introduced to ensure that An Garda Síochána were no longer exempt from the Equal Status Act and future equality legislation.
A full and thorough independent enquiry into the PULSE system and allegations of ethnic profiling needs to happen in order to re-establish trust between Travellers and An Garda Síochána. In the interim period, all PULSE records of Traveller children to be wiped from the system.

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1 Report of the High Level group on Traveller Issues, March 2006


2 Public Attitudes Survey & Traveller/Ethnic Minority Communities attitudes Survey to An Garda Síochána (2007)


3 An Garda Síochána Human Rights Audit, Ionann Management Consultants, June 2004

http://www.minelres.lv/reports/ireland/PDF_Ireland%29Comhlamh_GardaHRreport.pdf

4 ‘Alright in their own place’: Policing and the spatial regulation of Irish Travellers” Aogán Mulcahy

Criminology and Criminal Justice July 2012 vol. 12 no. 3 307-327

5 Report of the Stephen Lawrence inquiry


6 An Garda Síochána Human Rights Audit, Ionann Management Consultants, June 2004

http://www.minelres.lv/reports/ireland/PDF_Ireland%29Comhlamh_GardaHRreport.pdf